SENATE JOURNAL

STATE OF ILLINOIS

NINETY-SIXTH GENERAL ASSEMBLY

57TH LEGISLATIVE DAY

WEDNESDAY, MAY 27, 2009

8:50 O'CLOCK A.M.

NO. 57
[May 27, 2009]

SENATE
Daily Journal Index
57th Legislative Day

The Senate met pursuant to adjournment.
Senator Don Harmon, Oak Park, Illinois, presiding.
Prayer by Reverend Florene Scott, Grace United Methodist Church, Springfield, Illinois.
Senator Maloney led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journal of Tuesday, May 26, 2009, be postponed, pending arrival of the printed Journal.
The motion prevailed.

Senator Burzynski asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 8:54 o'clock a.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 10:58 o'clock a.m., the Senate resumed consideration of business.
Senator Clayborne, presiding.

LEGISLATIVE MEASURE FILED

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 1 to Senate Bill 2169

MESSAGES FROM THE PRESIDENT

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

May 27, 2009

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

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish May 31, 2009 as the 3rd Reading deadline for the following Bills: SB 1973, SB 2183, and HB 2652.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Republican Leader Christine Radogno

OFFICE OF THE SENATE PRESIDENT

STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

May 27, 2009

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

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish May 31, 2009 as the Committee and 3rd Reading deadline for House Bill 4046.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Republican Leader Christine Radogno

OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS

JOHN J. CULLERTON
SENATE PRESIDENT

327 STATE CAPITOL
SPRINGFIELD, ILLINOIS 62706

May 27, 2009

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

Dear Madam Secretary:

Pursuant to the provisions of Senate Rule 2-10, I hereby establish May 31, 2009 as the 3rd Reading deadline for Senate Bill 552.

Sincerely,
s/John J. Cullerton
Senate President

cc: Senate Republican Leader Christine Radogno

PRESENTATION OF RESOLUTION

SENATE RESOLUTION NO. 304

Offered by Senator Demuzio and all Senators:
Mourns the death of Leonard Junior Boston of Waggoner.

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

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Pankau, **Senate Bill No. 47**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Pankau 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Rutherford
Bivins	Frerichs	Lightford	Sandoval
Bomke	Garrett	Link	Schoenberg
Bond	Haine	Luechtefeld	Silverstein
Brady	Harmon	Maloney	Steans
Burzynski	Hendon	Martinez	Sullivan
Clayborne	Holmes	McCarter	Syverson
Collins	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Pankau	Mr. President
Delgado	Jones, E.	Radogno	
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	
Duffy	Kotowski	Risinger	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 47**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Dahl, **Senate Bill No. 89**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Dahl 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jacobs	Pankau	Mr. President
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 Amendments numbered 1 and 2 to **Senate Bill No. 89**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Silverstein, **Senate Bill No. 69**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Silverstein 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Brady	Haine	Luechtefeld	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	McCarter	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	Jacobs	Murphy	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Jones, J.	Radogno	
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. 69**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Noland asked and obtained unanimous consent for the Journal to reflect his intention to vote in the affirmative on **Senate Bill No. 69 .**

At the hour of 11:13 o'clock a.m., Senator DeLeo, presiding.

On motion of Senator Haine, **Senate Bill No. 122**, 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein

Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
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. 122**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Crotty, **Senate Bill No. 27**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Crotty 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 27**.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 11:16 o'clock a.m., Senator Lightford, presiding.

On motion of Senator Steans, **Senate Bill No. 38**, 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 22; NAYS 27; Present 3.

The following voted in the affirmative:

Clayborne	Holmes	Maloney	Steans
Collins	Hunter	Martinez	Trotter
Crotty	Koehler	Meeks	Wilhelmi
DeLeo	Kotowski	Muñoz	Mr. President
Garrett	Lightford	Raoul	
Harmon	Link	Schoenberg	

The following voted in the negative:

Bivins	Forby	Luechtefeld	Risinger
Bomke	Haine	McCarter	Rutherford
Brady	Hultgren	Millner	Sandoval
Burzynski	Jacobs	Murphy	Silverstein
Cronin	Jones, E.	Noland	Sullivan
Dahl	Jones, J.	Pankau	Syverson
Duffy	Lauzen	Righter	

The following voted present:

Delgado
Dillard
Hendon

The motion lost.

And the Senate nonconcurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 38**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Link, **Senate Bill No. 125**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Link 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 125**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 133**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 133**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Righter, **Senate Bill No. 145**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Righter 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi

Delgado	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 145**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 149**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	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. 149**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Bond, **Senate Bill No. 206**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Schoenberg
Brady	Haine	Luechtefeld	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	McCarter	Sullivan

Collins	Holmes	Meeks	Syverson
Cronin	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
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. 206**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Steans, **Senate Bill No. 209**, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 209**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Koehler, **Senate Bill No. 212**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Koehler 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 54; NAYS 3.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Righter
Bomke	Frerichs	Lauzen	Risinger

Bond	Garrett	Lightford	Rutherford
Brady	Haine	Link	Sandoval
Clayborne	Harmon	Luechtefeld	Schoenberg
Collins	Hendon	Maloney	Silverstein
Cronin	Holmes	Martinez	Steans
Crotty	Hultgren	Millner	Sullivan
Dahl	Hunter	Muñoz	Trotter
DeLeo	Hutchinson	Murphy	Viverito
Delgado	Jacobs	Noland	Wilhelmi
Demuzio	Jones, E.	Pankau	Mr. President
Dillard	Jones, J.	Radogno	
Duffy	Koehler	Raoul	

The following voted in the negative:

Bivins
Burzynski
Syverson

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 212**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sullivan, **Senate Bill No. 214**, with House Amendment No. 1 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 amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
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. 214**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sandoval, **Senate Bill No. 246**, 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 35; NAYS 14; Present 2.

The following voted in the affirmative:

Althoff	Harmon	Link	Rutherford
Bond	Holmes	Maloney	Silverstein
Clayborne	Hultgren	Martinez	Steans
Collins	Hunter	Meeks	Sullivan
Crotty	Jacobs	Millner	Trotter
Dahl	Jones, E.	Muñoz	Viverito
DeLeo	Koehler	Pankau	Wilhelmi
Delgado	Kotowski	Raoul	Mr. President
Forby	Lightford	Risinger	

The following voted in the negative:

Bivins	Garrett	Luechtefeld	Schoenberg
Burzynski	Haine	Murphy	Syverson
Cronin	Jones, J.	Radogno	
Duffy	Lauzen	Righter	

The following voted present:

Dillard
Hendon

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 246**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Holmes asked and obtained unanimous consent for the Journal to reflect her intention to have voted in the negative on **Senate Bill No. 246.**

Senator Kotowski asked and obtained unanimous consent for the Journal to reflect his intention to have voted in the negative on **Senate Bill No. 246**.

On motion of Senator Schoenberg, **Senate Bill No. 266**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Schoenberg 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson

Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 266**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Demuzio, **Senate Bill No. 269**, 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 41; NAYS 17.

The following voted in the affirmative:

Bomke	Forby	Lightford	Schoenberg
Bond	Frerichs	Link	Silverstein
Clayborne	Haine	Maloney	Steans
Collins	Harmon	Martinez	Sullivan
Cronin	Holmes	Meeks	Trotter
Crotty	Hultgren	Muñoz	Viverito
Dahl	Hunter	Noland	Wilhelmi
DeLeo	Hutchinson	Radogno	Mr. President
Delgado	Jones, E.	Raoul	
Demuzio	Koehler	Righter	
Dillard	Kotowski	Sandoval	

The following voted in the negative:

Althoff	Garrett	McCarter	Rutherford
Bivins	Jacobs	Millner	Syverson
Brady	Jones, J.	Murphy	
Burzynski	Lauzen	Pankau	
Duffy	Luechtefeld	Risinger	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 269**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **Senate Bill No. 290**, with House Amendments numbered 1, 2 and 3 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 amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1, 2 and 3 to **Senate Bill No. 290**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Silverstein, **Senate Bill No. 318**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Silverstein 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hunter	Muñoz	Trotter
Crotty	Hutchinson	Murphy	Viverito
Dahl	Jacobs	Noland	Wilhelmi
Delgado	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 318**.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 12:01 o'clock p.m., Senator Lauzen, presiding, for a special introduction.

At the hour of 12:05 o'clock p.m., Senator Lightford, presiding, and the Senate resumed consideration of business.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Haine, **Senate Bill No. 337**, 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Sandoval
Bomke	Frerichs	Lightford	Schoenberg
Bond	Garrett	Link	Silverstein
Brady	Haine	Luechtefeld	Steans
Burzynski	Harmon	Maloney	Sullivan
Clayborne	Hendon	Martinez	Syverson
Collins	Holmes	McCarter	Trotter
Cronin	Hultgren	Meeks	Viverito
Crotty	Hunter	Millner	Wilhelmi
Dahl	Hutchinson	Muñoz	Mr. President
DeLeo	Jacobs	Murphy	
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. 337**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Bond, **Senate Bill No. 340**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Brady	Haine	Luechtefeld	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	McCarter	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Millner	Viverito
Dahl	Hutchinson	Muñoz	Wilhelmi
DeLeo	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. 340**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Koehler, **Senate Bill No. 574**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Koehler 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 8.

The following voted in the affirmative:

Althoff	Forby	Koehler	Raoul
Bomke	Frerichs	Kotowski	Sandoval
Bond	Garrett	Lightford	Schoenberg
Brady	Haine	Link	Silverstein
Burzynski	Harmon	Luechtefeld	Steans
Clayborne	Hendon	Maloney	Sullivan
Collins	Holmes	Martinez	Syverson
Crotty	Hultgren	McCarter	Trotter
Dahl	Hunter	Meeks	Viverito
DeLeo	Hutchinson	Muñoz	Wilhelmi
Delgado	Jacobs	Murphy	Mr. President
Demuzio	Jones, E.	Noland	

The following voted in the negative:

Bivins	Jones, J.	Righter
Cronin	Lauzen	Rutherford
Duffy	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 574**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Bond, **Senate Bill No. 577**, 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg

Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
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. 577**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Frerichs, **Senate Bill No. 587**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Frerichs moved that the Senate concur with the House in the adoption of their amendment to said bill.

At the hour of 12:20 o'clock p.m., Senator Clayborne, presiding.

At the hour of 12:25 o'clock p.m., Senator Lightford, presiding.

And on that motion, a call of the roll was had resulting as follows:

YEAS 45; NAYS 9.

The following voted in the affirmative:

Althoff	Garrett	Maloney	Sandoval
Bomke	Haine	Martinez	Schoenberg
Bond	Harmon	McCarter	Silverstein
Brady	Hendon	Meeks	Steans
Clayborne	Holmes	Muñoz	Sullivan
Collins	Hultgren	Murphy	Trotter
Crotty	Jacobs	Noland	Viverito
DeLeo	Jones, E.	Pankau	Wilhelmi
Delgado	Koehler	Radogno	Mr. President
Dillard	Kotowski	Raoul	
Forby	Lightford	Righter	
Frerichs	Link	Rutherford	

The following voted in the negative:

Bivins	Dahl	Lauzen
Burzynski	Duffy	Luechtefeld
Cronin	Jones, J.	Syverson

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 587**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Martinez, **Senate Bill No. 1133**, 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Link	Rutherford
Bivins	Frerichs	Luechtefeld	Sandoval
Bomke	Garrett	Maloney	Schoenberg
Bond	Haine	Martinez	Silverstein
Brady	Harmon	McCarter	Steans
Burzynski	Hendon	Meeks	Sullivan
Clayborne	Holmes	Millner	Syverson
Collins	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Jacobs	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	
Duffy	Lightford	Risinger	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1133**.

Ordered that the Secretary inform the House of Representatives thereof.

Senator Hutchinson asked and obtained unanimous consent for the Journal to reflect her intention to vote in the affirmative on **Senate Bill No. 1133 .**

On motion of Senator Althoff, **Senate Bill No. 1254**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lightford	Risinger
Bivins	Forby	Link	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hunter	Muñoz	Trotter
Crotty	Hutchinson	Murphy	Viverito
Dahl	Jones, E.	Noland	Wilhelmi
DeLeo	Jones, J.	Pankau	Mr. President
Delgado	Koehler	Radogno	
Demuzio	Kotowski	Raoul	
Dillard	Lauzen	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1254**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Demuzio, **Senate Bill No. 1339**, 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Delgado	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1339**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Holmes, **Senate Bill No. 1341**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Holmes 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 56; NAY 1.

The following voted in the affirmative:

Althoff	Forby	Lightford	Rutherford
Bivins	Frerichs	Link	Sandoval
Bomke	Garrett	Luechtefeld	Schoenberg
Bond	Haine	Maloney	Silverstein
Brady	Harmon	Martinez	Steans
Burzynski	Hendon	McCarter	Sullivan
Clayborne	Holmes	Meeks	Syverson
Collins	Hultgren	Millner	Trotter
Cronin	Hunter	Muñoz	Viverito
Crotty	Hutchinson	Noland	Wilhelmi
Dahl	Jacobs	Pankau	Mr. President
DeLeo	Jones, E.	Radogno	

Delgado	Jones, J.	Raoul
Demuzio	Koehler	Righter
Dillard	Kotowski	Risinger

The following voted in the negative:

Lauzen

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1341**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Haine, **Senate Bill No. 1384**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1384**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Wilhelmi, **Senate Bill No. 1390**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Wilhelmi 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval

Bond	Haine	Luechtefeld	Schoenberg
Brady	Harmon	Maloney	Silverstein
Burzynski	Hendon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Trotter
Cronin	Hunter	Muñoz	Viverito
Crotty	Hutchinson	Murphy	Wilhelmi
Dahl	Jacobs	Noland	Mr. President
DeLeo	Jones, E.	Pankau	
Delgado	Jones, J.	Radogno	
Demuzio	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. 1390**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Clayborne, **Senate Bill No. 1391**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Clayborne 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 55; NAY 1.

The following voted in the affirmative:

Althoff	Dillard	Jones, J.	Raoul
Bivins	Duffy	Koehler	Righter
Bomke	Forby	Kotowski	Risinger
Bond	Frerichs	Lightford	Rutherford
Brady	Garrett	Link	Sandoval
Burzynski	Haine	Maloney	Schoenberg
Clayborne	Harmon	Martinez	Silverstein
Collins	Hendon	McCarter	Steans
Cronin	Holmes	Meeks	Sullivan
Crotty	Hultgren	Millner	Trotter
Dahl	Hunter	Muñoz	Viverito
DeLeo	Hutchinson	Murphy	Wilhelmi
Delgado	Jacobs	Noland	Mr. President
Demuzio	Jones, E.	Pankau	

The following voted in the negative:

Lauzen

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1391**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Noland, **Senate Bill No. 1408**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Noland 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
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. 1408**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Demuzio, **Senate Bill No. 1486**, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1486**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Martinez, **Senate Bill No. 1489**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Holmes	Meeks	Sullivan
Collins	Hultgren	Millner	Syverson
Cronin	Hunter	Muñoz	Trotter
Crotty	Hutchinson	Murphy	Viverito
Dahl	Jacobs	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
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. 1489**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Frerichs, **Senate Bill No. 1490**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Frerichs 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1490**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Viverito, **Senate Bill No. 1493**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Viverito 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1493**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Hunter, **Senate Bill No. 1499**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Hunter 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Rutherford
Bivins	Frerichs	Lightford	Sandoval
Bomke	Garrett	Link	Schoenberg
Bond	Haine	Luechtefeld	Silverstein
Brady	Harmon	Maloney	Steans
Burzynski	Hendon	Martinez	Sullivan
Clayborne	Holmes	McCarter	Syverson
Collins	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jacobs	Pankau	Mr. President
Delgado	Jones, E.	Radogno	

Demuzio	Jones, J.	Raoul
Dillard	Koehler	Righter
Duffy	Kotowski	Risinger

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1499**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Koehler, **Senate Bill No. 1508**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Koehler 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 55; NAYS None.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Pankau
Bivins	Duffy	Kotowski	Radogno
Bomke	Forby	Lauzen	Raoul
Bond	Frerichs	Lightford	Righter
Brady	Garrett	Link	Risinger
Burzynski	Haine	Luechtefeld	Rutherford
Clayborne	Harmon	Maloney	Schoenberg
Collins	Hendon	Martinez	Silverstein
Cronin	Holmes	McCarter	Steans
Crotty	Hultgren	Meeks	Syverson
Dahl	Hunter	Millner	Trotter
DeLeo	Hutchinson	Muñoz	Viverito
Delgado	Jacobs	Murphy	Mr. President
Demuzio	Jones, J.	Noland	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1508**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Noland, **Senate Bill No. 1544**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Noland 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan

Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Wilhelmi
Delgado	Jones, J.	Pankau	Mr. President
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1544**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Althoff, **Senate Bill No. 1555**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Althoff moved that the Senate nonconcur with the House in the adoption of their amendment to said bill.

The motion prevailed.

And the Senate nonconcurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1555**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Delgado, **Senate Bill No. 1557**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
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. 1557**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Righter, **Senate Bill No. 1583**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Righter 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1583**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 1601**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1601**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Martinez, **Senate Bill No. 1629**, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1629**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Silverstein, **Senate Bill No. 1631**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Silverstein 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Sandoval
Bomke	Haine	Luechtefeld	Schoenberg
Bond	Harmon	Maloney	Silverstein
Burzynski	Hendon	Martinez	Steans
Clayborne	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

Forby	Lauzen	Righter

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1631**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Murphy, **Senate Bill No. 1662**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Murphy 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 57; 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	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1662**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Murphy, **Senate Bill No. 1677**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Murphy 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan

Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1677**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sullivan, **Senate Bill No. 1685**, with House Amendment No. 1 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 amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 57; NAY 1.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Brady	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

The following voted in the negative:

Burzynski

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1685**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Kotowski, **Senate Bill No. 1698**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Kotowski 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 54; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Murphy	Trotter
Crotty	Hunter	Noland	Viverito
Dahl	Hutchinson	Pankau	Wilhelmi
Delgado	Jones, E.	Radogno	Mr. President
Demuzio	Jones, J.	Raoul	
Dillard	Koehler	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1698**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Clayborne, **Senate Bill No. 1718**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Clayborne 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Brady	Haine	Luechtefeld	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	McCarter	Syverson
Cronin	Hultgren	Millner	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Pankau	
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1718**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Demuzio, **Senate Bill No. 1737**, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1737**.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 1:18 o'clock p.m., Senator DeLeo, presiding.

On motion of Senator Steans, **Senate Bill No. 1770**, with House Amendments numbered 1 and 2 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 amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lightford	Risinger
Bomke	Frerichs	Link	Rutherford
Bond	Garrett	Luechtefeld	Sandoval
Brady	Haine	Maloney	Schoenberg
Burzynski	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 1770**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Jacobs, **Senate Bill No. 1784**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Jacobs 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 52; NAYS 6.

The following voted in the affirmative:

Althoff	Forby	Kotowski	Sandoval
Bivins	Frerichs	Lightford	Schoenberg
Bomke	Garrett	Link	Silverstein
Bond	Haine	Maloney	Steans
Brady	Harmon	Martinez	Sullivan
Clayborne	Hendon	Meeks	Syverson
Collins	Holmes	Muñoz	Trotter
Cronin	Hultgren	Murphy	Viverito
Crotty	Hunter	Noland	Wilhelmi
Dahl	Hutchinson	Radogno	Mr. President
DeLeo	Jacobs	Raoul	
Delgado	Jones, E.	Righter	
Demuzio	Jones, J.	Risinger	
Dillard	Koehler	Rutherford	

The following voted in the negative:

Burzynski	Lauzen	Millner
Duffy	McCarter	Pankau

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1784**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Righter, **Senate Bill No. 1801**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Righter 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito

DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
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. 1801**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Frerichs, **Senate Bill No. 1830**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Frerichs 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1830**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Sullivan, **Senate Bill No. 1866**, with House Amendment No. 1 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 amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 51; NAYS 6.

The following voted in the affirmative:

Althoff	Duffy	Koehler	Risinger
Bivins	Forby	Kotowski	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Haine	Link	Schoenberg
Clayborne	Harmon	Luechtefeld	Silverstein
Collins	Hendon	Maloney	Steans

Cronin	Holmes	Martinez	Sullivan
Crotty	Hultgren	Muñoz	Syverson
Dahl	Hunter	Murphy	Trotter
DeLeo	Hutchinson	Noland	Viverito
Delgado	Jacobs	Pankau	Wilhelmi
Demuzio	Jones, E.	Radogno	Mr. President
Dillard	Jones, J.	Raoul	

The following voted in the negative:

Burzynski	Lauzen	Millner
Garrett	McCarter	Righter

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1866**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Kotowski, **Senate Bill No. 1877**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Kotowski 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	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. 1877**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cronin, **Senate Bill No. 1882**, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1882**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Garrett, **Senate Bill No. 1920**, with House Amendments numbered 1 and 2 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 amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Meeks	Syverson
Crotty	Hunter	Millner	Trotter
Dahl	Hutchinson	Muñoz	Viverito
DeLeo	Jacobs	Murphy	Wilhelmi
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
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. 1920**.

Ordered that the Secretary inform the House of Representatives thereof.

INQUIRY OF THE CHAIR

Senator Righter had an inquiry of the Chair as to whether or not in the Committee on Commerce, the question was divided on the Motion to Concur in House Amendment Nos. 1 and 2 to Senate Bill No. 1920, with the result being that House Amendment No. 1 was not reported "do adopt" by the committee.

The Chair stated that the report in possession of the Secretary indicates House Amendment Nos. 1 and 2 were included in a single motion and recommended "do adopt" by the Committee on Commerce.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Garrett, **Senate Bill No. 1922**, with House Amendments numbered 1 and 2 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 amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	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. 1922**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Demuzio, **Senate Bill No. 1956**, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein

Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 1956**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 1975**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Maloney	Silverstein
Burzynski	Harmon	Martinez	Steans
Clayborne	Hendon	McCarter	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
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. 1975**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Althoff, **Senate Bill No. 2010**, 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger

Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	McCarter	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
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. 2010**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Millner, **Senate Bill No. 2026**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Millner 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 2026**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Steans, **Senate Bill No. 2043**, with House Amendment No. 2 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 2 to **Senate Bill No. 2043**.

Ordered that the Secretary inform the House of Representatives thereof.

INQUIRY OF THE CHAIR

Senator Dillard had an inquiry of the Chair as to the status of the Motion in Writing he filed on Friday, May 22, 2009, with respect to Senate Bill No. 350.

The Chair indicated the motion is in possession of the Secretary and will be printed on the Senate Calendar.

MOTION IN WRITING

Senator Dillard submitted the following Motion in Writing:

Pursuant to Senate Rule 7-9, I move that the Senate Committee on Assignments be discharged from further consideration of Senate Floor Amendment 1 to Senate Bill 350 and that Senate Floor Amendment 1 to Senate Bill 350 be referred to the Senate Executive Committee.

5-22-09 s/Kirk Dillard

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Jacobs, **Senate Bill No. 2045**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Jacobs 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter

Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
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. 2045**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Harmon, **Senate Bill No. 2111**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Harmon 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 57; NAYS None; Present 2.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Righter
Bivins	Frerichs	Lightford	Risinger
Bomke	Garrett	Link	Rutherford
Bond	Haine	Luechtefeld	Sandoval
Brady	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	
Dillard	Koehler	Radogno	
Duffy	Kotowski	Raoul	

The following voted present:

DeLeo
Mr. President

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2111**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Steans, **Senate Bill No. 2119**, with House Amendments numbered 1 and 2 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 amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

YEAS 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Mr. President
Demuzio	Jones, J.	Pankau	
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. 2119**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Lauzen, **Senate Bill No. 2272**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Lauzen 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 57; NAYS 2.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

The following voted in the negative:

Jacobs

Link

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2272**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Cronin, **Senate Bill No. 2277**, 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 53; NAYS None.

The following voted in the affirmative:

Althoff	Dillard	Koehler	Risinger
Bivins	Duffy	Lauzen	Sandoval
Bomke	Forby	Link	Schoenberg
Bond	Frerichs	Luechtefeld	Silverstein
Brady	Garrett	Maloney	Steans
Burzynski	Haine	Martinez	Sullivan
Clayborne	Harmon	McCarter	Syverson
Collins	Hendon	Millner	Trotter
Cronin	Holmes	Muñoz	Viverito
Crotty	Hultgren	Murphy	Wilhelmi
Dahl	Hunter	Noland	Mr. President
DeLeo	Hutchinson	Pankau	
Delgado	Jones, E.	Raoul	
Demuzio	Jones, J.	Righter	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 2277**.

Ordered that the Secretary inform the House of Representatives thereof.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Syverson, **House Bill No. 441**, 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 57; NAYS 2.

The following voted in the affirmative:

Althoff	Forby	Lightford	Risinger
Bivins	Frerichs	Link	Rutherford
Bomke	Garrett	Luechtefeld	Sandoval
Bond	Haine	Maloney	Schoenberg
Brady	Harmon	Martinez	Silverstein
Clayborne	Hendon	McCarter	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson

Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

The following voted in the negative:

Burzynski
Lauzen

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).

Ordered that the Secretary inform the House of Representatives thereof.

HOUSE BILL RECALLED

On motion of Senator Jacobs, **House Bill No. 1110** was recalled from the order of third reading to the order of second reading.

Senator Jacobs offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 1110

AMENDMENT NO. 2. Amend House Bill 1110, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, by replacing lines 17 through 26 on page 6 and line 1 on page 7 with the following:

"(d-5) A prosecuting entity may issue: (i) a subpoena duces tecum for the result of an HIV test administered prior to the date of the alleged offense to a person charged with the offense of criminal transmission of HIV or (ii) a subpoena for the attendance of a person whose employment duties included notifying the person of the test result prior to the date of the alleged offense, so long as the return of the test result or attendance of the person pursuant to the subpoena is submitted initially to the Court for an in camera inspection. Only upon a finding by the Court that the test result or proffered testimony are relevant to the pending offense and that a prosecuting entity has a compelling need for the test result or attendance of the person, which need cannot be reasonably accommodated by other means, the information sought by the subpoena shall be disclosed to the prosecuting entity and admissible if otherwise permitted by law. Upon the issuance of an order to disclose HIV test results, the Court shall impose appropriate safeguards against unauthorized disclosure, which shall specify the persons who may gain access to the information, the purposes for which the information shall be used, and appropriate prohibitions on future disclosure.".

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 BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Jacobs, **House Bill No. 1110**, 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Luechtefeld	Sandoval
Bond	Garrett	Maloney	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Hendon	McCarter	Sullivan
Clayborne	Holmes	Meeks	Syverson
Collins	Hultgren	Millner	Trotter
Cronin	Hunter	Muñoz	Viverito
Crotty	Hutchinson	Murphy	Wilhelmi
Dahl	Jacobs	Noland	Mr. President
DeLeo	Jones, E.	Pankau	
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

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).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

On motion of Senator Sandoval, **House Bill No. 3697**, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Lauzen	Risinger
Bivins	Forby	Lightford	Rutherford
Bomke	Frerichs	Link	Sandoval
Bond	Garrett	Luechtefeld	Schoenberg
Brady	Haine	Martinez	Silverstein
Burzynski	Harmon	McCarter	Steans
Clayborne	Hendon	Meeks	Sullivan
Collins	Holmes	Millner	Syverson
Cronin	Hultgren	Muñoz	Trotter
Crotty	Hunter	Murphy	Viverito
Dahl	Hutchinson	Noland	Wilhelmi
DeLeo	Jones, E.	Pankau	Mr. President
Delgado	Jones, J.	Radogno	
Demuzio	Koehler	Raoul	
Dillard	Kotowski	Righter	

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).

Ordered that the Secretary inform the House of Representatives thereof.

Senator Maloney asked and obtained unanimous consent for the Journal to reflect his intention to vote in the affirmative on **House Bill 3697.**

Senator Muñoz asked and obtained unanimous consent to recess for the purpose of a Democrat caucus.

At the hour of 2:36 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 3:50 o'clock p.m., the Senate resumed consideration of business.
Senator Lightford, presiding.

LEGISLATIVE MEASURE FILED

The following Committee amendment to the Senate Resolution listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Committee Amendment No. 1 to Senate Resolution 273

The following Floor amendment to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Assignments:

Senate Floor Amendment No. 8 to Senate Bill 744

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 138
Motion to Concur in House Amendment 1 to Senate Bill 275
Motion to Concur in House Amendment 1 to Senate Bill 933
Motion to Concur in House Amendment 1 to Senate Bill 1335
Motion to Concur in House Amendment 1 to Senate Bill 1553
Motion to Concur in House Amendment 1 to Senate Bill 1576
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1750
Motion to Concur in House Amendment 1 to Senate Bill 1926
Motion to Concur in House Amendment 1 to Senate Bill 2103
Motion to Concur in House Amendment 1 to Senate Bill 2217

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. 367

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. 367
House Amendment No. 2 to SENATE BILL NO. 367
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 367

AMENDMENT NO. 1. Amend Senate Bill 367 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Public Aid Code is amended by changing Section 5-2 and adding Section 12-4.38 as follows:

(305 ILCS 5/5-2) (from Ch. 23, par. 5-2)

Sec. 5-2. Classes of Persons Eligible. Medical assistance under this Article shall be available to any of the following classes of persons in respect to whom a plan for coverage has been submitted to the Governor by the Illinois Department and approved by him:

1. Recipients of basic maintenance grants under Articles III and IV.

2. Persons otherwise eligible for basic maintenance under Articles III and IV, excluding any eligibility requirements that are inconsistent with any federal law or federal regulation, as interpreted by the U.S. Department of Health and Human Services, but who fail to qualify thereunder on the basis of need or who qualify but are not receiving basic maintenance under Article IV, and who have insufficient income and resources to meet the costs of necessary medical care, including but not limited to the following:

(a) All persons otherwise eligible for basic maintenance under Article III but who fail to qualify under that Article on the basis of need and who meet either of the following requirements:

(i) their income, as determined by the Illinois Department in accordance with any federal requirements, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size; or

(ii) their income, after the deduction of costs incurred for medical care and for other types of remedial care, is equal to or less than 70% in fiscal year 2001, equal to or less than 85% in fiscal year 2002 and until a date to be determined by the Department by rule, and equal to or less than 100% beginning on the date determined by the Department by rule, of the nonfarm income official poverty line, as defined in item (i) of this subparagraph (a).

(b) All persons who, excluding any eligibility requirements that are inconsistent with any federal law or federal regulation, as interpreted by the U.S. Department of Health and Human Services, would be determined eligible for such basic maintenance under Article IV by disregarding the maximum earned income permitted by federal law.

3. Persons who would otherwise qualify for Aid to the Medically Indigent under Article VII.

4. Persons not eligible under any of the preceding paragraphs who fall sick, are injured, or die, not having sufficient money, property or other resources to meet the costs of necessary medical care or funeral and burial expenses.

5.(a) Women during pregnancy, after the fact of pregnancy has been determined by medical diagnosis, and during the 60-day period beginning on the last day of the pregnancy, together with their infants and children born after September 30, 1983, whose income and resources are insufficient to meet the costs of necessary medical care to the maximum extent possible under Title XIX of the Federal Social Security Act.

(b) The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 5(a) by April 1, 1990. Such plan shall provide ambulatory prenatal care to pregnant women during a presumptive eligibility period and establish an income eligibility standard that is equal to 133% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget and revised annually in accordance with Section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to families of the same size, provided that costs incurred for medical care are not taken into account in determining such income eligibility.

(c) The Illinois Department may conduct a demonstration in at least one county that will provide medical assistance to pregnant women, together with their infants and children up to one year of age, where the income eligibility standard is set up to 185% of the nonfarm income official poverty line, as defined by the federal Office of Management and Budget. The Illinois Department shall seek and obtain necessary authorization provided under federal law to implement such a demonstration. Such demonstration may establish resource standards that are not more restrictive than those established under Article IV of this Code.

6. Persons under the age of 18 who fail to qualify as dependent under Article IV and who have insufficient income and resources to meet the costs of necessary medical care to the maximum

extent permitted under Title XIX of the Federal Social Security Act.

7. Persons who are under 21 years of age and would qualify as disabled as defined under the Federal Supplemental Security Income Program, provided medical service for such persons would be eligible for Federal Financial Participation, and provided the Illinois Department determines that:

(a) the person requires a level of care provided by a hospital, skilled nursing facility, or intermediate care facility, as determined by a physician licensed to practice medicine in all its branches;

(b) it is appropriate to provide such care outside of an institution, as determined by a physician licensed to practice medicine in all its branches;

(c) the estimated amount which would be expended for care outside the institution is not greater than the estimated amount which would be expended in an institution.

8. Persons who become ineligible for basic maintenance assistance under Article IV of this Code in programs administered by the Illinois Department due to employment earnings and persons in assistance units comprised of adults and children who become ineligible for basic maintenance assistance under Article VI of this Code due to employment earnings. The plan for coverage for this class of persons shall:

(a) extend the medical assistance coverage for up to 12 months following termination of basic maintenance assistance; and

(b) offer persons who have initially received 6 months of the coverage provided in paragraph (a) above, the option of receiving an additional 6 months of coverage, subject to the following:

(i) such coverage shall be pursuant to provisions of the federal Social Security Act;

(ii) such coverage shall include all services covered while the person was eligible for basic maintenance assistance;

(iii) no premium shall be charged for such coverage; and

(iv) such coverage shall be suspended in the event of a person's failure without good cause to file in a timely fashion reports required for this coverage under the Social Security Act and coverage shall be reinstated upon the filing of such reports if the person remains otherwise eligible.

9. Persons with acquired immunodeficiency syndrome (AIDS) or with AIDS-related conditions with respect to whom there has been a determination that but for home or community-based services such individuals would require the level of care provided in an inpatient hospital, skilled nursing facility or intermediate care facility the cost of which is reimbursed under this Article. Assistance shall be provided to such persons to the maximum extent permitted under Title XIX of the Federal Social Security Act.

10. Participants in the long-term care insurance partnership program established under the Illinois Long-Term Care Partnership Program Act who meet the qualifications for protection of resources described in Section 15 of that Act.

11. Persons with disabilities who are employed and eligible for Medicaid, pursuant to Section 1902(a)(10)(A)(ii)(xv) of the Social Security Act, as provided by the Illinois Department by rule. In establishing eligibility standards under this paragraph 11, the Department shall, subject to federal approval:

(a) set the income eligibility standard at not lower than 350% of the federal poverty level;

(b) exempt retirement accounts that the person cannot access without penalty before the age of 59 1/2, and medical savings accounts established pursuant to 26 U.S.C. 220;

(c) allow non-exempt assets up to $25,000 as to those assets accumulated during periods of eligibility under this paragraph 11; and

(d) continue to apply subparagraphs (b) and (c) in determining the eligibility of the person under this Article even if the person loses eligibility under this paragraph 11.

12. Subject to federal approval, persons who are eligible for medical assistance coverage under applicable provisions of the federal Social Security Act and the federal Breast and Cervical Cancer Prevention and Treatment Act of 2000. Those eligible persons are defined to include, but not be limited to, the following persons:

(1) persons who have been screened for breast or cervical cancer under the U.S. Centers for Disease Control and Prevention Breast and Cervical Cancer Program established under Title XV of the federal Public Health Services Act in accordance with the requirements of Section 1504 of that Act as administered by the Illinois Department of Public Health; and

(2) persons whose screenings under the above program were funded in whole or in part by funds appropriated to the Illinois Department of Public Health for breast or cervical cancer screening.

"Medical assistance" under this paragraph 12 shall be identical to the benefits provided under the State's approved plan under Title XIX of the Social Security Act. The Department must request federal approval of the coverage under this paragraph 12 within 30 days after the effective date of this amendatory Act of the 92nd General Assembly.

13. Subject to appropriation and to federal approval, persons living with HIV/AIDS who are not otherwise eligible under this Article and who qualify for services covered under Section 5-5.04 as provided by the Illinois Department by rule.

14. Subject to the availability of funds for this purpose, the Department may provide coverage under this Article to persons who reside in Illinois who are not eligible under any of the preceding paragraphs and who meet the income guidelines of paragraph 2(a) of this Section and (i) have an application for asylum pending before the federal Department of Homeland Security or on appeal before a court of competent jurisdiction and are represented either by counsel or by an advocate accredited by the federal Department of Homeland Security and employed by a not-for-profit organization in regard to that application or appeal, or (ii) are receiving services through a federally funded torture treatment center. Medical coverage under this paragraph 14 may be provided for up to 24 continuous months from the initial eligibility date so long as an individual continues to satisfy the criteria of this paragraph 14. If an individual has an appeal pending regarding an application for asylum before the Department of Homeland Security, eligibility under this paragraph 14 may be extended until a final decision is rendered on the appeal. The Department may adopt rules governing the implementation of this paragraph 14.

15. Family Care Eligibility.

(a) A caretaker relative who is 19 years of age or older when countable income is at or below 185% of the Federal Poverty Level Guidelines, as published annually in the Federal Register, for the appropriate family size. A person may not spend down to become eligible under this paragraph 15.

(b) Eligibility shall be reviewed annually.

(c) Caretaker relatives enrolled under this paragraph 15 in families with countable income above 150% and at or below 185% of the Federal Poverty Level Guidelines shall be counted as family members and pay premiums as established under the Children's Health Insurance Program Act.

(d) Premiums shall be billed by and payable to the Department or its authorized agent, on a monthly basis.

(e) The premium due date is the last day of the month preceding the month of coverage.

(f) Individuals shall have a grace period through the month of coverage to pay the premium.

(g) Failure to pay the full monthly premium by the last day of the grace period shall result in termination of coverage.

(h) Partial premium payments shall not be refunded.

(i) Following termination of an individual's coverage under this paragraph 15, the following action is required before the individual can be re-enrolled:

(1) A new application must be completed and the individual must be determined otherwise eligible.

(2) There must be full payment of premiums due under this Code, the Children's Health Insurance Program Act, the Covering ALL KIDS Health Insurance Act, or any other healthcare program administered by the Department for periods in which a premium was owed and not paid for the individual.

(3) The first month's premium must be paid if there was an unpaid premium on the date the individual's previous coverage was canceled.

The Department is authorized to implement the provisions of this amendatory Act of the 95th General Assembly by adopting the medical assistance rules in effect as of October 1, 2007, at 89 Ill. Admin. Code 125, and at 89 Ill. Admin. Code 120.32 along with only those changes necessary to conform to federal Medicaid requirements, federal laws, and federal regulations, including but not limited to Section 1931 of the Social Security Act (42 U.S.C. Sec. 1396u-1), as interpreted by the U.S. Department of Health and Human Services, and the countable income eligibility standard authorized by this paragraph 15. The Department may not otherwise adopt any rule to implement this increase

except as authorized by law, to meet the eligibility standards authorized by the federal government in the Medicaid State Plan or the Title XXI Plan, or to meet an order from the federal government or any court.

In implementing the provisions of this amendatory Act of the 96th General Assembly, the Department is authorized to adopt only those rules necessary, including emergency rules. Nothing in this amendatory Act of the 96th General Assembly permits the Department to adopt rules or issue a decision that expands eligibility for the FamilyCare Program to a person whose income exceeds 185% of the Federal Poverty Level as determined from time to time by the U.S. Department of Health and Human Services, unless the Department is provided with express statutory authority.

The Illinois Department and the Governor shall provide a plan for coverage of the persons eligible under paragraph 7 as soon as possible after July 1, 1984.

The eligibility of any such person for medical assistance under this Article is not affected by the payment of any grant under the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act or any distributions or items of income described under subparagraph (X) of paragraph (2) of subsection (a) of Section 203 of the Illinois Income Tax Act. The Department shall by rule establish the amounts of assets to be disregarded in determining eligibility for medical assistance, which shall at a minimum equal the amounts to be disregarded under the Federal Supplemental Security Income Program. The amount of assets of a single person to be disregarded shall not be less than $2,000, and the amount of assets of a married couple to be disregarded shall not be less than $3,000.

To the extent permitted under federal law, any person found guilty of a second violation of Article VIIIA shall be ineligible for medical assistance under this Article, as provided in Section 8A-8.

The eligibility of any person for medical assistance under this Article shall not be affected by the receipt by the person of donations or benefits from fundraisers held for the person in cases of serious illness, as long as neither the person nor members of the person's family have actual control over the donations or benefits or the disbursement of the donations or benefits.

(Source: P.A. 94-629, eff. 1-1-06; 94-1043, eff. 7-24-06; 95-546, eff. 8-29-07; 95-1055, eff. 4-10-09.)

(305 ILCS 5/12-4.38 new)

Sec. 12-4.38. Special FamilyCare provisions.

(a) The Department of Healthcare and Family Services may submit to the Comptroller, and the Comptroller is authorized to pay, on behalf of persons enrolled in the FamilyCare Program, claims for services rendered to an enrollee during the period beginning October 1, 2007, and ending on the effective date of any rules adopted to implement the provisions of this amendatory Act of the 96th General Assembly. The authorization for payment of claims applies only to bona fide claims for payment for services rendered. Any claim for payment which is authorized pursuant to the provisions of this amendatory Act of the 96th General Assembly must adhere to all other applicable rules, regulations, and requirements.

(b) Each person enrolled in the FamilyCare Program as of the effective date of this amendatory Act of the 96th General Assembly whose income exceeds 185% of the Federal Poverty Level, but is not more than 400% of the Federal Poverty Level, may remain enrolled in the FamilyCare Program pursuant to this subsection so long as that person continues to meet the eligibility criteria established under the emergency rule at 89 Ill. Adm. Code 133 (Illinois Register Volume 31, page 15854) filed November 7, 2007. In no case may a person continue to be enrolled in the FamilyCare Program pursuant to this subsection if the person's income rises above 400% of the Federal Poverty Level or falls below 185% of the Federal Poverty Level at any subsequent time. Nothing contained in this subsection shall prevent an individual from enrolling in the FamilyCare Program as authorized by paragraph 15 of Section 5-2 of this Code if he or she otherwise qualifies under that Section.

(c) In implementing the provisions of this amendatory Act of the 96th General Assembly, the Department of Healthcare and Family Services is authorized to adopt only those rules necessary, including emergency rules. Nothing in this amendatory Act of the 96th General Assembly permits the Department to adopt rules or issue a decision that expands eligibility for the FamilyCare Program to a person whose income exceeds 185% of the Federal Poverty Level as determined from time to time by the U.S. Department of Health and Human Services, unless the Department is provided with express statutory authority

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

AMENDMENT NO. 2 TO SENATE BILL 367

AMENDMENT NO. _2_. Amend Senate Bill 367, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 14, line 24, by changing "133" to "120".

Under the rules, the foregoing **Senate Bill No. 367**, 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. 1289

A bill for AN ACT concerning criminal law.

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. 1289
House Amendment No. 2 to SENATE BILL NO. 1289
House Amendment No. 5 to SENATE BILL NO. 1289
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1289

AMENDMENT NO. 1. Amend Senate Bill 1289 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Crime Reduction Act of 2009.

Section 5. Purpose and Definitions.

(a) Purpose. The General Assembly hereby declares that it is the policy of Illinois to preserve public safety, reduce crime, and make the most effective use of correctional resources. Currently, the Illinois correctional system overwhelmingly incarcerates people whose time in prison does not result in improved behavior and who return to Illinois communities in less than one year. It is therefore the purpose of this Act to create an infrastructure to provide effective resources and services to incarcerated individuals and individuals supervised in the community; to hold offenders accountable; to successfully rehabilitate offenders to prevent future involvement with the criminal justice system; to measure the overall effectiveness of the criminal justice system in achieving this policy; and to create the Adult Redeploy Illinois program for those who do not fall under the definition of violent offenders.

(b) Definitions. As used in this Act, unless the context clearly requires otherwise:

(1) "Assets" are an offender's qualities or resources, such as family and other positive support systems, educational achievement, and employment history, that research has demonstrated will decrease the likelihood that the offender will re-offend and increase the likelihood that the offender will successfully reintegrate into the community.

(2) "Case plan" means a consistently updated written proposal that shall follow the offender through all phases of the criminal justice system, that is based on the offender's risks, assets, and needs as identified through the assessment tool described in this Act, and that outlines steps the offender shall take and the programs in which the offender shall participate to maximize the offender's ability to be rehabilitated.

(3) "Community supervision" includes supervision in community-based, non-incarceration settings under such conditions and reporting requirements as are imposed by the court or the Prisoner Review Board.

(4) "Conditions of supervision" include conditions described in Section 5-6-3.1 of the Unified Code of Corrections.

(5) "Evidence-based practices" means policies, procedures, programs, and practices that have been demonstrated to reduce recidivism among incarcerated individuals and individuals on community supervision.

(6) "Needs" include an offender's criminogenic qualities, skills, and experiences that can be altered in ways that research has demonstrated will minimize the offender's chances of re-offending and maximize the offender's chances of successfully reintegrating into the community.

(7) "Risks" include the attributes of an offender that are commonly considered to be those variables, such as age, prior criminal history, history of joblessness, and lack of education

that research has demonstrated contribute to an offender's likelihood of re-offending and impact an offender's ability to successfully reintegrate into the community.

(8) "Violent offender" means a person convicted of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

Section 10. Evidence-Based Programming.

(a) Purpose. Research and practice have identified new strategies and policies that can result in a significant reduction in recidivism rates and the successful community reintegration of offenders. The purpose of this Section is to ensure that State and local agencies direct their resources to services and programming that have been demonstrated to be effective in reducing recidivism and reintegrating offenders into the community.

(b) Evidence-based programming in community supervision.

(1) The Probation Services Division of the Administrative Office of the Illinois Courts, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of supervised individuals being supervised in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of supervised individuals being supervised in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of supervised individuals being supervised in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for a consistent and common individualized case plan that follows the offender through the criminal justice system (including in-prison if the supervised individual is in prison) that is:

(i) Based on the assets of the individual as well as his or her risks and needs identified through the assessment tool as described in this Act.

(ii) Comprised of treatment and supervision services appropriate to achieve the purpose of this Act.

(iii) Consistently updated, based on program participation by the supervised individual and other behavior modification exhibited by the supervised individual.

(B) Concentrate resources and services on high-risk offenders.

(C) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy, and other programming designed to reduce criminal behavior.

(D) Establish a system of graduated responses.

(i) The system shall set forth a menu of presumptive responses for the most common types of supervision violations.

(ii) The system shall be guided by the model list of intermediate sanctions created by the Probation Services Division of the State of Illinois pursuant to subsection (1) of Section 15 of the Probation and Probation Officers Act and the system of intermediate sanctions created by the Chief Judge of each circuit court pursuant to Section 5-6-1 of the Unified Code of Corrections.

(iii) The system of responses shall take into account factors such as the severity of the current violation; the supervised individual's risk level as determined by a validated assessment tool described in this Act; the supervised individual's assets; his or her previous criminal record; and the number and severity of any previous supervision violations.

(iv) The system shall also define positive reinforcements that supervised individuals may receive for compliance with conditions of supervision.

(v) Response to violations should be swift and certain and should be imposed as soon as practicable but no longer than 3 working days of detection of the violation behavior.

(2) Conditions of community supervision (probation and mandatory supervised release). Conditions of community supervision whether imposed by a sentencing judge or the Prisoner Review Board shall be imposed in accordance with the offender's risks, assets, and needs as identified through the assessment tool described in this Act.

(c) Evidence-based in-prison programming.

(1) The Department of Corrections shall adopt policies, rules, and regulations

that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of incarcerated individuals receiving services and programming in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for the use and development of a case plan based on the risks, assets, and needs identified through the assessment tool as described in this Act. The case plan should be used to determine in-prison programming; should be continuously updated based on program participation by the prisoner and other behavior modification exhibited by the prisoner; and should be used when creating the case plan described in subsection (b).

(B) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy and other evidence-based programming.

(C) Establish education programs based on a teacher to student ratio of no more than 1:30.

(D) Expand the use of drug prisons, modeled after the Sheridan Correctional Center, to provide sufficient drug treatment and other support services to non-violent inmates with a history of substance abuse.

(2) Participation and completion of programming by prisoners can impact earned time credit as determined under Section 3-6-3 of the Unified Code of Corrections.

(3) The Department of Corrections shall provide its employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education and other topics identified by the Department or its employees.

(d) The Probation Services Division of the Administrative Office of the Illinois Courts, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall provide their employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education, and other topics identified by the agencies or their employees.

(e) The Department of Corrections, the Probation Services Division of the Administrative Office of the Illinois Courts, the Prisoner Review Board, and other correctional entities referenced in the policies, rules, and regulations of this Act shall design, implement, and make public a system to evaluate the effectiveness of evidence-based practices in increasing public safety and in successful reintegration of those under supervision into the community. Annually, each agency shall submit to the Sentencing Policy Advisory Council a comprehensive report on the success of implementing evidence-based practices. The data compiled and analyzed by the Council shall be delivered annually to the Governor and the General Assembly.

Section 15. Adoption, validation, and utilization of an assessment tool.

(a) Purpose. In order to determine appropriate punishment or services which will protect public safety, it is necessary for the State and local jurisdictions to adopt a common assessment tool. Supervision and correctional programs are most effective at reducing future crime when they accurately assess offender risks, assets, and needs, and use these assessment results to assign supervision levels and target programs to criminogenic needs.

(b) After review of the plan issued by the Task Force described in subsection (c), the Probation Services Division of the Administrative Office of the Illinois Courts, the Department of Corrections, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system.

(c) The Governor's Office shall convene a Risks, Assets, and Needs Assessment Task Force to

develop plans for the adoption, validation, and utilization of such an assessment tool. The Task Force shall include, but not be limited to, designees from the Department of Corrections who are responsible for and familiar with Probation Services who are responsible for and familiar with probation services and pre-trial services; a designee from the Cook County Pre-Trial Services Division; a representative from a county probation office, designated by the Administrative Office of the Illinois Courts; and designees from the Attorney General's Office, the Prisoner Review Board, the Illinois Criminal Justice Information Authority, the Sentencing Policy Advisory Council, the Cook County State's Attorney, a State's Attorney selected by the President of the Illinois State's Attorneys Association, the Cook County Public Defender, the State Appellate Defender, and a representative of the defense bar appointed by the Chief Justice of the Illinois Supreme Court.

(d) The Task Force's plans shall be released within one year of the effective date of this Act and shall at a minimum include:

(1) A computerized method and design to allow each of the Illinois agencies which are part of the criminal justice system to share the results of the assessment.

(2) A selection of a common validated tool to be used across the system.

(3) A description of the different points in the system at which the tool shall be used.

(4) An implementation plan, including training and the selection of pilot sites to test the tool.

(5) How often and in what intervals offenders will be reassessed.

(6) How the results can be legally shared with non-governmental organizations that provide treatment and services to those under community supervision.

Section 20. Adult Redeploy Illinois.

(a) Purpose. When offenders are accurately assessed for risk, assets, and needs, it is possible to identify which people should be sent to prison and which people can be effectively supervised in the community. By providing financial incentives to counties or judicial circuits to create effective community-level evidence-based services, it is possible to reduce crime and recidivism at a lower cost to taxpayers. Based on this model, this Act hereby creates the Adult Redeploy Illinois program for offenders who do not fall under the definition of violent offenders in order to increase public safety and encourage the successful community supervision of eligible offenders and their reintegration into the community.

(b) The Adult Redeploy Illinois program shall reallocate State funds from the adult correctional system to local jurisdictions that successfully establish a process to assess offenders and provide a continuum of local, community-based sanctions and treatment alternatives for offenders who would be incarcerated in a State facility if those local services and sanctions did not exist. The allotment of funds shall be based on a formula that rewards local jurisdictions for the establishment or expansion of local community supervision programs and requires them to pay the amount determined in subsection (e) if incarceration targets as defined in subsection (e) are not met.

(c) Each county or circuit participating in the Adult Redeploy Illinois program shall create a local plan describing how it will protect public safety and reduce the county or circuit's utilization of incarceration in State facilities or local county jails by the creation or expansion of individualized services or programs.

(d) Based on the local plan, a county or circuit shall enter into an agreement with the Adult Redeploy Oversight Board described in subsection (e) to reduce the number of commitments to State correctional facilities from that county or circuit, excluding violent offenders. The agreement shall include a pledge from the county or circuit to reduce their commitments by 25% of the level of commitments from the average number of commitments for the past 3 years. In return, the county or circuit shall receive, based upon a formula described in subsection (e), funds to redeploy for local programming for offenders who would otherwise be incarcerated. The county or circuit shall also be penalized, as described in subsection (e), for failure to reach the goal of reduced commitments stipulated in the agreement.

(e) Adult Redeploy Illinois Oversight Board; members; responsibilities.

(1) The Secretary of Human Services and the Director of Corrections shall within 3 months after the effective date of this Act convene and act as co-chairs of an oversight board to oversee the Adult Redeploy Program. The Board shall include, but not be limited to, designees from the Prisoner Review Board, Administrative Office of the Illinois Courts, Office of the Attorney General, Illinois Criminal Justice Information Authority, and Sentencing Policy Advisory Council; the Cook County State's Attorney; a State's Attorney selected by the President of the Illinois State's

Attorneys Association; the State Appellate Defender; the Cook County Public Defender; a representative of the defense bar appointed by the Chief Justice of the Illinois Supreme Court; a representative of probation appointed by the Chief Justice of the Illinois Supreme Court; 3 judges appointed by the Chief Justice of the Illinois Supreme Court; and 4 representatives from non-governmental organizations, including service providers.

(2) The Oversight Board shall within one year after the effective date of this Act:

(A) Develop a process to solicit applications from and identify jurisdictions to be included in the Adult Redeploy Illinois program.

(B) Define categories of membership for local entities to participate in the creation and oversight of the local Adult Redeploy Illinois program.

(C) Develop a formula for the allotment of funds to local jurisdictions for local and community-based services in lieu of commitment to the Department of Corrections and a penalty amount for failure to reach the goal of reduced commitments stipulated in the plans.

(D) Develop a standard format for the local plan to be submitted by the local entity created in each county or circuit.

(E) Identify and secure resources sufficient to support the administration and evaluation of Adult Redeploy Illinois.

(F) Develop a process to support on-going monitoring and evaluation of Adult Redeploy Illinois.

(G) Review local plans and proposed agreements and approve the distribution of resources.

(H) Develop a performance measurement system that includes but is not limited to the following key performance indicators: recidivism, rate of revocations, employment rates, education achievement, successful completion of substance abuse treatment programs, and payment of victim restitution. Each county or circuit shall include the performance measurement system in its local plan and provide data annually to evaluate its success.

(I) Report annually the results of the performance measurements on a timely basis to the Governor and General Assembly.".

AMENDMENT NO. 2 TO SENATE BILL 1289

AMENDMENT NO. 2. Amend Senate Bill 1289, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 11, by inserting immediately below line 14 the following:

"(c-5) The Department of Corrections shall provide administrative support for the Task Force.".

AMENDMENT NO. 5 TO SENATE BILL 1289

AMENDMENT NO. 5. Amend Senate Bill 1289, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Crime Reduction Act of 2009.

Section 5. Purpose and Definitions.

(a) Purpose. The General Assembly hereby declares that it is the policy of Illinois to preserve public safety, reduce crime, and make the most effective use of correctional resources. Currently, the Illinois correctional system overwhelmingly incarcerates people whose time in prison does not result in improved behavior and who return to Illinois communities in less than one year. It is therefore the purpose of this Act to create an infrastructure to provide effective resources and services to incarcerated individuals and individuals supervised in the locality; to hold offenders accountable; to successfully rehabilitate offenders to prevent future involvement with the criminal justice system; to measure the overall effectiveness of the criminal justice system in achieving this policy; and to create the Adult Redeploy Illinois program for those who do not fall under the definition of violent offenders.

(b) Definitions. As used in this Act, unless the context clearly requires otherwise:

(1) "Assets" are an offender's qualities or resources, such as family and other positive support systems, educational achievement, and employment history, that research has demonstrated will decrease the likelihood that the offender will re-offend and increase the likelihood that the offender will successfully reintegrate into the locality.

(2) "Case plan" means a consistently updated written proposal that shall follow the offender through all phases of the criminal justice system, that is based on the offender's risks,

assets, and needs as identified through the assessment tool described in this Act, and that outlines steps the offender shall take and the programs in which the offender shall participate to maximize the offender's ability to be rehabilitated.

(3) "Conditions of supervision" include conditions described in Section 5-6-3.1 of the Unified Code of Corrections.

(4) "Evidence-based practices" means policies, procedures, programs, and practices that have been demonstrated to reduce recidivism among incarcerated individuals and individuals on local supervision.

(5) "Local supervision" includes supervision in local-based, non-incarceration settings under such conditions and reporting requirements as are imposed by the court or the Prisoner Review Board.

(6) "Needs" include an offender's criminogenic qualities, skills, and experiences that can be altered in ways that research has demonstrated will minimize the offender's chances of re-offending and maximize the offender's chances of successfully reintegrating into the locality.

(7) "Risks" include the attributes of an offender that are commonly considered to be those variables, such as age, prior criminal history, history of joblessness, and lack of education that research has demonstrated contribute to an offender's likelihood of re-offending and impact an offender's ability to successfully reintegrate into the locality.

(8) "Violent offender" means a person convicted of a violent crime as defined in subsection (c) of Section 3 of the Rights of Crime Victims and Witnesses Act.

Section 10. Evidence-Based Programming.

(a) Purpose. Research and practice have identified new strategies and policies that can result in a significant reduction in recidivism rates and the successful local reintegration of offenders. The purpose of this Section is to ensure that State and local agencies direct their resources to services and programming that have been demonstrated to be effective in reducing recidivism and reintegrating offenders into the locality.

(b) Evidence-based programming in local supervision.

(1) The Parole Division of the Department of Corrections and the Prisoner Review Board shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of supervised individuals being supervised in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of supervised individuals being supervised in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of supervised individuals being supervised in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for a standardized individual case plan that follows the offender through the criminal justice system (including in-prison if the supervised individual is in prison) that is:

(i) Based on the assets of the individual as well as his or her risks and needs identified through the assessment tool as described in this Act.

(ii) Comprised of treatment and supervision services appropriate to achieve the purpose of this Act.

(iii) Consistently updated, based on program participation by the supervised individual and other behavior modification exhibited by the supervised individual.

(B) Concentrate resources and services on high-risk offenders.

(C) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy, and other programming designed to reduce criminal behavior.

(D) Establish a system of graduated responses.

(i) The system shall set forth a menu of presumptive responses for the most common types of supervision violations.

(ii) The system shall be guided by the model list of intermediate sanctions created by the Probation Services Division of the State of Illinois pursuant to subsection (1) of Section 15 of the Probation and Probation Officers Act and the system of intermediate sanctions created by the Chief Judge of each circuit court pursuant to Section 5-6-1 of the Unified Code of Corrections.

(iii) The system of responses shall take into account factors such as the severity of the current violation; the supervised individual's risk level as determined by a validated assessment tool described in this Act; the supervised individual's assets; his or her previous criminal record; and the number and severity of any previous supervision violations.

(iv) The system shall also define positive reinforcements that supervised individuals may receive for compliance with conditions of supervision.

(v) Response to violations should be swift and certain and should be imposed as soon as practicable but no longer than 3 working days of detection of the violation behavior.

(2) Conditions of local supervision (probation and mandatory supervised release). Conditions of local supervision whether imposed by a sentencing judge or the Prisoner Review Board shall be imposed in accordance with the offender's risks, assets, and needs as identified through the assessment tool described in this Act.

(c) Evidence-based in-prison programming.

(1) The Department of Corrections shall adopt policies, rules, and regulations that, within the first year of the adoption, validation, and utilization of the statewide, standardized risk assessment tool described in this Act, result in at least 25% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; within 3 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 50% of incarcerated individuals receiving services and programming in accordance with evidence-based practices; and within 5 years of the adoption, validation, and utilization of the statewide, standardized risk assessment tool result in at least 75% of incarcerated individuals receiving services and programming in accordance with evidence-based practices. The policies, rules, and regulations shall:

(A) Provide for the use and development of a case plan based on the risks, assets, and needs identified through the assessment tool as described in this Act. The case plan should be used to determine in-prison programming; should be continuously updated based on program participation by the prisoner and other behavior modification exhibited by the prisoner; and should be used when creating the case plan described in subsection (b).

(B) Provide for the use of evidence-based programming related to education, job training, cognitive behavioral therapy and other evidence-based programming.

(C) Establish education programs based on a teacher to student ratio of no more than 1:30.

(D) Expand the use of drug prisons, modeled after the Sheridan Correctional Center, to provide sufficient drug treatment and other support services to non-violent inmates with a history of substance abuse.

(2) Participation and completion of programming by prisoners can impact earned time credit as determined under Section 3-6-3 of the Unified Code of Corrections.

(3) The Department of Corrections shall provide its employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education and other topics identified by the Department or its employees.

(d) The Parole Division of the Department of Corrections and the Prisoner Review Board shall provide their employees with intensive and on-going training and professional development services to support the implementation of evidence-based practices. The training and professional development services shall include assessment techniques, case planning, cognitive behavioral training, risk reduction and intervention strategies, effective communication skills, substance abuse treatment education, and other topics identified by the agencies or their employees.

(e) The Department of Corrections, the Prisoner Review Board, and other correctional entities referenced in the policies, rules, and regulations of this Act shall design, implement, and make public a system to evaluate the effectiveness of evidence-based practices in increasing public safety and in successful reintegration of those under supervision into the locality. Annually, each agency shall submit to the Sentencing Policy Advisory Council a comprehensive report on the success of implementing evidence-based practices. The data compiled and analyzed by the Council shall be delivered annually to the Governor and the General Assembly.

Section 15. Adoption, validation, and utilization of an assessment tool.

(a) Purpose. In order to determine appropriate punishment or services which will protect public safety, it is necessary for the State and local jurisdictions to adopt a common assessment tool. Supervision and correctional programs are most effective at reducing future crime when they accurately assess offender risks, assets, and needs, and use these assessment results to assign supervision levels and target programs to criminogenic needs.

(b) After review of the plan issued by the Task Force described in subsection (c), the Department of Corrections, the Parole Division of the Department of Corrections, and the Prisoner Review Board shall adopt policies, rules, and regulations that within 3 years of the effective date of this Act result in the adoption, validation, and utilization of a statewide, standardized risk assessment tool across the Illinois criminal justice system.

(c) The Governor's Office shall convene a Risks, Assets, and Needs Assessment Task Force to develop plans for the adoption, validation, and utilization of such an assessment tool. The Task Force shall include, but not be limited to, designees from the Department of Corrections who are responsible for parole services, a designee from the Cook County Adult Probation; a representative from a county probation office, a designee from DuPage County Adult Probation, a designee from Sangamon County Adult Probation; and designees from the Attorney General's Office, the Prisoner Review Board, the Illinois Criminal Justice Information Authority, the Sentencing Policy Advisory Council, the Cook County State's Attorney, a State's Attorney selected by the President of the Illinois State's Attorneys Association, the Cook County Public Defender, and he State Appellate Defender.

(c-5) The Department of Human Services shall provide administrative support for the Task Force.

(d) The Task Force's plans shall be released within one year of the effective date of this Act and shall at a minimum include:

(1) A computerized method and design to allow each of the State and local agencies and branches of government which are part of the criminal justice system to share the results of the assessment. The recommendations for the automated system shall include cost estimates, a timetable, a plan to pay for the system and for sharing data across agencies and branches of government.

(2) A selection of a common validated tool to be used across the system.

(3) A description of the different points in the system at which the tool shall be used.

(4) An implementation plan, including training and the selection of pilot sites to test the tool.

(5) How often and in what intervals offenders will be reassessed.

(6) How the results can be legally shared with non-governmental organizations that provide treatment and services to those under local supervision.

Section 20. Adult Redeploy Illinois.

(a) Purpose. When offenders are accurately assessed for risk, assets, and needs, it is possible to identify which people should be sent to prison and which people can be effectively supervised in the locality. By providing financial incentives to counties or judicial circuits to create effective local-level evidence-based services, it is possible to reduce crime and recidivism at a lower cost to taxpayers. Based on this model, this Act hereby creates the Adult Redeploy Illinois program for offenders who do not fall under the definition of violent offenders in order to increase public safety and encourage the successful local supervision of eligible offenders and their reintegration into the locality.

(b) The Adult Redeploy Illinois program shall reallocate State funds to local jurisdictions that successfully establish a process to assess offenders and provide a continuum of locally-based sanctions and treatment alternatives for offenders who would be incarcerated in a State facility if those local services and sanctions did not exist. The allotment of funds shall be based on a formula that rewards local jurisdictions for the establishment or expansion of local supervision programs and requires them to pay the amount determined in subsection (e) if incarceration targets as defined in subsection (e) are not met.

(c) Each county or circuit participating in the Adult Redeploy Illinois program shall create a local plan describing how it will protect public safety and reduce the county or circuit's utilization of incarceration in State facilities or local county jails by the creation or expansion of individualized services or programs.

(d) Based on the local plan, a county or circuit shall enter into an agreement with the Adult Redeploy Oversight Board described in subsection (e) to reduce the number of commitments to State correctional facilities from that county or circuit, excluding violent offenders. The agreement shall include a pledge

from the county or circuit to reduce their commitments by 25% of the level of commitments from the average number of commitments for the past 3 years of eligible non-violent offenders. In return, the county or circuit shall receive, based upon a formula described in subsection (e), funds to redeploy for local programming for offenders who would otherwise be incarcerated such as management and supervision, electronic monitoring, and drug testing. The county or circuit shall also be penalized, as described in subsection (e), for failure to reach the goal of reduced commitments stipulated in the agreement.

(e) Adult Redeploy Illinois Oversight Board; members; responsibilities.

(1) The Secretary of Human Services and the Director of Corrections shall within 3 months after the effective date of this Act convene and act as co-chairs of an oversight board to oversee the Adult Redeploy Program. The Board shall include, but not be limited to, designees from the Prisoner Review Board, Office of the Attorney General, Illinois Criminal Justice Information Authority, and Sentencing Policy Advisory Council; the Cook County State's Attorney; a State's Attorney selected by the President of the Illinois State's Attorneys Association; the State Appellate Defender; the Cook County Public Defender; a representative of Cook County Adult Probation, a representative of DuPage County Adult Probation; a representative of Sangamon County Adult Probation; and 4 representatives from non-governmental organizations, including service providers.

(2) The Oversight Board shall within one year after the effective date of this Act:

(A) Develop a process to solicit applications from and identify jurisdictions to be included in the Adult Redeploy Illinois program.

(B) Define categories of membership for local entities to participate in the creation and oversight of the local Adult Redeploy Illinois program.

(C) Develop a formula for the allotment of funds to local jurisdictions for local and community-based services in lieu of commitment to the Department of Corrections and a penalty amount for failure to reach the goal of reduced commitments stipulated in the plans.

(D) Develop a standard format for the local plan to be submitted by the local entity created in each county or circuit.

(E) Identify and secure resources sufficient to support the administration and evaluation of Adult Redeploy Illinois.

(F) Develop a process to support on-going monitoring and evaluation of Adult Redeploy Illinois.

(G) Review local plans and proposed agreements and approve the distribution of resources.

(H) Develop a performance measurement system that includes but is not limited to the following key performance indicators: recidivism, rate of revocations, employment rates, education achievement, successful completion of substance abuse treatment programs, and payment of victim restitution. Each county or circuit shall include the performance measurement system in its local plan and provide data annually to evaluate its success.

(I) Report annually the results of the performance measurements on a timely basis to the Governor and General Assembly.".

Under the rules, the foregoing **Senate Bill No. 1289**, with House Amendments numbered 1, 2 and 5, 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. 1682

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. 1682
House Amendment No. 2 to SENATE BILL NO. 1682
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1682

AMENDMENT NO. 1. Amend Senate Bill 1682 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Funeral or Burial Funds Act is amended by changing Sections 1, 1a, 1a-1, 1b, 2, 3, 4, 4a, 5, and 8.1 and by adding Section 1a-2 as follows:

(225 ILCS 45/1) (from Ch. 111 1/2, par. 73.101)

Sec. 1. Payment under pre-need contract. Except as otherwise provided in this Section, all sales proceeds paid to any person, partnership, association or corporation with respect to merchandise or services covered by this Act, upon any agreement or contract, or any series or combination of agreements or contracts, which has for a purpose the furnishing or performance of funeral services, or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, including, but not limited to, outer burial containers, urns, combination casket-vault units, caskets and clothing, for future use at a time determinable by the death of the person or persons whose body or bodies are to be so disposed of, shall be held to be trust funds, and shall be placed in trust in accordance with Sections 1b and 2, or shall be used to purchase life insurance or annuities in accordance with Section 2a. The person, partnership, association or corporation receiving said payments under a pre-need contract is hereby declared to be a trustee thereof until deposits of funds are made in accordance with Section 1b or 2a of this Act. ~~Persons holding less than $500,000 in trust funds may continue to act as the trustee after the funds are deposited in accordance with subsection (d) of Section 1b.~~

Nothing in this Act shall be construed to prohibit the inclusion of outer burial containers in sales contracts under the Illinois Pre-Need Cemetery Sales Act.

(Source: P.A. 91-7, eff. 1-1-2000.)

(225 ILCS 45/1a) (from Ch. 111 1/2, par. 73.101a)

Sec. 1a. For the purposes of this Act, the following terms shall have the meanings specified, unless the context clearly requires another meaning:

"Beneficiary" means the person specified in the pre-need contract upon whose death funeral services or merchandise shall be provided or delivered.

"Licensee" means a seller of a pre-need contract who has been licensed by the Comptroller under this Act.

"Outer burial container" means any container made of concrete, steel, wood, fiberglass or similar material, used solely at the interment site, and designed and used exclusively to surround or enclose a separate casket and to support the earth above such casket, commonly known as a burial vault, grave box or grave liner, but not including a lawn crypt as defined in the Illinois Pre-need Cemetery Sales Act.

"Parent company" means a corporation owning more than 12 cemeteries or funeral homes in more than one state.

"Person" means any person, partnership, association, corporation, or other entity.

"Pre-need contract" means any agreement or contract, or any series or combination of agreements or contracts, whether funded by trust deposits or life insurance policies or annuities, which has for a purpose the furnishing or performance of funeral services or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body. Nothing in this Act is intended to regulate the content of a life insurance policy or a tax-deferred annuity.

"Provider" means a person who is obligated for furnishing or performing funeral services or the furnishing or delivery of any personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body.

"Purchaser" means the person who originally paid the money under or in connection with a pre-need contract.

"Sales proceeds" means the entire amount paid to a seller, exclusive of sales taxes paid by the seller~~, finance charges paid by the purchaser,~~ and credit life, accident or disability insurance premiums, upon any agreement or contract, or series or combination of agreements or contracts, for the purpose of performing funeral services or furnishing personal property, merchandise, or services of any nature in connection with the final disposition of a dead human body, including, but not limited to, the retail price paid for such services and personal property and merchandise.

"Purchase price" means sales proceeds ~~less finance charges on retail installment contracts~~.

"Seller" means the person who sells or offers to sell the pre-need contract to a purchaser, whether funded by a trust agreement, life insurance policy, or tax-deferred annuity.

"Trustee" means a person authorized to hold funds under this Act.

(Source: P.A. 92-419, eff. 1-1-02.)

(225 ILCS 45/1a-1)

Sec. 1a-1. Pre-need contracts.

(a) It shall be unlawful for any seller doing business within this State to accept sales proceeds from a purchaser, either directly or indirectly by any means, unless the seller enters into a pre-need contract with the purchaser which meets the following requirements:

(1) It states the name and address of the principal office of the seller and the parent company of the seller, if any.

(1.5) If funded by a trust, it clearly identifies the trustee's name and address and the primary state or federal regulator of the trustee as a corporate fiduciary.

(1.7) If funded by life insurance, it clearly identifies the life insurance provider and the primary regulator of the life insurance provider.

(2) It clearly identifies the provider's name and address, the purchaser, and the beneficiary, if other than the purchaser.

(2.5) If the provider has branch locations, the contract gives the purchaser the opportunity to identify the branch at which the funeral will be provided.

(3) It contains a complete description of the funeral merchandise and services to be provided and the price of the merchandise and services, and it clearly discloses whether the price of the merchandise and services is guaranteed or not guaranteed as to price.

(A) Each guaranteed price contract shall contain the following statement in 12 point bold type:

THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC GOODS AND SERVICES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY BE REQUIRED. FOR DESIGNATED GOODS AND SERVICES, ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED EXPENSES INCLUDING, BUT NOT LIMITED TO, CASH ADVANCES, SHIPPING OF REMAINS FROM A DISTANT PLACE, OR DESIGNATED HONORARIA ORDERED OR DIRECTED BY SURVIVORS.

(B) Except as provided in subparagraph (C) of this paragraph (3), each non-guaranteed price contract shall contain the following statement in 12 point bold type:

THIS CONTRACT DOES NOT GUARANTEE THE PRICE THE BENEFICIARY WILL PAY FOR ANY SPECIFIC GOODS OR SERVICES. ANY FUNDS PAID UNDER THIS CONTRACT ARE ONLY A DEPOSIT TO BE APPLIED TOWARD THE FINAL PRICE OF THE GOODS OR SERVICES CONTRACTED FOR. ADDITIONAL CHARGES MAY BE REQUIRED.

(C) If a non-guaranteed price contract may subsequently become guaranteed, the contract shall clearly disclose the nature of the guarantee and the time, occurrence, or event upon which the contract shall become a guaranteed price contract.

(4) It provides that if the particular supplies and services specified in the pre-need contract are unavailable at the time of delivery, the provider shall be required to furnish supplies and services similar in style and at least equal in quality of material and workmanship.

(5) It discloses any penalties or restrictions, including but not limited to geographic restrictions or the inability of the provider to perform, on the delivery of merchandise, services, or pre-need contract guarantees.

(6) Regardless of the method of funding the pre-need contract, the following must be disclosed:

(A) Whether the pre-need contract is to be funded by a trust, life insurance, or an annuity;

(B) The nature of the relationship among the person funding the pre-need contract, the provider, and the seller; and

(C) The impact on the pre-need contract of (i) any changes in the funding arrangement including but not limited to changes in the assignment, beneficiary designation, or use of the funds; (ii) any specific penalties to be incurred by the contract purchaser as a result of failure to make payments; (iii) penalties to be incurred or moneys or refunds to be received as a result of cancellations; and (iv) all relevant information concerning what occurs and whether any entitlements or obligations arise if there is a difference between the proceeds of the particular funding arrangement and the amount actually needed to pay for the funeral at-need.

(D) The method of changing the provider.

(b) All pre-need contracts are subject to the Federal Trade Commission Rule concerning the

Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429).

(c) No pre-need contract shall be sold in this State unless there is a provider for the services and personal property being sold. If the seller is not a provider, then the seller must have a binding agreement with a provider, and the identity of the provider and the nature of the agreement between the seller and the provider shall be disclosed in the pre-need contract at the time of the sale and before the receipt of any sales proceeds. The failure to disclose the identity of the provider, the nature of the agreement between the seller and the provider, or any changes thereto to the purchaser and beneficiary, or the failure to make the disclosures required in subdivision (a)(1), constitutes an intentional violation of this Act.

(d) All pre-need contracts must be in writing in at least 11 point type, numbered, and executed in duplicate. A signed copy of the pre-need contract must be provided to the purchaser at the time of entry into the pre-need contract. The Comptroller may by rule develop a model pre-need contract form that ~~which~~ meets the requirements of this Act.

(e) The State Comptroller shall by rule develop a booklet for consumers in plain English describing the scope, application, and consumer protections of this Act. After the adoption of these rules, no pre-need contract shall be sold in this State unless (i) the seller distributes to the purchaser prior to the sale a booklet promulgated or approved for use by the State Comptroller; (ii) the seller explains to the purchaser the terms of the pre-need contract prior to the purchaser signing; and (iii) the purchaser initials a statement in the contract confirming that the seller has explained the terms of the contract prior to the purchaser signing.

(f) All sales proceeds received in connection with a pre-need contract shall be deposited into a trust account as provided in Section 1b and Section 2 of this Act, or shall be used to purchase a life insurance policy or tax-deferred annuity as provided in Section 2a of this Act.

(g) No pre-need contract shall be sold in this State unless it is accompanied by a funding mechanism permitted under this Act, and unless the seller is licensed by the Comptroller as provided in Section 3 of this Act. Nothing in this Act is intended to relieve sellers of pre-need contracts from being licensed under any other Act required for their profession or business, and being subject to the rules promulgated to regulate their profession or business, including rules on solicitation and advertisement.

(Source: P.A. 92-419, eff. 1-1-02.)

(225 ILCS 45/1a-2 new)

Sec. 1a-2. Pre-Need Funeral Consumer Protection Fund.

(a) Each licensee shall pay a fee of $5 out of the funds received for each pre-need contract sold and shall forward this sum to the Comptroller within 10 days after (i) the funds required to be placed in trust pursuant to Section 1b of this Act are deposited into the trust account or (ii) the funds are used to purchase a pre-need insurance policy. Fees collected under this Section shall be deposited into the Pre-need Funeral Consumer Protection Fund, which is hereby created as a special fund in the State treasury. Moneys in the Fund may be expended for the purposes specified in subsection (b) and to purchase insurance to cover losses guaranteed by the Fund.

(b) In the event that the purchaser is unable to receive the benefits of his or her pre-need contract or to receive the funds due by reason of cancellation of the contract, the purchaser may apply to the Comptroller on a form prescribed by the Comptroller for restitution from the Pre-need Funeral Consumer Protection Fund. Upon a finding by the Comptroller that the benefits or return of payment is not available to the purchaser, the Comptroller may cause restitution to be paid to the purchaser from the Pre-need Funeral Consumer Protection Fund.

(c) In all such cases where a purchaser is paid restitution from the Fund, the Comptroller shall be subrogated to that purchaser's claims against the licensee for all amounts paid from the Fund. If the licensee's liability for default is subsequently proven, any award made by a court of law shall be made payable to the Pre-need Funeral Consumer Protection Fund up to the amount paid to the purchaser from the Fund and the Comptroller shall request that the Attorney General engage in all reasonable post-judgment collection steps to collect such claims from the judgment debtor and reimburse the Fund.

(d) The Fund shall not be applied toward any restitution for losses in any lawsuit initiated by the Attorney General or Comptroller or with respect to any claim made on a pre-need contract that occurred prior to the effective date of this amendatory Act of the 96th General Assembly.

(e) Notwithstanding any other provision of this Section, the payment of restitution from the Fund shall be a matter of grace and not of right and no purchaser shall have any vested right in the Fund as a beneficiary or otherwise.

(f) The Fund may not be allocated for any purpose other than that specified in this Act.

(225 ILCS 45/1b) (from Ch. 111 1/2, par. 73.101b)

Sec. 1b. (a) Whenever a seller receives sales proceeds under a pre-need contract that the purchaser

elects to fund by a trust agreement, the seller may retain an initial amount equal to 5% of the purchase price of the services, personal property or merchandise, or 15% of the purchase price of outer burial containers. Thereafter, a seller shall deposit into trust the amounts specified in this Section so that no later than upon the final payment on the contract, the trust shall equal or exceed 95% of the purchase price of all services, personal property, or merchandise, except for outer burial containers, and 85% of the purchase price of outer burial containers.

(b) In the event that sales proceeds to be deposited into a trust are received pursuant to a cash sale or an ~~a retail~~ installment contract, the seller may retain the initial percentage authorized by subsection (a) of this Section ~~and any finance charge paid by the purchaser~~, and thereafter shall deposit into the trust the entire balance of sales proceeds received.

(c) In the event that the deposits into a trust required by this Section do not, after final payment by the consumer, result in the trust containing at least 95% of the purchase ~~sales~~ price of all services, personal property or merchandise, except for outer burial containers and 85% of the purchase price of outer burial containers, the seller shall make an additional deposit into the trust in an amount sufficient to meet these percentages.

(d) The trustee may not be the seller or provider of funeral services or merchandise ~~unless the seller holds sales of less than $500,000 in trust, and deposits funds for which the seller is acting as trustee in (1) withdrawable accounts of State chartered or federally chartered savings and loan associations insured by the Federal Deposit Insurance Corporation; (2) deposits or certificates of deposits in State or federal banks insured by the Federal Deposit Insurance Corporation; or (3) share accounts or share certificate accounts in a State or federal credit union, the accounts of which are insured as required by the Illinois Credit Union Act or the Federal Credit Union Act, as applicable~~.

(Source: P.A. 88-477.)

(225 ILCS 45/2) (from Ch. 111 1/2, par. 73.102)

Sec. 2. (a) If a purchaser selects a trust arrangement to fund the pre-need contract, all trust deposits as determined by Section 1b shall be made within 30 days of receipt.

(b) A trust established under this Act must be maintained with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act. ~~:~~

~~(1) in a trust account established in a bank, savings and loan association, savings bank, or credit union authorized to do business in Illinois in which accounts are insured by an agency of the federal government; or~~

~~(2) in a trust company authorized to do business in Illinois.~~

(c) Trust agreements and amendments to the trust agreements used to fund a pre-need contract shall be filed with the Comptroller.

(d) (Blank).

(e) A seller or provider shall furnish to the trustee and depositary the name of each payor and the amount of payment on each such account for which deposit is being so made. Nothing shall prevent the trustee ~~or a seller or provider acting as a trustee in accordance with this Act~~ from commingling the deposits in any such trust fund for purposes of its management and the investment of its funds as provided in the Common Trust Fund Act. In addition, multiple trust funds maintained under this Act may be commingled or commingled with other funeral or burial related trust funds if all record keeping requirements imposed by law are met.

(f) (Blank). ~~Trust funds may be maintained in a financial institution described in subsection (b) which is located in a state adjoining this State where: (1) the financial institution is located within 50 miles of the border of this State, (2) its accounts are federally insured, and (3) it has registered with the Illinois Secretary of State for purposes of service of process.~~

(g) Upon no less than 30 days prior notice to the Comptroller, the seller may change the trustee of the fund. Failure to provide the Comptroller with timely prior notice is an intentional violation of this Act.

(h) A trustee shall at least annually furnish to each purchaser a statement containing: (1) the receipts, disbursements, and inventory of the trust, including an explanation of any fees or expenses charged by the trustee under Section 4 of this Act or otherwise, (2) an explanation of the purchaser's right to a refund, if any, under this Act, and (3) identifying the primary regulator of the trust as a corporate fiduciary under state or federal law.

(Source: P.A. 92-419, eff. 1-1-02.)

(225 ILCS 45/3) (from Ch. 111 1/2, par. 73.103)

Sec. 3. Licensing.

(a) No person, firm, partnership, association or corporation may act as seller without first securing from the State Comptroller a license to so act. Application for such license shall be in writing, signed by the applicant and duly verified on forms furnished by the Comptroller. Each application shall contain at

least the following:

(1) The full name and address (both residence and place of business) of the applicant, and every member, officer and director thereof if the applicant is a firm, partnership, association, or corporation, and of every shareholder holding more than 10% of the corporate stock if the applicant is a corporation~~.~~;

(2) A statement of the applicant's assets and liabilities;

(3) The name and address of the applicant's principal place of business at which the books, accounts, and records shall be available for examination by the Comptroller as required by this Act;

(4) The names and addresses of the applicant's branch locations at which pre-need sales shall be conducted and which shall operate under the same license number as the applicant's principal place of business;

(5) For each individual listed under item (1) above, a detailed statement of the individual's business experience for the 10 years immediately preceding the application; any present or prior connection between the individual and any other person engaged in pre-need sales; any felony or misdemeanor convictions for which fraud was an essential element; any charges or complaints lodged against the individual for which fraud was an essential element and which resulted in civil or criminal litigation; any failure of the individual to satisfy an enforceable judgment entered against him based upon fraud; and any other information requested by the Comptroller relating to past business practices of the individual. Since the information required by this item (5) may be confidential or contain proprietary information, this information shall not be available to other licensees or the general public and shall be used only for the lawful purposes of the Comptroller in enforcing this Act;

(6) The name of the trustee and, if applicable, the names of the advisors to the trustee, including a copy of the proposed trust agreement under which the trust funds are to be held as required by this Act; and

(7) Such other information as the Comptroller may reasonably require in order to determine the qualification of the applicant to be licensed under this Act.

(b) Applications for license shall be accompanied by a fidelity bond executed by the applicant and a surety company authorized to do business in this State or an irrevocable, unconditional letter of credit issued by a bank, credit union, or trust company authorized to do business in the State of Illinois, as approved by the State Comptroller, in such amount not exceeding $10,000 as the Comptroller may require. If, after notice and an opportunity to be heard, it has been determined that a licensee has violated this Act within the past 5 calendar years, ~~or if a licensee does not retain a corporate fiduciary, as defined in the Corporate Fiduciary Act, to manage the funds in trust pursuant to this Act,~~ the Comptroller may require an additional bond or letter of credit from the licensee from time to time in amounts equal to one-tenth of such trust funds, which bond or letter of credit shall run to the Comptroller for the use and benefit of the beneficiaries of such trust funds.

The licensee shall keep accurate accounts, books and records in this State, at the principal place of business identified in the licensee's license application or as otherwise approved by the Comptroller in writing, of all transactions, copies of all pre-need contracts, trust agreements, and other agreements, dates and amounts of payments made and accepted thereon, the names and addresses of the contracting parties, the persons for whose benefit such funds are accepted, and the names of the depositaries of such funds. Each licensee shall maintain the documentation for a period of 3 years after the licensee has fulfilled his obligations under the pre-need contract. Additionally, for a period not to exceed 6 months after the performance of all terms in a pre-need sales contract, the licensee shall maintain copies of the contract at the licensee branch location where the contract was entered or at some other location agreed to by the Comptroller in writing. If an insurance policy or tax-deferred annuity is used to fund the pre-need contract, the licensee under this Act shall keep and maintain accurate accounts, books, and records in this State, at the principal place of business identified in the licensee's application or as otherwise approved by the Comptroller in writing, of all insurance policies and tax-deferred annuities used to fund the pre-need contract, the name and address of insured, annuitant, and initial beneficiary, and the name and address of the insurance company issuing the policy or annuity. If a life insurance policy or tax-deferred annuity is used to fund a pre-need contract, the licensee shall notify the insurance company of the name of each pre-need contract purchaser and the amount of each payment when the pre-need contract, insurance policy or annuity is purchased.

The licensee shall make reports to the Comptroller annually or at such other time as the Comptroller may require, on forms furnished by the Comptroller. The licensee shall file the annual report with the Comptroller within 75 days after the end of the licensee's fiscal year. The Comptroller shall for good cause shown grant an extension for the filing of the annual report upon the written request of the

licensee. Such extension shall not exceed 60 days. If a licensee fails to submit an annual report to the Comptroller within the time specified in this Section, the Comptroller shall impose upon the licensee a penalty of $5 for each and every day the licensee remains delinquent in submitting the annual report. The Comptroller may abate all or part of the $5 daily penalty for good cause shown. Every application shall be accompanied by a check or money order in the amount of $25 and every report shall be accompanied by a check or money order in the amount of $10 payable to: Comptroller, State of Illinois.

The licensee shall make all required books and records pertaining to trust funds, insurance policies, or tax-deferred annuities available to the Comptroller for examination. The Comptroller, or a person designated by the Comptroller who is trained to perform such examinations, may at any time investigate the books, records and accounts of the licensee with respect to trust funds, insurance policies, or tax-deferred annuities and for that purpose may require the attendance of and examine under oath all persons whose testimony he may require. The licensee shall pay a fee for such examination in accordance with a schedule established by the Comptroller. The fee shall not exceed the cost of such examination. For pre-need contracts funded by trust arrangements, the cost of an initial examination shall be borne by the licensee if it has $10,000 or more in trust funds, otherwise, by the Comptroller. The charge made by the Comptroller for an examination shall be based upon the total amount of trust funds held by the licensee at the end of the calendar or fiscal year for which the report is required by this Act and shall be in accordance with the following schedule:

Less than $10,000.....no charge;
$10,000 or more but less than $50,000.....$10;
$50,000 or more but less than $100,000.....$40;
$100,000 or more but less than $250,000.....$80;
$250,000 or more.....$100.

The Comptroller may order additional audits or examinations as he or she may deem necessary or advisable to ensure the safety and stability of the trust funds and to ensure compliance with this Act. These additional audits or examinations shall only be made after good cause is established by the Comptroller in the written order. The grounds for ordering these additional audits or examinations may include, but shall not be limited to:

(1) material and unverified changes or fluctuations in trust balances or insurance or annuity policy amounts;

(2) the licensee changing trustees more than twice in any 12-month period;

(3) any withdrawals or attempted withdrawals from the trusts, insurance policies, or annuity contracts in violation of this Act; or

(4) failure to maintain or produce documentation required by this Act for deposits into trust accounts, trust investment activities, or life insurance or annuity policies.

The ~~Prior to ordering an additional audit or examination, the Comptroller shall request the licensee to respond and comment upon the factors identified by the Comptroller as warranting the subsequent examination or audit. The licensee shall have 30 days to provide a response to the Comptroller. If the Comptroller decides to proceed with the additional examination or audit, the~~ licensee shall bear the full cost of that examination or audit, up to a maximum of $20,000 ~~$7,500~~. The Comptroller may elect to pay for the examination or audit and receive reimbursement from the licensee. Payment of the costs of the examination or audit by a licensee shall be a condition of receiving, maintaining, or renewing a license under this Act. All moneys received by the Comptroller for examination or audit fees shall be maintained in a separate account to be known as the Comptroller's Administrative Fund. This Fund, subject to appropriation by the General Assembly, may be utilized by the Comptroller for enforcing this Act and other purposes that may be authorized by law.

For pre-need contracts funded by life insurance or a tax-deferred annuity, the cost of an examination shall be borne by the licensee ~~if it has received $10,000 or more in premiums during the preceding calendar year~~. The fee schedule for such examination shall be established in rules promulgated by the Comptroller. In the event such investigation or other information received by the Comptroller discloses a substantial violation of the requirements of this Act, the Comptroller shall revoke the license of such person upon a hearing as provided in this Act. Such licensee may terminate all further responsibility for compliance with the requirements of this Act by voluntarily surrendering the license to the Comptroller, or in the event of its loss, furnishing the Comptroller with a sworn statement to that effect, which states the licensee's intention to discontinue acceptance of funds received under pre-need contracts. Such license or statement must be accompanied by an affidavit that said licensee has lawfully expended or refunded all funds received under pre-need contracts, and that the licensee will accept no additional sales proceeds. The Comptroller shall immediately cancel or revoke said license.

(Source: P.A. 92-419, eff. 1-1-02.)

(225 ILCS 45/4) (from Ch. 111 1/2, par. 73.104)

Sec. 4. Withdrawal of funds; revocability of contract.

(a) Except as otherwise provided in this Act, monies in a trust established under Section 2 ~~The amount or amounts so deposited into trust, with interest thereon, if any,~~ shall not be withdrawn until after the death of the beneficiary ~~person or persons for whose funeral or burial such funds were paid~~, unless sooner withdrawn and refunded to the purchaser as provided in this Section ~~repaid to the person who originally paid the money under or in connection with the pre need contract or to his or her legal representative~~. The life insurance policies or tax-deferred annuities shall not be surrendered until the death of the beneficiary ~~person or persons for whose funeral or burial the policies or annuities were purchased~~, unless sooner surrendered and repaid to the owner of the policy purchased under or in connection with the pre-need contract or to his or her legal representative. If, however, the agreement or series of agreements provides for forfeiture and retention of any or all payments as and for liquidated damages as provided in Section 6, then the trustee may withdraw the deposits. In addition, nothing in this Section (i) prohibits the change of depositary by the trustee and the transfer of trust funds from one depositary to another or (ii) prohibits a contract purchaser who is or may become eligible for public assistance under any applicable federal or State law or local ordinance including, but not limited to, eligibility under 24 C.F.R., Part 913 relating to family insurance under federal Housing and Urban Development Policy from irrevocably waiving, in writing, and renouncing the right to cancel a pre-need contract for funeral services in an amount prescribed by rule of the Department of Healthcare and Family Services. No guaranteed price pre-need funeral contract may prohibit a purchaser from making a contract irrevocable to the extent that federal law or regulations require that such a contract be irrevocable for purposes of the purchaser's eligibility for Supplemental Security Income benefits, Medicaid, or another public assistance program, as permitted under federal law.

(b) If for any reason a seller or provider who has engaged in pre-need sales has refused, cannot, or does not comply with the terms of the pre-need contract within a reasonable time after he or she is required to do so, the purchaser or his or her heirs or assigns or duly authorized representative shall have the right to a refund of an amount equal to the sales price paid for undelivered merchandise or services plus any ~~otherwise earned undistributed interest~~ amounts held in trust attributable to the contract, within 30 days of the filing of a sworn affidavit with the trustee setting forth the existence of the contract and the fact of breach. A copy of this affidavit shall be filed with the Comptroller and the seller. In the event a seller is prevented from performing by strike, shortage of materials, civil disorder, natural disaster, or any like occurrence beyond the control of the seller or provider, the seller or provider's time for performance shall be extended by the length of the delay. Nothing in this Section shall relieve the seller or provider from any liability for non-performance of his or her obligations under the pre-need contract.

(c) After final payment on a pre-need contract, any purchaser may, prior to the death of the beneficiary and upon written demand to a seller, demand that the pre-need contract with the seller be terminated. The seller shall, within 30 days, initiate a refund to the purchaser of the entire amount held in trust attributable to undelivered merchandise and unperformed services plus any amounts held in trust attributable to the contract ~~, including otherwise earned undistributed interest earned thereon~~ or the cash surrender value of a life insurance policy or tax-deferred annuity.

(c-5) If, after the death of the beneficiary, no funeral merchandise or services are provided or if the funeral is conducted by another provider ~~person~~, the seller may keep no more than 10% of the payments made under the pre-need contract or $300, whichever sum is less. The remainder of the trust funds or insurance or annuity proceeds shall be forwarded to the legal heirs of the deceased beneficiary or as determined by probate action.

(d) The placement and retention of all or a portion of a casket, combination casket-vault, urn, or outer burial container comprised of materials which are designed to withstand prolonged storage in the manner set forth in this paragraph without adversely affecting the structural integrity or aesthetic characteristics of such merchandise in a specific burial space in which the person or persons for whose funeral or burial the merchandise was intended has a right of interment, or the placement of the merchandise in a specific mausoleum crypt or lawn crypt in which such person has a right of entombment, or the placement of the merchandise in a specific niche in which such person has a right of inurnment, or delivery to such person and retention by such person until the time of need shall constitute actual delivery to the person who originally paid the money under or in connection with said agreement or series of agreements. Actual delivery shall eliminate, from and after the date of actual delivery, any requirement under this Act to place or retain in trust any funds received for the sale of such merchandise. The delivery, prior to the time of need, of any funeral or burial merchandise in any manner other than authorized by this Section shall not constitute actual delivery and shall not eliminate any requirement under this Act to place or retain in trust any funds received for the sale of such merchandise.

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

(225 ILCS 45/4a)

Sec. 4a. Investment of funds.

(a) A trustee has a duty to invest and manage the trust assets pursuant to the Prudent Investor Rule under the Trusts and Trustees Act ~~shall, with respect to the investment of trust funds, exercise the judgment and care under the circumstances then prevailing that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital~~.

(b) The trust shall be a single-purpose trust fund. In the event of the seller's bankruptcy, insolvency or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be available to any creditor as assets of the seller or to pay any expenses of any bankruptcy or similar proceeding, but shall be distributed to the purchasers or managed for their benefit by the trustee holding the funds. Except in an action by the Comptroller to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the Comptroller. The changes made by Public ~~this amendatory~~ Act 91-7 ~~of the 91st General Assembly~~ are intended to clarify existing law regarding the inability of licensees to pledge the trust.

(c) Because it is not known at the time of deposit or at the time that income is earned on the trust account to whom the principal and the accumulated earnings will be distributed for the purpose of determining the Illinois income tax due on these trust funds, the principal and any accrued earnings or losses related to each individual account shall be held in suspense until the final determination is made as to whom the account shall be paid. The beneficiary's estate shall not be responsible for any funeral and burial purchases listed in a pre-need contract if the pre-need contract is entered into on a guaranteed price basis.

If a pre-need contract is not a guaranteed price contract, then to the extent the proceeds of a non-guaranteed price pre-need contract cover the funeral and burial expenses for the beneficiary, no claim may be made against the estate of the beneficiary. A claim may be made against the beneficiary's estate if the charges for the funeral services and merchandise at the time of use exceed the amount of the amount in trust plus the percentage of the sale proceeds initially retained by the seller or the face value of the life insurance policy or tax-deferred annuity.

~~(d) Trust funds shall not be invested by the trustee in life insurance policies or tax-deferred annuities unless the following requirements are met:~~

~~(1) The company issuing the life insurance policies or tax-deferred annuities is licensed by the Illinois Department of Insurance and the insurance producer or annuity seller is licensed to do business in the State of Illinois;~~

~~(2) Prior to the investment, the purchaser approves, in writing, the investment in life insurance policies or tax-deferred annuities;~~

~~(3) Prior to the investment, the purchaser is notified by the seller in writing about the disclosures required for all pre-need contracts under Section 1a-1 of this Act, and the purchase of life insurance or a tax-deferred annuity is subject to the requirements of Section 2a of this Act;~~

~~(4) Prior to the investment, the trustee informs the Comptroller that trust funds shall be removed from the trust account to purchase life insurance or a tax-deferred annuity upon the written consent of the purchaser;~~

~~(5) The purchaser retains the right to refund provided for in this Act, unless the pre-need contract is sold on an irrevocable basis as provided in Section 4 of this Act; and~~

~~(6) Notice must be given in writing that the cash surrender value of a life insurance policy may be less than the amount provided for by the refund provisions of the trust account.~~

(Source: P.A. 91-7, eff. 6-1-99.)

(225 ILCS 45/5) (from Ch. 111 1/2, par. 73.105)

Sec. 5. This Act shall not be construed to prohibit the trustee and trustee's depositary from being reimbursed and receiving from such funds their reasonable compensation and expenses in the custody and administration of such funds pursuant to the Trusts and Trustees Act ~~provided that the combined expenses and compensation shall not exceed 25% of the earnings of the fund so deposited under each of the agreements or series of agreements calculated on an annual basis and paid at any time during that year~~.

(Source: P.A. 86-509.)

(225 ILCS 45/8.1)

Sec. 8.1. Sales; liability of purchaser for shortage. In the event of a sale or transfer of all or substantially all of the assets of the licensee, the sale or transfer of the controlling interest of the corporate stock of the licensee if the licensee is a corporation, the sale or transfer of the controlling interest of the partnership if the licensee is a partnership, or the sale of the licensee pursuant to foreclosure proceedings, the purchaser is liable for any shortages existing before or after the sale in the trust funds required to be maintained in a trust pursuant to this Act and shall honor all pre-need contracts and trusts entered into by the licensee. Any shortages existing in the trust funds constitute a prior lien in favor of the trust for the total value of the shortages, and notice of that lien shall be provided in all sales instruments.

In the event of a sale or transfer of all or substantially all of the assets of the licensee, the sale or transfer of the controlling interest of the corporate stock of the licensee if the licensee is a corporation, or the sale or transfer of the controlling interest of the partnership if the licensee is a partnership, the licensee shall, at least 21 days prior to the sale or transfer, notify the Comptroller, in writing, of the pending date of sale or transfer so as to permit the Comptroller to audit the books and records of the licensee. The audit must be commenced within 10 business days of the receipt of the notification and completed within the 21-day notification period unless the Comptroller notifies the licensee during that period that there is a basis for determining a deficiency which will require additional time to finalize. Failure to provide timely notice to the Comptroller under this Section shall be an intentional violation of this Act. The sale or transfer may not be completed by the licensee unless and until:

(i) the Comptroller has completed the audit of the licensee's books and records;

(ii) any delinquency existing in the trust funds has been paid by the licensee, or arrangements satisfactory to the Comptroller have been made by the licensee on the sale or transfer for the payment of any delinquency; and

(iii) the Comptroller issues a license upon application of the new owner, which license must be applied for within 21 ~~30~~ days of the anticipated date of the sale or transfer, subject to the payment of any delinquencies, if any, as stated in item (ii).

For purposes of this Section, a person, firm, corporation, partnership, or institution that acquires the licensee through a real estate foreclosure shall be subject to the provisions of this Section.
(Source: P.A. 92-419, eff. 1-1-02.)

Section 10. The Illinois Pre-Need Cemetery Sales Act is amended by changing Sections 4, 14, 15, and 16 as follows:

(815 ILCS 390/4) (from Ch. 21, par. 204)

Sec. 4. Definitions. As used in this Act, the following terms shall have the meaning specified:

(A) "Pre-need sales contract" or "Pre-need sales" means any agreement or contract or series or combination of agreements or contracts which have for a purpose the sale of cemetery merchandise, cemetery services or undeveloped interment, entombment or inurnment spaces where the terms of such sale require payment or payments to be made at a currently determinable time and where the merchandise, services or completed spaces are to be provided more than 120 days following the initial payment on the account. An agreement or contract for a memorial, marker, or monument shall not be deemed a "pre-need sales contract" or a "pre-need sale" if the memorial, marker, or monument is delivered within 180 days following initial payment on the account and work thereon commences a reasonably short time after initial payment on the account.

(B) "Delivery" occurs when:

(1) Physical possession of the merchandise is transferred or the easement for burial rights in a completed space is executed, delivered and transferred to the buyer; or

(2) Following authorization by a purchaser under a pre-need sales contract, title to the merchandise has been transferred to the buyer and the merchandise has been paid for and is in the possession of the seller who has placed it, until needed, at the site of its ultimate use; or

(3) Following authorization by a purchaser under a pre-need sales contract, the merchandise has been permanently identified with the name of the buyer or the beneficiary and delivered to a licensed and bonded warehouse and both title to the merchandise and a warehouse receipt have been delivered to the purchaser or beneficiary and a copy of the warehouse receipt has been delivered to the licensee for retention in its files; except that in the case of outer burial containers, the use of a licensed and bonded warehouse as set forth in this paragraph shall not constitute delivery for purposes of this Act. Nothing herein shall prevent a seller from perfecting a security interest in accordance with the Uniform Commercial Code on any merchandise covered under this Act.

All warehouse facilities to which sellers deliver merchandise pursuant to this Act

shall:

(i) be either located in the State of Illinois or qualify as a foreign warehouse facility as defined herein;

(ii) submit to the Comptroller not less than annually, by March 1 of each year, a report of all cemetery merchandise stored by each licensee under this Act which is in storage on the date of the report;

(iii) permit the Comptroller or his designee at any time to examine stored merchandise and to examine any documents pertaining thereto;

(iv) submit evidence satisfactory to the Comptroller that all merchandise stored by said warehouse for licensees under this Act is insured for casualty or other loss normally assumed by a bailee for hire;

(v) demonstrate to the Comptroller that the warehouse has procured and is maintaining a performance bond in the form, content and amount sufficient to unconditionally guarantee to the purchaser or beneficiary the prompt shipment of the cemetery merchandise.

(C) "Cemetery merchandise" means items of personal property normally sold by a cemetery authority not covered under the Illinois Funeral or Burial Funds Act, including but not limited to:

(1) memorials,

(2) markers,

(3) monuments,

(4) foundations, and

(5) outer burial containers.

(D) "Undeveloped interment, entombment or inurnment spaces" or "undeveloped spaces" means any space to be used for the reception of human remains that is not completely and totally constructed at the time of initial payment therefor in a:

(1) lawn crypt,

(2) mausoleum,

(3) garden crypt,

(4) columbarium, or

(5) cemetery section.

(E) "Cemetery services" means those services customarily performed by cemetery or crematory personnel in connection with the interment, entombment, inurnment or cremation of a dead human body.

(F) "Cemetery section" means a grouping of spaces intended to be developed simultaneously for the purpose of interring human remains.

(G) "Columbarium" means an arrangement of niches that may be an entire building, a complete room, a series of special indoor alcoves, a bank along a corridor or part of an outdoor garden setting that is constructed of permanent material such as bronze, marble, brick, stone or concrete for the inurnment of human remains.

(H) "Lawn crypt" means a permanent underground crypt usually constructed of reinforced concrete or similar material installed in multiple units for the entombment of human remains.

(I) "Mausoleum" or "garden crypt" means a grouping of spaces constructed of reinforced concrete or similar material constructed or assembled above the ground for entombing human remains.

(J) "Memorials, markers and monuments" means the object usually comprised of a permanent material such as granite or bronze used to identify and memorialize the deceased.

(K) "Foundations" means those items used to affix or support a memorial or monument to the ground in connection with the installation of a memorial, marker or monument.

(L) "Person" means an individual, corporation, partnership, joint venture, business trust, voluntary organization or any other form of entity.

(M) "Seller" means any person selling or offering for sale cemetery merchandise, cemetery services or undeveloped interment, entombment, or inurnment spaces in accordance with a pre-need sales contract.

(N) "Religious cemetery" means a cemetery owned, operated, controlled or managed by any recognized church, religious society, association or denomination or by any cemetery authority or any corporation administering, or through which is administered, the temporalities of any recognized church, religious society, association or denomination.

(O) "Municipal cemetery" means a cemetery owned, operated, controlled or managed by any city, village, incorporated town, township, county or other municipal corporation, political subdivision, or instrumentality thereof authorized by law to own, operate or manage a cemetery. <u>"Municipal cemetery" also includes a cemetery placed in receivership pursuant to this Act while such cemetery is in receivership.</u>

(O-1) "Outer burial container" means a container made of concrete, steel, wood, fiberglass, or similar

material, used solely at the interment site, and designed and used exclusively to surround or enclose a separate casket and to support the earth above such casket, commonly known as a burial vault, grave box, or grave liner, but not including a lawn crypt.

(P) "Sales price" means the gross amount paid by a purchaser on a pre-need sales contract for cemetery merchandise, cemetery services or undeveloped interment, entombment or inurnment spaces, excluding sales taxes, credit life insurance premiums, finance charges and Cemetery Care Act contributions.

(Q) (Blank).

(R) "Provider" means a person who is responsible for performing cemetery services or furnishing cemetery merchandise, interment spaces, entombment spaces, or inurnment spaces under a pre-need sales contract.

(S) "Purchaser" or "buyer" means the person who originally paid the money under or in connection with a pre-need sales contract.

(T) "Parent company" means a corporation owning more than 12 cemeteries or funeral homes in more than one state.

(U) "Foreign warehouse facility" means a warehouse facility now or hereafter located in any state or territory of the United States, including the District of Columbia, other than the State of Illinois.

A foreign warehouse facility shall be deemed to have appointed the Comptroller to be its true and lawful attorney upon whom may be served all legal process in any action or proceeding against it relating to or growing out of this Act, and the acceptance of the delivery of stored merchandise under this Act shall be signification of its agreement that any such process against it which is so served, shall be of the same legal force and validity as though served upon it personally.

Service of such process shall be made by delivering to and leaving with the Comptroller, or any agent having charge of the Comptroller's Department of Cemetery and Burial Trusts, a copy of such process and such service shall be sufficient service upon such foreign warehouse facility if notice of such service and a copy of the process are, within 10 days thereafter, sent by registered mail by the plaintiff to the foreign warehouse facility at its principal office and the plaintiff's affidavit of compliance herewith is appended to the summons. The Comptroller shall keep a record of all process served upon him under this Section and shall record therein the time of such service.

(Source: P.A. 91-7, eff. 1-1-00; 91-357, eff. 7-29-99; 92-16, eff. 6-28-01; 92-419, eff. 1-1-02.)

(815 ILCS 390/14) (from Ch. 21, par. 214)

Sec. 14. Contract required.

(a) It is unlawful for any person doing business within this State to accept sales proceeds, either directly or indirectly, by any means unless the seller enters into a pre-need sales contract with the purchaser which meets the following requirements:

(1) A written sales contract shall be executed in at least 11 point type in duplicate for each pre-need sale made by a licensee, and a signed copy given to the purchaser. Each completed contract shall be numbered and shall contain: (i) the name and address of the purchaser, the principal office of the licensee, and the parent company of the licensee; (ii) the name of the person, if known, who is to receive the cemetery merchandise, cemetery services or the completed interment, entombment or inurnment spaces under the contract; and (iii) specific identification of such merchandise, services or spaces to be provided, if a specific space or spaces are contracted for, and the price of the merchandise, services, or space or spaces.

(2) In addition, such contracts must contain a provision in distinguishing typeface as follows:

"Notwithstanding anything in this contract to the contrary, you are afforded certain specific rights of cancellation and refund under the Illinois Pre-Need Cemetery Sales Act, enacted by the 84th General Assembly of the State of Illinois".

(3) All pre-need sales contracts shall be sold on a guaranteed price basis. At the time of performance of the service or delivery of the merchandise, the seller shall be prohibited from assessing the purchaser or his heirs or assigns or duly authorized representative any additional charges for the specific merchandise and services listed on the pre-need sales contract.

(4) Each contract shall clearly disclose that the price of the merchandise or services is guaranteed and shall contain the following statement in 12 point bold type:

"THIS CONTRACT GUARANTEES THE BENEFICIARY THE SPECIFIC GOODS, SERVICES, INTERMENT SPACES, ENTOMBMENT SPACES, AND INURNMENT SPACES CONTRACTED FOR. NO ADDITIONAL CHARGES MAY BE REQUIRED FOR DESIGNATED GOODS, SERVICES, AND SPACES. ADDITIONAL CHARGES MAY BE INCURRED FOR UNEXPECTED EXPENSES."

(5) The pre-need sales contract shall provide that if the particular cemetery services, cemetery merchandise, or spaces specified in the pre-need contract are unavailable at the time of delivery, the seller shall be required to furnish services, merchandise, and spaces similar in style and at least equal in quality of material and workmanship.

(6) The pre-need contract shall also disclose any specific penalties to be incurred by the purchaser as a result of failure to make payments; and penalties to be incurred or moneys or refunds to be received as a result of cancellation of the contract.

(7) The pre-need contract shall disclose the nature of the relationship between the provider and the seller.

(8) Each pre-need contract that authorizes the delivery of cemetery merchandise to a licensed and bonded warehouse shall provide that prior to or upon delivery of the merchandise to the warehouse the title to the merchandise and a warehouse receipt shall be delivered to the purchaser or beneficiary. The pre-need contract shall contain the following statement in 12 point bold type:

"THIS CONTRACT AUTHORIZES THE DELIVERY OF MERCHANDISE TO A LICENSED AND BONDED WAREHOUSE FOR STORAGE OF THE MERCHANDISE UNTIL THE MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED MERCHANDISE."

The purchaser shall initial the statement at the time of entry into the pre-need contract.

(9) Each pre-need contract that authorizes the placement of cemetery merchandise at the site of its ultimate use prior to the time that the merchandise is needed by the beneficiary shall contain the following statement in 12 point bold type:

"THIS CONTRACT AUTHORIZES THE PLACEMENT OF MERCHANDISE AT THE SITE OF ITS ULTIMATE USE PRIOR TO THE TIME THAT THE MERCHANDISE IS NEEDED BY THE BENEFICIARY. DELIVERY OF THE MERCHANDISE IN THIS MANNER MAY PRECLUDE REFUND OF SALE PROCEEDS THAT ARE ATTRIBUTABLE TO THE DELIVERED MERCHANDISE."

The purchaser shall initial the statement at the time of entry into the pre-need contract.

(10) Each pre-need contract that is funded by a trust shall clearly identify the trustee's name and address and the primary state or federal regulator of the trustee as a corporate fiduciary.

(b) Every pre-need sales contract must be in writing. The Comptroller may by rule develop a model pre-need sales contract form that meets the requirements of this Act.

(c) To the extent the Rule is applicable, every pre-need sales contract is subject to the Federal Trade Commission Rule concerning the Cooling-Off Period for Door-to-Door Sales (16 CFR Part 429).

(d) No pre-need sales contract may be entered into in this State unless there is a provider for the cemetery merchandise, cemetery services, and undeveloped interment, inurnment, and entombment spaces being sold. If the seller is not the provider, then the seller must have a binding agreement with a provider, and the identity of the provider and the nature of the agreement between the seller and the provider must be disclosed in the pre-need sales contract at the time of sale and before the receipt of any sale proceeds. The failure to disclose the identity of the provider, the nature of the agreement between the seller and the provider, or any changes thereto to the purchaser and beneficiary, or the failure to make the disclosures required by this Section constitutes an intentional violation of this Act.

(e) No pre-need contract may be entered into in this State unless it is accompanied by a funding mechanism permitted under this Act and unless the seller is licensed by the Comptroller as provided in this Act. Nothing in this Act is intended to relieve providers or sellers of pre-need contracts from being licensed under any other Act required for their profession or business or from being subject to the rules promulgated to regulate their profession or business, including rules on solicitation and advertisement.

(f) No pre-need contract may be entered into in this State unless the seller explains to the purchaser the terms of the pre-need contract prior to the purchaser signing and the purchaser initials a statement in the contract confirming that the seller has explained the terms of the contract prior to the purchaser signing.

(g) The State Comptroller shall develop a booklet for consumers in plain English describing the scope, application, and consumer protections of this Act. After the booklet is developed, no pre-need contract may be sold in this State unless the seller distributes to the purchaser prior to the sale a booklet developed or approved for use by the State Comptroller.

(Source: P.A. 91-7, eff. 1-1-00; 92-419, eff. 1-1-02.)

(815 ILCS 390/15) (from Ch. 21, par. 215)

Sec. 15. (a) Whenever a seller receives anything of value under a pre-need sales contract, the person receiving such value shall deposit 50% of all proceeds received into one or more trust funds maintained pursuant to this Section, except that, in the case of proceeds received for the purchase of outer burial containers, 85% of the proceeds shall be deposited into one or more trust funds. Such deposits shall be made until the amount deposited in trust equals 50% of the sales price of the cemetery merchandise, cemetery services and undeveloped spaces included in such contract, except that, in the case of deposits for outer burial containers, deposits shall be made until the amount deposited in trust equals 85% of the sales price. In the event an installment contract is factored, discounted or sold to a third party, the seller shall deposit an amount equal to 50% of the sales price of the installment contract, except that, for the portion of the contract attributable to the sale of outer burial containers, the seller shall deposit an amount equal to 85% of the sales price. Proceeds required to be deposited in trust which are attributable to cemetery merchandise and cemetery services shall be held in a "Cemetery Merchandise Trust Fund". Proceeds required to be deposited in trust which are attributable to the sale of undeveloped interment, entombment or inurnment spaces shall be held in a "Pre-construction Trust Fund". If merchandise is delivered for storage in a bonded warehouse, as authorized herein, and payment of transportation or other charges totaling more than $20 will be required in order to secure delivery to the site of ultimate use, upon such delivery to the warehouse the seller shall deposit to the trust fund the full amount of the actual or estimated transportation charge. Transportation charges which have been prepaid by the seller shall not be deposited to trust funds maintained pursuant to this Section. As used in this Section, "all proceeds" means the entire amount paid by a purchaser in connection with a pre-need sales contract, including finance charges and Cemetery Care Act contributions, but excluding sales taxes and credit life insurance premiums.

(b) The seller shall act as trustee of all amounts received for cemetery merchandise, services, or undeveloped spaces until those amounts have been deposited into the trust fund. All trust deposits required by this Act shall be made within 30 days following the end of the month of receipt. The seller must retain a corporate fiduciary as an independent trustee for any amount of trust funds. Upon 30 days prior written notice from the seller to the Comptroller, the seller may change the trustee of the trust fund. Failure to provide the Comptroller with timely prior notice is an intentional violation of this Act.

(c) A trust established under this Act must be maintained with a corporate fiduciary as defined in Section 1-5.05 of the Corporate Fiduciary Act. ~~:~~

~~(1) in a trust account established in a bank, savings and loan association or credit union authorized to do business in Illinois where such accounts are insured by an agency of the federal government;~~

~~(2) in a trust company authorized to do business in Illinois; or~~

~~(3) in an investment company authorized to do business in Illinois insured by the Securities Brokers Insurance Corporation.~~

(d) Funds deposited in the trust account shall be identified in the records of the seller by the name of the purchaser. Nothing shall prevent the trustee from commingling the deposits in any such trust fund for purposes of the management thereof and the investment of funds therein as provided in the "Common Trust Fund Act", approved June 24, 1949, as amended. In addition, multiple trust funds maintained pursuant to this Act may be commingled or commingled with other funeral or burial related trust funds, provided that all record keeping requirements imposed by or pursuant to law are met.

(e) In lieu of a pre-construction trust fund, a seller of undeveloped interment, entombment or inurnment spaces may obtain and file with the Comptroller a performance bond in an amount at least equal to 50% of the sales price of the undeveloped spaces or the estimated cost of completing construction, whichever is greater. The bond shall be conditioned on the satisfactory construction and completion of the undeveloped spaces as required in Section 19 of this Act.

Each bond obtained under this Section shall have as surety thereon a corporate surety company incorporated under the laws of the United States, or a State, the District of Columbia or a territory or possession of the United States. Each such corporate surety company must be authorized to provide performance bonds as required by this Section, have paid-up capital of at least $250,000 in cash or its equivalent and be able to carry out its contracts. Each pre-need seller must provide to the Comptroller, for each corporate surety company such seller utilizes, a statement of assets and liabilities of the corporate surety company sworn to by the president and secretary of the corporation by January 1 of each year.

The Comptroller shall prohibit pre-need sellers from doing new business with a corporate surety company if the company is insolvent or is in violation of this Section. In addition the Comptroller may direct a pre-need seller to reinstate a pre-construction trust fund upon the Comptroller's determination that the corporate surety company no longer is sufficient security.

All performance bonds issued pursuant to this Section must be irrevocable during the statutory term for completing construction specified in Section 19 of this Act, unless terminated sooner by the completion of construction.

(f) Whenever any pre-need contract shall be entered into and include 1) items of cemetery merchandise and cemetery services, and 2) rights to interment, inurnment or entombment in completed spaces without allocation of the gross sale price among the items sold, the application of payments received under the contract shall be allocated, first to the right to interment, inurnment or entombment, second to items of cemetery merchandise and cemetery services, unless some other allocation is clearly provided in the contract.

(g) Any person engaging in pre-need sales who enters into a combination sale which involves the sale of items covered by a trust or performance bond requirement and any item not covered by any entrustment or bond requirement, shall be prohibited from increasing the gross sales price of those items not requiring entrustment with the purpose of allocating a lesser gross sales price to items which require a trust deposit or a performance bond.

(Source: P.A. 91-7; eff. 1-1-2000.)

(815 ILCS 390/16) (from Ch. 21, par. 216)

Sec. 16. Trust funds; disbursements.

(a) A trustee shall make no disbursements from the trust fund except as provided in this Act.

(b) A trustee has a duty to invest and manage the trust assets pursuant to the Prudent Investor Rule under the Trusts and Trustees Act. Whenever the seller changes trustees pursuant to this Act, the trustee must provide written notice of the change in trustees to the Comptroller no less than 28 days prior to the effective date of such a change in trustee. The trustee has an ongoing duty to provide the Comptroller with a current and true copy of the trust agreement under which the trust funds are held pursuant to this Act. ~~shall, with respect to the investment of such trust funds, exercise the judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable income as well as the probable safety of their capital.~~

~~The seller shall act as trustee of all amounts received for cemetery merchandise, services, or undeveloped spaces until those amounts have been deposited into the trust fund. The seller may continue to be the trustee of up to $500,000 that has been deposited into the trust fund, but the seller must retain an independent trustee for any amount of trust funds in excess of $500,000. A seller holding trust funds in excess of $500,000 must retain an independent trustee for its trust funds in excess of $500,000 as soon as may be practical. The Comptroller shall have the right to disqualify the trustee upon the same grounds as for refusing to grant or revoking a license hereunder. Upon notice to the Comptroller, the seller may change the trustee of the trust fund.~~

(c) The trustee may rely upon certifications and affidavits made to it under the provisions of this Act, and shall not be liable to any person for such reliance.

(d) A trustee shall be allowed to withdraw from the trust funds maintained pursuant to this Act~~, payable solely from the income earned on such trust funds,~~ a reasonable fee pursuant to the Trusts and Trustees Act ~~for all usual and customary services for the operation of the trust fund, including, but not limited to trustee fees, investment advisor fees, allocation fees, annual audit fees and other similar fees. The maximum amount allowed to be withdrawn for these fees each year shall be the lesser of 3% of the balance of the trust calculated on an annual basis or the amount of annual income generated therefrom~~.

(e) The trust shall be a single-purpose trust fund. In the event of the seller's bankruptcy, insolvency or assignment for the benefit of creditors, or an adverse judgment, the trust funds shall not be available to any creditor as assets of the seller or to pay any expenses of any bankruptcy or similar proceeding, but shall be distributed to the purchasers or managed for their benefit by the trustee holding the funds. Except in an action by the Comptroller to revoke a license issued pursuant to this Act and for creation of a receivership as provided in this Act, the trust shall not be subject to judgment, execution, garnishment, attachment, or other seizure by process in bankruptcy or otherwise, nor to sale, pledge, mortgage, or other alienation, and shall not be assignable except as approved by the Comptroller. The changes made by this amendatory Act of the 91st General Assembly are intended to clarify existing law regarding the inability of licensees to pledge the trust.

(f) Because it is not known at the time of deposit or at the time that income is earned on the trust account to whom the principal and the accumulated earnings will be distributed, for purposes of determining the Illinois Income Tax due on these trust funds, the principal and any accrued earnings or losses relating to each individual account shall be held in suspense until the final determination is made as to whom the account shall be paid.

(g) A trustee shall at least annually furnish to each purchaser a statement identifying: (1) the receipts,

disbursements, and inventory of the trust, including an explanation of any fees or expenses charged by the trustee under paragraph (d) of this Section or otherwise, (2) an explanation of the purchaser's right to a refund, if any, under this Act, and (3) the primary regulator of the trust as a corporate fiduciary under state or federal law.
(Source: P.A. 91-7, eff. 6-1-99; 92-419, eff. 1-1-02.)

Section 90. The State Finance Act is amended by adding Section 5.719 as follows:
(30 ILCS 105/5.719 new)
Sec. 5.719. The Pre-need Funeral Consumer Protection Fund.".

AMENDMENT NO. 2 TO SENATE BILL 1682

AMENDMENT NO. 2. Amend Senate Bill 1682, AS AMENDED, with reference to page and line numbers of House Amendment No. 1 as follows:

on page 1, line 5, by deleting "1a,"; and

on page 2, by deleting lines 19 through 25; and

on page 3, by deleting lines 1 through 26; and

on page 4, by deleting lines 1 through 20; and

on page 10, by replacing lines 1 through 4 with the following:
"sum to the Comptroller semi-annually within 30 days of the end of June and December. Fees collected"; and

on page 14, line 23, by replacing "4" with "5".

Under the rules, the foregoing **Senate Bill No. 1682**, 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. 1905

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. 1905
House Amendment No. 2 to SENATE BILL NO. 1905
House Amendment No. 5 to SENATE BILL NO. 1905
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1905

AMENDMENT NO. 1. Amend Senate Bill 1905 as follows:

on page 23, by replacing lines 21 and 22 with the following:
"Alternative Health Care Delivery Act as a children's respite care center alternative health care"; and

on page 36, by replacing lines 1 through 4 with the following:
"time of the appointment. ~~No person shall be appointed as a State Board member if that person has served, after the effective date of Public Act 93-41, 2 3-year terms as a State Board member, except for ex officio non-voting members.~~"; and

on page 36, line 23, by replacing "No member" with "The Governor may reappoint a member for

additional terms, but no member"; and

on page 43, line 12, after "project", by inserting "commencement and"; and

on page 48, by replacing lines 12 and 13 with the following:
"~~Director may make the findings required under this Section and upon which the~~ State Board or Chairman may make its decision on"; and

on page 48, line 23, after "exemption.", by inserting "In connection with a change of ownership, the State Board may approve the transfer of an existing permit without regard to whether the permit to be transferred has yet been obligated, except for permits establishing a new facility or a new category of service."; and

on page 57, line 19, after "Board.", by inserting "The staff of the State Board shall prepare a written copy of the final decision and the State Board shall approve a final copy for inclusion in the formal record."; and

on page 62, line 12, by replacing "Eighteen" with "Twenty-four"; and

on page 62, line 14, by replacing "Assembly" with "Assembly, and 36 months thereafter,"; and

on page 66, line 22, by replacing "guilty of a Class 4 felony." with "disqualified from nomination."; and

on page 67, line 14, by replacing "120" with "60"; and

On page 68, line 22, by replacing "150" with "90".

AMENDMENT NO. 2 TO SENATE BILL 1905

AMENDMENT NO. 2. Amend Senate Bill 1905 on page 58, by replacing lines 2 through 10 with the following:

"(15) Establish a separate set of rules and guidelines for long-term care that recognizes that nursing homes are a different business line and service model from other regulated facilities. An open and transparent process shall be developed that considers the following: how skilled nursing fits in the continuum of care with other care providers, modernization of nursing homes, establishment of more private rooms, development of alternative services, and current trends in long-term care services. The Chairman of the Board shall appoint a permanent Health Services Review Board Long-term Care Facility Advisory Subcommittee that shall develop and recommend to the Board the rules to be established by the Board under this paragraph (15). The Subcommittee shall also provide continuous review and commentary on policies and procedures relative to long-term care and the review of related projects. In consultation with other experts from the health field of long-term care, the Board and the Subcommittee shall study new approaches to the current bed need formula and Health Service Area boundaries to encourage flexibility and innovation in design models reflective of the changing long-term care marketplace and consumer preferences. The Board shall file the proposed related administrative rules for the separate rules and guidelines for long-term care required by this paragraph (15) by September 1, 2010. The Subcommittee shall be provided a reasonable and timely opportunity to review and comment on any review, revision, or updating of the criteria, standards, procedures, and rules used to evaluate project applications as provided under Section 12.3 of this Act prior to approval by the Board and promulgation of related rules.".

AMENDMENT NO. 5 TO SENATE BILL 1905

AMENDMENT NO. 5. Amend Senate Bill 1905 as follows:

in Section 15, Sec. 2310-217, subsection (b), item (2), the sentence beginning "A Comprehensive Health Planner", by deleting "from a list of nominees selected by the Special Nomination Panel established in Section 19.7 of the Illinois Health Facilities Planning Act"; and

in Section 20, in the introductory clause, by replacing "Sections 5.4 and 19.7" with "Section 5.4"; and

in Section 20, Sec. 2, the paragraph beginning "The changes made to this Act", by deleting

"implementation of a special panel for nominations of the Certificate of Need Board, as well as"; and

in Section 20, Sec. 3, by deleting ""Special Nomination Panel" means the Special Nomination Panel created in Section 19.7 of this Act."; and

in Section 20, Sec. 4, subsection (c), the paragraph beginning "The State Board shall be appointed", by deleting "from a list of nominees selected by the Special Nomination Panel"; and

in Section 20, Sec. 4, subsection (d), the paragraph beginning "Of those 9 members", the sentence beginning "No member shall", by replacing "terms." with "terms, subject to review and re-approval every 3 years."; and

in Section 20, Sec. 4, subsection (e), the paragraph beginning "The Governor shall separately", by replacing "The Governor shall separately appoint from a list of nominees selected by the Special Nomination Panel" with "(f) The Governor shall designate one of the members to serve as"; and

in Section 20, by deleting Sec. 19.7.

Under the rules, the foregoing **Senate Bill No. 1905**, with House Amendments numbered 1, 2 and 5, 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. 2091

A bill for AN ACT concerning insurance.

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. 2091
House Amendment No. 2 to SENATE BILL NO. 2091
House Amendment No. 3 to SENATE BILL NO. 2091
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2091

AMENDMENT NO. 1. Amend Senate Bill 2091 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Viatical Settlements Act of 2009.

Section 5. Definitions.

"Accredited investor" means an accredited investor as defined in Rule 501(a) promulgated under the Securities Act of 1933 (15 U.S.C. 77 et seq.), as amended.

"Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, digital picture slides, motion pictures, and videos published, disseminated, circulated, or placed before the public in this State, for the purpose of creating an interest in or inducing a person to sell, assign, devise, bequest, or transfer the death benefit or ownership of a policy pursuant to a viatical settlement contract.

"Alien licensee" means a licensee incorporated or organized under the laws of any country other than the United States.

"Business of viatical settlements" means any activity involved in, but not limited to, the offering, soliciting, negotiating, procuring, effectuating, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, or hypothecating or in any other manner acquiring an interest in a life insurance policy by means of a viatical settlement contract or other agreement.

"Chronically ill" means having been certified within the preceding 12-month period by a licensed health professional as:

(1) being unable to perform, without substantial assistance from another individual and for at least 90 days due to a loss of functional capacity, at least 2 activities of daily living, including, but not limited to, eating, toileting, transferring, bathing, dressing, or continence;

(2) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or

(3) having a level of disability similar to that described in paragraph (1) as determined by the Secretary of Health and Human Services.

"Controlling person" means any person, firm, association, or corporation that directly or indirectly has the power to direct or cause to be directed the management, control, or activities of the viatical settlement provider.

"Director" means the Director of the Division of Insurance of the Department of Financial and Professional Regulation.

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

"Escrow agent" means an independent third-party person who, pursuant to a written agreement signed by the viatical settlement provider and viator, provides escrow services related to the acquisition of a life insurance policy pursuant to a viatical settlement contract. "Escrow agent" does not include any person associated or affiliated with or under the control of a licensee.

"Financial institution" means a financial institution as defined by the Financial Institutions Insurance Sales Law in Article XLIV of the Illinois Insurance Code.

"Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or an entity that has a direct ownership in a policy that is the subject of a viatical settlement contract, and to which both of the following apply:

(1) its principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies; and

(2) it has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts.

"Financing entity" does not include an investor that is not an accredited investor.

"Financing transaction" means a transaction in which a viatical settlement provider obtains financing from a financing entity, including, without limitation, any secured or unsecured financing, securitization transaction, or securities offering that either is registered or exempt from registration under federal and State securities law.

"Foreign licensee" means any viatical settlement provider incorporated or organized under the laws of any state of the United States other than this State.

"Insurance producer" means an insurance producer as defined by Section 10 of Article XXXI of the Illinois Insurance Code.

"Licensee" means a viatical settlement provider or viatical settlement broker.

"Life expectancy provider" means a person who determines or holds himself or herself out as determining life expectancies or mortality ratings used to determine life expectancies on behalf of or in connection with any of the following:

(1) A viatical settlement provider, viatical settlement broker, or person engaged in the business of viatical settlements.

(2) A viatical investment as defined by Section 2.33 of the Illinois Securities Law of 1953 or a viatical settlement contract.

"NAIC" means the National Association of Insurance Commissioners.

"Person" means an individual or a legal entity, including, without limitation, a partnership, limited liability company, limited liability partnership, association, trust, business trust, or corporation.

"Policy" means an individual or group policy, group certificate, contract, or arrangement of insurance of the class defined by subsection (a) of Section 4 of the Illinois Insurance Code owned by or for the benefit of a resident of this State, regardless of whether delivered or issued for delivery in this State.

"Qualified institutional buyer" means a qualified institutional buyer as defined in Rule 144 promulgated under the Securities Act of 1933, as amended.

"Related provider trust" means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or

beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the Director as if those records and files were maintained directly by the licensed viatical settlement provider.

"Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed only to provide, directly or indirectly, access to institutional capital markets (i) for a financing entity or licensed viatical settlement provider; or (ii) in connection with a transaction in which the securities in the special purposes entity are acquired by the viator or by qualified institutional buyers or the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

"Stranger-originated life insurance" or "STOLI" means an act, practice, or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured. STOLI practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person or entity who, at the time of policy inception, could not lawfully initiate the policy himself or itself and where, at the time of policy inception, there is an arrangement or agreement, whether verbal or written, to directly or indirectly transfer the ownership of the policy of policy benefits to a third party. Trusts created to give the appearance of an insurable interest and used to initiate policies for investors violate insurance interest laws and the prohibition against wagering on life. STOLI arrangements do not include lawful viatical settlement contracts as permitted by this Act.

"Terminally ill" means certified by a physician as having an illness or physical condition that reasonably is expected to result in death in 24 months or less.

"Viatical settlement broker" means a licensed insurance producer who has been issued a license pursuant to Section 500-35(a)(1) or 500-35(a)(2) of the Insurance Code who, working exclusively on behalf of a viator and for a fee, commission, or other valuable consideration, offers, solicits, promotes, or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or one or more viatical settlement brokers. "Viatical settlement broker" does not include an attorney, certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.

"Viatical settlement contract" means any of the following:

(1) A written agreement between a viator and a viatical settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the viator's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy.

(2) A written agreement for a loan or other lending transaction, secured primarily by an individual life insurance policy or an individual certificate of a group life insurance policy.

(3) The transfer for compensation or value of ownership of a beneficial interest in a trust or other entity that owns such policy, if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts and the life insurance contract insures the life of a person residing in this State.

(4) A premium finance loan made for a life insurance policy by a lender to a viator on, before, or after the date of issuance of the policy in either of the following situations:

(A) The viator or the insured receives a guarantee of the viatical settlement value of the policy.

(B) The viator or the insured agrees to sell the policy or any portion of the policy's death benefit on any date before or after issuance of the policy.

"Viatical settlement contract" does not include any of the following unless part of a plan, scheme, device, or artifice to avoid application of this Act:

(a) A policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms;

(b) Loan proceeds that are used solely to pay: (i) premiums for the policy and (ii) the costs of the loan, including, without limitation interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third party collateral provider fees and expenses, including fees payable to letter of credit issuers;

(c) A loan made by a bank or other financial institution in which the lender takes an

interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with the default is pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this Act;

(d) A loan made by a lender that does not violate Article XXXIIa of the Illinois Insurance Code, provided that the premium finance loan is not described in this Act;

(e) An agreement in which all the parties (i) are closely related to the insured by blood or law or (ii) have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured, or trusts established primarily for the benefit of such parties;

(f) Any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(g) A bona fide business succession planning arrangement: (i) between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trust established by its shareholders; (ii) between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trust established by its partners; or (iii) between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trust established by its members;

(h) An agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

(i) Any other contract, transaction, or arrangement exempted from the definition of viatical settlement contract by the Director based on the Director's determination that the contract, transaction, or arrangement is not of the type intended to be regulated by this Act.

"Viatical settlement investment agent" means a person who is an appointed or contracted agent of a licensed viatical settlement provider who solicits or arranges the funding for the purchase of a viatical settlement by a viatical settlement purchaser and who is acting on behalf of a viatical settlement provider. A viatical settlement investment agent is deemed to represent the viatical settlement provider of whom the viatical settlement investment agent is an appointed or contracted agent.

"Viatical settlement provider" means a person, other than a viator, who enters into or effectuates a viatical settlement contract with a viator. "Viatical settlement provider" does not include:

(1) a bank, savings bank, savings and loan association, credit union, or other financial institution that takes an assignment of a policy as collateral for a loan;

(2) a financial institution or premium finance company making premium finance loans and exempted by the Director from the licensing requirement under the premium finance laws where the institution or company takes an assignment of a life insurance policy solely as collateral for a premium finance loan;

(3) the issuer of the life insurance policy;

(4) an authorized or eligible insurer that provides stop loss coverage or financial guaranty insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;

(5) An individual person who enters into or effectuates no more than one viatical settlement contract in a calendar year for the transfer of policies for any value less than the expected death benefit;

(6) a financing entity;

(7) a special purpose entity;

(8) a related provider trust;

(9) a viatical settlement purchaser; or

(10) any other person that the Director determines is consistent with the definition of viatical settlement provider.

"Viatical settlement purchaser" means a person who provides a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy, in each case where such policy has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit. "Viatical settlement purchaser" does not include: (i) a licensee under this Act; (ii) an accredited investor or qualified institutional buyer; (iii) a financing entity; (iv) a special purpose entity; or (v) a related provider trust.

"Viaticated policy" means a life insurance policy that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

"Viator" means the owner of a life insurance policy or a certificate holder under a group policy who enters or seeks to enter into a viatical settlement contract. For the purposes of this Act, a viator is not limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition, except where specifically addressed. "Viator" does not include:

(1) a licensee;

(2) a qualified institutional buyer;

(3) a financing entity;

(4) a special purpose entity; or

(5) a related provider trust.

Section 10. License and bond requirements.

(a) A person shall not operate as a viatical settlement provider or viatical settlement broker without first obtaining a license from the chief insurance regulatory official of the state of residence of the viator. A viatical settlement provider transacting business in this State shall provide written notice to the Director that it is engaged in such business not less than 30 days prior to the effective date of this Act. Viatical settlement providers shall apply for licensing annually thereafter in a form and manner as prescribed by this Act.

(b) A person shall not operate as a viatical settlement broker without first obtaining an insurance producer license from the Director and completing the viatical settlement broker training requirements as provided by Section 11 of this Act.

(c) An insurance producer shall not operate as a viatical settlement broker unless the producer has been duly licensed as a resident insurance producer with a life line of authority in this state or the insurance producer's home state for at least one year.

(d) Before operating as a viatical settlement broker, the insurance producer, including a business entity licensed in this State as an insurance producer, shall notify the Director that the insurance producer is acting as a viatical settlement broker on a form prescribed by the Director, and shall pay a $500 registration fee which shall be deposited into the Insurance Producer Administration Fund. Notification shall include an acknowledgement by the insurance producer that he or she will operate as a viatical settlement broker in accordance with this Act.

If a business entity with an insurance producer license registers as a viatical settlement broker, then that registration authorizes all partners, officers, members, and designated employees to act as viatical settlement brokers. All persons acting as viatical settlement brokers pursuant to such a registration shall be named in the application and any supplements to the application.

(e) A duly licensed resident insurance producer with a life product line or authority in this State or the insurance producer's home state for at least one year, lawfully transacting business as a viatical settlement broker prior to the effective date of this Act may continue to do so, pending receipt by the Director of the notice required by subsection (d) of this Section, provided that the notice is received by the Director no later than 30 days after the effective date of this Act.

(f) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

(g) A person shall not operate as a viatical settlement provider without first obtaining a license from the Director.

(h) Application for a viatical settlement provider license shall be made to the Director by the applicant on a form prescribed by the Director. The applications shall be accompanied by a $3,000 fee, which shall be deposited into the Insurance Producer Administration Fund.

(i) Viatical settlement provider licenses may be renewed from year to year on the anniversary date upon payment of the annual renewal fee of $1,500. Failure to pay the fees by the renewal date results in expiration of the license.

(j) The applicant for a viatical settlement provider license shall provide information on forms required by the Director. The Director shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees, and the Director may, in the exercise of the Director's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member thereof who may materially influence the applicant's conduct meets the standards of this Act.

A viatical settlement provider license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers, as applicable, under the

license, and all those persons shall be named in the application and any supplements to the application.

(k) Upon the filing of a viatical settlement provider license application and the payment of the license fee, the Director shall make an investigation of each applicant and issue a license if the Director finds that the applicant:

(1) has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(3) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for;

(4) (A) has demonstrated evidence of financial responsibility in a format prescribed by the Director through either a surety bond executed and issued by an insurer authorized to issue surety bonds in this State or a deposit of cash, certificates of deposit or securities or any combination thereof, or irrevocable letter of credit in the amount of $125,000;

(B) the Director may ask for evidence of financial responsibility at any time the Director deems necessary;

(C) any surety bond issued pursuant to this subsection (k) shall be in the favor of this State and shall specifically authorize recovery by the Director on behalf of any person in this State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud or conviction of unfair practices by the viatical settlement provider;

(D) notwithstanding any other provision of this Section to the contrary, the Director shall accept, as evidence of financial responsibility, proof that financial instruments in accordance with the requirements in this subsection (k) have been filed with one or more states where the applicant is licensed as a viatical settlement provider;

(5) if a legal entity, provides a certificate of good standing from the state of its domicile; and

(6) has provided an anti-fraud plan that meets the requirements of Section 65 of this Act.

(l) The Director shall not issue a viatical settlement provider license to a nonresident applicant unless a written designation of an agent for service of process is filed and maintained with the Director or the applicant has filed with the Director the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the Director.

(m) An applicant for a viatical settlement provider license shall provide all information requested by the Director. The Director may, at any time, require the applicant to fully disclose the identity of all stockholders, partners, officers, members, and employees of the viatical settlement provider, and the Director may refuse to issue a license to an applicant that is not an individual if the Director is not satisfied that each stockholder, partner, officer, member, and employee who may materially influence the applicant's conduct meets the standards set forth in this Act. The Director may also require the applicant to disclose the method the applicant will use to determine and receive life expectancies, the applicant's intended use of life expectancies, and a written plan containing policies and procedures to use when determining life expectancies.

(n) A viatical settlement provider shall provide to the Director new or revised information about officers, 10% or more stockholders, partners, directors, members, or designated employees within 30 days after the change.

(o) Viatical settlement providers licensed under the Viatical Settlements Act shall be subject to the license requirements of this Act. Not later than 30 days after the effective date of this Act, such licensee shall submit the additional materials or information required for licensure under this Act but not previously required under the Viatical Settlements Act. To the extent that this Act requires materials or information for licensure previously submitted by the licensee pursuant to the Viatical Settlements Act, those materials need not be resubmitted with the initial application for licensure pursuant to this Act.

Section 11. Viatical settlement broker training requirements.

(a) Viatical settlement broker training shall be required as follows:

(1) An individual may not sell, solicit, or negotiate viatical settlement contracts unless the individual is licensed as a life insurance producer or viatical settlement broker and has completed a one-time training course. The training shall meet the requirements set forth in subsection (b) of this Section.

(2) An individual already licensed and selling, soliciting, or negotiating viatical settlement contracts on the effective date of this Act may not continue to sell, solicit, or negotiate viatical settlement contracts unless the individual has completed a one-time training course, as set forth in subsection (b) of this Section, within 6 months after the effective date of this Act or within 6 months after availability of the training course, whichever is later.

(3) In addition to the one-time training course required under items (1) and (2) of this subsection (a), an individual who sells, solicits, or negotiates viatical settlement contracts shall complete ongoing training as set forth in subsection (b) of this Section.

(4) The training requirements of subsection (b) of this Section may be approved as continuing education courses under Section 500-35(b)(1) of the Illinois Insurance Code.

(b) Minimum education and training shall be required as follows:

(1) The one-time training required by this Section shall be no less than 4 hours and the ongoing training required by this Section shall be no less than 4 hours over a 24-month period.

(2) The training required under item (1) of this subsection (b) shall consist of topics related to viatical settlement contracts, including, but not limited to:

(A) State and federal laws and regulations regarding viatical settlement transactions;

(B) potential tax implications for participants in viatical settlement contracts;

(C) potential impact on public benefits payments to viatical settlement participants;

(D) alternatives to viatical settlement contracts; and

(E) consumer suitability standards and guidelines.

(3) The training required by this Section shall not include training that is specific to or that includes any sales or marketing information, materials, or training of any company, other than those required by State or federal law.

(c) Viatical settlement providers shall provide verification of training as follows:

(1) Viatical settlement providers subject to this Act shall obtain verification that a producer receives training required by subsection (a) of this Section before a producer is permitted to sell, solicit, or negotiate viatical settlement contracts. Viatical settlement providers shall maintain records for verification subject to the State's record retention requirements and make the verification available to the Director upon request.

(2) Viatical settlement providers subject to this Act shall maintain records with respect to the training of viatical settlement brokers with whom the provider contracts or otherwise engages in viatical settlement transactions. These records shall be maintained in accordance with the State's record retention requirements and shall be made available to the Director upon request.

(d) The satisfaction of these training requirements in any state shall be deemed to satisfy the training requirements in this State.

Section 15. License revocation for viatical settlement providers.

(a) The Director may refuse to issue or renew or may suspend or revoke the license of any viatical settlement provider if the Director finds any of the following:

(1) there was any material misrepresentation in the application for the license;

(2) the viatical settlement provider or any officer, partner, member, or controlling person uses fraudulent or dishonest practices or is otherwise shown to be untrustworthy, incompetent, or financially irresponsible in this State or elsewhere;

(3) the viatical settlement provider demonstrates a pattern of unreasonable payments to viators;

(4) the viatical settlement provider or any officer, partner, member, or controlling person has violated any insurance laws or any rule, subpoena, or order of the Director or of another state's chief insurance regulatory official or is subject to a final administrative action brought by the Director or by the Illinois Secretary of State or by another state's chief insurance regulatory official or chief securities regulatory official;

(5) the viatical settlement provider has used a viatical settlement contract that has not been approved pursuant to this Act;

(6) the viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract;

(7) the viatical settlement provider no longer meets the requirements for initial licensure;

(8) the viatical settlement provider has assigned, transferred, or pledged a purchased

policy to a person other than a viatical settlement provider licensed in this State, a viatical settlement purchaser, a financing entity, a special purpose entity, or a related provider trust; or

(9) the viatical settlement provider or any officer, partner, member, or controlling person of the viatical settlement provider has violated any of the provisions of this Act.

(b) If the Director denies a viatical settlement provider license application or suspends, revokes, or refuses to renew the license of a viatical settlement provider, the Director shall notify the applicant or viatical settlement provider and advise, in writing, the applicant or viatical settlement provider of the reason for the suspension, revocation, denial, or nonrenewal of the applicant's or licensee's license. The applicant or viatical settlement provider may make a written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held in accordance with the Illinois Administrative Procedure Act and Section 2402 of Chapter 50 of the Illinois Administrative Code.

Section 17. License revocation and denial for viatical settlement brokers. Insurance producers operating as viatical settlement brokers shall be subject to the license denial, nonrenewal, and revocation provisions established by Section 500-70 of the Illinois Insurance Code, in addition to any monetary or criminal penalties as may be appropriate.

Section 20. Approval of viatical settlement contracts and disclosure statements. A person shall not use a viatical settlement contract form or provide to a viator a disclosure statement form in this State unless first filed with and approved by the Director. The Director shall disapprove a viatical settlement contract form or disclosure statement form if, in the Director's opinion, the contract or provisions contained therein fail to meet the requirements of this Act or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. At the Director's discretion, the Director may require the submission of advertising material. If the Director disapproves a viatical settlement contract form or disclosure statement form, then the Director shall notify the viatical settlement provider and advise the viatical settlement provider, in writing, of the reason for the disapproval. The viatical settlement provider may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held in accordance with the Illinois Administrative Procedure Act and 50 Ill. Admin. Code 2402.

Section 25. Reporting requirements and privacy.

(a) Each viatical settlement provider shall file with the Director on or before March 1 of each year a copy of its audited annual statement for the immediately preceding year ending December 31. The Director may require newly licensed entities to file annual statements for additional years. The annual statement must be verified by 2 officers of the licensed entity on forms prescribed by the Director. The forms prescribed by the Director shall contain all information required by this Act and shall conform substantially to the Viatical Settlement Provider Reports adopted by the NAIC Viatical Settlements Model Regulation, as amended. The approved annual statement for a viatical settlement provider shall include all of the following information:

(1) A list of each life insurance policy, including policy number, date of issue, unique internal identifier maintained by the viatical settlement provider and available upon examination, insurance company issuing the policy, date the viatical settlement contract is signed by viator, viatical settlement broker receiving compensation, and any premium finance companies, if known.

(2) Addresses and contact information for those persons listed in item (1) of this subsection (a).

(3) A list of all life expectancy providers who have directly or indirectly provided life expectancies to the viatical settlement provider for use in connection with a viatical settlement contract.

(4) Any other information required by the Director.

(b) The audited annual financial statement required by subsection (a) of this Section shall be completed by an independent certified public accountant along with a letter stating whether any significant deficiencies or material weaknesses were detected during the audit pursuant to the Auditing Standard Board's Statement on Auditing Standards Number 112, as amended or superseded.

(c) A viatical settlement provider that willfully fails to file the annual statements required by this Section, or willfully fails to reply within 30 calendar days to a written inquiry from the Director or Director's designee, shall, in addition to other penalties provided by this Act, be subject to a penalty of up to $250 per day, not to exceed $25,000 in the aggregate for each such failure.

(d) The Director shall keep confidential and not a matter of public record all individual transaction data regarding the business of viatical settlements and data that could compromise the privacy of personal, financial, and health information of the viator or the insured. All proprietary information received by the Director from a viatical settlement provider pursuant to this Section must be given confidential treatment, is not subject to subpoena, and may not be made public by the Director or any other persons.

(e) Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement broker, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of the identity of an insured under a viatical settlement contract shall not disclose the identity of the insured or the insured's financial or medical information to any other person unless the disclosure is:

(1) necessary to effect a viatical settlement contract between the viator and a viatical settlement provider and the viator or insured have provided prior written consent to the disclosure;

(2) provided in response to an investigation or examination by the Director or another governmental officer or agency or pursuant to the requirements of Section 65 of this Act;

(3) a term of or condition to the transfer of a policy by one viatical settlement provider to another viatical settlement provider;

(4) necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure;

(5) necessary to allow the viatical settlement provider or the viatical settlement provider's authorized representatives to make contacts for the purpose of determining health status; or

(6) required to purchase stop loss coverage or financial guaranty insurance.

(f) A viatical settlement investment agent shall not have any contact directly or indirectly with the viator or the insured or have knowledge of the identity of the viator or the insured.

Section 30. Examination or investigation.

(a) The Director may when and as often as the Director deems it reasonably necessary to protect the interests of the public, examine the business affairs of any licensee.

In scheduling and determining the nature, scope, and frequency of the examinations, the Director shall consider such matters as consumer complaints, results of financial statement analyses and ratios, changes in management or ownership, actuarial opinions, report of independent certified public accountants, and other relevant criteria as determined by the Director.

(b) For purposes of completing an examination of a licensee under this Act, the Director may examine or investigate any person, or the business of any person, in so far as the examination or investigation is, in the sole discretion of the Director, necessary or material to the examination.

(c) In lieu of an examination under this Act of any foreign licensee or alien licensee licensed in this State, the Director may, at the Director's discretion, accept an examination report on the licensee as prepared by the chief insurance regulatory official for the licensee's state of domicile or port-of-entry state.

(d) As far as practical, the examination of a foreign licensee or alien licensee shall be made in cooperation with the insurance supervisory officials of other states in which the licensee transacts business.

(e) Licensees shall for 5 years retain copies of:

(1) all proposed, offered, or executed contracts, purchase agreements, underwriting documents, policy forms, and applications from the date of the proposal, offer, or execution of the contract or purchase agreement, whichever is later;

(2) all checks, drafts, or other evidence and documentation related to the payment, transfer, deposit, or release of funds from the date of the transaction;

(3) all other records and documents in any format related to the requirements of this Act, including a record of complaints received against the licensee and agents representing the licensee and a list of all life expectancy providers that have provider services to the licensee.

This subsection (e) does not relieve a person of the obligation to produce records required by this subsection to the Director after the retention period has expired if the person has retained the documents.

Records required to be retained by this subsection (e) must be legible and complete and may be retained in paper, photograph, microprocessor, magnetic, mechanical, or electronic media, or by any process that accurately reproduces or forms a durable medium for the reproduction of a record.

(f) Upon determining that an examination should be conducted, the Director shall appoint one or more examiners to perform the examination and instruct them as to the scope of the examination. The Director may employ any guidelines or procedures for purposes of this subsection (f) that the Director deems appropriate.

Every licensee or person, including all officers, partners, members, directors, employees, controlling persons, and agents of any licensee or person, from whom information is sought shall provide to the examiners timely, convenient, and free access at all reasonable hours at the licensee's or person's offices to all books, records, accounts, papers, documents, assets, and computer or other recordings relating to the property, assets, business, and affairs of the licensee being examined. The officers, directors, employees, and agents of the licensee or person shall facilitate the examination and aid in the examination so far as it is in their power to do so. The refusal of a licensee by its officers, directors, employees, or agents to submit to examination or to comply with any reasonable written request of the Director shall be grounds for revocation, denial of issuance, or non-renewal of any license or authority held by the licensee to engage in the viatical settlement business or other business subject to the Director's jurisdiction.

The Director shall have the power to issue subpoenas, to administer oaths, and to examine under oath any person as to any matter pertinent to the examination. Upon the failure or refusal of a person to obey a subpoena, the Director may petition a court of competent jurisdiction, and upon proper showing, the court may enter an order compelling the witness to appear and testify or produce documentary evidence. Failure to obey the court order shall be punishable as contempt of court. Subpoenas may be enforced pursuant to Section 403 of the Illinois Insurance Code.

When making an examination under this Act, the Director may retain attorneys, appraisers, independent actuaries, independent certified public accountants, or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the licensee that is the subject of the examination.

(g) Nothing contained in this Act limits the Director's authority to terminate or suspend an examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this State. Findings of fact and conclusions made pursuant to any examination shall be prima facie evidence in any legal or regulatory action.

(h) Nothing contained in this Act shall be construed to limit the Director's authority to use and, if appropriate, to make public any final or preliminary examination report, any examiner or licensee workpapers or other documents, or any other information discovered or developed during the course of any examination in the furtherance of any legal or regulatory action that the Director may, in the Director's discretion, deem appropriate.

(i) No later than 60 days following completion of the examination, the examiner in charge shall file with the Director a verified written report of examination under oath. Upon receipt of the verified report, the Director shall transmit the report to the licensee examined.

(j) Examination reports shall be comprised only of facts appearing upon the books, records, or other documents of the licensee, its agents, or other persons examined, or as ascertained from the testimony of its officers or agents or other persons examined concerning its affairs and the conclusions and recommendations that the examiners find reasonably warranted from the facts.

(k) The licensee may request a hearing within 10 days after receipt of the examination report by giving the Director written notice of that request, together with a statement of its objections. The Director then must conduct a hearing in conjunction with Sections 402 and 403 of the Illinois Insurance Code. The Director must issue a written order based upon the examination report and upon the hearing within 90 days after the report is filed or within 90 days after the hearing. After the hearing, the Director may make such order or orders as may be reasonably necessary to correct, eliminate, or remedy unlawful conduct.

(l) If the Director determines that regulatory action is appropriate as a result of an examination, the Director may initiate any proceedings or actions provided by law.

(m) Names and individual identification data for all viators in the possession and control of the Director shall be considered private and confidential and shall not be disclosed by the Director unless required by law.

Except as otherwise provided in this Act, all examination reports, working papers, recorded information, documents, and copies thereof produced by, obtained by or disclosed to the Director or any other person in the course of an examination made under this Act or the law of another state or

jurisdiction that is substantially similar to this Act, or in the course of analysis or investigation by the Director of the financial condition or market conduct of a licensee are (i) confidential by law and privileged, (ii) not subject to the Freedom of Information Act, (iii) not subject to subpoena, and (iv) not subject to discovery or admissible in evidence in any private civil action.

The Director is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the Director's official duties.

Documents, materials, or other information, including, but not limited to, all working papers and copies thereof, in the possession or control of the NAIC and its affiliates and subsidiaries are:

(1) confidential by law and privileged;

(2) not subject to subpoena; and

(3) not subject to discovery or admissible in evidence in any private civil action if they are:

(A) created, produced or obtained by, or disclosed to the NAIC and its affiliates and subsidiaries in the course of assisting an examination made under this Act or assisting the Director or the chief insurance regulatory official in another state in the analysis or investigation of the financial condition or market conduct of a licensee; or

(B) disclosed under this subsection (m) by the Director or disclosed under a comparable provision in law of another state by that state's chief insurance regulatory official to the NAIC and its affiliates and subsidiaries.

Neither the Director nor any person that received the documents, material, or other information while acting under the authority of the Director, including the NAIC and its affiliates and subsidiaries, shall be permitted to testify in any private civil action concerning any confidential documents, materials, or information subject to this subsection (m).

(n) In order to assist in the performance of the Director's duties, the Director may:

(1) share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (m) of this Section, with other state, federal, and international regulatory agencies, with the NAIC and its affiliates and subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the document, material, communication, or other information;

(2) receive documents, materials, communications, or information, including otherwise confidential and privileged documents, materials, or information, from the NAIC and its affiliates and subsidiaries and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(3) enter into agreements governing sharing and use of information consistent with this Section.

(o) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the Director under this Section or as a result of sharing as authorized in subsection (n) of this Section.

(p) A privilege established under the law of any state or jurisdiction that is substantially similar to the privilege established under this Section shall be available and enforced in any proceeding in, and in any court of, this State.

(q) Nothing contained in this Act prevents or prohibits the Director from disclosing the content of an examination report, preliminary examination report or results, or any matter relating to those reports or results, to the chief insurance regulatory official of any other state or country, or to law enforcement officials of this or any other state or agency of the federal government at any time or to the NAIC, if the agency or office receiving the report or matters relating to it agrees in writing to hold it confidential and in a manner consistent with this Act.

(r) The expenses incurred in conducting an examination shall be paid by the licensee.

(s) No cause of action shall arise nor shall any liability be imposed against the Director, the Director's authorized representatives, or any examiner appointed by the Director for any statements made or conduct performed in good faith while carrying out the provisions of this Act.

No cause of action shall arise, nor shall any liability be imposed against any person for the act of communicating or delivering information or data to the Director or the Director's authorized representative or examiner pursuant to an examination made under this Section, if the act of communication or delivery was performed in good faith and without fraudulent intent or the intent to

deceive. This subsection (s) does not abrogate or modify in any way any common law or statutory privilege or immunity heretofore enjoyed by any person identified in this subsection (s). A person identified in this subsection (s) shall be entitled to an award of attorney's fees and costs if he or she is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this Section and the party bringing the action was not substantially justified in doing so. For purposes of this Section, a proceeding is "substantially justified" if it had a reasonable basis in law or fact at the time that it was initiated.

(t) The Director may investigate suspected viatical settlement fraud and persons engaged in the business of viatical settlements.

Section 35. Disclosure to viator.

(a) With each application for a viatical settlement contract, a viatical settlement provider or viatical settlement broker shall provide the viator with at least the following disclosures no later than the time the viatical settlement contract is signed by all parties. The disclosures shall include distribution of a brochure describing the process of viatical settlements. The NAIC form for the brochure shall be used unless another form is developed or approved by the Director. Other disclosures required by this subsection (a) shall be provided in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker and shall provide the following information:

(1) If a viator enters into a viatical settlement contract, then the beneficiaries of the life insurance policy lose the life insurance policy's benefits, equity, and protection. In addition, by entering into this viatical settlement contract, the insured may not qualify for another life insurance policy or may be required to pay substantially higher premiums.

(2) That there are possible alternatives to viatical settlement contracts including any accelerated death benefits or policy loans offered under the viator's life insurance policy.

(3) That a viatical settlement broker represents only the viator and not the insurer or the viatical settlement provider and owes a fiduciary duty to the viator, including a duty to act according to the viator's instructions and in the best interest of the viator.

(4) That some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and assistance may be sought from a professional tax advisor.

(5) That proceeds of the viatical settlement contract may be subject to the claims of creditors.

(6) That receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements and advice should be obtained from the appropriate government agencies.

(7) That the viator has the right to rescind a viatical settlement contract before the earlier of 30 calendar days after the date upon which the viatical settlement contract is executed by all parties or 15 calendar days after the viatical settlement proceeds have been paid to the viator. Rescission, if exercised by the viator, is effective only if both notice of the rescission is given and the viator repays all proceeds and any premiums, loans, and loan interest paid on the account of the viatical settlement within the rescission period. If the insured dies during the rescission period, the viatical settlement contract is deemed to have been rescinded, subject to repayment by the viator or the viator's estate to the viatical settlement provider of all viatical settlement proceeds and any premiums, loans, and loan interest paid on the account of the viatical settlement within 60 days after the insured's death.

(8) That funds must be sent to the viator within 3 business days after the viatical settlement provider has received the insurer or group administrator's written acknowledgment that ownership of the policy has been transferred and the beneficiary has been designated.

(9) That entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy, to be forfeited by the viator. Assistance should be sought from a financial adviser.

(10) That the disclosure document must contain the following language: "A viatical settlement provider or viatical settlement broker may ask the insured for medical, financial, and personal information. All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of the insured's family members, the insured's spouse or the insured's significant other, may be disclosed as necessary to effect the viatical settlement between the viator and the viatical

settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every 2 years.

(11) That, following execution of a viatical settlement contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or for other purposes permitted by law. This contact is limited to once every 3 months if the insured has a life expectancy of more than one year, and no more than once each month if the insured has a life expectancy of one year or less. All such contracts shall be made only by a viatical settlement provider licensed in the state in which the viator resided at the time of the viatical settlement, or by the authorized representative of a duly licensed viatical settlement provider.

(12) If the policy to be viaticated is group coverage, the insured is advised to check with the manager of the group about whether permission is required to sell the policy or other conditions.

(13) Entering into a viatical settlement contract will result in investors having a financial interest in the insured's death.

(b) With each application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall provide the prospective viator with a document titled "Important Consumer Notices". The document must be provided to the prospective viator and contain, in conspicuous type size and format, the following:

"By entering into a viatical settlement contract:

(1) You are making a complex financial decision that may or may not be in your or your family's financial best interest. Seek independent advice from financial planning experts and responsible government agencies.

(2) You may not be able to purchase another life insurance policy.

(3) You could lose Medicaid and other valuable government benefits.

(4) You will receive proceeds that may be subject federal and state taxes and to the claims of creditors.

(5) You have sold your life insurance policy to strangers who have a financial interest in the life and death of the person whose life is insured by the policy.

(6) You or your residence may be contacted on a regular basis to determine if you have died or if your health status has deteriorated.".

The disclosure document required by this subsection (b) shall be the cover page of the viatical settlement contract and shall be signed by the viator and the viatical settlement provider or viatical settlement broker. The viator and viatical settlement provider or viatical settlement broker shall sign the disclosure prior to signing the viatical settlement contract. A copy of the signed document must be provided to the viator.

(c) A viatical settlement provider shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures must be displayed conspicuously in the viatical settlement contract or in a separate document signed by the viator and the viatical settlement provider, and provide the following information:

(1) The affiliation, if any, between the viatical settlement provider and the issuer of the policy to be acquired pursuant to a viatical settlement contract.

(2) The name, business address, and telephone number of the viatical settlement provider.

(3) Whether any affiliations or contractual arrangements exist between the viatical settlement provider and the viatical settlement purchaser.

(4) If a policy to be acquired pursuant to a viatical settlement contract has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be acquired pursuant to a viatical settlement contract, the viator must be informed of the possible loss of coverage on the other lives under the policy and must be advised to consult with the viator's insurance producer or the company issuing the policy for advice on the proposed viatical settlement contract.

(5) The dollar amount of the current death benefit payable to the viatical settlement provider under the policy. If known, the viatical settlement provider also shall disclose the availability of additional guaranteed insurance benefits, the dollar amount of accidental death and dismemberment benefits under the policy or certificate, and the extent to which the viator's interest in those benefits will be transferred as a result of the viator's settlement contract.

(6) The name, business address, and telephone number of the escrow agent, and that the

viator may inspect or receive copies of the relevant escrow or trust agreements or documents. Also, that an escrow agent shall provide escrow services to the parties pursuant to a written agreement signed by the viatical settlement provider, the escrow agent, and the viator. At the close of escrow, the escrow agent must distribute the proceeds of the sale to the viator, minus any compensation to be paid to any other persons who provided services and to whom the viator has agreed to compensate out of the gross amount offered by the viatical settlement purchaser. All persons receiving any form of compensation under the escrow agreement shall be clearly identified, including name, business address, telephone number, and tax identification number.

(7) The amount of compensation received by the escrow agent.

(c) A viatical settlement broker shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide the following information:

(1) the name, business address, and telephone number of the viatical settlement broker;

(2) a full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract;

(3) any affiliations or contractual arrangements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contracts;

(4) the amount and method of calculating the broker's compensation, which term "compensation" includes anything of value paid or given to a proposed settlement broker in connection with the proposed viatical settlement contract;

(5) if any portion of the viatical settlement broker's compensation, as defined in paragraph (3) of this subsection (c), is taken from a proposed viatical settlement offer, the broker shall disclose the total amount of the viatical settlement offer and the percentage of the viatical settlement offer comprised by the viatical settlement broker's compensation; and

(6) the name of the legal owner and beneficiary of the insurance policy after the policy is sold pursuant to the viatical settlement contract and whether legal ownership of the policy and the beneficiary's right to collect benefits upon the viator's death can be sold.

(d) If the viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, then the provider shall communicate in writing the change in ownership or beneficiary to the insured within 20 days after the change.

Section 40. Disclosure to insurer. Prior to the initiation of a plan, transaction, or series of transactions a viatical settlement broker or viatical settlement provider shall fully disclose to an insurer a plan, transaction, or series of transactions to which the viatical settlement broker or viatical settlement provider is a party to originate, renew, continue, or finance a life insurance policy with the insurer for the purpose of engaging in the business of viatical settlements at anytime prior to or during the first 2 years after issuance of the policy. The viatical settlement provider, viatical settlement broker, viator, or applicant for a policy shall, when requested, disclose that the prospective insured has undergone a life expectancy evaluation in connection with the issuance of a policy by a person or entity other than the insurer or its authorized representative. Any disclosure required under this Section must be made in writing.

Section 45. General rules.

(a) A viatical settlement provider entering into a viatical settlement contract shall first obtain:

(1) if the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract; as used in this item (1), "physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine and surgery or osteopathic medicine and surgery in all its branches; and

(2) a document in which the insured consents in writing to the release of his or her medical records to a licensed viatical settlement provider, viatical settlement broker, and the insurance company that issued the life insurance policy covering the life of the insured.

(b) Within 20 days after a viator executes documents necessary to transfer any rights under an insurance policy or within 20 days after entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by subsection (c) of this

Section.

(c) The viatical provider shall deliver a copy of the medical release required under paragraph (2) of subsection (a) of this Section, a copy of the viator's application for the viatical settlement contract, the notice required under subsection (b) of this Section and a request for verification of coverage to the insurer that issued the life insurance policy that is the subject of the viatical settlement transaction. The viatical settlement provider shall use the NAIC's form for verification of coverage unless another form is developed and approved by the Director.

(d) Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the viator has a full and complete understanding of the viatical settlement contract, that he or she has a full and complete understanding of the benefits of the life insurance policy, acknowledges that he or she is entering into the viatical settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

(e) If a viatical settlement broker performs any of the activities required of a viatical settlement provider as described by subsection (a) through (d) of this Section, then the viatical settlement provider is deemed to have fulfilled that requirement.

(f) The insurer shall respond to a request for verification of coverage submitted on an approved form by a viatical settlement provider or viatical settlement broker within 30 calendar days after the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on an NAIC form or any other form approved by the Director. The insurer shall accept an original or facsimile or electronic copy of such request and any accompanying authorization signed by the viator. Failure by the insurer to meet its obligations under this subsection shall be a violation of subsection (b) of Section 50 and Section 75 of this Act.

(g) All medical information solicited or obtained by any licensee shall be subject to the applicable provisions of state law relating to confidentiality of medical information.

(h) All viatical settlement contracts entered into in this State shall provide the viator with an absolute right to rescind the contract before the earlier of 30 calendar days after the date upon which the viatical settlement contract is executed by all parties or 15 calendar days after the viatical settlement proceeds have been sent to the viator as provided in Section 45. Rescission by the viator may be conditioned upon the viator both giving notice and repaying to the viatical settlement provider within the rescission period all proceeds of the settlement and any premiums, loans and loan interest paid by or on behalf of the viatical settlement provider in connection with or as a consequence of the viatical settlement. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment to the viatical settlement provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or viatical settlement purchaser, which shall be paid within 60 calendar days of the death of the insured. In the event of any rescission, if the viatical settlement provider has paid commissions or other compensation to a viatical settlement broker in connection with the rescinded transaction, the viatical settlement broker shall refund all such commissions and compensation to the viatical settlement provider within 5 business days following receipt of written demand from the viatical settlement provider, which demand shall be accompanied by either the viator's notice of rescission if rescinded at the election of the viator, or notice of the death of the insured if rescinded by reason of the death of the insured within the applicable rescission period.

(i) If a viatical settlement contract is rescinded by the viator pursuant to this Section, then ownership of the insurance policy reverts to the viator or to the viator's estate.

(j) The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the escrow agent. Within 3 business days after the date the escrow agent receives the document (or from the date the viatical settlement provider receives the documents, if the viator erroneously provides the documents directly to the viatical settlement provider), the viatical settlement provider shall pay or transfer the gross amount paid by the viatical settlement purchaser to the escrow agent for deposit in a trust account and set up for that purpose by the escrow agent in a state or federally-chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Upon payment of the settlement proceeds into the escrow or trust account, the escrow agent or trustee shall deliver the original change in ownership, assignment, or change in beneficiary forms to the viatical settlement provider, a

representative of the viatical settlement provider, or related provider trust. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator. Funds shall be deemed sent by a viatical settlement provider to a viator as of the date that the escrow agent either releases the funds for wire transfer to the viator or places a check for delivery to the viator via United States Postal Service or other nationally recognized delivery service.

(k) Failure to transfer the proceeds to the viator for the viatical settlement contract within the time set forth in the disclosure pursuant to item (7) of subsection (a) of Section 35 of this Act renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. If a viatical settlement contract is voided by the viator pursuant to this subsection (k), then ownership of the policy reverts to the viator or to the viator's estate.

(l) After the viatical settlement contract has been effected, contacts with the insured for the purpose of determining the health status of the insured shall be made only by the viatical settlement provider or the authorized representative of the viatical settlement provider. The viatical settlement provider or authorized representative shall not contact the insured with the purpose of determining the insured's health status more than once every 3 months if the insured has a life expectancy of more than one year or more than once per month if the insured has a life expectancy of one year or less. The viatical settlement provider shall explain the procedure for making these contacts at the time the viatical settlement contract is entered into. For purposes of this Section, viatical settlement providers are responsible for the actions of their authorized representatives.

(m) The insurer that issued the policy being settled pursuant to a viatical settlement contract shall not be responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

(n) If there is more than one viator on a single policy and the viators are residents of different states, then the transaction shall be governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all the viators.

Subject to the provisions of this subsection (n), if the viator is a resident of this State, then all agreements to be signed by the viator shall provide exclusive jurisdiction to courts of this State and the laws of this State shall govern the agreements. Nothing in the agreements shall abrogate the viator's right to a trial by jury.

(o) Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator and not the insurer or the viatical settlement provider and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interest of the viator.

Section 50. Prohibited practices.

(a) It is a violation of this Act for any person to enter into a viatical settlement contract prior to the application of or issuance of a policy that is the subject of the viatical settlement contract. It is a violation of this Act for any person to enter into stranger-originated life insurance or STOLI as defined by this Act.

(b) It is a violation of this Act for any person to enter into a viatical settlement contract within a 2-year period commencing with the date of issuance of the insurance policy unless the viator certifies to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:

(1) The policy was issued upon the viator's exercise of conversion rights arising out of a group or individual policy, provided the total of the time covered under the conversion policy plus the time covered under the prior policy is at least 24 months. The time covered under a group policy shall be calculated without regard to any change in insurance carriers, provided the coverage has been continuous and under the same group sponsorship.

(2) The viator certifies and submits independent evidence to the viatical settlement provider that one or more of the following conditions have been met within the 2-year period:

(A) the viator or insured is terminally or chronically ill;

(B) the viator's spouse dies;

(C) the viator divorces his or her spouse;

(D) the viator retires from full-time employment;

(E) the viator becomes physically or mentally disabled and a physician determines

that the disability prevents the viator from maintaining full-time employment;

(F) a court of competent jurisdiction enters a final order, judgment, or decree on the application of a creditor of the viator, adjudicating the viator bankrupt or insolvent, or approving a petition seeking reorganization of the viator or appointing a receiver, trustee, or liquidator to all or a substantial part of the viator's assets;

(G) the sole beneficiary of the policy is a family member of the viator and the beneficiary dies; or

(H) any other condition that the Director may determine by regulation to be an extraordinary circumstance for the viator or the insured.

(c) Copies of the independent evidence described in paragraph (2) of subsection (b) of this Section and documents required by Section 45 shall be submitted to the insurer when the viatical settlement provider or any other party entering into a viatical settlement contract with a viator submits a request to the insurer for verification of coverage. The copies shall be accompanied by a letter of attestation from the viatical settlement provider that the copies are true and correct copies of the documents received by the viatical settlement provider.

(d) If the viatical settlement provider submits to the insurer a copy of the owner or insured's certification described in and the independent evidence required by paragraph (2) of subsection (b) of this Section when the viatical settlement provider submits a request to the insurer to effect the transfer of the policy to the viatical settlement provider, then the copy shall be deemed to conclusively establish that the viatical settlement contract satisfies the requirements of this Section, and the insurer shall timely respond to the request.

(e) No insurer may, as a condition of responding to a request for verification of coverage or effecting the transfer of a policy pursuant to a viatical settlement contract, require that the viator, insured, viatical settlement provider, or viatical settlement broker sign any forms, disclosures, consent, or waiver form that has not been expressly approved by the Director for use in connection with viatical settlement contracts in this State.

(f) Upon receipt of a properly completed request for change of ownership or beneficiary of a policy, the insurer shall respond in writing within 30 calendar days to confirm that the change has been effected or specifying the reasons why the requested change cannot be processed. No insurer shall unreasonably delay effecting change of ownership or beneficiary or seek to interfere with any viatical settlement contract lawfully entered into in this State.

Section 55. Prohibited practices and conflicts of interest.

(a) With respect to any viatical settlement contract or insurance policy, no viatical settlement broker knowingly shall solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, financing entity, or related provider that is controlling, controlled by, or under common control with such viatical settlement broker, unless such relationship is fully disclosed to the viator.

(b) With respect to any viatical settlement contract or insurance policy, no viatical settlement provider knowingly may enter into a viatical settlement contract with a viator, if, in connection with such viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with such viatical settlement provider or the viatical settlement purchaser, financing entity, or related provider trust that is involved in such viatical settlement contract, unless such relationship is fully disclosed to the viator.

(c) Any disclosure provided pursuant to subsections (a) and (b) of this Section must be provided along with the disclosures required by subsection (a) of Section 35 and contain the following language: "The financial relationship between your viatical settlement broker and the provider of the viatical settlement creates a potential conflict of interest between your financial interests and the financial interests of the viatical settlement broker and viatical settlement provider. The individual brokering this viatical transaction owes you a fiduciary duty or a duty of loyalty. Your viatical settlement broker must advise you based exclusively upon your best interests, not the best interests of the viatical settlement broker or the viatical settlement provider.".

(d) A violation of subsection (a), subsection (b), or subsection (c) shall be deemed viatical settlement fraud.

(e) No person shall issue, solicit, or market the purchase of an insurance policy for the purpose of settling the policy. Nothing in this subsection (e) shall prohibit persons from using and discussing the written materials that the Director shall approve prior to the effective date of this Act and that inform consumers of their rights with respect to a life insurance policy, including the option of entering into a

lawful viatical settlement contract. Nothing in this subsection (e) limits or otherwise impairs the terms of a contract between an insurer and its producers.

(f) A viatical settlement provider shall retain all copies of a viatical settlement promotional, advertising, and marketing materials and shall make these material available to the Director on request. In no event shall any marketing materials expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause a viator to reasonably believe that the insurance is free for any period of time shall be considered a violation of this Act.

(g) No insurance producer, insurance company, viatical settlement broker, or viatical settlement provider shall make any statement or representation to a potential or actual insured or potential or actual viator in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

Section 60. Advertising for viatical settlements.

(a) The purpose of this Section is to provide prospective viators with clear and unambiguous statements in the advertisement of viatical settlements and to assure the clear, truthful, and adequate disclosure of the benefits, risks, limitations, and exclusions of any viatical settlement contract. All product descriptions must be presented in a manner that prevents unfair, deceptive, or misleading advertising and conducive to accurate presentation and description of viatical settlements through the advertising media and material used by licensees.

(b) This Section applies to any advertising of viatical settlement contracts or related products or services circulated or placed directly before the public, including Internet advertising. Where disclosure requirements are established pursuant to federal regulation, this Section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

(c) Every licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the licensees, as well as the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the licensee.

(d) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract product or service shall be sufficiently complete and clear so as to avoid deception. It shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the Director from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(e) The information required to be disclosed under this Section shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract includes a "free look" period that satisfies or exceeds legal requirements, does not remedy misleading statements.

An advertisement shall not use the name or title of an insurance company or an insurance policy unless the advertisement has been approved by the insurer.

An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

The words "free", "no cost", "without cost", "no additional cost", "at no extra cost", or words of similar import shall not be used with respect to any life insurance policy or to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

Testimonials, appraisals, or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the viatical settlement contract, product, or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or

deceiving prospective viators as to the nature or scope of the testimonials, appraisal, analysis, or endorsement. In using testimonials, appraisals, or analyses, a licensee under this Act makes as its own all the statements contained therein, and the statements are subject to all the provisions of this Section.

If the individual making a testimonial, appraisal, analysis, or endorsement has a financial interest in the subject of the testimonial, appraisal, analysis, or endorsement, either directly or indirectly as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union scale wages, that fact shall be prominently disclosed in the advertisement.

An advertisement shall not state or imply that a viatical settlement contract, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between the group of individuals, society, association, or organization and the licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be prominently disclosed in the advertisement.

When an endorsement refers to benefits received under a viatical settlement contract all pertinent information shall be retained for a period of 5 years after its use.

(f) An advertisement shall not contain statistical information unless the information accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

(g) An advertisement shall not disparage insurers, viatical settlement providers, viatical settlement brokers, insurance producers, policies, services, or methods of marketing.

(h) The name of the licensee shall be clearly identified in all advertisements about the licensee or its viatical settlement contract, products, or services, and if any specific viatical settlement contract is advertised, the viatical settlement contract shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider or providers shall be shown on the application.

(i) An advertisement shall not use a trade name, group designation, name of the parent company of a licensee, name of a particular division of the licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the licensee, or to create the impression that a company other than the licensee would have any responsibility for the financial obligation under a viatical settlement contract.

(j) An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators into believing that the solicitation is in some manner connected with a government program or agency.

(k) An advertisement may state that a licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that competing licensees may not be so licensed. The advertisement may ask the audience to consult the licensee's Internet website or contact the Division to find out if the state requires licensing and, if so, whether the viatical settlement provider, or viatical settlement broker, is licensed.

(l) An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims or the merits, desirability, or advisability of its viatical settlement contracts are recommended or endorsed by any government entity.

(m) The name of the actual licensee shall be stated in all of a licensee's advertisements.

An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

(n) An advertisement shall not directly or indirectly create the impression that any division or agency of the State or of the U. S. government endorses, approves, or favors:

(1) any licensee or its business practices or methods of operation;

(2) any viatical settlement contract; or

(3) any life insurance policy or life insurance company.

(o) If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and

from acceptance of the offer to receipt of the funds by the viator.

(p) If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose, using the same type and font size as the dollar amount available to the viator, the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past 6 months.

Section 65. Fraud prevention and control.

(a) A person shall not commit the offense of viatical settlement fraud.

A person shall not knowingly or intentionally interfere with the enforcement of the provisions of this Act or investigations of suspected or actual violations of this Act.

A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

(b) Viatical settlements contracts and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement: "Any person who knowingly presents false information in an application for insurance or a viatical settlement contract is guilty of a crime and may be subject to fines and confinement in prison.".

The lack of a statement as required in this subsection (b) does not constitute a defense in any prosecution for the offense of viatical settlement fraud.

(c) Any person engaged in the business of viatical settlements having knowledge or a reasonable suspicion that a viatical settlement fraud is being, will be, or has been committed shall provide to the Director such information as required by, and in a manner prescribed by, the Director.

Any other person having knowledge or a reasonable belief that viatical settlement fraud is being, will be, or has been committed may provide to the Director the information required by, and in a manner prescribed by, the Director.

(d) No civil liability shall be imposed on and no cause of action shall arise from a person's furnishing information concerning suspected, anticipated, or completed viatical settlement fraud or suspected or completed fraudulent insurance acts, if the information is provided to or received from:

(1) the Director or the Director's employees, agents, or representatives;

(2) federal, State, or local law enforcement or regulatory officials or their employees, agents, or representatives;

(3) a person involved in the prevention and detection of viatical settlement fraud or that person's agents, employees, or representatives;

(4) the NAIC, the National Association of Securities Dealers (NASD), the North American Securities Administrators Association (NASAA), or their employees, agents, or representatives, or other regulatory body overseeing life insurance, viatical settlements, securities, or investment fraud; or

(5) the life insurer that issued the life insurance policy covering the life of the insured.

(e) The immunity provided by subsection (d) of this Section shall not apply to statements made with actual malice. In an action brought against a person for filing a report or furnishing other information concerning viatical settlement fraud, the party bringing the action shall plead specifically any allegation that subsection (d) does not apply because the person filing the report or furnishing the information did so with actual malice.

(f) A person furnishing information as identified in subsection (d) of this Section shall be entitled to an award of attorney's fees and costs if the person is the prevailing party in a civil cause of action for libel, slander, or any other relevant tort arising out of activities in carrying out the provisions of this Act and the party bringing the action was not substantially justified in doing so. For purposes of this Section a proceeding is substantially justified if it had a reasonable basis in law or fact at the time that it was initiated. However, such an award does not apply to any person furnishing information concerning the person's own fraudulent viatical settlement acts.

(g) This Section does not abrogate or modify common law or statutory privileges or immunities enjoyed by a person described in subsection (d) of this Section.

Subsection (d) of this Section does not apply to a person furnishing information concerning that person's own suspected, anticipated, or completed viatical settlement fraud or suspected, anticipated, or completed fraudulent insurance acts.

(h) The documents and evidence provided pursuant to subsection (d) of this Section or obtained by the Director in an investigation of suspected or actual viatical settlement fraud shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or

subpoena in a civil or criminal action. This subsection (h) does not prohibit release by the Director of documents and evidence obtained in an investigation of suspected or actual viatical settlement fraud: (1) in administrative or judicial proceedings to enforce laws administered by the Director; (2) to federal, State, or local law enforcement or regulatory agencies, to an organization established for the purpose of detecting and preventing viatical settlement fraud or to the NAIC; or (3) at the discretion of the Director, to a person in the business of viatical settlements that is aggrieved by a viatical settlement fraud. Release of documents and evidence under this subsection (h) does not abrogate or modify the privilege granted in this subsection.

(i) This Act shall not do any of the following:

(1) Preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine and prosecute suspected violations of law.

(2) Prevent or prohibit a person from disclosing voluntarily information concerning viatical settlement fraud to a law enforcement or regulatory agency other than the Division.

(3) Limit the powers granted elsewhere by the laws of this State to the Director or an insurance fraud unit to investigate and examine possible violations of law and to take appropriate action against wrongdoers.

(i) Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent viatical settlement fraud. At the discretion of the Director, the Director may order, or a licensee may request and the Director may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this Section. Antifraud initiatives shall include the following:

(1) fraud investigators, who may be viatical settlement providers or viatical settlement broker employees or independent contractors; and

(2) an antifraud plan, which shall be submitted to the Director. The antifraud plan shall include, but not be limited to:

(A) a description of the procedures for detecting and investigating possible viatical settlement fraud and procedures for resolving material inconsistencies between medical records and insurance applications;

(B) a description of the procedures for reporting possible viatical settlement fraud to the Director;

(C) a description of the plan for antifraud education and training of underwriters and other personnel;

(D) a description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible viatical settlement fraud and investigating unresolved material inconsistencies between medical records and insurance applications; and

(E) a description of the procedures used to perform initial and continuing review of the accuracy of life expectancies used in connection with a viatical settlement contract.

Antifraud plans submitted to the Director shall be privileged and confidential and are not public record and are not subject to discovery or subpoena in a civil or criminal action.

Section 70. Injunctions; civil remedies; cease and desist.

(a) In addition to the penalties and other enforcement provisions of this Act, if any person violates this Act or any rules implementing this Act, the Director may seek an injunction in a court of competent jurisdiction and may apply for temporary and permanent orders that the Director determines are necessary to restrain the person from committing the violation.

(b) Any person damaged by the acts of a person in violation of this Act may bring a civil action against the person committing the violation in a court of competent jurisdiction.

(c) The Director may issue, in accordance with Section 401.1 of the Illinois Insurance Code and the Illinois Administrative Procedure Act, a cease and desist order upon a person that violates any provision of this Act, any regulation or order adopted by the Director, or any written agreement entered into with the Director.

(d) In addition to the penalties and other enforcement provisions of this Act, any person who violates this Act is subject to civil penalties of up to $50,000 per violation. Each separate violation of this Act shall be a separate offense. If a person is subject to an order of the Director for violations of this Act and continually fails to obey or neglects to obey the order, then each day of such failure or neglect shall be

deemed a separate offense. Imposition of civil penalties shall be pursuant to an order of the Director. The Director's order may require a person found to be in violation of this Act to make restitution to persons aggrieved by violations of this Act.

Section 72. Crimes and offenses.

(a) A person acting in this State as a viatical settlement provider without having been licensed pursuant to Section 10 of this Act who willfully violates any provision of this Act or any rule adopted or order issued under this Act is guilty of a Class A misdemeanor and may be subject to a fine of not more than $3,000. When such violation results in a loss of more than $10,000, the person shall be guilty of a Class 3 felony and may be subject to a fine of not more than $10,000.

(b) A person acting in this State as a viatical settlement broker without having met the licensure and notification requirements established by Section 10 of this Act who willfully violates any provision of this Act or any rule adopted or order issued under this Act is guilty of a Class A misdemeanor and may be subject to a fine of not more than $3,000. When such violation results in a loss of more than $10,000, the person shall be guilty of a Class 3 felony and may be subject to a fine of not more than $10,000.

(c) The Director may refer such evidence as is available concerning violations of this Act or any rule adopted or order issued under this Act or of the failure of the a person to comply with the licensing requirements of this Act to the Attorney General or the proper county attorney who may, with or without such reference, institute the appropriate criminal proceedings under this Act.

(d) A person commits the offense of viatical settlement fraud when:

(1) For the purpose of depriving another of property or for pecuniary gain any person knowingly:

(A) presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, life expectancy provider, viatical settlement purchaser, financing entity, insurer, insurance producer, or any other person, false material information, or conceals material information, as part of, in support of or concerning a fact material to one or more of the following:

(i) an application for the issuance of a viatical settlement contract or insurance policy;

(ii) the underwriting of a viatical settlement contract or insurance policy;

(iii) a claim for payment or benefit pursuant to a viatical settlement contract or insurance policy;

(iv) premiums paid on an insurance policy;

(v) payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract or insurance policy;

(vi) the reinstatement or conversion of an insurance policy;

(vii) in the solicitation, offer, effectuation, or sale of a viatical settlement contract or insurance policy;

(viii) the issuance of written evidence of viatical settlement contract, or insurance; or

(ix) a financing transaction; or

(B) employs any plan, financial structure, device, scheme, or artifice to defraud related to viaticated policies; or

(C) enters into any act, practice, or arrangement which involves stranger-originated life insurance.

(2) In furtherance of a scheme to defraud, to further a fraud, or to prevent or hinder the detection of a scheme to defraud any person knowingly does or permits his employees or agents to do any of the following:

(A) remove, conceal, alter, destroy, or sequester from the Director the assets or records of a licensee or other person engaged in the business of viatical settlements;

(B) misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;

(C) transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; or

(D) file with the Director or the equivalent chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceals information about a material fact from the Director;

(3) Any person knowingly steals, misappropriates, or converts monies, funds, premiums, credits, or other property of a viatical settlement provider, insurer, insured, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance;

(4) Any person recklessly enters into, negotiates, brokers, or otherwise deals in a viatical settlement contract, the subject of which is a life insurance policy that was obtained by presenting false information concerning any fact material to the policy or by concealing, for the purpose of misleading another, information concerning any fact material to the policy, where the person or the persons intended to defraud the policy's issuer, the viatical settlement provider or the viator; or

(5) Any person facilitates the change of state of ownership of a policy or the state of residency of a viator to a state or jurisdiction that does not have a law similar to this Act for the express purposes of evading or avoiding the provisions of this Act.

(c) For purposes of this Section, "person" means (i) an individual, (ii) a corporation, (iii) an officer, agent, or employee of a corporation, (iv) a member, agent, or employee of a partnership, or (v) a member, manager, employee, officer, director, or agent of a limited liability company who, in any such capacity described by this subsection (c), commits viatical settlement fraud.

Section 75. Unfair trade practices. A violation of this Act, including the commission of viatical settlement fraud, shall be considered an unfair trade practice under Article XXVI of the Illinois Insurance Code.

Section 85. Additional powers. In addition to any other hearing, examination, or investigation specifically provided for by this Act, the Director may conduct such hearings, examinations, and investigations as are provided for by Sections 402 and 403 of the Illinois Insurance Code.

Section 90. Insurance Code Provisions. Insurance producers operating as viatical settlement brokers shall be subject to Article XXXI of the Illinois Insurance Code.

Section 95. Applicability of securities laws. Nothing in this Act shall preempt or otherwise limit the provisions of the Illinois Securities Law of 1953 or any regulations, bulletins, or other interpretations issued by or through the Division acting pursuant to the Illinois Securities Law of 1953. Compliance with the provisions of this Act shall not constitute compliance with any applicable provision of the Illinois Securities Law of 1953 and any amendments thereto or any regulations, notices, bulletins, or other interpretations issued by or through the Division acting pursuant to the Illinois Securities Law of 1953.

Section 100. Viatical settlement provider application. A viatical settlement provider lawfully transacting business in this State may continue to do so pending approval or disapproval of the provider's application for a license as long as the application is filed with the Director not later than 30 days after the effective date of this Act.

Section 105. Application of this Act. Notwithstanding any other provisions of this Act, nothing in this Act shall apply in the following instances:

(i) The purchase of the cash value of a life insurance policy and rights impacting the cash value, including death benefits, for an amount approximately equal to the cash value, but only to the extent that such death benefits include cash value or its monetary equivalent.

(ii) The collateral assignment of a life insurance policy or an interest in a life insurance policy by an owner of such a policy or an interest in such a policy if such collateral assignment is effected for the sole purpose of financing or refinancing the purchase described in item (i).

To be eligible for regulatory treatment pursuant to this Section 105, the individual or entity seeking such treatment must first provide written notice to the Director that the individual or entity engages in a business practice as described in items (i) or (ii). Such notice shall be in a form and manner and at a fee as prescribed by the Director and renewed 2 years from the date on which the prior notice is received by the Director. To the extent that an individual or entity is exempted pursuant to this Section and is then later determined to have been engaged in STOLI and to have circumvented the application of this Act through this Section, the Director shall take appropriate remedial action, including, but not limited to, license revocation, appropriate monetary penalties, or both, or other penalties as provided in Section 72 of this Act and subsections (a) through (g) of Section 500-70 the

Illinois Insurance Code.

Section 900. The Freedom of Information Act is amended by changing Section 7 as follows:
(5 ILCS 140/7) (from Ch. 116, par. 207)
(Text of Section before amendment by P.A. 95-988)
Sec. 7. Exemptions.
(1) The following shall be exempt from inspection and copying:
(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.
(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:
(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;
(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;
(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;
(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;
(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection; and
(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs.
(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:
(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;
(ii) interfere with pending administrative enforcement proceedings conducted by any public body;
(iii) deprive a person of a fair trial or an impartial hearing;
(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;
(vi) constitute an invasion of personal privacy under subsection (b) of this Section;
(vii) endanger the life or physical safety of law enforcement personnel or any other person; or
(viii) obstruct an ongoing criminal investigation.
(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:
(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;
(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial 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 individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:

(i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(rr) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(tt) Information the disclosure of which is exempted under the Viatical Settlements Act of 2009.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.
(Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-941, eff. 8-29-08.)

(Text of Section after amendment by P.A. 95-988)
Sec. 7. Exemptions.
(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and

officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection;

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs; and

(vii) the Notarial Record or other medium containing the thumbprint or fingerprint required by Section 3-102(c)(6) of the Illinois Notary Public Act.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy under subsection (b) of this Section;

(vii) endanger the life or physical safety of law enforcement personnel or any other person; or

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial 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 individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:

(i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information

that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(rr) Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(tt) Information the disclosure of which is exempted under the Viatical Settlements Act of 2009.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; revised 10-20-08.)

Section 905. The Illinois Insurance Code is amended by changing Section 500-70 as follows:

(215 ILCS 5/500-70)

(Section scheduled to be repealed on January 1, 2017)

Sec. 500-70. License denial, nonrenewal, or revocation.

(a) The Director may place on probation, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty in accordance with this Section or take any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the license application;

(2) violating any insurance laws, or violating any rule, subpoena, or order of the Director or of another state's insurance commissioner;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;

(5) intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having been convicted of a felony;

(7) having admitted or been found to have committed any insurance unfair trade practice

or fraud;

(8) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this State or elsewhere;

(9) having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory;

(10) forging a name to an application for insurance or to a document related to an insurance transaction;

(11) improperly using notes or any other reference material to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay state income tax or penalty or interest or comply with any administrative or court order directing payment of state income tax or failed to file a return or to pay any final assessment of any tax due to the Department of Revenue; ~~or~~

(15) failing to make satisfactory repayment to the Illinois Student Assistance Commission for a delinquent or defaulted student loan; or ~~-~~

(16) failing to comply with any provision of the Viatical Settlements Act of 2009.

(b) If the action by the Director is to nonrenew, suspend, or revoke a license or to deny an application for a license, the Director shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the suspension, revocation, denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the Director within 30 days after the date of mailing for a hearing before the Director to determine the reasonableness of the Director's action. The hearing must be held within not fewer than 20 days nor more than 30 days after the mailing of the notice of hearing and shall be held pursuant to 50 Ill. Adm. Code 2402.

(c) The license of a business entity may be suspended, revoked, or refused if the Director finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership, corporation, limited liability company, or limited liability partnership and the violation was neither reported to the Director nor corrective action taken.

(d) In addition to or instead of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil penalty of up to $10,000 for each cause for denial, suspension, or revocation, however, the civil penalty may total no more than $100,000.

(e) The Director has the authority to enforce the provisions of and impose any penalty or remedy authorized by this Article against any person who is under investigation for or charged with a violation of this Code or rules even if the person's license or registration has been surrendered or has lapsed by operation of law.

(f) Upon the suspension, denial, or revocation of a license, the licensee or other person having possession or custody of the license shall promptly deliver it to the Director in person or by mail. The Director shall publish all suspensions, denials, or revocations after the suspensions, denials, or revocations become final in a manner designed to notify interested insurance companies and other persons.

(g) A person whose license is revoked or whose application is denied pursuant to this Section is ineligible to apply for any license for 3 years after the revocation or denial. A person whose license as an insurance producer has been revoked, suspended, or denied may not be employed, contracted, or engaged in any insurance related capacity during the time the revocation, suspension, or denial is in effect.

(Source: P.A. 92-386, eff. 1-1-02; 93-32, eff. 7-1-03.)

Section 910. The Illinois Securities Law of 1953 is amended by changing Section 2.1 and by adding Section 2.33 as follows:

(815 ILCS 5/2.1) (from Ch. 121 1/2, par. 137.2-1)

Sec. 2.1. Security. "Security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, viatical investment, investment fund share, face-amount certificate, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas or other mineral lease, right or royalty, any put, call, straddle, option, or privilege on any security, certificate of deposit, or group or index of securities (including any interest therein or based on the value thereof), or any put, call, straddle, option, or

privilege entered into, relating to foreign currency, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not mean a mineral investment contract or a mineral deferred delivery contract; provided, however, the Department shall have the authority to regulate these contracts as hereinafter provided.

(Source: P.A. 92-308, eff. 1-1-02; 93-927, eff. 8-12-04.)

(815 ILCS 5/2.33 new)

Sec. 2.33. Viatical investment. "Viatical investment" means the contractual right to receive any portion of the death benefit or ownership of a life insurance policy or certificate for consideration that is less than the expected death benefit of the life insurance policy or certificate. "Viatical investment" does not include:

(1) any transaction between a viator and a viatical settlement provider, as defined in the Viatical Settlements Act of 2009;

(2) any transfer of ownership or beneficial interest in a life insurance policy from a viatical settlement provider to another viatical settlement provider, as defined in the Viatical Settlements Act of 2009, or to any legal entity formed solely for the purpose of holding ownership or beneficial interest in a life insurance policy or policies;

(3) the bona fide assignment of a life insurance policy to a bank, savings bank, savings and loan association, credit union, or financial institution as collateral for a loan; for the purposes of this item (3), "financial institution" means financial institution as defined by Viatical Settlements Act of 2009; or

(4) a policy loan by a life insurance company or the exercise of accelerated benefits pursuant to the terms of a life insurance policy issued in accordance with the Illinois Insurance Code.

(215 ILCS 158/Act rep.)

Section 950. The Viatical Settlements Act is repealed.

Section 995. 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 999. Effective date. This Act takes effect July 1, 2010.".

AMENDMENT NO. 2 TO SENATE BILL 2091

AMENDMENT NO. 2. Amend Senate Bill 2091, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, as follows:

on page 5, line 14, by deleting "or for the benefit of"; and

on page 19, by replacing lines 11 through 21 with the following:

"(o) Viatical settlement providers licensed under the Viatical Settlements Act as of the effective date of this amendatory Act of the 96th General Assembly shall be deemed licensed under this Act. All such providers are required to maintain or come into compliance with all of the license requirements of this Act and to provide evidence to the Director that they are in compliance with item (4) of subsection (k) of this Section, concerning financial responsibility; item (6) of subsection (k) of this Section, concerning an anti-fraud plan; and subsection (m) of this Section, concerning life expectancies no later than the effective date of this Act. Such providers shall not be exempt from the requirements for viatical settlement provider license renewal set forth in subsection (i) of this Section. The first anniversary date for the purpose of license renewal under subsection (i) shall be one year from the effective date of this amendatory Act of the 96th General Assembly."; and

on page 45, by deleting lines 23 and 24; and

on page 45, line 25, by replacing "(c)" with "(d)"; and

on page 47, line 4, by replacing "(d)" with "(e)".

AMENDMENT NO. 3 TO SENATE BILL 2091

AMENDMENT NO. 3. Amend Senate Bill 2091, AS AMENDED, with reference to page and

line numbers of House Amendment No. 1 as follows:

on page 9, by replacing lines 2 and 3 with the following:
"following acts, practices, or arrangements listed below in subparagraphs (a) through (i) of this definition of "viatical settlement contract", unless part of a plan, scheme, device, or artifice to avoid application of this Act; provided, however, that the list of excluded items contained in subparagraphs (a) through (i) is not intended to be an exhaustive list and that an act, practice, or arrangement that is not described below in subparagraphs (a) through (i) does not necessarily constitute a viatical settlement contract."; and

on page 69, line 17, by replacing "statements made with actual malice." with "false statements made willfully or wantonly."; and

on page 69, by replacing lines 21 through 23 with the following:
"any allegation that subsection (d) does not apply."; and

on page 79, lines 14 and 20, by replacing "Division" each time it appears with "Secretary of State".

Under the rules, the foregoing **Senate Bill No. 2091**, with House Amendments numbered 1, 2 and 3, was referred to the Secretary's Desk.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION NO. 305

Offered by Senator Dahl and all Senators:
Mourns the death of Daniel F. Kobilsek of Mendota.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

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

SENATE JOINT RESOLUTION NO. 72

WHEREAS, The State of Illinois has seen an alarming rise in statistics for the growing prevalence of obesity, diabetes, cancer, cardiovascular disease, and hypertension; and

WHEREAS, The rise of these diseases in the State of Illinois is predominantly in disadvantaged neighborhoods across the State; and

WHEREAS, Well documented research has shown the positive correlation of these diseases with poor nutrition due to lack of access to proper nutritional food in disadvantaged neighborhoods; and

WHEREAS, The identified specific areas suffering from poor access to proper nutritional food are designated as underserved areas; and

WHEREAS, More than half a million Chicagoans live in three areas of the city identified as "Underserved Areas" when it comes proper basic nutrition; and

WHEREAS, These respective underserved areas are predominantly home to residents of African American descent, where nearly 400,000 live in areas with an imbalance of food choices; and

WHEREAS, Residents of underserved areas are limited to food choices such as readily accessible fast food and other fringe retail outlets but very limited or no access to the fresh healthy food available at grocery stores; and

WHEREAS, Research has indicated large increases in cancer and diabetes in these respective populations; and

WHEREAS, The Illinois Food Marketing Task Force comprised of civic leaders, private organizations, and vendors has continued to meet and has now formalized recommendations to address the issue of improving children's health by drafting policy recommendations for State and local government that address barriers to supermarket and grocery store development in underserved areas; and

WHEREAS, The Illinois Food Marketing Task Force has recommended that a partnership of city and State government leaders of Illinois, businesses leaders, and private organizations come together to erase the disparity in nutrition between low income and high income neighborhoods; and

WHEREAS, The Illinois Food Marketing Task Force has specifically recommended the State of Illinois should encourage public investment to support local supermarket and grocery store development projects; and

WHEREAS, The Illinois Food Marketing Task Force has specifically recommended that State and local governments should create a grant and loan program to support local supermarket development projects in low-to-moderate-income neighborhoods; and

WHEREAS, On May 19th, 2009, the Illinois Food Marketing Task Force officially called upon legislators to establish an Illinois Fresh Food Fund to stimulate supermarket development statewide; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-SIXTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE HOUSE OF REPRESENTATIVES CONCURRING HEREIN, that a Task Force be created to consider an Illinois Fresh Food Fund and make recommendations, including potential legislation, yielding a result that successfully stimulates supermarket development across Illinois; and be it further

RESOLVED, That this Task Force be comprised of two members of the Illinois Senate, one to be appointed by the President of the Senate and one to be appointed by the Minority Leader of the Senate, two members of the Illinois House of Representatives, one to be appointed by the Speaker of the House and one to be appointed by the Minority Leader of the House, and a representative from the Governor's office appointed by the Governor; and be it further

RESOLVED, That this Task Force make a report to the General Assembly of its findings and recommendations by February 1, 2010; and be it further

RESOLVED, That the Department of Public Health provide administrative support to the Task Force.

SENATE BILL RECALLED

On motion of Senator Dillard, **Senate Bill No. 1325** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and Senator Dillard moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1325

AMENDMENT NO. 1. Amend Senate Bill 1325 by replacing everything after the enacting clause with the following:

"Section 5. The Humane Care for Animals Act is amended by changing Section 4.01 as follows:

(510 ILCS 70/4.01) (from Ch. 8, par. 704.01)

Sec. 4.01. Animals in entertainment. This Section does not apply when the only animals involved are dogs. (Section 26-5 of the Criminal Code of 1961, rather than this Section, applies when the only animals involved are dogs.)

(a) No person may own, capture, breed, train, or lease any animal which he or she knows or should

know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between such animal and any other animal or human, or the intentional killing of any animal for the purpose of sport, wagering, or entertainment.

(b) No person shall promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment, any show, exhibition, program, or other activity involving a fight between 2 or more animals or any animal and human, or the intentional killing of any animal.

(c) No person shall sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any animal which he or she knows or should know has been captured, bred, or trained, or will be used, to fight another animal or human or be intentionally killed, for the purpose of sport, wagering, or entertainment.

(d) No person shall manufacture for sale, shipment, transportation or delivery any device or equipment which that person knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any human and animal, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(e) No person shall own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which such person knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for purposes of sport, wagering or entertainment.

(f) No person shall make available any site, structure, or facility, whether enclosed or not, which he or she knows or should know is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal.

(g) No person shall attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more animals, or any animal and human, or the intentional killing of any animal for the purposes of sport, wagering or entertainment.

(h) (Blank).

(i) Any animals or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 by the Department when located at any show, exhibition, program, or other activity featuring or otherwise involving an animal fight for the purposes of sport, wagering, or entertainment.

(j) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(k) Any veterinarian in this State who is presented with an animal for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the animal was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department and cooperate by furnishing the owners' names, dates, and descriptions of the animal or animals involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(l) No person shall solicit a minor to violate this Section.

(m) The penalties for violations of this Section shall be as follows:

(1) A person convicted of violating subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class 4 felony for the first offense. A second or subsequent offense involving the violation of subsection (a), (b), or (c) of this Section or any rule, regulation, or order of the Department pursuant thereto is a Class 3 felony.

(2) A person convicted of violating subsection (d), (e), or (f) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class A misdemeanor for the first offense. A second or subsequent violation is a Class 4 felony.

(3) A person convicted of violating subsection (g) of this Section or any rule, regulation, or order of the Department pursuant thereto is guilty of a Class C misdemeanor.

(4) A person convicted of violating subsection (l) of this Section is guilty of a Class A misdemeanor.

(n) 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.

(Source: P.A. 95-331, eff. 8-21-07; 95-560, eff. 8-30-07.)

Section 10. The Criminal Code of 1961 is amended by changing Sections 10A-15, 11-17.1, 11-19.2, 11-20, 11-20.1, 11-20.3, 16D-6, 17B-25, 26-5, and 29D-65 as follows:

(720 ILCS 5/10A-15)

Sec. 10A-15. Forfeiture of property ~~Forfeitures~~. ~~(a)~~ A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 of this Code is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963. ~~shall forfeit to the State of Illinois any profits or proceeds and any interest or property he or she has acquired or maintained in violation of Section 10A-10 of this Code that the sentencing court determines, after a forfeiture hearing, to have been acquired or maintained as a result of maintaining a person in involuntary servitude or participating in trafficking in persons for forced labor or services.~~

~~(b) The court shall, upon petition by the Attorney General or State's Attorney at any time following sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this Section. At the forfeiture hearing the people shall have the burden of establishing, by a preponderance of the evidence, that property or property interests are subject to forfeiture under this Section.~~

~~(c) In any action brought by the People of the State of Illinois under this Section, wherein any restraining order, injunction, or prohibition or any other action in connection with any property or interest subject to forfeiture under this Section is sought, the circuit court presiding over the trial of the person or persons charged with involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services shall first determine whether there is probable cause to believe that the person or persons so charged have committed the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services and whether the property or interest is subject to forfeiture pursuant to this Section. In order to make such a determination, prior to entering any such order, the court shall conduct a hearing without a jury, wherein the People shall establish that there is: (i) probable cause that the person or persons so charged have committed the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services and (ii) probable cause that any property or interest may be subject to forfeiture pursuant to this Section. The hearing may be conducted simultaneously with a preliminary hearing, if the prosecution is commenced by information or complaint, or by motion of the People, at any stage in the proceedings. The court may accept a finding of probable cause at a preliminary hearing following the filing of an information charging the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services or the return of an indictment by a grand jury charging the offense of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services as sufficient evidence of probable cause as provided in item (i) of this subsection (c). Upon such a finding, the circuit court shall enter such restraining order, injunction or prohibition, or shall take such other action in connection with any such property or other interest subject to forfeiture, as is necessary to insure that such property is not removed from the jurisdiction of the court, concealed, destroyed, or otherwise disposed of by the owner of that property or interest prior to a forfeiture hearing under this Section. The Attorney General or State's Attorney shall file a certified copy of the restraining order, injunction, or other prohibition with the recorder of deeds or registrar of titles of each county where any such property of the defendant may be located. No such injunction, restraining order, or other prohibition shall affect the rights of any bona fide purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the date of such filing. The court may, at any time, upon verified petition by the defendant or an innocent owner or innocent bona fide third party lien holder who neither had knowledge of, nor consented to, the illegal act or omission, conduct a hearing to release all or portions of any such property or interest that the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, or prohibition or other action. The court may release such property to the defendant or innocent owner or innocent bona fide third party lien holder who neither had knowledge of, nor consented to, the illegal act or omission for good cause shown and within the sound discretion of the court.~~

~~(d) Upon conviction of a person of involuntary servitude, involuntary servitude of a minor, or trafficking in persons for forced labor or services, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this Section upon such terms and conditions as the court shall deem proper.~~

~~(e) All monies forfeited and the sale proceeds of all other property forfeited and seized under this Section shall be distributed as follows:~~

~~(1) one half shall be divided equally among all State agencies and units of local government whose officers or employees conducted the investigation that resulted in the forfeiture; and~~

~~(2) one half shall be deposited into the Violent Crime Victims Assistance Fund and targeted to services for victims of the offenses of involuntary servitude, involuntary servitude of a minor, and trafficking of persons for forced labor or services.~~

(Source: P.A. 94-9, eff. 1-1-06.)

(720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

(a) Any person who knowingly violates any of the provisions of Section 11-17 of this Act commits keeping a place of juvenile prostitution when any prostitute in the place of prostitution is under 17 years of age.

(b) It is an affirmative defense to a charge of keeping a place of juvenile prostitution that the accused reasonably believed the person was of the age of 17 years or over at the time of the act giving rise to the charge.

(c) Sentence. Keeping a place of juvenile prostitution is a Class 1 felony. A person convicted of a second or subsequent violation of this Section is guilty of a Class X felony.

(d) Forfeiture. 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 ~~of Section 11-20.1A of this Act~~.

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

(720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

Sec. 11-19.2. Exploitation of a child.

(A) A person commits exploitation of a child when he or she 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, 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:

(1) compels the child or severely or profoundly mentally retarded person to become a prostitute; or

(2) arranges a situation in which the child or severely or profoundly mentally retarded person may practice prostitution; or

(3) receives any money, property, token, object, or article or anything of value from the child or severely or profoundly mentally retarded person knowing it was obtained in whole or in part from the practice of prostitution.

(B) For purposes of this Section, administering drugs, as defined in subsection (A), 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 such administering is done without the consent of the parents or legal guardian.

(C) Exploitation of a child 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.

(D) 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 ~~of Section 11-20.1A of this Act~~.

(Source: P.A. 94-556, eff. 9-11-05; 95-640, eff. 6-1-08.)

(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:

(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 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 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) Prima Facie Evidence.

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. ~~:~~

~~(1) Legislative Declaration. Obscenity is a far-reaching and extremely profitable crime. This crime persists despite the threat of prosecution and successful prosecution because existing sanctions do not effectively reach the money and other assets generated by it. It is therefore necessary to supplement existing sanctions by mandating forfeiture of money and other assets generated by this crime. Forfeiture diminishes the financial incentives which encourage and sustain obscenity and secures for the State, local government and prosecutors a resource for prosecuting these crimes.~~

~~(2) Definitions.~~

~~(i) "Person" means an individual, partnership, private corporation, public, municipal, governmental or quasi-municipal corporation, unincorporated association, trustee or receiver.~~

~~(ii) "Property" means:~~

~~(a) real estate, including things growing on, affixed to and found in land, and any kind of interest therein; and~~

~~(b) tangible and intangible personal property, including rights, privileges, interests, claims and securities.~~

~~(3) Forfeiture of Property. Any person who has been convicted previously of the offense of obscenity and who shall be convicted of a second or subsequent offense of obscenity shall forfeit to the State of~~

~~Illinois:~~

~~(i) Any property constituting or derived from any proceeds such person obtained, directly or indirectly, as a result of such offense; and~~

~~(ii) Any of the person's property used in any manner, wholly or in part, to commit such offense.~~

~~(4) Forfeiture Hearing. At any time following a second or subsequent conviction for obscenity, the court shall, upon petition by the Attorney General or the State's Attorney, conduct a hearing to determine whether there is any property that is subject to forfeiture as provided hereunder. At the forfeiture hearing the People shall have the burden of establishing by preponderance of the evidence that such property is subject to forfeiture.~~

~~(5) Prior Restraint.~~

~~Nothing in this subsection shall be construed as authorizing the prior restraint of any showing, performance or exhibition of allegedly obscene films, plays or other presentations or of any sale or distribution of allegedly obscene materials.~~

~~(6) Seizure, Sale and Distribution of the Property.~~

~~(i) Upon a determination under subparagraph (4) that there is property subject to forfeiture, the court shall authorize the Attorney General or the State's Attorney, except as provided in this Section, to seize all property declared forfeited upon terms and conditions as the court shall deem proper.~~

~~(ii) The Attorney General or State's Attorney is authorized to sell all property forfeited and seized pursuant to this Article, and, after the deduction of all requisite expenses of administration and sale, shall distribute the proceeds of such sale, along with any moneys forfeited or seized, in accordance with subparagraph (iii) hereof. If the Attorney General or State's Attorney believes any such property describes, depicts or portrays any of the acts or activities described in subsection (b) of this Section, he shall apply to the court for an order to destroy such property, and if the court determines the property describes, depicts or portrays such acts it shall order the Attorney General or State's Attorney to destroy such property.~~

~~(iii) All monies and the sale proceeds of all other property forfeited and seized pursuant hereto shall be distributed as follows:~~

~~(a) Fifty percent shall be distributed to the unit of local government whose officers or employees conducted the investigation into and caused the arrest or arrests and prosecution leading to the forfeiture, or, if the investigations, arrest or arrests and prosecution leading to the forfeiture were undertaken by the sheriff, this portion shall be distributed to the county for deposit in a special fund in the county treasury appropriated to the sheriff. Amounts distributed to the county for the sheriff or to the units of local government hereunder shall be used for enforcement of laws or ordinances governing obscenity and child pornography. In the event, however, that the investigation, arrest or arrests and prosecution leading to the forfeiture were undertaken solely by a State agency, the portion provided hereunder shall be paid into the State treasury to be used for enforcement of laws governing obscenity and child pornography.~~

~~(b) Twenty-five percent shall be distributed to the county in which the prosecution resulting in the forfeiture was instituted, deposited in 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.~~

~~(c) Twenty-five percent shall be distributed to the Office of the State's Attorneys Appellate Prosecutor and deposited in 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 and 11-20.1 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.~~

~~(7) Construction of subsection (g).~~

~~It shall be the intent of the General Assembly that this subsection be liberally construed so as to effect its purposes. The forfeiture of property and other remedies hereunder shall be considered to be in addition, and not exclusive of any sentence or other remedy provided by law. Subsection (g) of this Section shall not apply to any property of a public library or any property of a library operated by an institution accredited by a generally recognized accrediting agency.~~

(Source: P.A. 85-1014.)

(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 knows or

reasonably should know to be under the age of 18 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 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 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 knows or reasonably should know to be under the age of 18 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 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 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, uses, persuades, induces, entices, or coerces a person to provide a child under the age of 18 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 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 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) Possession by the defendant of more than one of the same film, videotape or visual reproduction or depiction by computer in which child pornography is depicted 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.

(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 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) "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, 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" 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.

(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. 94-366, eff. 7-29-05.)

(720 ILCS 5/11-20.3)

Sec. 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 3 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.

(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.)

(720 ILCS 5/16D-6) (from Ch. 38, par. 16D-6)

Sec. 16D-6. Forfeiture of property. ~~1.~~ Any person who commits the offense of computer fraud as set forth in Section 16D-5 is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963. ~~shall forfeit, according to the provisions of this Section, any monies, profits or proceeds, and any interest or property which the sentencing court determines he has acquired or maintained, directly or indirectly, in whole or in part, as a result of such offense. Such person shall also forfeit any interest in, security, claim against, or contractual right of any kind which affords him a source of influence over any enterprise which he has established, operated, controlled, conducted or participated in conducting, where his relationship to or connection with any such thing or activity directly or indirectly, in whole or in part, is traceable to any item or benefit which he has obtained or acquired through computer fraud.~~

~~Proceedings instituted pursuant to this Section shall be subject to and conducted in accordance with the following procedures:~~

~~(a) The sentencing court shall, upon petition by the prosecuting agency, whether it is the Attorney General or a State's Attorney, at any time following sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this Section. At the forfeiture hearing the People of the State of Illinois shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to such forfeiture.~~

~~(b) In any action brought by the People of the State of Illinois under this Section, the circuit courts of Illinois shall have jurisdiction to enter such restraining orders, injunctions or prohibitions, or to take such other action in connection with any real, personal, or mixed property or other interest subject to forfeiture, as they shall consider proper.~~

~~(c) In any action brought by the People of the State of Illinois under this Section, wherein any restraining order, injunction or prohibition or any other action in connection with any property or interest subject to forfeiture under this Section is sought, the circuit court presiding over the trial of the person or persons charged with computer fraud shall first determine whether there is probable cause to believe that the person or persons so charged have committed the offense of computer fraud and whether the property or interest is subject to forfeiture pursuant to this Section. In order to make this determination, prior to entering any such order, the court shall conduct a hearing without a jury, where the People shall establish: (1) probable cause that the person or persons so charged have committed the offense of computer fraud, and (2) probable cause that any property or interest may be subject to forfeiture pursuant to this Section. Such hearing may be conducted simultaneously with a preliminary hearing if the prosecution is commenced by information or complaint, or by motion of the People at any stage in the proceedings. The court may enter a finding of probable cause at a preliminary hearing following the filing of an information charging the offense of computer fraud or the return of an indictment by a grand jury charging the offense of computer fraud as sufficient evidence of probable cause for purposes of this Section. Upon such a finding, the circuit court shall enter such restraining order, injunction or prohibition, or shall take such other action in connection with any such property or other interest subject to forfeiture under this Section as is necessary to insure that such property is not removed from the jurisdiction of the court, concealed, destroyed or otherwise disposed of by the owner or holder of that property or interest prior to a forfeiture hearing under this Section. The Attorney General or State's Attorney shall file a certified copy of such restraining order, injunction or other prohibition with the recorder of deeds or registrar of titles of each county where any such property of the defendant may be located. No such injunction, restraining order or other prohibition shall affect the rights of any bona fide purchaser, mortgagee, judgment creditor or other lienholder arising prior to the date of such filing. The court may, at any time, upon verified petition by the defendant, conduct a hearing to release all or portions of any such property or interest which the court previously determined to be subject to forfeiture~~

~~or subject to any restraining order, injunction, prohibition or other action. The court may release such property to the defendant for good cause shown and within the sound discretion of the court.~~

~~(d) Upon conviction of a person under Section 16D-5, the court shall authorize the Attorney General to seize and sell all property or other interest declared forfeited under this Act, unless such property is required by law to be destroyed or is harmful to the public. The court may order the Attorney General to segregate funds from the proceeds of such sale sufficient: (1) to satisfy any order of restitution, as the court may deem appropriate; (2) to satisfy any legal right, title, or interest which the court deems superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to forfeiture under this Section; or (3) to satisfy any bona fide purchaser for value of the right, title, or interest in the property who was without reasonable notice that the property was subject to forfeiture. Following the entry of an order of forfeiture, the Attorney General shall publish notice of the order and his intent to dispose of the property. Within the 30 days following such publication, any person may petition the court to adjudicate the validity of his alleged interest in the property.~~

~~After the deduction of all requisite expenses of administration and sale, the Attorney General shall distribute the proceeds of such sale, along with any moneys forfeited or seized as follows:~~

~~(1) 50% shall be distributed to the unit of local government whose officers or employees conducted the investigation into computer fraud and caused the arrest or arrests and prosecution leading to the forfeiture. Amounts distributed to units of local government shall be used for training or enforcement purposes relating to detection, investigation or prosecution of financial crimes, including computer fraud. In the event, however, that the investigation, arrest or arrests and prosecution leading to the forfeiture were undertaken solely by a State agency, the portion provided hereunder shall be paid into the State Police Services Fund of the Illinois Department of State Police to be used for training or enforcement purposes relating to detection, investigation or prosecution of financial crimes, including computer fraud.~~

~~(2) 50% shall be distributed to the county in which the prosecution and petition for forfeiture resulting in the forfeiture was instituted by the State's Attorney, and deposited in a special fund in the county treasury and appropriated to the State's Attorney for use in training or enforcement purposes relating to detection, investigation or prosecution of financial crimes, including computer fraud. Where a prosecution and petition for forfeiture resulting in the forfeiture has been maintained by the Attorney General, 50% of the proceeds shall be paid into the Attorney General's Financial Crime Prevention Fund. Where the Attorney General and the State's Attorney have participated jointly in any part of the proceedings, 25% of the proceeds forfeited shall be paid to the county in which the prosecution and petition for forfeiture resulting in the forfeiture occurred, and 25% shall be paid to the Attorney General's Financial Crime Prevention Fund to be used for the purposes as stated in this subsection.~~

~~2. Where any person commits a felony under any provision of this Code or another statute and the instrumentality used in the commission of the offense, or in connection with or in furtherance of a scheme or design to commit the offense, is a computer owned by the defendant or if the defendant is a minor, owned by his or her parents or legal guardian, the computer shall be subject to the provisions of this Section. However, in no case shall a computer, or any part thereof, be subject to the provisions of the Section if the computer accessed in the commission of the offense is owned or leased by the victim or an innocent third party at the time of the commission of the offense or if the rights of creditors, lienholders, or any person having a security interest in the computer at the time of the commission of the offense shall be adversely affected.~~

(Source: P.A. 85-1042.)

(720 ILCS 5/17B-25)

Sec. 17B-25. Seizure and forfeiture of property ~~Forfeiture~~.

(a) A person who commits a felony violation of this Article is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963. ~~shall forfeit, according to this Section, (i) any moneys, profits, or proceeds the person acquired, in whole or in part, as a result of committing the violation and (ii) any property or interest in property that the sentencing court determines the person acquired, in whole or in part, as a result of committing the violation or the person maintained or used, in whole or in part, to facilitate, directly or indirectly, the commission of the violation. The person shall forfeit any interest in, securities of claim against, or contractual right of any kind that affords the person a source of influence over, any enterprise that the person has established, operated, controlled, conducted, or participated in conducting, if the person's relationship to or connection with the interest, security of claim, or contractual right, directly or indirectly, in whole or in part, is traceable to any thing or benefit that the person has obtained or acquired as a result of a felony violation of this Article.~~

(b) (Blank). ~~The following items are subject to forfeiture:~~

~~(1) All moneys, things of value, books, records, and research products and materials that are used or intended to be used in committing a felony violation of this Article.~~

~~(2) Everything of value furnished, or intended to be furnished, in exchange for a substance in violation of this Article, all proceeds traceable to that exchange, and all moneys, negotiable instruments, and securities used or intended to be used to commit or in any manner to facilitate the commission of a felony violation of this Article.~~

~~(3) All real property, including any right, title, and interest (including, but not limited to, any leasehold interest or the beneficial interest in a land trust) in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used, in any manner or part, to commit or in any manner to facilitate the commission of a felony violation of this Article or that is the proceeds of any act that constitutes a felony violation of this Article.~~

(c) Property subject to forfeiture under this Article 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 Section without process under any of the following circumstances:

(1) If the seizure is incident to inspection under an administrative inspection warrant.

(2) 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 ~~this~~ Article 124B of the Code of Criminal Procedure of 1963.

(3) If there is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(4) If there is probable cause to believe that the property is subject to forfeiture under this Article 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.

(5) In accordance with the Code of Criminal Procedure of 1963.

(d) (Blank). ~~Proceedings instituted pursuant to this Section shall be subject to and conducted in accordance with the procedures set forth in this subsection.~~

~~The sentencing court, on petition by the Attorney General or State's Attorney at any time following sentencing of the defendant, shall conduct a hearing to determine whether any property or property interest of the defendant is subject to forfeiture under this Section. At the forfeiture hearing the People have the burden of establishing, by a preponderance of the evidence, that the property or property interest is subject to forfeiture.~~

~~In an action brought by the People of the State of Illinois under this Section, in which a restraining order, injunction, prohibition, or other action in connection with any property or interest subject to forfeiture under this Section is sought, the circuit court presiding over the trial of the person charged with a felony violation of this Article shall first determine whether there is probable cause to believe that the person so charged has committed an offense under this Article and whether the property or interest is subject to forfeiture under this Section. To make that determination, before entering an order in connection with that property or interest, the court shall conduct a hearing without a jury, at which the People must establish that there is (i) probable cause that the person charged committed a felony offense under this Article and (ii) probable cause that property or interest may be subject to forfeiture under this Section. The hearing may be conducted simultaneously with a preliminary hearing, if the prosecution is commenced by information or complaint, or by motion of the People at any stage in the proceedings. The court may accept, at a preliminary hearing, (i) the filing of an information charging that the defendant committed a felony offense under this Article (ii) the return of an indictment by a grand jury charging that the defendant committed a felony offense under this Article as sufficient evidence of probable cause that the person committed the offense.~~

~~Upon making finding of probable cause, the circuit court shall enter a restraining order, injunction, or prohibition or shall take other action in connection with the property or other interest subject to forfeiture under this Article as is necessary to insure that the property is not removed from the jurisdiction of the court, concealed, destroyed, or otherwise disposed of by the owner of that property or interest before a forfeiture hearing under this subsection. The Attorney General or State's Attorney shall file a certified copy of the restraining order, injunction, or other prohibition with the recorder or registrar of titles of each county in which the property may be located. No injunction, restraining order, or other prohibition issued under this Section shall affect the rights of any bonafide purchaser, mortgagee, judgment creditor, or other lien holder that arose before the date the certified copy is filed.~~

~~The court may at any time, on verified petition by the defendant, conduct a hearing to determine whether all or any portion of the property or interest, which the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, prohibition, or other action, should be~~

~~released. The court may in its discretion release the property to the defendant for good cause shown.~~

~~Upon conviction of a person for a felony violation of this Article, the court shall authorize the Director or State Police to seize any property or other interest declared forfeited under this Section on terms and conditions the court deems proper.~~

(e) (Blank). ~~Property taken or detained under this Section shall not be subject to replevin, but is deemed to be in the custody of the Director subject only to the order and judgments of the circuit court having jurisdiction over the forfeiture proceedings and the decisions of the Attorney General or State's Attorney under this Article. When property is seized under this Article, the seizing agency shall promptly conduct an inventory of the seized property and estimate the property's value and shall forward a copy of the estimate of the property's value to the Director of State Police. Upon receiving the notice of seizure, the Director may do any of the following:~~

~~(1) Place the property under seal.~~

~~(2) Remove the property to a place designated by the Director.~~

~~(3) Keep the property in the possession of the seizing agency.~~

~~(4) Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, deposit it in an interest bearing account.~~

~~(5) Place the property under constructive seizure by posting notice of the pending forfeiture on it, by giving notice of the pending forfeiture to its owners and interest holders, or by filing a notice of the pending forfeiture in any appropriate public record relating to the property.~~

~~(6) Provide for another agency or custodian, including an owner, secured party, or lienholder, to take custody of the property on terms and conditions set by the Director.~~

(f) (Blank). ~~When property is forfeited under this Article the Director of State Police shall sell the property unless the property is required by law to be destroyed or is harmful to the public. The Director shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with subsection (g). On the application of the seizing agency or prosecutor who was responsible for the investigation, arrest, and prosecution that lead to the forfeiture, however, the Director may return any item of forfeited property to the seizing agency or prosecutor for official use in the enforcement of laws relating to this Article if the agency or prosecutor can demonstrate that the item requested would be useful to the agency or prosecutor in their enforcement efforts. When any real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds of the sale shall be delivered to the Director and distributed in accordance with subsection (g).~~

(g) (Blank). ~~Except as provided in subsection (f), all moneys from penalties and the proceeds of sale of all property forfeited and seized under this Article shall be distributed to the WIC program administered by the Illinois Department of Human Services.~~

(Source: P.A. 91-155, eff. 7-16-99.)

(720 ILCS 5/26-5)

Sec. 26-5. Dog fighting. (For other provisions that may apply to dog fighting, see the Humane Care for Animals Act. For provisions similar to this Section that apply to animals other than dogs, see in particular Section 4.01 of the Humane Care for Animals Act.)

(a) No person may own, capture, breed, train, or lease any dog which he or she knows is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between the dog and any other animal or human, or the intentional killing of any dog for the purpose of sport, wagering, or entertainment.

(b) No person may promote, conduct, carry on, advertise, collect money for or in any other manner assist or aid in the presentation for purposes of sport, wagering, or entertainment of any show, exhibition, program, or other activity involving a fight between 2 or more dogs or any dog and human, or the intentional killing of any dog.

(c) No person may sell or offer for sale, ship, transport, or otherwise move, or deliver or receive any dog which he or she knows has been captured, bred, or trained, or will be used, to fight another dog or human or be intentionally killed for purposes of sport, wagering, or entertainment.

(c-5) No person may solicit a minor to violate this Section.

(d) No person may manufacture for sale, shipment, transportation, or delivery any device or equipment which he or she knows or should know is intended for use in any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any human and dog, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(e) No person may own, possess, sell or offer for sale, ship, transport, or otherwise move any equipment or device which he or she knows or should know is intended for use in connection with any show, exhibition, program, or activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering or

entertainment.

(f) No person may knowingly make available any site, structure, or facility, whether enclosed or not, that he or she knows is intended to be used for the purpose of conducting any show, exhibition, program, or other activity involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog or knowingly manufacture, distribute, or deliver fittings to be used in a fight between 2 or more dogs or a dog and human.

(g) No person may attend or otherwise patronize any show, exhibition, program, or other activity featuring or otherwise involving a fight between 2 or more dogs, or any dog and human, or the intentional killing of any dog for purposes of sport, wagering, or entertainment.

(h) No person may tie or attach or fasten any live animal to any machine or device propelled by any power for the purpose of causing the animal to be pursued by a dog or dogs. This subsection (h) applies only when the dog is intended to be used in a dog fight.

(i) Penalties for violations of this Section shall be as follows:

(1) Any person convicted of violating subsection (a), (b), or (c) of this Section is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation, and may be fined an amount not to exceed $50,000.

(1.5) A person who knowingly owns a dog for fighting purposes or for producing a fight between 2 or more dogs or a dog and human or who knowingly offers for sale or sells a dog bred for fighting is guilty of a Class 3 felony and may be fined an amount not to exceed $50,000, if the dog participates in a dogfight and any of the following factors is present:

(i) the dogfight is performed in the presence of a person under 18 years of age;

(ii) the dogfight is performed for the purpose of or in the presence of illegal wagering activity; or

(iii) the dogfight is performed in furtherance of streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(1.7) A person convicted of violating subsection (c-5) of this Section is guilty of a Class 4 felony.

(2) Any person convicted of violating subsection (d) or (e) of this Section is guilty of a Class A misdemeanor for a first violation. A second or subsequent violation of subsection (d) or (e) of this Section is a Class 3 felony.

(2.5) Any person convicted of violating subsection (f) of this Section is guilty of a Class 4 felony.

(3) Any person convicted of violating subsection (g) of this Section is guilty of a Class A misdemeanor for a first violation. A second or subsequent violation of subsection (g) of this Section is a Class 4 felony. If a person under 13 years of age is present at any show, exhibition, program, or other activity prohibited in subsection (g), the parent, legal guardian, or other person who is 18 years of age or older who brings that person under 13 years of age to that show, exhibition, program, or other activity is guilty of a Class 4 felony for a first violation and a Class 3 felony for a second or subsequent violation.

(i-5) 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.

(j) Any dog or equipment involved in a violation of this Section shall be immediately seized and impounded under Section 12 of the Humane Care for Animals Act when located at any show, exhibition, program, or other activity featuring or otherwise involving a dog fight for the purposes of sport, wagering, or entertainment.

(k) Any vehicle or conveyance other than a common carrier that is used in violation of this Section shall be seized, held, and offered for sale at public auction by the sheriff's department of the proper jurisdiction, and the proceeds from the sale shall be remitted to the general fund of the county where the violation took place.

(l) Any veterinarian in this State who is presented with a dog for treatment of injuries or wounds resulting from fighting where there is a reasonable possibility that the dog was engaged in or utilized for a fighting event for the purposes of sport, wagering, or entertainment shall file a report with the Department of Agriculture and cooperate by furnishing the owners' names, dates, and descriptions of the dog or dogs involved. Any veterinarian who in good faith complies with the requirements of this subsection has immunity from any liability, civil, criminal, or otherwise, that may result from his or her actions. For the purposes of any proceedings, civil or criminal, the good faith of the veterinarian shall be rebuttably presumed.

(m) In addition to any other penalty provided by law, upon conviction for violating this Section, the court may order that the convicted person and persons dwelling in the same household as the convicted

person who conspired, aided, or abetted in the unlawful act that was the basis of the conviction, or who knew or should have known of the unlawful act, may not own, harbor, or have custody or control of any dog or other animal for a period of time that the court deems reasonable.

(n) A violation of subsection (a) of this Section may be inferred from evidence that the accused possessed any device or equipment described in subsection (d), (e), or (h) of this Section, and also possessed any dog.

(o) When no longer required for investigations or court proceedings relating to the events described or depicted therein, evidence relating to convictions for violations of this Section shall be retained and made available for use in training peace officers in detecting and identifying violations of this Section. Such evidence shall be made available upon request to other law enforcement agencies and to schools certified under the Illinois Police Training Act.

(Source: P.A. 94-820, eff. 1-1-07.)

(720 ILCS 5/29D-65)

Sec. 29D-65. Forfeiture of property acquired in connection with a violation of this Article; property freeze or seizure ~~Asset freeze, seizure, and forfeiture~~.

(a) If there is probable cause to believe that a person used, is using, is about to use, or is intending to use property in a way that would violate this Article, then that person's assets may be frozen or seized pursuant to Part 800 of Article 124B of the Code of Criminal Procedure of 1963. ~~Asset freeze, seizure, and forfeiture in connection with a violation of this Article.~~

~~(1) Whenever it appears that there is probable cause to believe that any person used, is using, is about to use, or is intending to use property in any way that constitutes or would constitute a violation of this Article, the Attorney General or any State's Attorney may make an ex parte application to the circuit court to freeze or seize all the assets of that person and, upon a showing of probable cause in the ex parte hearing, the circuit court shall issue an order to freeze or seize all assets of that person. A copy of the freeze or seize order shall be served upon the person whose assets have been frozen or seized and that person or any person claiming an interest in the property may, at any time within 30 days of service, file a motion to release his or her assets. Within 10 days that person is entitled to a hearing. In any proceeding to release assets, the burden of proof shall be by a preponderance of evidence and shall be on the State to show that the person used, was using, is about to use, or is intending to use any property in any way that constitutes or would constitute a violation of this Article. If the court finds that any property was being used, is about to be used, or is intended to be used in violation of or in any way that would constitute a violation of this Article, the court shall order such property frozen or held until further order of the court. Any property so ordered held or frozen shall be subject to forfeiture under the following procedure. Upon the request of the defendant, the court may release frozen or seized assets sufficient to pay attorney's fees for representation of the defendant at a hearing conducted under this Section.~~

~~(2) If, within 60 days after any seizure or asset freeze under subparagraph (1) of this Section, a person having any property interest in the seized or frozen property is charged with an offense, the court which renders judgment upon the charge shall, within 30 days after the judgment, conduct a forfeiture hearing to determine whether the property was used, about to be used, or intended to be used in violation of this Article or in connection with any violation of this Article, or was integrally related to any violation or intended violation of this Article. The hearing shall be commenced by a written petition by the State, including material allegations of fact, the name and address of every person determined by the State to have any property interest in the seized or frozen property, a representation that written notice of the date, time, and place of the hearing has been mailed to every such person by certified mail at least 10 days before the date, and a request for forfeiture. Every such person may appear as a party and present evidence at the hearing. The quantum of proof required shall be preponderance of the evidence, and the burden of proof shall be on the State. If the court determines that the seized or frozen property was used, about to be used, or intended to be used in violation of this Article or in connection with any violation of this Article, or was integrally related to any violation or intended violation of this Article, an order of forfeiture and disposition of the seized or frozen money and property shall be entered. All property forfeited may be liquidated and the resultant money together with any money forfeited shall be allocated among the participating law enforcement agencies in such proportions as may be determined to be equitable by the court entering the forfeiture order, any such property so forfeited shall be received by the State's Attorney or Attorney General and upon liquidation shall be allocated among the participating law enforcement agencies in such proportions as may be determined equitable by the court entering the forfeiture order.~~

~~(3) If a seizure or asset freeze under subparagraph (1) of this subsection (a) is not followed by a charge under this Article within 60 days, or if the prosecution of the charge is permanently terminated or~~

~~indefinitely discontinued without any judgment of conviction or a judgment of acquittal is entered, the State's Attorney or Attorney General shall immediately commence an in rem proceeding for the forfeiture of any seized money or other things of value, or both, in the circuit court and any person having any property interest in the money or property may commence separate civil proceedings in the manner provided by law. Any property so forfeited shall be allocated among the participating law enforcement agencies in such proportions as may be determined to be equitable by the court entering the forfeiture order.~~

(b) ~~Forfeiture of property acquired in connection with a violation of this Article.~~

~~(1)~~ Any person who commits any offense under this Article is subject to the property forfeiture provisions set forth in Article 124B of the Code of Criminal Procedure of 1963. ~~shall forfeit, according to the provisions of this Section, any moneys, profits, or proceeds, and any interest or property in which the sentencing court determines he or she has acquired or maintained, directly or indirectly, in whole or in part, as a result of, or used, was about to be used, or was intended to be used in connection with the offense. The person shall also forfeit any interest in, security, claim against, or contractual right of any kind which affords the person a source of influence over any enterprise which he or she has established, operated, controlled, conducted, or participated in conducting, where his or her relationship to or connection with any such thing or activity directly or indirectly, in whole or in part, is traceable to any item or benefit which he or she has obtained or acquired through an offense under this Article or which he or she used, about to use, or intended to use in connection with any offense under this Article.~~ Forfeiture under this subsection ~~Section~~ may be pursued in addition to or in lieu of proceeding under ~~subsection (a) of this~~ Section 124B-805 (property freeze or seizure; ex parte proceeding) of the Code of Criminal Procedure of 1963.

~~(2) Proceedings instituted under this subsection shall be subject to and conducted in accordance with the following procedures:~~

~~(A) The sentencing court shall, upon petition by the prosecuting agency, whether it is the Attorney General or the State's Attorney, at any time following sentencing, conduct a hearing to determine whether any property or property interest is subject to forfeiture under this subsection. At the forfeiture hearing the People of the State of Illinois shall have the burden of establishing, by a preponderance of the evidence, that the property or property interests are subject to forfeiture.~~

~~(B) In any action brought by the People of the State of Illinois under this Section, the court shall have jurisdiction to enter such restraining orders, injunctions, or prohibitions, or to take such other action in connection with any real, personal, or mixed property, or other interest, subject to forfeiture, as it shall consider proper.~~

~~(C) In any action brought by the People of the State of Illinois under this subsection in which any restraining order, injunction, or prohibition or any other action in connection with any property or interest subject to forfeiture under this subsection is sought, the circuit court presiding over the trial of the person or persons charged with a violation under this Article shall first determine whether there is probable cause to believe that the person or persons so charged have committed an offense under this Article and whether the property or interest is subject to forfeiture under this subsection. In order to make this determination, prior to entering any such order, the court shall conduct a hearing without a jury in which the People shall establish: (i) probable cause that the person or persons so charged have committed an offense under this Article; and (ii) probable cause that any property or interest may be subject to forfeiture under this subsection. The hearing may be conducted simultaneously with a preliminary hearing if the prosecution is commenced by information, or by motion of the People at any stage in the proceedings. The court may enter a finding of probable cause at a preliminary hearing following the filing of information charging a violation of this Article or the return of an indictment by a grand jury charging an offense under this Article as sufficient probable cause for purposes of this subsection. Upon such a finding, the circuit court shall enter such restraining order, injunction, or prohibition or shall take such other action in connection with any such property or other interest subject to forfeiture under this subsection as is necessary to ensure that the property is not removed from the jurisdiction of the court, concealed, destroyed, or otherwise disposed of by the owner or holder of that property or interest prior to a forfeiture hearing under this subsection. The Attorney General or State's Attorney shall file a certified copy of the restraining order, injunction, or other prohibition with the recorder of deeds or registrar of titles of each county where any such property of the defendant may be located. No such injunction, restraining order, or other prohibition shall affect the rights of any bona fide purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the date of such filing. The court may, at any time, upon verified petition by the defendant, conduct a hearing to release all or portions of any such property or interest which the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, prohibition, or other action. The court may release the~~

~~property to the defendant for good cause shown and within the sound discretion of the court.~~

~~(D) Upon a conviction of a person under this Article, the court shall authorize the Attorney General or State's Attorney to seize and sell all property or other interest declared forfeited under this Article, unless the property is required by law to be destroyed or is harmful to the public. The court may order the Attorney General or State's Attorney to segregate funds from the proceeds of the sale sufficient: (1) to satisfy any order of restitution, as the court may deem appropriate; (2) to satisfy any legal right, title, or interest which the court deems superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to forfeiture under this subsection; or (3) to satisfy any bona fide purchaser for value of the right, title, or interest in the property who was without reasonable notice that the property was subject to forfeiture. Following the entry of an order of forfeiture, the Attorney General or State's Attorney shall publish notice of the order and his or her intent to dispose of the property. Within 30 days following the publication, any person may petition the court to adjudicate the validity of his or her alleged interest in the property. After the deduction of all requisite expenses of administration and sale, the Attorney General or State's Attorney shall distribute the proceeds of the sale, along with any moneys forfeited or seized, among participating law enforcement agencies in such equitable portions as the court shall determine.~~

~~(E) No judge shall release any property or money seized under subdivision (A) or (B) for the payment of attorney's fees of any person claiming an interest in such money or property.~~

~~(c) Exemptions from forfeiture. A property interest is exempt from forfeiture under this Section if its owner or interest holder establishes by a preponderance of evidence that the owner or interest holder:~~

~~(A)(i) in the case of personal property, is not legally accountable for the conduct giving rise to the forfeiture, did not acquiesce in it, and did not know and could not reasonably have known of the conduct or that the conduct was likely to occur, or~~

~~(ii) in the case of real property, is not legally accountable for the conduct giving rise to the forfeiture, or did not solicit, conspire, or attempt to commit the conduct giving rise to the forfeiture; and~~

~~(B) had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to its forfeiture other than as an interest holder in an arms length commercial transaction; and~~

~~(C) with respect to conveyances, did not hold the property jointly or in common with a person whose conduct gave rise to the forfeiture; and~~

~~(D) does not hold the property for the benefit of or as nominee for any person whose conduct gave rise to its forfeiture, and, if the owner or interest holder acquired the interest through any such person, the owner or interest holder acquired it as a bona fide purchaser for value without knowingly taking part in the conduct giving rise to the forfeiture; and~~

~~(E) that the owner or interest holder acquired the interest:~~

~~(i) before the commencement of the conduct giving rise to its forfeiture and the person whose conduct gave rise to its forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or~~

~~(ii) after the commencement of the conduct giving rise to its forfeiture, and the owner or interest holder acquired the interest as a mortgagee, secured creditor, lien holder, or bona fide purchaser for value without knowledge of the conduct which gave rise to the forfeiture; and~~

~~(a) in the case of personal property, without knowledge of the seizure of the property for forfeiture; or~~

~~(b) in the case of real estate, before the filing in the office of the Recorder of Deeds of the county in which the real estate is located of a notice of seizure for forfeiture or a lis pendens notice.~~

(Source: P.A. 92-854, eff. 12-5-02.)

(720 ILCS 5/11-20.1A rep.) (720 ILCS 5/37.5-5 rep.) (720 ILCS 5/37.5-10 rep.) (720 ILCS 5/37.5-15 rep.) (720 ILCS 5/37.5-20 rep.) (720 ILCS 5/37.5-25 rep.) (720 ILCS 5/37.5-30 rep.) (720 ILCS 5/37.5-35 rep.) (720 ILCS 5/37.5-40 rep.) (720 ILCS 5/37.5-45 rep.)

Section 11. The Criminal Code of 1961 is amended by repealing Sections 11-20.1A, 37.5-5, 37.5-10, 37.5-15, 37.5-20, 37.5-25, 37.5-30, 37.5-35, 37.5-40, and 37.5-45.

Section 15. The Code of Criminal Procedure of 1963 is amended by adding Article 124B as follows:

(725 ILCS 5/Art. 124B heading new)

ARTICLE 124B. FORFEITURE

(725 ILCS 5/Art. 124B Pt. 5 heading new)

Part 5. General Provisions

(725 ILCS 5/124B-5 new)

Sec. 124B-5. Purpose and scope. The purpose of this Article is to set forth in one place the provisions

relating to forfeiture of property in connection with violations of certain criminal statutes. Part 100 of this Article sets forth standard provisions that apply to these forfeiture proceedings. In Parts 300 and following, for each type of criminal violation, this Article sets forth (i) provisions that apply to forfeiture only in connection with that type of violation and (ii) by means of incorporation by reference, the standard forfeiture provisions that apply to that type of violation.

(725 ILCS 5/124B-10 new)

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 Section 11-17.1 of the Criminal Code of 1961 (keeping a place of juvenile prostitution).

(3) 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 11-20.3 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).

(725 ILCS 5/124B-15 new)

Sec. 124B-15. Applicability; actions. This Article applies to actions pending on the effective date of this amendatory Act of the 96th General Assembly as well as actions commenced on or after that date.

(725 ILCS 5/Art. 124B Pt. 100 heading new)

Part 100. Standard Forfeiture Provisions

(725 ILCS 5/124B-100 new)

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 Section 11-17.1 of the Criminal Code of 1961, "offense" means the offense of keeping a place of juvenile prostitution in violation of Section 11-17.1 of that Code.

(3) In the case of forfeiture authorized under Section 11-19.2 of the Criminal Code of 1961, "offense" means the offense of exploitation of a child in violation of Section 11-19.2 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 11-20.3 of the Criminal Code of 1961, "offense" means the offense of aggravated child pornography in violation of Section 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.

(725 ILCS 5/124B-105 new)

Sec. 124B-105. Definition; "conveyance". In this Article, "conveyance" means a vehicle, vessel, or aircraft.

(725 ILCS 5/124B-110 new)

Sec. 124B-110. Definition; "owner". In this Article, "owner" means a person with an ownership interest in the specific property sought to be forfeited, including a leasehold, lien, mortgage, recorded security interest, or valid assignment of an ownership interest. "Owner" does not include any of the following:

(1) A person with only a general unsecured interest in, or claim against, the property or estate of another.

(2) A bailee, unless the bailor is identified and the bailee shows a colorable legitimate interest in the property seized.

(3) A nominee who exercises no dominion or control over the property.

(725 ILCS 5/124B-115 new)

Sec. 124B-115. Definition; "person". In this Article, "person" means any individual, corporation, partnership, firm, organization, or association.

(725 ILCS 5/124B-120 new)

Sec. 124B-120. Definition; "property". In this Article, "property" means:

(1) Real property, including, without limitation, land, fixtures or improvements on land, and anything growing on or found in land.

(2) Tangible or intangible personal property, including, without limitation, rights, privileges, interests, claims, securities, and money.

"Property" includes any leasehold or possessory interest and, in the case of real property, includes a beneficial interest in a land trust.

(725 ILCS 5/124B-125 new)

Sec. 124B-125. Real property exempt from forfeiture.

(a) An interest in real property is exempt from forfeiture under this Article if its owner or interest holder establishes by a preponderance of evidence that he or she meets all of the following requirements:

(1) He or she is not legally accountable for the conduct giving rise to the forfeiture, or did not solicit, conspire, or attempt to commit the conduct giving rise to the forfeiture.

(2) He or she had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to the forfeiture other than as an interest holder in an arms-length commercial transaction.

(3) He or she does not hold the property for the benefit of or as a nominee for any person whose conduct gave rise to the forfeiture, and, if he or she acquired the interest through any such person, he or she acquired it as a bona fide purchaser for value without knowingly taking part in the conduct giving rise to the forfeiture.

(4) He or she acquired the interest before a notice of seizure for forfeiture or a lis pendens notice with respect to the property was filed in the office of the recorder of deeds of the county in which the property is located and either:

(A) acquired the interest before the commencement of the conduct giving rise to the forfeiture, and the person whose conduct gave rise to the forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(B) acquired the interest after the commencement of the conduct giving rise to the forfeiture, and he or she acquired the interest as a mortgagee, secured creditor, lienholder, or bona fide purchaser for value without knowledge of the conduct that gave rise to the forfeiture.

(5) With respect to a property interest in existence at the time the illegal conduct giving rise to the forfeiture took place, he or she either:

(A) did not know of the conduct giving rise to the forfeiture; or

(B) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate that use of the property.

(7) The property is not a type of property, possession of which is otherwise in violation of law.

(b) For purposes of paragraph (5) of subsection (a), ways in which a person may show that he or she did all that reasonably could be expected include demonstrating that he or she, to the extent permitted by law, did either of the following:

(1) Gave timely notice to an appropriate law enforcement agency of information that led the person to know that the conduct giving rise to a forfeiture would occur or had occurred.

(2) In a timely fashion revoked or made a good faith attempt to revoke permission for those engaging in the conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

A person is not required by this subsection (b) to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

(725 ILCS 5/124B-130 new)

Sec. 124B-130. Personal property exempt from forfeiture.

(a) An interest in personal property is exempt from forfeiture under this Article if its owner or interest holder establishes by a preponderance of evidence that he or she meets all of the following requirements:

(1) He or she is not legally accountable for the conduct giving rise to the forfeiture, did not acquiesce in it, and did not know and could not reasonably have known of the conduct or that the conduct was likely to occur.

(2) He or she had not acquired and did not stand to acquire substantial proceeds from the conduct giving rise to the forfeiture other than as an interest holder in an arms-length commercial transaction.

(3) He or she does not hold the property for the benefit of or as a nominee for any person whose conduct gave rise to the forfeiture, and, if he or she acquired the interest through any such person, he or she acquired it as a bona fide purchaser for value without knowingly taking part in the conduct giving rise to the forfeiture.

(4) He or she acquired the interest without knowledge of the seizure of the property for forfeiture and either:

(A) acquired the interest before the commencement of the conduct giving rise to the forfeiture, and the person whose conduct gave rise to the forfeiture did not have the authority to convey the interest to a bona fide purchaser for value at the time of the conduct; or

(B) acquired the interest after the commencement of the conduct giving rise to the forfeiture, and he or she acquired the interest as a mortgagee, secured creditor, lienholder, or bona fide purchaser for value without knowledge of the conduct that gave rise to the forfeiture.

(5) With respect to a property interest in existence at the time the illegal conduct giving rise to the forfeiture took place, he or she either:

(A) did not know of the conduct giving rise to the forfeiture; or

(B) upon learning of the conduct giving rise to the forfeiture, did all that reasonably could be expected under the circumstances to terminate that use of the property.

(6) With respect to conveyances, he or she did not hold the property jointly or in common with a person whose conduct gave rise to the forfeiture.

(7) The property is not a type of property, possession of which is otherwise in violation of law.

(b) For purposes of paragraph (5) of subsection (a), ways in which a person may show that he or she did all that reasonably could be expected include demonstrating that he or she, to the extent permitted by law, did either of the following:

(1) Gave timely notice to an appropriate law enforcement agency of information that led the person to know that the conduct giving rise to a forfeiture would occur or had occurred.

(2) In a timely fashion revoked or made a good faith attempt to revoke permission for those engaging in the conduct to use the property or took reasonable actions in consultation with a law enforcement agency to discourage or prevent the illegal use of the property.

A person is not required by this subsection (b) to take steps that the person reasonably believes would be likely to subject any person (other than the person whose conduct gave rise to the forfeiture) to physical danger.

(725 ILCS 5/124B-135 new)

Sec. 124B-135. Burden of proof of exemption. It is not necessary for the State to negate any exemption in this Article in any complaint or other pleading or in any trial, hearing, or other proceeding under this Article. The burden of proof of any exemption is upon the person claiming the exemption.

(725 ILCS 5/124B-140 new)

Sec. 124B-140. Court order with respect to innocent owner. If the court determines, in accordance with Sections 124B-125 through 124B-135, that an innocent owner has a partial interest in property otherwise subject to forfeiture, or a joint tenancy or tenancy by the entirety in that property, the court may enter an appropriate order doing any of the following:

(1) Severing and releasing the property.

(2) Transferring the property to the State with a provision that the State compensate the innocent owner to the extent of his or her ownership interest once a final order of forfeiture has been entered and the property has been reduced to liquid assets.

(3) Permitting the innocent owner to retain the property subject to a lien in favor of the State to the extent of the forfeitable interest in the property.

(725 ILCS 5/124B-145 new)

Sec. 124B-145. Property constituting attorney's fees; forfeiture not applicable. Nothing in this Article applies to property that constitutes reasonable bona fide attorney's fees paid to an attorney for services rendered or to be rendered in a forfeiture proceeding under this Article, or in a criminal proceeding relating directly to a forfeiture proceeding under this Article, if (i) the property was paid before its

seizure and before the issuance of any seizure warrant or court order prohibiting transfer of the property and (ii) the attorney, at the time he or she received the property, did not know that it was property subject to forfeiture under this Article.

(725 ILCS 5/124B-150 new)

Sec. 124B-150. Protective order; probable cause.

(a) Upon application of the State, the circuit court presiding over the trial of the person or persons charged with the offense giving rise to forfeiture may enter a restraining order or injunction, or take other appropriate action, to preserve the availability of property for forfeiture under this Article. Before entering such an order or taking such action, the court shall first determine the following:

(1) Whether there is probable cause to believe that the person or persons so charged have committed the offense.

(2) Whether the property is subject to forfeiture under this Article.

(b) In order to make the determinations of probable cause required under subsection (a), the court shall conduct a hearing without a jury. In that hearing, the State must establish both of the following:

(1) There is probable cause that the person or persons charged have committed the offense.

(2) There is probable cause that property may be subject to forfeiture under this Article.

(c) The court may conduct the hearing under subsection (b) simultaneously with a preliminary hearing if the prosecution is commenced by information or complaint. The court may conduct the hearing under subsection (b) at any stage in the criminal proceedings upon the State's motion.

(d) The court may accept a finding of probable cause at a preliminary hearing following the filing of an information charging the offense or following the return of an indictment by a grand jury charging the offense as sufficient evidence of probable cause as required under paragraph (1) of subsection (b).

(e) Upon making a finding of probable cause as required under this Section, the circuit court shall enter a restraining order or injunction, or take other appropriate action, as necessary to ensure that the property is not removed from the court's jurisdiction and is not concealed, destroyed, or otherwise disposed of by the property owner or interest holder before a forfeiture hearing under this Article.

(f) The Attorney General or State's Attorney shall file a certified copy of the restraining order, injunction, or other prohibition with the recorder of deeds or registrar of titles of each county where any property of the defendant subject to forfeiture is located.

(725 ILCS 5/124B-155 new)

Sec. 124B-155. Rights of certain parties unaffected by protective order; release of property.

(a) A restraining order or injunction entered, or other action taken, by the court under Section 124B-150 does not affect the rights of any bona fide purchaser, mortgagee, judgment creditor, or other lienholder that arose before the date on which a certified copy of the restraining order, injunction, or other prohibition was filed in accordance with subsection (f) of Section 124B-150.

(b) At any time, upon verified petition by the defendant or by an innocent owner or innocent bona fide third party lienholder who neither had knowledge of, nor consented to, the illegal act or omission, the court may conduct a hearing to release all or portions of any property that the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, or other action. For good cause shown and in the court's sound discretion, the court may release the property to the defendant or innocent owner or innocent bona fide third party lienholder who neither had knowledge of, nor consented to, the illegal act or omission.

(725 ILCS 5/124B-160 new)

Sec. 124B-160. Petition for forfeiture; forfeiture hearing; burden of proof.

(a) The Attorney General or State's Attorney may file a petition for forfeiture of property in connection with an offense as defined in this Article, and, within a reasonable time after sentencing, the court shall conduct a hearing to determine whether any property is subject to forfeiture under this Article. Every person with any property interest in the property alleged to be subject to forfeiture may appear as a party and present evidence at the hearing.

(b) At the forfeiture hearing, the State has the burden of establishing, by a preponderance of the evidence, that the property is subject to forfeiture under this Article.

(725 ILCS 5/124B-165 new)

Sec. 124B-165. Order of forfeiture; sale of forfeited property; publication of notice; challenge to forfeiture.

(a) Upon the court's determination that property is subject to forfeiture, the court shall enter an order of forfeiture with respect to the property at issue. Except as provided in Section 124B-705, the order shall authorize the Attorney General or State's Attorney to seize all property declared forfeited under this Article (if the property has not already been seized) upon terms and conditions the court deems proper. The Attorney General or State's Attorney may then sell the forfeited property unless the court determines

that the property is required by law to be destroyed or is harmful to the public.

(b) Following the entry of the order of forfeiture, the Attorney General or State's Attorney shall cause publication of notice of the order and his or her intent to dispose of the property. Publication shall be in a newspaper of general circulation in the county where the property was seized, for a period of 3 successive weeks.

(c) Within 30 days after the publication, any person may petition the court to adjudicate the validity of his or her interest in the property and whether the interest is protected under this Article.

(725 ILCS 5/124B-170 new)

Sec. 124B-170. Judicial review.

(a) Within 30 days after publication of the notice under Section 124B-165, any person claiming an interest in the property declared forfeited may file a verified claim with the court expressing his or her interest in the property. The claim must set forth the following:

(1) The caption of the proceedings as set forth in the notice of order of forfeiture.

(2) The claimant's name and address.

(3) The nature and extent of the claimant's interest in the property.

(4) The circumstances of the claimant's acquisition of the interest in the property, including the date of the transfer and the identity of the transferor.

(5) The names and addresses of all other persons known by the claimant to have an interest in the property.

(6) The specific provision of law relied on in asserting that the property is not subject to forfeiture.

(7) All essential facts supporting each assertion.

(8) The relief sought by the claimant.

(b) The claim must be accompanied by a cost bond in the form of a cashier's check payable to the clerk of the court in the amount of 10% of the reasonable value of the property as alleged by the Attorney General or State's Attorney or the amount of $100, whichever is greater, conditioned upon the claimant's payment, in the case of forfeiture, of all costs and expenses of the proceeding under this Section.

(c) Upon the filing of a claim and cost bond as provided in this Section, the court shall determine whether the property is subject to forfeiture in accordance with this Article. If none of the seized property is declared forfeited in a proceeding under this Section, then, unless the court orders otherwise, the clerk of the court shall return to the claimant 90% of the amount deposited with the clerk as a cost bond under this Section. If any of the seized property is declared forfeited in a proceeding under this Section, then the clerk of the court shall transfer 90% of the amount deposited with the clerk as a cost bond under this Section to the prosecuting authority. In either case, the clerk shall retain the remaining 10% of the amount deposited as costs for the proceeding under this Section.

(725 ILCS 5/124B-175 new)

Sec. 124B-175. Distribution of forfeited moneys and proceeds from sale of forfeited property. All moneys forfeited under this Article, together with the proceeds from the sale of all property forfeited under this Article, shall be distributed as set forth in this Article.

(725 ILCS 5/124B-180 new)

Sec. 124B-180. Segregation of moneys from sale proceeds for certain purposes. Before any distribution under Section 124B-175 or as otherwise prescribed by law, the court may order the Attorney General or State's Attorney to segregate moneys from the proceeds of the sale sufficient to do any of the following:

(1) Satisfy any order of restitution, as the court may deem appropriate.

(2) Satisfy any legal right, title, or interest that the court deems superior to any right, title, or interest of the defendant at the time of the commission of the acts that gave rise to forfeiture under this Article.

(3) Satisfy any bona fide purchaser for value of the right, title, or interest in the property who was without reasonable notice that the property was subject to forfeiture.

(725 ILCS 5/124B-190 new)

Sec. 124B-190. Construction. It is the intent of the General Assembly that the forfeiture provisions of this Article be liberally construed so as to effect their purpose. The forfeiture of property and other remedies under this Article shall be considered to be in addition to, and not exclusive of, any sentence or other remedy provided by law.

(725 ILCS 5/Art. 124B Pt. 300 heading new)

Part 300. Forfeiture; Involuntary Servitude and Trafficking of Persons

(725 ILCS 5/124B-300 new)

Sec. 124B-300. Persons and property subject to forfeiture. A person who commits the offense of involuntary servitude, involuntary servitude of a minor, or trafficking of persons for forced labor or services under Section 10A-10 of the Criminal Code of 1961 shall forfeit to the State of Illinois any profits or proceeds and any property he or she has acquired or maintained in violation of Section 10A-10 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 maintaining a person in involuntary servitude or participating in trafficking of persons for forced labor or services.

(725 ILCS 5/124B-305 new)

Sec. 124B-305. Distribution of property and sale proceeds. All moneys and the sale proceeds of all other property forfeited and seized under this Part 300 shall be distributed as follows:

(1) 50% shall be divided equally between all State agencies and units of local government whose officers or employees conducted the investigation that resulted in the forfeiture.

(2) 50% shall be deposited into the Violent Crime Victims Assistance Fund and targeted to services for victims of the offenses of involuntary servitude, involuntary servitude of a minor, and trafficking of persons for forced labor or services.

(725 ILCS 5/124B-310 new)

Sec. 124B-310. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 300.

(725 ILCS 5/Art. 124B Pt. 400 heading new)

Part 400. Obscenity

(725 ILCS 5/124B-400 new)

Sec. 124B-400. Legislative declaration. Obscenity is a far-reaching and extremely profitable crime. This crime persists despite the threat of prosecution and successful prosecution because existing sanctions do not effectively reach the money and other assets generated by it. It is therefore necessary to supplement existing sanctions by mandating forfeiture of money and other assets generated by this crime. Forfeiture diminishes the financial incentives that encourage and sustain obscenity and secures for the State, local government, and prosecutors a resource for prosecuting these crimes.

(725 ILCS 5/124B-405 new)

Sec. 124B-405. Persons and property subject to forfeiture. A person who has been convicted previously of the offense of obscenity under Section 11-20 of the Criminal Code of 1961 and who is convicted of a second or subsequent offense of obscenity under that Section shall forfeit the following to the State of Illinois:

(1) Any property constituting or derived from any proceeds that the person obtained, directly or indirectly, as a result of the offense.

(2) Any of the person's property used in any manner, wholly or in part, to commit the offense.

(725 ILCS 5/124B-410 new)

Sec. 124B-410. No prior restraint. Nothing in this Part 400 shall be construed as authorizing the prior restraint of any showing, performance, or exhibition of allegedly obscene films, plays, or other presentations or of any sale or distribution of allegedly obscene materials.

(725 ILCS 5/124B-415 new)

Sec. 124B-415. Order to destroy property. If the Attorney General or State's Attorney believes any property forfeited and seized under this Part 400 describes, depicts, or portrays any of the acts or activities described in subsection (b) of Section 11-20 of the Criminal Code of 1961, the Attorney General or State's Attorney shall apply to the court for an order to destroy that property. If the court determines that the property describes, depicts, or portrays such acts or activities it shall order the Attorney General or State's Attorney to destroy the property.

(725 ILCS 5/124B-420 new)

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, 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.

(725 ILCS 5/124B-425 new)

Sec. 124B-425. Forfeiture provisions not applicable to libraries. This Part 400 does not apply to any property of a public library or any property of a library operated by an institution accredited by a generally recognized accrediting agency.

(725 ILCS 5/124B-430 new)

Sec. 124B-430. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 400.

(725 ILCS 5/Art. 124B Pt. 500 heading new)

Part 500. Other Sex Offenses

(725 ILCS 5/124B-500 new)

Sec. 124B-500. Persons and property subject to forfeiture. A person who commits the offense of keeping a place of juvenile prostitution, exploitation of a child, child pornography, or aggravated child pornography under Section 11-17.1, 11-19.2, 11-20.1, 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 Section 11-17.1, 11-19.2, 11-20.1, 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 Section 11-17.1, 11-19.2, 11-20.1, 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 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.

(725 ILCS 5/124B-505 new)

Sec. 124B-505. Distribution of property and sale proceeds.

(a) All moneys and the sale proceeds of all other property forfeited and seized under this Part 500 shall be distributed as follows:

(1) One-half shall be divided equally between all State agencies and units of local government whose officers or employees conducted the investigation that resulted in the forfeiture.

(2) One-half shall be deposited into the Violent Crime Victims Assistance Fund.

(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.

(725 ILCS 5/124B-510 new)

Sec. 124B-510. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 500.

(725 ILCS 5/Art. 124B Pt. 600 heading new)

Part 600. Computer Crime

(725 ILCS 5/124B-600 new)

Sec. 124B-600. Persons and property subject to forfeiture. A person who commits the offense of computer fraud as set forth in Section 16D-5 of the Criminal Code of 1961 shall forfeit any property that the sentencing court determines, after a forfeiture hearing under this Article, the person has acquired or maintained, directly or indirectly, in whole or in part, as a result of that offense. The person shall also forfeit any interest in, securities of, claim against, or contractual right of any kind that affords the person a source of influence over any enterprise that the person has established, operated, controlled, conducted, or participated in conducting, if the person's relationship to or connection with any such thing or activity directly or indirectly, in whole or in part, is traceable to any item or benefit that the person has obtained or acquired through computer fraud.

(725 ILCS 5/124B-605 new)

Sec. 124B-605. Distribution of property and sale proceeds.

(a) All moneys and the sale proceeds of all other property forfeited and seized under this Part 600 shall be distributed as follows:

(1) 50% shall be distributed to the unit of local government whose officers or employees conducted the investigation into computer fraud and caused the arrest or arrests and prosecution leading to the forfeiture. Amounts distributed to units of local government shall be used for training or enforcement purposes relating to detection, investigation, or prosecution of financial crimes, including computer fraud. If, however, the investigation, arrest or arrests, and prosecution leading to the forfeiture were undertaken solely by a State agency, the portion provided under this paragraph (1) shall be paid into the State Police Services Fund of the Illinois Department of State Police to be used for training or enforcement purposes relating to detection, investigation, or prosecution of financial crimes, including computer fraud.

(2) 50% shall be distributed to the county in which the prosecution and petition for forfeiture resulting in the forfeiture was instituted by the State's Attorney and shall be deposited into a special fund in the county treasury and appropriated to the State's Attorney for use in training or enforcement purposes relating to detection, investigation, or prosecution of financial crimes, including computer fraud. If a prosecution and petition for forfeiture resulting in the forfeiture has been maintained by the Attorney General, 50% of the proceeds shall be paid into the Attorney General's Financial Crime Prevention Fund. If the Attorney General and the State's Attorney have participated jointly in any part of the proceedings, 25% of the proceeds forfeited shall be paid to the county in which the prosecution and petition for forfeiture resulting in the forfeiture occurred, and 25% shall be paid into the Attorney General's Financial Crime Prevention Fund to be used for the purposes stated in this paragraph (2).

(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.

(725 ILCS 5/124B-610 new)

Sec. 124B-610. Computer used in commission of felony; forfeiture. If a person commits a felony under any provision of the Criminal Code of 1961 or another statute and the instrumentality used in the commission of the offense, or in connection with or in furtherance of a scheme or design to commit the offense, is a computer owned by the defendant (or, if the defendant is a minor, owned by the minor's parent or legal guardian), the computer is subject to forfeiture under this Article. A computer, or any part of a computer, is not subject to forfeiture under this Article, however, under either of the following circumstances:

(1) The computer accessed in the commission of the offense was owned or leased by the victim or an innocent third party at the time the offense was committed.

(2) The rights of a creditor, lienholder, or person having a security interest in the computer at the time the offense was committed will be adversely affected.

(725 ILCS 5/124B-615 new)

Sec. 124B-615. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 600.

(725 ILCS 5/Art. 124B Pt. 700 heading new)

Part 700. WIC Fraud

(725 ILCS 5/124B-700 new)

Sec. 124B-700. Persons and property subject to forfeiture. A person who commits a felony violation of Article 17B of the Criminal Code of 1961 shall forfeit any property that the sentencing court

determines, after a forfeiture hearing under this Article, (i) the person has acquired, in whole or in part, as a result of committing the violation or (ii) the person has maintained or used, in whole or in part, to facilitate, directly or indirectly, the commission of the violation. The person shall also forfeit any interest in, securities of, claim against, or contractual right of any kind that affords the person a source of influence over any enterprise that the person has established, operated, controlled, conducted, or participated in conducting, if the person's relationship to or connection with any such thing or activity directly or indirectly, in whole or in part, is traceable to any item or benefit that the person has obtained or acquired as a result of a felony violation of Article 17B of the Criminal Code of 1961. Property subject to forfeiture under this Part 700 includes the following:

(1) All moneys, things of value, books, records, and research products and materials that are used or intended to be used in committing a felony violation of Article 17B of the Criminal Code of 1961.

(2) Everything of value furnished, or intended to be furnished, in exchange for a substance in violation of Article 17B of the Criminal Code of 1961; all proceeds traceable to that exchange; and all moneys, negotiable instruments, and securities used or intended to be used to commit or in any manner to facilitate the commission of a felony violation of Article 17B of the Criminal Code of 1961.

(3) All real property, including any right, title, and interest (including, but not limited to, any leasehold interest or the beneficial interest in a land trust) in the whole of any lot or tract of land and any appurtenances or improvements, that is used or intended to be used, in any manner or part, to commit or in any manner to facilitate the commission of a felony violation of Article 17B of the Criminal Code of 1961 or that is the proceeds of any act that constitutes a felony violation of Article 17B of the Criminal Code of 1961.

(725 ILCS 5/124B-705 new)

Sec. 124B-705. Seizure and inventory of property subject to forfeiture. Property taken or detained under this Part shall not be subject to replevin, but is deemed to be in the custody of the Director of State Police subject only to the order and judgments of the circuit court having jurisdiction over the forfeiture proceedings and the decisions of the Attorney General or State's Attorney under this Article. When property is seized under this Article, the seizing agency shall promptly conduct an inventory of the seized property and estimate the property's value and shall forward a copy of the estimate of the property's value to the Director of State Police. Upon receiving the notice of seizure, the Director may do any of the following:

(1) Place the property under seal.

(2) Remove the property to a place designated by the Director.

(3) Keep the property in the possession of the seizing agency.

(4) Remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, deposit it in an interest bearing account.

(5) Place the property under constructive seizure by posting notice of the pending forfeiture on it, by giving notice of the pending forfeiture to its owners and interest holders, or by filing a notice of the pending forfeiture in any appropriate public record relating to the property.

(6) Provide for another agency or custodian, including an owner, secured party, or lienholder, to take custody of the property on terms and conditions set by the Director.

(725 ILCS 5/124B-710 new)

Sec. 124B-710. Sale of forfeited property by Director of State Police; return to seizing agency or prosecutor.

(a) The court shall authorize the Director of State Police to seize any property declared forfeited under this Article on terms and conditions the court deems proper.

(b) When property is forfeited under this Part 700, the Director of State Police shall sell the property unless the property is required by law to be destroyed or is harmful to the public. The Director shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with Section 124B-715.

(c) On the application of the seizing agency or prosecutor who was responsible for the investigation, arrest, and prosecution that lead to the forfeiture, however, the Director may return any item of forfeited property to the seizing agency or prosecutor for official use in the enforcement of laws relating to Article 17B of the Criminal Code of 1961 if the agency or prosecutor can demonstrate that the item requested would be useful to the agency or prosecutor in their enforcement efforts. When any real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds of the sale shall be delivered to the Director and distributed in accordance with Section 124B-715.

(725 ILCS 5/124B-715 new)

Sec. 124B-715. Distribution of all other property and sale proceeds. All moneys and the sale proceeds of all property forfeited and seized under this Part 700 and not returned to a seizing agency or prosecutor

under subsection (c) of Section 124B-705 shall be distributed to the Special Supplemental Food Program for Women, Infants and Children (WIC) program administered by the Illinois Department of Human Services.

(725 ILCS 5/124B-720 new)

Sec. 124B-720. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 700.

(725 ILCS 5/Art. 124B Pt. 800 heading new)

Part 800. Terrorism

(725 ILCS 5/124B-800 new)

Sec. 124B-800. Persons and property subject to forfeiture.

(a) A person who commits an offense under Article 29D of the Criminal Code of 1961 shall forfeit any property that the sentencing court determines, after a forfeiture hearing under this Article, (i) the person has acquired or maintained, directly or indirectly, in whole or in part, as a result of the offense or (ii) the person used, was about to use, or intended to use in connection with the offense. The person shall also forfeit any interest in, securities of, claim against, or contractual right of any kind that affords the person a source of influence over any enterprise that the person has established, operated, controlled, conducted, or participated in conducting, if the person's relationship to or connection with any such thing or activity directly or indirectly, in whole or in part, is traceable to any item or benefit that the person has obtained or acquired as a result of a violation of Article 29D of the Criminal Code of 1961 or that the person used, was about to use, or intended to use in connection with a violation of Article 29D of the Criminal Code of 1961.

(b) For purposes of this Part 800, "person" has the meaning given in Section 124B-115 of this Code and, in addition to that meaning, includes, without limitation, any charitable organization, whether incorporated or unincorporated, any professional fund raiser, professional solicitor, limited liability company, association, joint stock company, association, trust, trustee, or any group of people formally or informally affiliated or associated for a common purpose, and any officer, director, partner, member, or agent of any person.

(725 ILCS 5/124B-805 new)

Sec. 124B-805. Asset freeze or seizure; ex parte proceeding.

(a) Whenever it appears that there is probable cause to believe that any person used, is using, is about to use, or is intending to use property in any way that constitutes or would constitute an offense as defined in this Article, the Attorney General or any State's Attorney may make an ex parte application to the circuit court to freeze or seize all assets of that person. Upon a showing of probable cause in the ex parte hearing, the circuit court shall issue an order to freeze or seize all assets of that person. A copy of the freeze or seize order shall be served upon the person whose property has been frozen or seized.

(b) At any time within 30 days after service of the order to freeze or seize property, the person whose property was ordered frozen or seized, or any person claiming an interest in the property, may file a motion to release his or her property. The court shall hold a hearing on the motion within 10 days.

(c) In any proceeding to release property, the burden of proof shall be by a preponderance of evidence and shall be on the State to show that the person used, was using, is about to use, or is intending to use any property in any way that constitutes or would constitute an offense as defined in this Article. If the court finds that any property was being used, is about to be used, or is intended to be used in any way that constitutes or would constitute an offense as defined in this Article, the court shall order the property frozen or held until further order of the court. Any property so ordered held or frozen is subject to forfeiture under the procedures set forth in this Article.

(d) Upon the request of the defendant, the court may release property frozen or seized under this Section in an amount sufficient to pay attorney's fees for representation of the defendant at a hearing conducted under this Article.

(725 ILCS 5/124B-810 new)

Sec. 124B-810. Forfeiture hearing following property freeze or seizure.

(a) If a person having any property interest in property frozen or seized under Section 124B-805 is charged with an offense within 60 days after the property is frozen or seized, the court that renders judgment on the charge shall conduct a forfeiture hearing within 30 days after the judgment to determine whether the property (i) was used, about to be used, or intended to be used to commit an offense as defined in this Article or in connection with any such offense or (ii) was integrally related to any offense as defined in this Article or intended offense as defined in this Article.

(b) The State shall commence a forfeiture proceeding under subsection (a) by filing a written petition with the court. The petition must be verified and must include the following:

(1) Material allegations of fact.

(2) The name and address of every person determined by the State to have any property interest in the frozen or seized property.

(3) A representation that written notice of the date, time, and place of the forfeiture hearing has been mailed to every person described in paragraph (2) by certified mail at least 10 days before the date.

(4) A request for forfeiture.

(c) Every person described in paragraph (2) of subsection (b) may appear as a party and present evidence at the hearing. The quantum of proof required is a preponderance of the evidence, and the burden of proof is on the State.

(d) If the court determines that the frozen or seized property was used, about to be used, or intended to be used to commit an offense as defined in this Article or in connection with any such offense, or was integrally related to any offense as defined in this Article or intended offense as defined in this Article, the court shall enter an order of forfeiture and disposition of the frozen or seized property. All property forfeited may be liquidated, and the resultant money, together with any other money forfeited, shall be distributed as set forth in this Article.

(725 ILCS 5/124B-815 new)

Sec. 124B-815. No release of property for payment of attorney's fees. No judge shall release any property that is the subject of a petition filed under subsection (b) of Section 124B-810 or a hearing conducted under Section 124B-150 or 124B-160 for the payment of attorney's fees for any person claiming an interest in that property.

(725 ILCS 5/124B-820 new)

Sec. 124B-820. No offense charged or no conviction; in rem proceeding.

(a) If a person is not charged with an offense within 60 days after property is frozen or seized under Section 124B-805, or if the prosecution of the charge is permanently terminated or indefinitely discontinued without any judgment of conviction, or if a judgment of acquittal is entered, the Attorney General or State's Attorney shall immediately commence an in rem proceeding for the forfeiture of any frozen or seized property in the circuit court by filing a complaint that contains the same information as required in a petition under subsection (b) of Section 124B-810. The court shall conduct the in rem proceeding in the same manner as other forfeiture proceedings under this Article.

(b) Any person having any property interest in the frozen or seized property may commence a separate civil proceeding in the manner provided by law.

(725 ILCS 5/124B-825 new)

Sec. 124B-825. Distribution of property and sale proceeds. After the deduction of all requisite expenses of administration and sale, the Attorney General or State's Attorney shall distribute the proceeds of the sale of forfeited property, along with any property forfeited or seized, between participating law enforcement agencies in equitable portions as determined by the court entering the forfeiture order.

(725 ILCS 5/124B-830 new)

Sec. 124B-830. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 800.

(725 ILCS 5/Art. 124B Pt. 900 heading new)

Part 900. Animals

(725 ILCS 5/124B-900 new)

Sec. 124B-900. Legislative declaration. The General Assembly finds that the forfeiture of real property that is used or intended to be used in connection with any show, exhibition, program, or other activity featuring or otherwise involving a fight between an animal and any other animal or human or involving the intentional killing of any animal for the purpose of sport, wagering, or entertainment will have a significant beneficial effect in deterring the rising incidence of those activities within this State, as well as other crimes that frequently occur in partnership with animal fighting, such as illegal gambling, possession of narcotics, and weapons violations.

(725 ILCS 5/124B-905 new)

Sec. 124B-905. Persons and property subject to forfeiture. A person who commits a felony violation of Section 4.01 of the Humane Care for Animals Act or a felony violation of Section 26-5 of the Criminal Code of 1961 shall forfeit the following:

(1) Any moneys, profits, or proceeds the person acquired, in whole or in part, as a result of committing the violation.

(2) Any real property or interest in real property that the sentencing court determines, after a forfeiture hearing under this Article, (i) the person has acquired, in whole or in part, as a result of

committing the violation or (ii) the person has maintained or used, in whole or in part, to facilitate, directly or indirectly, the commission of the violation. Real property subject to forfeiture under this Part 900 includes property that belongs to any of the following:

(A) The person organizing the show, exhibition, program, or other activity described in subsections (a) through (g) of Section 4.01 of the Humane Care for Animals Act or Section 26-5 of the Criminal Code of 1961.

(B) Any other person participating in the activity described in subsections (a) through (g) of Section 4.01 of the Humane Care for Animals Act or Section 26-5 of the Criminal Code of 1961 who is related to the organization and operation of the activity.

(C) Any person who knowingly allowed the activities to occur on his or her premises.

The person shall also forfeit any interest in, securities of, claim against, or contractual right of any kind that affords the person a source of influence over any enterprise that the person has established, operated, controlled, conducted, or participated in conducting, if the person's relationship to or connection with any such thing or activity directly or indirectly, in whole or in part, is traceable to any item or benefit that the person has obtained or acquired as a result of a felony violation of Section 4.01 of the Humane Care for Animals Act or a felony violation of Section 26-5 of the Criminal Code of 1961.

(725 ILCS 5/124B-910 new)

Sec. 124B-910. Notice to or service on owner or interest holder.

(a) Whenever notice of pending forfeiture or service of an in rem complaint is required under this Article, the notice or service shall be given or made as follows:

(1) If the owner's or interest holder's name and current address are known, then notice or service shall be given or made either by personal service or by mailing a copy of the notice by certified mail, return receipt requested, to that address. For purposes of notice under this Section, if a person has been arrested for the conduct giving rise to the forfeiture, then the address provided to the arresting agency at the time of arrest shall be deemed to be that person's known address. If an owner's or interest holder's address changes before the effective date of the notice of pending forfeiture, however, the owner or interest holder shall promptly notify the seizing agency of the change in address. If the owner's or interest holder's address changes after the effective date of the notice of pending forfeiture, the owner or interest holder shall promptly notify the State's Attorney or Attorney General of the change in address.

(2) If the property seized is a conveyance, then notice or service shall be given or made to the address reflected in the office of the agency or official in which title or interest to the conveyance is required by law to be recorded. Notice shall be given by mailing a copy of the notice by certified mail, return receipt requested, to that address.

(3) If the owner's or interest holder's address is not known and is not on record as provided in paragraph (2), then notice of pending forfeiture shall be given by publication for 3 successive weeks in a newspaper of general circulation in the county in which the seizure occurred.

(b) Notice of pending forfeiture served under this Article is effective upon personal service, the last date of publication, or the mailing of written notice, whichever is earlier.

(725 ILCS 5/124B-915 new)

Sec. 124B-915. Property vests in State. All property declared forfeited under this Article vests in the State on the date of the commission of the conduct giving rise to forfeiture, together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing under the provisions of this Article that the transferee's interest is exempt from forfeiture.

(725 ILCS 5/124B-920 new)

Sec. 124B-920. Defendant precluded from later denying the essential allegations of the offense. A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding under this Article regardless of the pendency of an appeal from that conviction. However, evidence of the pendency of an appeal is admissible.

(725 ILCS 5/124B-925 new)

Sec. 124B-925. Settlement of claims. Notwithstanding any other provision of this Article, the Attorney General or State's Attorney and a claimant of seized property may enter into an agreed-upon settlement concerning the seized property in an amount and upon terms that are set out in writing in a settlement agreement.

(725 ILCS 5/124B-930 new)

Sec. 124B-930. Disposal of property.

(a) Real property taken or detained under this Part is not subject to replevin, but is deemed to be in the

custody of the Director of State Police subject only to the order and judgments of the circuit court having jurisdiction over the forfeiture proceedings and the decisions of the State's Attorney or Attorney General under this Article.

(b) When property is forfeited under this Article, the Director of State Police shall sell all such property and shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with Section 124B-935.

(725 ILCS 5/124B-935 new)

Sec. 124B-935. Distribution of property and sale proceeds. All moneys and the sale proceeds of all other property forfeited and seized under this Part 900 shall be distributed as follows:

(1) 65% shall be distributed to the local, municipal, county, or State law enforcement agency or agencies that conducted or participated in the investigation resulting in the forfeiture. The distribution shall bear a reasonable relationship to the degree of direct participation of the law enforcement agency in the effort resulting in the forfeiture, taking into account the total value of the property forfeited and the total law enforcement effort with respect to the violation of the law upon which the forfeiture is based.

(2) 12.5% shall be distributed to the Office of the State's Attorney of the county in which the prosecution resulting in the forfeiture was instituted for use in the enforcement of laws, including laws governing animal fighting.

(3) 12.5% shall be distributed to the Illinois Department of Agriculture for reimbursement of expenses incurred in the investigation, prosecution, and appeal of cases arising under laws governing animal fighting.

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

(725 ILCS 5/124B-940 new)

Sec. 124B-940. Standard forfeiture provisions incorporated by reference. All of the provisions of Part 100 of this Article are incorporated by reference into this Part 900.

Section 20. The Violent Crime Victims Assistance Act is amended by changing Section 10 as follows:

(725 ILCS 240/10) (from Ch. 70, par. 510)

Sec. 10. Violent Crime Victims Assistance Fund.

(a) The "Violent Crime Victims Assistance Fund" is created as a special fund in the State Treasury to provide monies for the grants to be awarded under this Act.

(b) On and after September 18, 1986, there shall be an additional penalty collected from each defendant upon conviction of any felony or upon conviction of or disposition of supervision for any misdemeanor, or upon conviction of or disposition of supervision for any offense under the Illinois Vehicle Code, exclusive of offenses enumerated in paragraph (a)(2) of Section 6-204 of that Code, and exclusive of any offense enumerated in Article VI of Chapter 11 of that Code relating to restrictions, regulations and limitations on the speed at which a motor vehicle is driven or operated, an additional penalty of $4 for each $40, or fraction thereof, of fine imposed. Such additional amounts shall be collected by the Clerk of the Circuit Court in addition to the fine and costs in the case. Each such additional penalty collected under this subsection (b) or subsection (c) of this Section shall be remitted by the Clerk of the Circuit Court within one month after receipt to the State Treasurer for deposit into the Violent Crime Victims Assistance Fund, except as provided in subsection (g) of this Section. Such additional penalty shall not be considered a part of the fine for purposes of any reduction made in the fine for time served either before or after sentencing. Not later than March 1 of each year the Clerk of the Circuit Court shall submit to the State Comptroller a report of the amount of funds remitted by him to the State Treasurer under this Section during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in sentencing an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be computed on the amount remaining after deducting from the gross amount levied all fees of the Circuit Clerk, the State's Attorney and the Sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the Circuit Clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act and the fee, if applicable, payable to the county in which the violation occurred pursuant to Section 5-1101 of the Counties Code.

(c) When any person is convicted in Illinois on or after August 28, 1986, of an offense listed below, or placed on supervision for such an offense on or after September 18, 1986, and no other fine is imposed, the following penalty shall be collected by the Circuit Court Clerk:

(1) $25, for any crime of violence as defined in subsection (c) of Section 2 of the

Crime Victims Compensation Act; and

(2) $20, for any other felony or misdemeanor, excluding any conservation offense.

Such charge shall not be subject to the provisions of Section 110-14 of the Code of Criminal Procedure of 1963.

(d) Monies forfeited, and proceeds from the sale of property forfeited and seized, under the forfeiture provisions set forth in Part 500 of Article 124B of the Code of Criminal Procedure of 1963 ~~of Section 11-20.1A of the Criminal Code of 1961~~ shall be accepted for the Violent Crime Victims Assistance Fund.

(e) Investment income which is attributable to the investment of monies in the Violent Crime Victims Assistance Fund shall be credited to that fund for uses specified in this Act. The Treasurer shall provide the Attorney General a monthly status report on the amount of money in the Fund.

(f) Monies from the fund may be granted on and after July 1, 1984.

(g) All amounts and charges 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, or 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.

(Source: P.A. 89-688, eff. 6-1-97; 90-372, eff. 7-1-98.)

Section 99. Effective date. This Act takes effect January 1, 2010.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Dillard, **Senate Bill No. 1325**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Rutherford
Bivins	Forby	Lauzen	Sandoval
Bomke	Frerichs	Lightford	Schoenberg
Bond	Garrett	Link	Silverstein
Brady	Haine	Luechtefeld	Steans
Burzynski	Harmon	Maloney	Sullivan
Clayborne	Hendon	Martinez	Syverson
Collins	Holmes	Meeks	Trotter
Cronin	Hultgren	Muñoz	Viverito
Crotty	Hunter	Murphy	Wilhelmi
Dahl	Hutchinson	Noland	Mr. President
DeLeo	Jacobs	Radogno	
Delgado	Jones, E.	Raoul	
Demuzio	Jones, J.	Righter	
Dillard	Koehler	Risinger	

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).

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

SENATE BILL RECALLED

On motion of Senator Dillard, **Senate Bill No. 1300** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and Senator Dillard moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1300

AMENDMENT NO. 1. Amend Senate Bill 1300 by replacing everything after the enacting clause with the following:

"Section 10. 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, 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, 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. 94-556, eff. 9-11-05; 94-665, eff. 1-1-06; 94-1053, eff. 7-24-06; 95-120, eff. 8-13-07; 95-639, eff. 10-5-07; 95-876, eff. 8-21-08.)

Section 25. The Criminal Code of 1961 is amended by changing Sections 3-4, 4-5, 4-6, 4-7, 5-2, 7-11, 8-1, 8-1.2, 8-2, 8-4, 9-1, 9-2, 10-1, 10-2, 10-3, 10-3.1, 10-5, 10-5.5, 10-7, 11-9.3, 11-9.4, 25-1, 29B-1, 29D-25, 29D-35, and 36-1, by amending and renumbering Sections 9-3.1 (as 9-3.4), 25-1.1 (as 25-5), 25-2 (as 25-6), 29D-30 (as 29D-14.9), 20.5-5 (as 29D-15.1), 20.5-6 (as 29D-15.2), and 29D-15 (as 29D-29.9), and by adding Sections 10-9, 25-4, and 29D-35.1 as follows:

(720 ILCS 5/3-4) (from Ch. 38, par. 3-4)

Sec. 3-4. Effect of former prosecution.

(a) A prosecution is barred if the defendant was formerly prosecuted for the same offense, based upon the same facts, if that ~~such~~ former prosecution:

(1) resulted ~~Resulted~~ in either a conviction or an acquittal or in a determination that the evidence was

insufficient to warrant a conviction; ~~or~~

(2) was ~~Was~~ terminated by a final order or judgment, even if entered before trial, that ~~which~~ required

a determination inconsistent with any fact or legal proposition necessary to a conviction in the subsequent prosecution; or

(3) was ~~Was~~ terminated improperly after the jury was impaneled and sworn or, in a trial before

a court without a jury, after the first witness was sworn but before findings were rendered by the trier of facts, or after a plea of guilty was accepted by the court.

A conviction of an included offense, other than through a plea of guilty, is an acquittal of the offense charged.

(b) A prosecution is barred if the defendant was formerly prosecuted for a different offense, or for the same offense based upon different facts, if that ~~such~~ former prosecution:

(1) resulted ~~Resulted~~ in either a conviction or an acquittal, and the subsequent prosecution is for an offense of which the defendant could have been convicted on the former prosecution; or was for an offense with which the defendant should have been charged on the former prosecution, as provided in Section 3-3 of this Code (unless the court ordered a separate trial of that ~~such~~ charge); or was for an offense that ~~which~~ involves the same conduct, unless each prosecution requires proof of a fact not required on the other prosecution, or the offense was not consummated when the former trial began; ~~or~~

(2) was ~~Was~~ terminated by a final order or judgment, even if entered before trial, that ~~which~~ required

a determination inconsistent with any fact necessary to a conviction in the subsequent prosecution; or

(3) was ~~Was~~ terminated improperly under the circumstances stated in subsection ~~Subsection~~ (a), and the subsequent

prosecution is for an offense of which the defendant could have been convicted if the former prosecution had not been terminated improperly.

(c) A prosecution is barred if the defendant was formerly prosecuted in a District Court of the United States or in a sister state ~~State~~ for an offense that ~~which~~ is within the concurrent jurisdiction of this State, if that ~~such~~ former prosecution:

(1) resulted ~~Resulted~~ in either a conviction or an acquittal, and the subsequent prosecution is for the same conduct, unless each prosecution requires proof of a fact not required in the other prosecution, or the offense was not consummated when the former trial began; or

(2) was ~~Was~~ terminated by a final order or judgment, even if entered before trial, that ~~which~~ required

a determination inconsistent with any fact necessary to a conviction in the prosecution in this State.

(d) A ~~However, a~~ prosecution is not barred within the meaning of this Section 3-4 , however, if the former prosecution:

(1) was ~~Was~~ before a court that ~~which~~ lacked jurisdiction over the defendant or the offense; or

(2) was ~~Was~~ procured by the defendant without the knowledge of the proper prosecuting officer,

and with the purpose of avoiding the sentence that ~~which~~ otherwise might be imposed; or if subsequent proceedings resulted in the invalidation, setting aside, reversal, or vacating of the conviction, unless the defendant was thereby adjudged not guilty.

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/4-5) (from Ch. 38, par. 4-5)

Sec. 4-5. Knowledge. A person knows, or acts knowingly or with knowledge of:

(a) The nature or attendant circumstances of his or her conduct, described by the statute

defining the offense, when he or she is consciously aware that his or her conduct is of that ~~such~~ nature

or that those ~~such~~ circumstances exist. Knowledge of a material fact includes awareness of the substantial probability that the ~~such~~ fact exists.

(b) The result of his or her conduct, described by the statute defining the offense, when he or she is consciously aware that that ~~such~~ result is practically certain to be caused by his conduct.

Conduct performed knowingly or with knowledge is performed wilfully, within the meaning of a statute using the ~~latter~~ term "willfully", unless the statute clearly requires another meaning.

When the law provides that acting knowingly suffices to establish an element of an offense, that element also is established if a person acts intentionally.

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/4-6) (from Ch. 38, par. 4-6)

Sec. 4-6. Recklessness. A person is reckless or acts recklessly~~,~~ when that person ~~he~~ consciously disregards a substantial and unjustifiable risk that circumstances exist or that a result will follow, described by the statute defining the offense ~~,~~ ~~;~~ and that ~~such~~ disregard constitutes a gross deviation from the standard of care that ~~which~~ a reasonable person would exercise in the situation. An act performed recklessly is performed wantonly, within the meaning of a statute using the ~~latter~~ term "wantonly", unless the statute clearly requires another meaning.

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/4-7) (from Ch. 38, par. 4-7)

Sec. 4-7. Negligence. A person is negligent, or acts negligently, when that person ~~he~~ fails to be aware of a substantial and unjustifiable risk that circumstances exist or a result will follow, described by the statute defining the offense ~~,~~ ~~;~~ and that ~~such~~ failure constitutes a substantial deviation from the standard of care that ~~which~~ a reasonable person would exercise in the situation.

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/5-2) (from Ch. 38, par. 5-2)

Sec. 5-2. When accountability exists. A person is legally accountable for the conduct of another when:

(a) having ~~Having~~ a mental state described by the statute defining the offense, he or she causes another to perform the conduct, and the other person in fact or by reason of legal incapacity lacks such a mental state; ~~or~~

(b) the ~~The~~ statute defining the offense makes him or her so accountable; or

(c) either ~~Either~~ before or during the commission of an offense, and with the intent to promote or facilitate that ~~such~~ commission, he or she solicits, aids, abets, agrees, or attempts to aid that ~~, such~~ other person in the planning or commission of the offense.

When 2 or more persons engage in a common criminal design or agreement, any acts in the furtherance of that common design committed by one party are considered to be the acts of all parties to the common design or agreement and all are equally responsible for the consequences of those further acts. Mere presence at the scene of a crime does not render a person accountable for an offense; a person's presence at the scene of a crime, however, may be considered with other circumstances by the trier of fact when determining accountability.

A ~~However, a~~ person is not so accountable, however, unless the statute defining the offense provides otherwise, if:

(1) he or she ~~He~~ is a victim of the offense committed; ~~or~~

(2) the ~~The~~ offense is so defined that his or her conduct was inevitably incident to its commission;

or

(3) before ~~Before~~ the commission of the offense, he or she terminates his or her effort to promote or facilitate

that ~~such~~ commission~~,~~ and does one of the following: (i) wholly deprives his or her prior efforts of effectiveness in that ~~such~~ commission, (ii) ~~or~~ gives timely warning to the proper law enforcement authorities, or (iii) otherwise makes proper effort to prevent the commission of the offense.

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/7-11) (from Ch. 38, par. 7-11)

Sec. 7-11. Compulsion.

(a) A person is not guilty of an offense, other than an offense punishable with death, by reason of conduct that ~~which~~ he or she performs under the compulsion of threat or menace of the imminent infliction of death or great bodily harm, if he or she reasonably believes death or great bodily harm will be inflicted upon him or her, or upon his or her spouse or child, if he or she does not perform that ~~such~~ conduct.

(b) A married woman is not entitled, by reason of the presence of her husband, to any presumption of compulsion~~,~~ or to any defense of compulsion ~~,~~ except that stated in subsection ~~Subsection~~ (a).

(Source: Laws 1961, p. 1983.)

(720 ILCS 5/8-1) (from Ch. 38, par. 8-1)

Sec. 8-1. Solicitation and solicitation of murder.

(a) Solicitation ~~Elements of the offense~~. A person commits the offense of solicitation when, with intent that an offense be committed, other than first degree murder, he or she commands, encourages, or requests another to commit that offense.

(b) Solicitation of murder. A person commits the offense of solicitation of murder when he or she commits solicitation with the intent that the offense of first degree murder be committed.

(c) Sentence ~~(b) Penalty~~. A person convicted of solicitation may be fined or imprisoned or both not to exceed the maximum provided for the offense solicited , except that ~~: Provided, however,~~ the penalty shall not exceed the corresponding maximum limit provided by subparagraph (c) of Section 8-4 of this Code ~~Act, as heretofore and hereafter amended~~. Solicitation of murder is a Class X felony, and a person convicted of solicitation of murder shall be sentenced to a term of imprisonment of not less than 15 years and not more than 30 years, except that a person convicted of solicitation of murder when the person solicited was a person under the age of 17 years shall be sentenced to a term of imprisonment of not less than 20 years and not more than 60 years.

(Source: P.A. 85-1030.)

(720 ILCS 5/8-1.2) (from Ch. 38, par. 8-1.2)

Sec. 8-1.2. Solicitation of murder ~~Murder~~ for hire ~~Hire~~.

(a) A person commits the offense of solicitation of murder for hire when, with the intent that the offense of first degree murder be committed, he or she procures another to commit that offense pursuant to any contract, agreement, understanding, command, or request for money or anything of value.

(b) Sentence ~~Penalty~~. Solicitation of murder for hire is a Class X felony , and a person convicted of solicitation of murder for hire shall be sentenced to a term of imprisonment of not less than 20 years and not more than 40 years, except that a person convicted of solicitation of murder for hire when the person solicited was a person under the age of 17 years shall be sentenced to a term of imprisonment of not less than 25 years and not more than 60 years.

(Source: P.A. 85-1003; 85-1030; 85-1440.)

(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 ~~such~~ agreement is alleged and proved to have been committed by him or her or by a co-conspirator.

(b) Co-conspirators. It is ~~shall~~ not ~~be~~ a defense to conspiracy that the person or persons with whom the accused is alleged to have conspired:

(1) have ~~Has~~ not been prosecuted or convicted, ~~or~~

(2) have ~~Has~~ been convicted of a different offense, ~~or~~

(3) are ~~Is~~ not amenable to justice, ~~or~~

(4) have ~~Has~~ been acquitted, or

(5) lacked ~~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 5/11-15);

(B) pandering (720 ILCS 5/11-16);

(C) keeping a place a place of prostitution (720 ILCS 5/11-17);

(D) pimping (720 ILCS 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).

~~A person convicted of conspiracy may be fined or imprisoned or both not to exceed the maximum provided for the offense which is the object of the conspiracy, except that if the object is an offense prohibited by Sections 11-15, 11-16, 11-17, 11-19, 24-1(a)(1), 24-1(a)(7), 28-1, 28-3 and 28-4 of the "Criminal Code of 1961", approved July 28, 1961, as amended, or prohibited by Sections 404 or 406 (b) of the "Illinois Controlled Substances Act", enacted by the 77th General Assembly, or an inchoate offense related to any of the aforesaid principal offenses, the person convicted may be sentenced for a Class 3 felony however, conspiracy to commit treason, first degree murder, aggravated kidnapping, aggravated criminal sexual assault, or predatory criminal sexual assault of a child is a Class 1 felony, and conspiracy to commit any offense other than those specified in this subsection, and other than those set forth in Sections 401, 402, or 407 of the Illinois Controlled Substances Act, shall not be sentenced in excess of a Class 4 felony.~~

(Source: P.A. 94-184, eff. 7-12-05.)

(720 ILCS 5/8-4) (from Ch. 38, par. 8-4)

Sec. 8-4. Attempt.

(a) Elements of the offense ~~Offense~~.

A person commits the offense of ~~an~~ attempt when, with intent to commit a specific offense, he or she does any act that ~~which~~ constitutes a substantial step toward the commission of that offense.

(b) Impossibility.

It is ~~shall~~ not ~~be~~ a defense to a charge of attempt that because of a misapprehension of the circumstances it would have been impossible for the accused to commit the offense attempted.

(c) Sentence.

A person convicted of ~~an~~ attempt may be fined or imprisoned or both not to exceed the maximum provided for the offense attempted but, except for an attempt to commit the offense defined in Section 33A-2 of this Code: ~~Act,~~

(1) the sentence for attempt to commit first degree murder is the sentence for a Class X felony, except that

(A) an attempt to commit first degree murder when at least one of the aggravating factors specified in paragraphs (1), (2), and (12) of subsection (b) of Section 9-1 is present is a Class X felony for which the sentence shall be a term of imprisonment of not less than 20 years and not more than 80 years;

(B) an attempt to commit first degree murder while armed with a firearm is a Class X felony for which 15 years shall be added to the term of imprisonment imposed by the court;

(C) an attempt to commit first degree murder during which the person personally discharged a firearm is a Class X felony for which 20 years shall be added to the term of imprisonment imposed by the court;

(D) an attempt to commit first degree murder during which the person personally discharged a firearm that proximately caused great bodily harm, permanent disability, permanent disfigurement, or death to another person~~,~~ 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 ; and ~~,~~

(E) if the defendant proves by a preponderance of the evidence at sentencing that, at the time of

the attempted murder, he or she was acting under a sudden and intense passion resulting from serious provocation by the individual whom the defendant endeavored to kill, or another, and, had the individual the defendant endeavored to kill died, the defendant would have negligently or accidentally caused that death, then the sentence for the attempted murder is the sentence for a Class 1 felony;

(2) the sentence for attempt to commit a Class X felony is the sentence for a Class 1 felony;

(3) the sentence for attempt to commit a Class 1 felony is the sentence for a Class 2 felony;

(4) the sentence for attempt to commit a Class 2 felony is the sentence for a Class 3 felony; and

(5) the sentence for attempt to commit any felony other than those specified in items ~~subsections~~ (1), (2), (3), and (4) of this subsection (c) ~~hereof~~ is the sentence for a Class A misdemeanor.

(Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

(720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

Sec. 9-1. First degree Murder - Death penalties - Exceptions - Separate Hearings - Proof - Findings - Appellate procedures - Reversals.

(a) A person who kills an individual without lawful justification commits first degree murder if, in performing the acts which cause the death:

(1) he either intends to kill or do great bodily harm to that individual or another, or knows that such acts will cause death to that individual or another; or

(2) he knows that such acts create a strong probability of death or great bodily harm to that individual or another; or

(3) he is attempting or committing a forcible felony other than second degree murder.

(b) Aggravating Factors. A defendant who at the time of the commission of the offense has attained the age of 18 or more and who has been found guilty of first degree murder may be sentenced to death if:

(1) the murdered individual was a peace officer or fireman killed in the course of performing his official duties, to prevent the performance of his official duties, or in retaliation for performing his official duties, and the defendant knew or should have known that the murdered individual was a peace officer or fireman; or

(2) the murdered individual was an employee of an institution or facility of the Department of Corrections, or any similar local correctional agency, killed in the course of performing his official duties, to prevent the performance of his official duties, or in retaliation for performing his official duties, or the murdered individual was an inmate at such institution or facility and was killed on the grounds thereof, or the murdered individual was otherwise present in such institution or facility with the knowledge and approval of the chief administrative officer thereof; or

(3) the defendant has been convicted of murdering two or more individuals under subsection (a) of this Section or under any law of the United States or of any state which is substantially similar to subsection (a) of this Section regardless of whether the deaths occurred as the result of the same act or of several related or unrelated acts so long as the deaths were the result of either an intent to kill more than one person or of separate acts which the defendant knew would cause death or create a strong probability of death or great bodily harm to the murdered individual or another; or

(4) the murdered individual was killed as a result of the hijacking of an airplane, train, ship, bus or other public conveyance; or

(5) the defendant committed the murder pursuant to a contract, agreement or understanding by which he was to receive money or anything of value in return for committing the murder or procured another to commit the murder for money or anything of value; or

(6) the murdered individual was killed in the course of another felony if:

(a) the murdered individual:

(i) was actually killed by the defendant, or

(ii) received physical injuries personally inflicted by the defendant substantially contemporaneously with physical injuries caused by one or more persons for whose conduct the defendant is legally accountable under Section 5-2 of this Code, and the physical injuries inflicted by either the defendant or the other person or persons for whose conduct he is legally accountable caused the death of the murdered individual; and

(b) in performing the acts which caused the death of the murdered individual or which resulted in physical injuries personally inflicted by the defendant on the murdered individual under the circumstances of subdivision (ii) of subparagraph (a) of paragraph (6) of subsection (b) of

this Section, the defendant acted with the intent to kill the murdered individual or with the knowledge that his acts created a strong probability of death or great bodily harm to the murdered individual or another; and

(c) the other felony was an inherently violent crime or the attempt to commit an inherently violent crime. In this subparagraph (c), "inherently violent crime" includes, but is not limited to, armed robbery, robbery, predatory criminal sexual assault of a child, aggravated criminal sexual assault, aggravated kidnapping, aggravated vehicular hijacking, aggravated arson, aggravated stalking, residential burglary, and home invasion; or

(7) the murdered individual was under 12 years of age and the death resulted from exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(8) the defendant committed the murder with intent to prevent the murdered individual from testifying or participating in any criminal investigation or prosecution or giving material assistance to the State in any investigation or prosecution, either against the defendant or another; or the defendant committed the murder because the murdered individual was a witness in any prosecution or gave material assistance to the State in any investigation or prosecution, either against the defendant or another; for purposes of this paragraph (8), "participating in any criminal investigation or prosecution" is intended to include those appearing in the proceedings in any capacity such as trial judges, prosecutors, defense attorneys, investigators, witnesses, or jurors; or

(9) the defendant, while committing an offense punishable under Sections 401, 401.1, 401.2, 405, 405.2, 407 or 407.1 or subsection (b) of Section 404 of the Illinois Controlled Substances Act, or while engaged in a conspiracy or solicitation to commit such offense, intentionally killed an individual or counseled, commanded, induced, procured or caused the intentional killing of the murdered individual; or

(10) the defendant was incarcerated in an institution or facility of the Department of Corrections at the time of the murder, and while committing an offense punishable as a felony under Illinois law, or while engaged in a conspiracy or solicitation to commit such offense, intentionally killed an individual or counseled, commanded, induced, procured or caused the intentional killing of the murdered individual; or

(11) the murder was committed in a cold, calculated and premeditated manner pursuant to a preconceived plan, scheme or design to take a human life by unlawful means, and the conduct of the defendant created a reasonable expectation that the death of a human being would result therefrom; or

(12) the murdered individual was an emergency medical technician - ambulance, emergency medical technician - intermediate, emergency medical technician - paramedic, ambulance driver, or other medical assistance or first aid personnel, employed by a municipality or other governmental unit, killed in the course of performing his official duties, to prevent the performance of his official duties, or in retaliation for performing his 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 assistance or first aid personnel; or

(13) the defendant was a principal administrator, organizer, or leader of a calculated criminal drug conspiracy consisting of a hierarchical position of authority superior to that of all other members of the conspiracy, and the defendant counseled, commanded, induced, procured, or caused the intentional killing of the murdered person; or

(14) the murder was intentional and involved the infliction of torture. For the purpose of this Section torture means the infliction of or subjection to extreme physical pain, motivated by an intent to increase or prolong the pain, suffering or agony of the victim; or

(15) the murder was committed as a result of the intentional discharge of a firearm by the defendant from a motor vehicle and the victim was not present within the motor vehicle; or

(16) the murdered individual was 60 years of age or older and the death resulted from exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(17) the murdered individual was a disabled person and the defendant knew or should have known that the murdered individual was disabled. For purposes of this paragraph (17), "disabled person" means a person who suffers from a permanent physical or mental impairment resulting from disease, an injury, a functional disorder, or a congenital condition that renders the person incapable of adequately providing for his or her own health or personal care; or

(18) 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; or

(19) the murdered individual was subject to an order of protection and the murder was committed by a person against whom the same order of protection was issued under the Illinois

Domestic Violence Act of 1986; or

(20) the murdered individual was known by the defendant to be a teacher or other person employed in any school and the teacher or other employee is upon the grounds of a school or grounds adjacent to a school, or is in any part of a building used for school purposes; or

(21) the murder was committed by the defendant in connection with or as a result of the offense of terrorism as defined in Section 29D-14.9 ~~29D-30~~ of this Code.

(c) Consideration of factors in Aggravation and Mitigation.

The court shall consider, or shall instruct the jury to consider any aggravating and any mitigating factors which are relevant to the imposition of the death penalty. Aggravating factors may include but need not be limited to those factors set forth in subsection (b). Mitigating factors may include but need not be limited to the following:

(1) the defendant has no significant history of prior criminal activity;

(2) the murder was committed while the defendant was under the influence of extreme mental or emotional disturbance, although not such as to constitute a defense to prosecution;

(3) the murdered individual was a participant in the defendant's homicidal conduct or consented to the homicidal act;

(4) the defendant acted under the compulsion of threat or menace of the imminent infliction of death or great bodily harm;

(5) the defendant was not personally present during commission of the act or acts causing death;

(6) the defendant's background includes a history of extreme emotional or physical abuse;

(7) the defendant suffers from a reduced mental capacity.

(d) Separate sentencing hearing.

Where requested by the State, the court shall conduct a separate sentencing proceeding to determine the existence of factors set forth in subsection (b) and to consider any aggravating or mitigating factors as indicated in subsection (c). The proceeding shall be conducted:

(1) before the jury that determined the defendant's guilt; or

(2) before a jury impanelled for the purpose of the proceeding if:

A. the defendant was convicted upon a plea of guilty; or

B. the defendant was convicted after a trial before the court sitting without a jury; or

C. the court for good cause shown discharges the jury that determined the defendant's guilt; or

(3) before the court alone if the defendant waives a jury for the separate proceeding.

(e) Evidence and Argument.

During the proceeding any information relevant to any of the factors set forth in subsection (b) may be presented by either the State or the defendant under the rules governing the admission of evidence at criminal trials. Any information relevant to any additional aggravating factors or any mitigating factors indicated in subsection (c) may be presented by the State or defendant regardless of its admissibility under the rules governing the admission of evidence at criminal trials. The State and the defendant shall be given fair opportunity to rebut any information received at the hearing.

(f) Proof.

The burden of proof of establishing the existence of any of the factors set forth in subsection (b) is on the State and shall not be satisfied unless established beyond a reasonable doubt.

(g) Procedure - Jury.

If at the separate sentencing proceeding the jury finds that none of the factors set forth in subsection (b) exists, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections. If there is a unanimous finding by the jury that one or more of the factors set forth in subsection (b) exist, the jury shall consider aggravating and mitigating factors as instructed by the court and shall determine whether the sentence of death shall be imposed. If the jury determines unanimously, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence, the court shall sentence the defendant to death. If the court does not concur with the jury determination that death is the appropriate sentence, the court shall set forth reasons in writing including what facts or circumstances the court relied upon, along with any relevant documents, that compelled the court to non-concur with the sentence. This document and any attachments shall be part of the record for appellate review. The court shall be bound by the jury's sentencing determination.

If after weighing the factors in aggravation and mitigation, one or more jurors determines that death is not the appropriate sentence, the court shall sentence the defendant to a term of imprisonment under

Chapter V of the Unified Code of Corrections.

(h) Procedure - No Jury.

In a proceeding before the court alone, if the court finds that none of the factors found in subsection (b) exists, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.

If the Court determines that one or more of the factors set forth in subsection (b) exists, the Court shall consider any aggravating and mitigating factors as indicated in subsection (c). If the Court determines, after weighing the factors in aggravation and mitigation, that death is the appropriate sentence, the Court shall sentence the defendant to death.

If the court finds that death is not the appropriate sentence, the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.

(h-5) Decertification as a capital case.

In a case in which the defendant has been found guilty of first degree murder by a judge or jury, or a case on remand for resentencing, and the State seeks the death penalty as an appropriate sentence, on the court's own motion or the written motion of the defendant, the court may decertify the case as a death penalty case if the court finds that the only evidence supporting the defendant's conviction is the uncorroborated testimony of an informant witness, as defined in Section 115-21 of the Code of Criminal Procedure of 1963, concerning the confession or admission of the defendant or that the sole evidence against the defendant is a single eyewitness or single accomplice without any other corroborating evidence. If the court decertifies the case as a capital case under either of the grounds set forth above, the court shall issue a written finding. The State may pursue its right to appeal the decertification pursuant to Supreme Court Rule 604(a)(1). If the court does not decertify the case as a capital case, the matter shall proceed to the eligibility phase of the sentencing hearing.

(i) Appellate Procedure.

The conviction and sentence of death shall be subject to automatic review by the Supreme Court. Such review shall be in accordance with rules promulgated by the Supreme Court. The Illinois Supreme Court may overturn the death sentence, and order the imposition of imprisonment under Chapter V of the Unified Code of Corrections if the court finds that the death sentence is fundamentally unjust as applied to the particular case. If the Illinois Supreme Court finds that the death sentence is fundamentally unjust as applied to the particular case, independent of any procedural grounds for relief, the Illinois Supreme Court shall issue a written opinion explaining this finding.

(j) Disposition of reversed death sentence.

In the event that the death penalty in this Act is held to be unconstitutional by the Supreme Court of the United States or of the State of Illinois, any person convicted of first degree murder shall be sentenced by the court to a term of imprisonment under Chapter V of the Unified Code of Corrections.

In the event that any death sentence pursuant to the sentencing provisions of this Section is declared unconstitutional by the Supreme Court of the United States or of the State of Illinois, the court having jurisdiction over a person previously sentenced to death shall cause the defendant to be brought before the court, and the court shall sentence the defendant to a term of imprisonment under Chapter V of the Unified Code of Corrections.

(k) Guidelines for seeking the death penalty.

The Attorney General and State's Attorneys Association shall consult on voluntary guidelines for procedures governing whether or not to seek the death penalty. The guidelines do not have the force of law and are only advisory in nature.

(Source: P.A. 92-854, eff. 12-5-02; 93-605, eff. 11-19-03.)

(720 ILCS 5/9-2) (from Ch. 38, par. 9-2)

Sec. 9-2. Second degree murder ~~Degree Murder~~.

(a) A person commits the offense of second degree murder when he or she commits the offense of first degree murder as defined in paragraph ~~paragraphs~~ (1) or (2) of subsection (a) of Section 9-1 of this Code and either of the following mitigating factors are present:

(1) at ~~At~~ the time of the killing he or she is acting under a sudden and intense passion resulting from serious provocation by the individual killed or another whom the offender endeavors to kill, but he or she negligently or accidentally causes the death of the individual killed; or

(2) at ~~At~~ the time of the killing he or she believes the circumstances to be such that, if they existed, would justify or exonerate the killing under the principles stated in Article 7 of this Code, but his or her belief is unreasonable.

(b) Serious provocation is conduct sufficient to excite an intense passion in a reasonable person.

(c) When ~~a defendant is on trial for first degree murder and~~ evidence of either of the mitigating factors defined in subsection (a) of this Section has been presented, the burden of proof is on the defendant to

prove either mitigating factor by a preponderance of the evidence before the defendant can be found guilty of second degree murder. The ~~However, the~~ burden of proof , however, remains on the State to prove beyond a reasonable doubt each of the elements of first degree murder and, when appropriately raised, the absence of circumstances at the time of the killing that would justify or exonerate the killing under the principles stated in Article 7 of this Code. ~~In a jury trial for first degree murder in which evidence of either of the mitigating factors defined in subsection (a) of this Section has been presented and the defendant has requested that the jury be given the option of finding the defendant guilty of second degree murder, the jury must be instructed that it may not consider whether the defendant has met his burden of proof with regard to second degree murder until and unless it has first determined that the State has proven beyond a reasonable doubt each of the elements of first degree murder.~~

(d) Sentence. Second degree murder ~~Degree Murder~~ is a Class 1 felony.

(Source: P.A. 84-1450.)

(720 ILCS 5/9-3.4) (was 720 ILCS 5/9-3.1)

Sec. 9-3.4 ~~9-3.1~~. Concealment of homicidal death.

(a) A person commits the offense of concealment of homicidal death when he or she knowingly conceals the death of any other person with knowledge that such other person has died by homicidal means.

(b) Nothing in this Section prevents the defendant from also being charged with and tried for the first degree murder, second degree murder, or involuntary manslaughter of the person whose death is concealed. ~~If a person convicted under this Section is also convicted of first degree murder, second degree murder or involuntary manslaughter, the penalty under this Section shall be imposed separately and in addition to the penalty for first degree murder, second degree murder or involuntary manslaughter.~~

(b-5) For purposes of this Section:

"Conceal" means the performing of some act or acts for the purpose of preventing or delaying the discovery of a death by homicidal means. "Conceal" means something more than simply withholding knowledge or failing to disclose information.

"Homicidal means" means any act or acts, lawful or unlawful, of a person that cause the death of another person.

(c) Sentence. Concealment of homicidal death is a Class 3 felony.

(Source: P.A. 84-1308; 84-1450.)

(720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

Sec. 10-1. Kidnapping.~~)~~

(a) A person commits the offense of kidnapping when he or she ~~Kidnapping occurs when a person~~ knowingly:

(1) and ~~And~~ secretly confines another against his or her will; ~~, or~~

(2) by ~~By~~ force or threat of imminent force carries another from one place to another with intent secretly to confine that other person ~~him~~ against his or her will; ~~,~~ or

(3) by ~~By~~ deceit or enticement induces another to go from one place to another with intent secretly to confine that other person ~~him~~ against his or her will.

(b) Confinement of a child under the age of 13 years, or of a severely or profoundly mentally retarded person, is against that child's or person's ~~his~~ will within the meaning of this Section if that ~~such~~ confinement is without the consent of that child's or person's ~~his~~ parent or legal guardian.

(c) Sentence. Kidnapping is a Class 2 felony.

(Source: P.A. 79-765.)

(720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

Sec. 10-2. Aggravated kidnaping.

(a) A person commits ~~kidnaper within the definition of paragraph (a) of Section 10-1 is guilty of~~ the offense of aggravated kidnaping when he or she commits kidnapping and:

(1) kidnaps with the intent to obtain ~~Kidnaps for the purpose of obtaining~~ ransom from the person kidnaped or from any other person ; ~~, or~~

(2) takes ~~Takes~~ as his or her victim a child under the age of 13 years, or a severely or profoundly mentally retarded person; ~~, or~~

(3) inflicts ~~Inflicts~~ great bodily harm, other than by the discharge of a firearm, or commits another felony upon his or her victim; ~~, or~~

(4) wears ~~Wears~~ a hood, robe , or mask or conceals his or her identity; ~~, or~~

(5) commits ~~Commits~~ the offense of kidnaping while armed with a dangerous weapon, other than a firearm, as defined in Section 33A-1 of this ~~the "Criminal~~ Code ; ~~of 1961", or~~

(6) commits ~~Commits~~ the offense of kidnaping while armed with a firearm ; ~~, or~~

(7) during ~~During~~ the commission of the offense of kidnaping, personally discharges ~~discharged~~ a firearm ~~;~~ , or

(8) during ~~During~~ the commission of the offense of kidnaping, personally discharges ~~discharged~~ a firearm that

proximately causes ~~caused~~ great bodily harm, permanent disability, permanent disfigurement, or death to another person.

As used in this Section, "ransom" includes money, benefit, or other valuable thing or concession.

(b) Sentence. Aggravated kidnaping in violation of paragraph (1), (2), (3), (4), or (5) of subsection (a) is a Class X felony. A violation of subsection (a)(6) 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)(7) 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)(8) 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.

A person who is convicted of a second or subsequent offense of aggravated kidnaping shall be sentenced to a term of natural life imprisonment; except ~~provided, however,~~ that a sentence of natural life imprisonment shall not be imposed under this Section unless the second or subsequent offense was committed after conviction on the first offense.

(Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02.)

(720 ILCS 5/10-3) (from Ch. 38, par. 10-3)

Sec. 10-3. Unlawful restraint.~~)~~

(a) A person commits the offense of unlawful restraint when he or she knowingly without legal authority detains another.

(b) Sentence. Unlawful restraint is a Class 4 felony.

(Source: P.A. 79-840.)

(720 ILCS 5/10-3.1) (from Ch. 38, par. 10-3.1)

Sec. 10-3.1. Aggravated unlawful restraint ~~Unlawful Restraint~~.

(a) A person commits the offense of aggravated unlawful restraint when he or she commits unlawful restraint ~~knowingly without legal authority detains another~~ while using a deadly weapon.

(b) Sentence. Aggravated unlawful restraint is a Class 3 felony.

(Source: P.A. 84-930.)

(720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

Sec. 10-5. Child abduction ~~Abduction~~.

(a) For purposes of this Section, the following terms ~~shall~~ have the following meanings:

(1) "Child" means a person who, at the time the alleged violation occurred, was under the age of 18 or ~~a~~ severely or profoundly mentally

retarded, ~~person at the time the alleged violation occurred ; and~~

(2) "Detains" means taking or retaining physical custody of a child, whether or not the child resists or objects, ~~; and~~

(3) "Lawful custodian" means a person or persons granted legal custody of a child or entitled to physical possession of a child pursuant to a court order. It is presumed that, when the parties have never been married to each other, the mother has legal custody of the child unless a valid court order states otherwise. If an adjudication of paternity has been completed and the father has been assigned support obligations or visitation rights, such a paternity order should, for the purposes of this Section, be considered a valid court order granting custody to the mother.

(4) "Putative father" means a man who has a reasonable belief that he is the father of a child born of a woman who is not his wife.

(b) A person commits the offense of child abduction when he or she does any one of the following:

(1) Intentionally violates any terms of a valid court order granting sole or joint custody, care, or possession to another ~~,~~ by concealing or detaining the child or removing the child from the jurisdiction of the court . ~~; or~~

(2) Intentionally violates a court order prohibiting the person from concealing or detaining the child or removing the child from the jurisdiction of the court, ~~; or~~

(3) Intentionally conceals, detains, or removes the child without the consent of the mother or lawful custodian of the child if the person is a putative father and either: (A) the paternity of the child has not been legally established or (B) the paternity of the child has been legally established but no orders relating to custody have been entered. Notwithstanding ~~However, notwithstanding~~ the presumption created by paragraph (3) of subsection (a), however, a mother commits child abduction when she intentionally conceals or removes a child, whom she has abandoned or relinquished custody of, from an unadjudicated father who has provided sole ongoing care and custody of the child in her

absence. ~~; or~~

(4) Intentionally conceals or removes the child from a parent after filing a petition or being served with process in an action affecting marriage or paternity but prior to the issuance of a temporary or final order determining custody. ~~; or~~

(5) At the expiration of visitation rights outside the State, intentionally fails or refuses to return or impedes the return of the child to the lawful custodian in Illinois. ~~; or~~

(6) Being a parent of the child, and if ~~where~~ the parents of that ~~such~~ child are or have been married and there has been no court order of custody, knowingly conceals the child for 15 days, and fails to make reasonable attempts within the 15-day ~~15-day~~ period to notify the other parent as to the specific whereabouts of the child, including a means by which to contact the ~~such~~ child, or to arrange reasonable visitation or contact with the child. It is not a violation of this Section for a person fleeing domestic violence to take the child with him or her to housing provided by a domestic violence program . ~~; or~~

(7) Being a parent of the child, and if ~~where~~ the parents of the child are or have been married and there has been no court order of custody, knowingly conceals, detains, or removes the child with physical force or threat of physical force. ~~; or~~

(8) Knowingly conceals ~~Conceals~~, detains, or removes the child for payment or promise of payment at the instruction of a person who has no legal right to custody. ~~; or~~

(9) Knowingly retains ~~Retains~~ in this State for 30 days a child removed from another state without the consent of the lawful custodian or in violation of a valid court order of custody. ~~; or~~

(10) Intentionally lures or attempts to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the child's parent or lawful custodian ~~of the child~~ for other than a lawful purpose. For the purposes of this item ~~subsection (b), paragraph~~ (10), the luring or attempted luring of a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place without the consent of the child's parent or lawful custodian is ~~of the child shall be~~ prima facie evidence of other than a lawful purpose.

(11) With the intent to obstruct or prevent efforts to locate the child victim of a child abduction, knowingly destroys, alters, conceals, or disguises physical evidence or furnishes false information.

(c) It is ~~shall be~~ an affirmative defense to subsections (b)(1) through (b)(10) of this Section that:

(1) the ~~The~~ person had custody of the child pursuant to a court order granting legal custody or visitation rights that ~~which~~ existed at the time of the alleged violation; ~~or~~

(2) the ~~The~~ person had physical custody of the child pursuant to a court order granting legal custody or visitation rights and failed to return the child as a result of circumstances beyond his or her control, and the person notified and disclosed to the other parent or legal custodian the specific whereabouts of the child and a means by which the ~~such~~ child could ~~can~~ be contacted or made a reasonable attempt to notify the other parent or lawful custodian of the child of those ~~such~~ circumstances and made the ~~make such~~ disclosure within 24 hours after the visitation period had expired and returned the child as soon as possible; ~~or~~

(3) the ~~The~~ person was fleeing an incidence or pattern of domestic violence; or

(4) the ~~The~~ person lured or attempted to lure a child under the age of 16 into a motor vehicle, building, housetrailer, or dwelling place for a lawful purpose in prosecutions under paragraph (10) of subsection (b) ~~, paragraph (10)~~.

(d) A person convicted of child abduction under this Section is guilty of a Class 4 felony. A person convicted of a second or subsequent violation of paragraph (10) of subsection (b) of this Section is guilty of a Class 3 felony. It is ~~shall be~~ a factor in aggravation under subsections (b)(1) through (b)(10) of this Section for which a court may impose a more severe sentence under Section 5-8-1 of the Unified Code of Corrections ~~,~~ if , upon sentencing, the court finds evidence of any of the following aggravating factors:

(1) that the defendant abused or neglected the child following the concealment, detention, or removal of the child; ~~or~~

(2) that the defendant inflicted or threatened to inflict physical harm on a parent or lawful custodian of the child or on the child with intent to cause that ~~such~~ parent or lawful custodian to discontinue criminal prosecution of the defendant under this Section; ~~or~~

(3) that the defendant demanded payment in exchange for return of the child or demanded that he or she be relieved of the financial or legal obligation to support the child in exchange for return of the child; ~~or~~

(4) that the defendant has previously been convicted of child abduction; ~~or~~

(5) that the defendant committed the abduction while armed with a deadly weapon or the taking of the child resulted in serious bodily injury to another; or

(6) that the defendant committed the abduction while in a school, regardless of the time of day or time of year; in a playground; 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 or playground. For purposes of this paragraph (6), "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; and "school" means a public or private elementary or secondary school, community college, college, or university.

(e) The court may order the child to be returned to the parent or lawful custodian from whom the child was concealed, detained, or removed. In addition to any sentence imposed, the court may assess any reasonable expense incurred in searching for or returning the child against any person convicted of violating this Section.

(f) Nothing contained in this Section shall be construed to limit the court's contempt power.

(g) Every law enforcement officer investigating an alleged incident of child abduction shall make a written police report of any bona fide allegation and the disposition of that ~~such~~ investigation. Every police report completed pursuant to this Section shall be compiled and recorded within the meaning of Section 5.1 of the Criminal Identification Act ~~"An Act in relation to criminal identification and investigation", approved July 2, 1931, as now or hereafter amended~~.

(h) Whenever a law enforcement officer has reasons to believe a child abduction has occurred, she or he shall provide the lawful custodian a summary of her or his rights under this Code ~~Act~~, including the procedures and relief available to her or him.

(i) If during the course of an investigation under this Section the child is found in the physical custody of the defendant or another, the law enforcement officer shall return the child to the parent or lawful custodian from whom the child was concealed, detained, or removed, unless there is good cause for the law enforcement officer or the Department of Children and Family Services to retain temporary protective custody of the child pursuant to the Abused and Neglected Child Reporting Act ~~, as now or hereafter amended~~.

(Source: P.A. 92-434, eff. 1-1-02.)

(720 ILCS 5/10-5.5)

Sec. 10-5.5. Unlawful visitation interference.

(a) As used in this Section, the terms "child", "detain", and "lawful custodian" ~~shall~~ have the meanings ascribed to them in Section 10-5 of this Code.

(b) Every person who, in violation of the visitation provisions of a court order relating to child custody, detains or conceals a child with the intent to deprive another person of his or her rights to visitation commits the offense ~~shall be guilty~~ of unlawful visitation interference.

(c) A person committing unlawful visitation interference is guilty of a petty offense. Any ~~However, any~~ person violating this Section after 2 prior convictions of unlawful visitation interference , however, is guilty of a Class A misdemeanor.

(d) Any law enforcement officer who has probable cause to believe that a person has committed or is committing an act in violation of this Section shall issue to that person a notice to appear.

(e) The notice shall:

(1) be in writing;

(2) state the name of the person and his or her address, if known;

(3) set forth the nature of the offense;

(4) be signed by the officer issuing the notice; and

(5) request the person to appear before a court at a certain time and place.

(f) Upon failure of the person to appear, a summons or warrant of arrest may be issued.

(g) It is an affirmative defense that:

(1) a person or lawful custodian committed the act to protect the child from imminent physical harm, provided that the defendant's belief that there was physical harm imminent was reasonable and that the defendant's conduct in withholding visitation rights was a reasonable response to the harm believed imminent;

(2) the act was committed with the mutual consent of all parties having a right to custody and visitation of the child; or

(3) the act was otherwise authorized by law.

~~(h) A person convicted of unlawful visitation interference shall not be subject to a civil contempt citation for the same conduct for violating visitation provisions of a court order issued under the Illinois~~

~~Marriage and Dissolution of Marriage Act.~~
(Source: P.A. 88-96.)

(720 ILCS 5/10-7) (from Ch. 38, par. 10-7)

Sec. 10-7. Aiding or ~~and~~ abetting child abduction.

(a) A person violates this Section when, before ~~: (i) Before~~ or during the commission of a child abduction as defined in Section 10-5 and with the intent to promote or facilitate such offense, he or she intentionally aids or abets another in the planning or commission of child abduction, unless before the commission of the offense he or she makes proper effort to prevent the commission of the offense~~; or (ii) With the intent to prevent the apprehension of a person known to have committed the offense of child abduction, or with the intent to obstruct or prevent efforts to locate the child victim of a child abduction, he or she knowingly destroys, alters, conceals or disguises physical evidence or furnishes false information~~.

(b) Sentence. A person who violates this Section commits a Class 4 felony.
(Source: P.A. 84-1308.)

(720 ILCS 5/10-9 new)

Sec. 10-9. Trafficking in persons, involuntary servitude, and related offenses.

(a) Definitions. In this Section:

(1) "Intimidation" has the meaning prescribed in Section 12-6.

(2) "Commercial sexual activity" means any sex act on account of which anything of value is given, promised to, or received by any person.

(3) "Financial harm" includes intimidation that brings about financial loss, criminal usury, or employment contracts that violate the Frauds Act.

(4) "Forced labor or services" means labor or services that are performed or provided by another person and are obtained or maintained through:

(A) any scheme, plan, or pattern intending to cause or threatening to cause serious harm to any person;

(B) an actor's physically restraining or threatening to physically restrain another person;

(C) an actor's abusing or threatening to abuse the law or legal process;

(D) an actor's knowingly destroying, concealing, removing, confiscating, or possessing any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person;

(E) an actor's blackmail; or

(F) an actor's causing or threatening to cause financial harm to or exerting financial control over any person.

(5) "Labor" means work of economic or financial value.

(6) "Maintain" means, in relation to labor or services, to secure continued performance thereof, regardless of any initial agreement on the part of the victim to perform that type of service.

(7) "Obtain" means, in relation to labor or services, to secure performance thereof.

(8) "Services" means activities resulting from a relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor. Commercial sexual activity and sexually-explicit performances are forms of activities that are "services" under this Section. Nothing in this definition may be construed to legitimize or legalize prostitution.

(9) "Sexually-explicit performance" means a live, recorded, broadcast (including over the Internet), or public act or show intended to arouse or satisfy the sexual desires or appeal to the prurient interests of patrons.

(10) "Trafficking victim" means a person subjected to the practices set forth in subsection (b), (c), or (d).

(b) Involuntary servitude. A person commits the offense of involuntary servitude when he or she knowingly subjects, attempts to subject, or engages in a conspiracy to subject another person to forced labor or services and:

(1) causes or threatens to cause physical harm to any person;

(2) physically restrains or threatens to physically restrain another person;

(3) abuses or threatens to abuse the law or legal process;

(4) knowingly destroys, conceals, removes, confiscates, or possesses any actual or purported passport or other immigration document, or any other actual or purported government identification document, of another person; or

(5) uses intimidation, or uses or threatens to cause financial harm to or exerts financial control over any person.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (b)(1) is a

Class X felony, (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4) is a Class 3 felony, and (b)(5) is a Class 4 felony.

(c) Involuntary sexual servitude of a minor. A person commits the offense of involuntary sexual servitude of a minor when he or she knowingly recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, provide, or obtain by any means, another person under 18 years of age, knowing that the minor will engage in commercial sexual activity, a sexually-explicit performance, or the production of pornography, or causes or attempts to cause a minor to engage in one or more of those activities and:

(1) there is no overt force or threat and the minor is between the ages of 17 and 18 years;

(2) there is no overt force or threat and the minor is under the age of 17 years; or

(3) there is overt force or threat.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of subsection (c)(1) is a Class 1 felony, (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

(d) Trafficking in persons for forced labor or services. A person commits the offense of trafficking in persons for forced labor or services when he or she knowingly: (1) recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, provide, or obtain by any means, another person, intending or knowing that the person will be subjected to forced labor or services; or (2) benefits, financially or by receiving anything of value, from participation in a venture that has engaged in an act of involuntary servitude or involuntary sexual servitude of a minor.

Sentence. Except as otherwise provided in subsection (e) or (f), a violation of this subsection is a Class 1 felony.

(e) Aggravating factors. A violation of this Section involving kidnapping or an attempt to kidnap, aggravated criminal sexual assault or an attempt to commit aggravated criminal sexual assault, or an attempt to commit first degree murder is a Class X felony.

(f) Sentencing considerations.

(1) Bodily injury. If, pursuant to a violation of this Section, a victim suffered bodily injury, the defendant may be sentenced to an extended-term sentence under Section 5-8-2 of the Unified Code of Corrections. The sentencing court must take into account the time in which the victim was held in servitude, with increased penalties for cases in which the victim was held for between 180 days and one year, and increased penalties for cases in which the victim was held for more than one year.

(2) Number of victims. In determining sentences within statutory maximums, the sentencing court should take into account the number of victims, and may provide for substantially-increased sentences in cases involving more than 10 victims.

(g) Restitution. Restitution is mandatory under this Section. In addition to any other amount of loss identified, the court shall order restitution including the greater of (1) the gross income or value to the defendant of the victim's labor or services or (2) the value of the victim's labor as guaranteed under the Minimum Wage Law and overtime provisions of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law, whichever is greater.

(h) Trafficking victim services. Subject to the availability of funds, the Department of Human Services may provide or fund emergency services and assistance to individuals who are victims of one or more offenses defined in this Section.

(i) Certification. The Attorney General, a State's Attorney, or any law enforcement official shall certify in writing to the United States Department of Justice or other federal agency, such as the United States Department of Homeland Security, that an investigation or prosecution under this Section has begun and the individual who is a likely victim of a crime described in this Section is willing to cooperate or is cooperating with the investigation to enable the individual, if eligible under federal law, to qualify for an appropriate special immigrant visa and to access available federal benefits. Cooperation with law enforcement shall not be required of victims of a crime described in this Section who are under 18 years of age. This certification shall be made available to the victim and his or her designated legal representative.

(j) A person who commits the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services under subsection (b), (c), or (d) of this Section shall forfeit to the State of Illinois any profits or proceeds and any interest or property he or she has acquired or maintained in violation of subsection (b), (c), or (d) of this Section that the sentencing court determines, after a forfeiture hearing, to have been acquired or maintained as a result of maintaining a person in involuntary servitude or participating in trafficking in persons for forced labor or services.

Upon petition by the Attorney General or State's Attorney at any time following sentencing, the court shall conduct a hearing to determine whether any property or property interest is subject to forfeiture

under this Section. At the forfeiture hearing the People have the burden of establishing, by a preponderance of the evidence, that property or property interests are subject to forfeiture under this Section.

In any action brought by the People of the State of Illinois under this Section, in which a restraining order, injunction, or prohibition or any other action in connection with any property or interest subject to forfeiture under this Section is sought, the circuit court presiding over the trial of the person or persons charged with involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services shall first determine whether there is probable cause to believe that the person or persons so charged have committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services and whether the property or interest is subject to forfeiture under this Section. In order to make that determination, prior to entering any such order, the court shall conduct a hearing without a jury, in which the People shall establish that there is: (i) probable cause that the person or persons so charged have committed the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services and (ii) probable cause that any property or interest may be subject to forfeiture under this Section. The hearing may be conducted simultaneously with a preliminary hearing, if the prosecution is commenced by information or complaint, or by motion of the People, at any stage in the proceedings. The court may accept a finding of probable cause at a preliminary hearing following the filing of an information charging the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services or the return of an indictment by a grand jury charging the offense of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services as sufficient evidence of probable cause as provided in item (i) of this paragraph. Upon the a finding, the circuit court shall enter the restraining order, injunction, or prohibition, or shall take such other action in connection with any such property or other interest subject to forfeiture, as is necessary to ensure that the property is not removed from the jurisdiction of the court, concealed, destroyed, or otherwise disposed of by the owner of that property or interest prior to a forfeiture hearing under this Section. The Attorney General or State's Attorney shall file a certified copy of the restraining order, injunction, or other prohibition with the recorder or registrar of titles of each county where any such property of the defendant may be located. No such injunction, restraining order, or other prohibition shall affect the rights of any bona fide purchaser, mortgagee, judgment creditor, or other lien holder arising prior to the date of that filing. At any time, upon verified petition by the defendant or an innocent owner or innocent bona fide third party lien holder who neither had knowledge of, nor consented to, the illegal act or omission, the court may conduct a hearing to release all or portions of any such property or interest that the court previously determined to be subject to forfeiture or subject to any restraining order, injunction, or prohibition or other action. The court may release that property to the defendant or innocent owner or innocent bona fide third party lien holder who neither had knowledge of nor consented to the illegal act or omission for good cause shown and within the sound discretion of the court.

Upon conviction of a person of involuntary servitude, involuntary sexual servitude of a minor, or trafficking in persons for forced labor or services, the court shall authorize the Attorney General to seize all property or other interest declared forfeited under this Section upon terms and conditions the court deems proper.

All moneys forfeited and the sale proceeds of all other property forfeited and seized under this Section shall be distributed as follows:

(1) one-half shall be divided equally between all State agencies and units of local government whose officers or employees conducted the investigation that resulted in the forfeiture; and

(2) one-half shall be deposited into the Violent Crime Victims Assistance Fund and targeted to services for victims of the offenses of involuntary servitude, involuntary sexual servitude of a minor, and trafficking in persons for forced labor or services.

(720 ILCS 5/11-9.3)

Sec. 11-9.3. Presence within school zone 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.

(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-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.

(c) 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 (c) 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 ~~and~~ 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), 11-9 (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), 11-15.1 (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), 11-20.3 (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). 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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-15 (criminal sexual abuse), 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 (c) of this Section.

(2.5) For the purposes of subsection (b-5) 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 ~~and~~ abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 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), 11-20.3 (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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and 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 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 (c) of this Section shall constitute a conviction for the purpose of this 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) "School" means a public or private pre-school, elementary, or secondary school.

(5) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around school 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.

(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.

(d) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-158, eff. 7-11-05; 94-164, eff. 1-1-06; 94-170, eff. 7-11-05; 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; revised 9-23-08.)

(720 ILCS 5/11-9.4)

(Text of Section before amendment by P.A. 95-983)

Sec. 11-9.4. Approaching, contacting, residing, 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 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 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 playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-5) 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 the effective date of this amendatory Act of the 91st General Assembly. Nothing in this subsection (b-5) 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 the effective date of this amendatory Act of the 94th General Assembly. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a day care home or group day care home if the property is owned by the child sex offender and was purchased before August 14, 2008 (the effective date of Public Act 95-821) ~~this amendatory Act of the 95th General Assembly~~.

(b-6) 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-6) 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 the effective date of this amendatory Act of the 92nd General Assembly.

This subsection (b-6) does not apply if the victim of the sex offense is 21 years of age or older.

(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 towards persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care institution; (v) school providing before and after school programs for children under 18 years of age; (vi) day care home; or (vii) group day care home. 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, school providing before and after school programs for children under 18 years of age, day care home, or group day care home 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.

(c-6) It is unlawful for a child sex offender who owns and resides at residential real estate to knowingly rent any residential unit within the same building in which he or she resides to a person who is the parent or guardian of a child or children under 18 years of age. This subsection shall apply only to leases or other rental arrangements entered into after January 1, 2009 (the effective date of Public Act 95-820) ~~this amendatory Act of the 95th General Assembly~~.

(c-7) ~~(c-6)~~ It is unlawful for a child sex offender to knowingly offer or provide any programs or services to persons under 18 years of age in his or her residence or the residence of another or in any facility for the purpose of offering or providing such programs or services, whether such programs or services are offered or provided by contract, agreement, arrangement, or on a volunteer basis.

(d) 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) 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 ~~and~~ 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), 11-9 (public indecency when committed in a school, on the real property comprising a school, on a 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), 11-9.1 (sexual exploitation of a child), 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), 11-20.3 (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, on 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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-15 (criminal sexual abuse), 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 this subsection (d).

(2.5) For the purposes of subsection (b-5) 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 <u>or</u> ~~and~~ abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 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), 11-20.3 (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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and 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 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 this subsection (d) shall constitute a conviction for the purpose of this Section. 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) "Public park" includes a park, forest preserve, or conservation area under the jurisdiction of the State or a unit of local government.

(5) "Facility providing programs or services directed towards persons under the age of 18" means any facility providing programs or services exclusively directed towards persons under the age of 18.

(6) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property, for the purpose of committing or attempting to commit a sex offense.

(7) "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.

(8) "Child care institution" has the meaning ascribed to it in Section 2.06 of the Child Care Act of 1969.

(9) "Day care center" has the meaning ascribed to it in Section 2.09 of the Child Care

Act of 1969.

(10) "Part day child care facility" has the meaning ascribed to it in Section 2.10 of the Child Care Act of 1969.

(11) "Day care home" has the meaning ascribed to it in Section 2.18 of the Child Care Act of 1969.

(12) "Group day care home" has the meaning ascribed to it in Section 2.20 of the Child Care Act of 1969.

(d-5) For the purposes of this Section, the 500 feet distance shall be measured from the edge of the property comprising the public park building or the real property comprising the public park, 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, or a victim of the sex offense who is under 21 years of age to the edge of the child sex offender's place of residence or where he or she is loitering.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08; 95-640, eff. 6-1-08; 95-819, eff. 1-1-09; 95-820, eff. 1-1-09; 95-821, eff. 8-14-08; 95-876, eff. 8-21-08; revised 10-20-08.)

(Text of Section after amendment by P.A. 95-983)

Sec. 11-9.4. Approaching, contacting, residing, 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 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 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 playground, child care institution, day care center, part day child care facility, day care home, group day care home, or a facility providing programs or services exclusively directed toward persons under 18 years of age. Nothing in this subsection (b-5) 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 the effective date of this amendatory Act of the 91st General Assembly. Nothing in this subsection (b-5) 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 the effective date of this amendatory Act of the 94th General Assembly. Nothing in this subsection (b-5) prohibits a child sex offender from residing within 500 feet of a day care home or group day care home if the property is owned by the child sex offender and was purchased before August 14, 2008 (the effective date of Public Act 95-821) ~~this amendatory Act of the 95th General Assembly~~.

(b-6) 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-6) 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 the effective date of this amendatory Act of the 92nd General Assembly.

This subsection (b-6) does not apply if the victim of the sex offense is 21 years of age or older.

(b-7) 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 towards persons under the age of 18; (ii) day care center; (iii) part day child care facility; (iv) child care institution; (v) school providing before and after school programs for children under 18 years of age; (vi) day care home; or (vii) group day care home. 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, school providing before and after school programs for children under 18 years of age, day care home, or group day care home 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.

(c-6) It is unlawful for a child sex offender who owns and resides at residential real estate to knowingly rent any residential unit within the same building in which he or she resides to a person who is the parent or guardian of a child or children under 18 years of age. This subsection shall apply only to leases or other rental arrangements entered into after January 1, 2009 (the effective date of Public Act 95-820) ~~this amendatory Act of the 95th General Assembly~~.

(c-7) ~~(c-6)~~ It is unlawful for a child sex offender to knowingly offer or provide any programs or services to persons under 18 years of age in his or her residence or the residence of another or in any facility for the purpose of offering or providing such programs or services, whether such programs or services are offered or provided by contract, agreement, arrangement, or on a volunteer basis.

(d) 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) 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 ~~and~~ 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), 11-9 (public indecency when committed in a school, on the real property comprising a school, on a 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), 11-9.1 (sexual exploitation of a child), 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), 11-20.3 (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, on 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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-15 (criminal sexual abuse), 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 this subsection (d).

(2.5) For the purposes of subsection (b-5) 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 ~~and~~ abetting child abduction under Section 10-5(b)(10)), 11-6 (indecent solicitation of a child), 11-6.5 (indecent solicitation of an adult), 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), 11-20.3 (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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and 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 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 this subsection (d) shall constitute a conviction for the purpose of this Section. 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) "Public park" includes a park, forest preserve, or conservation area under the jurisdiction of the State or a unit of local government.

(5) "Facility providing programs or services directed towards persons under the age of 18" means any facility providing programs or services exclusively directed towards persons under the age of 18.

(6) "Loiter" means:

(i) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property.

(ii) Standing, sitting idly, whether or not the person is in a vehicle or remaining in or around public park property, for the purpose of committing or attempting to commit a sex offense.

(7) "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.

(8) "Child care institution" has the meaning ascribed to it in Section 2.06 of the Child Care Act of 1969.

(9) "Day care center" has the meaning ascribed to it in Section 2.09 of the Child Care

Act of 1969.

(10) "Part day child care facility" has the meaning ascribed to it in Section 2.10 of the Child Care Act of 1969.

(11) "Day care home" has the meaning ascribed to it in Section 2.18 of the Child Care Act of 1969.

(12) "Group day care home" has the meaning ascribed to it in Section 2.20 of the Child Care Act of 1969.

(13) ~~(11)~~ "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.

(d-5) For the purposes of this Section, the 500 feet distance shall be measured from the edge of the property comprising the public park building or the real property comprising the public park, 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, or a victim of the sex offense who is under 21 years of age to the edge of the child sex offender's place of residence or where he or she is loitering.

(e) Sentence. A person who violates this Section is guilty of a Class 4 felony.

(Source: P.A. 94-925, eff. 6-26-06; 95-32, eff. 1-1-08; 95-640, eff. 6-1-08; 95-819, eff. 1-1-09; 95-820, eff. 1-1-09; 95-821, eff. 8-14-08; 95-876, eff. 8-21-08; 95-983, eff. 6-1-09; revised 10-20-08.)

(720 ILCS 5/25-1) (from Ch. 38, par. 25-1)

Sec. 25-1. Mob action.

(a) A person commits the offense of mob ~~Mob~~ action when he or she engages in ~~consists of~~ any of the following:

(1) the knowing or reckless ~~The~~ use of force or violence disturbing the public peace by 2 or more persons acting together and without authority of law; ~~or~~

(2) the knowing ~~The~~ assembly of 2 or more persons with the intent to commit or facilitate the commission of a felony or misdemeanor ~~to do an unlawful act~~; or

(3) the knowing ~~The~~ assembly of 2 or more persons, without authority of law, for the purpose of doing violence to the person or property of anyone ~~any one~~ supposed to have been guilty of a violation of the law, or for the purpose of exercising correctional powers or regulative powers over any person by violence.

(b) Mob action as defined in paragraph (1) of subsection (a) is a Class 4 felony.

(c) Mob action as defined in paragraphs (2) and (3) of subsection (a) is a Class C misdemeanor.

(d) Any participant in a mob action that ~~which shall~~ by violence inflicts ~~inflict~~ injury to the person or property of another commits a Class 4 felony.

(e) Any participant in a mob action who does not withdraw on being commanded to do so by any peace officer commits a Class A misdemeanor.

(f) In addition to any other sentence that may be imposed, a court shall order any person convicted of mob action 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 5/25-4 new)

Sec. 25-4. Looting by individuals.

(a) A person commits the offense of looting when he or she knowingly without authority of law or the owner enters any home or dwelling or upon any premises of another, or enters any commercial, mercantile, business, or industrial building, plant, or establishment, in which normal security of property is not present by virtue of a hurricane, fire, or vis major of any kind or by virtue of a riot, mob, or other human agency, and obtains or exerts control over property of the owner.

(b) Sentence. Looting is a Class 4 felony. In addition to any other penalty imposed, the court shall

impose a sentence of at least 100 hours of community service as determined by the court and shall require the defendant to make restitution to the owner of the property looted pursuant to Section 5-5-6 of the Unified Code of Corrections.

(720 ILCS 5/25-5) (was 720 ILCS 5/25-1.1)

Sec. 25-5 ~~25-1.1~~. Unlawful contact with streetgang members.

(a) A person commits the offense of unlawful contact with streetgang members when:

(1) he ~~He~~ or she knowingly has direct or indirect contact with a streetgang member as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act after having been sentenced to probation, conditional discharge, or supervision for a criminal offense with a condition of that ~~such~~ sentence being to refrain from direct or indirect contact with a streetgang member or members; or

(2) he ~~He~~ or she knowingly has direct or indirect contact with a streetgang member as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act after having been released on bond for any criminal offense with a condition of that ~~such~~ bond being to refrain from direct or indirect contact with a streetgang member or members.

(b) Unlawful contact with streetgang members is a Class A misdemeanor.

(c) This Section does not apply to a person when the only streetgang member or members he or she is with is a family or household member or members as defined in paragraph (3) of Section 112A-3 of the Code of Criminal Procedure of 1963 and the streetgang members are not engaged in any streetgang-related ~~streetgang-related~~ activity.

(Source: P.A. 90-795, eff. 8-14-98; 91-357, eff. 7-29-99.)

(720 ILCS 5/25-6) (was 720 ILCS 5/25-2)

Sec. 25-6 ~~25-2~~. Removal of chief of police or sheriff for allowing a person in his or her custody to be lynched.

(a) If a prisoner is taken from the custody of any policeman or chief of police of any municipality ~~city, town or village~~ and lynched, it shall be prima facie evidence of wrong-doing on the part of that ~~such~~ chief of police and he or she shall be suspended. The mayor or chief executive of the municipality ~~such city, town or village~~ shall appoint an acting chief of police until he or she has ascertained whether the suspended chief of police had ~~has~~ done all in his or her power to protect the life of the prisoner. If, upon hearing all evidence and argument, the mayor or chief executive finds that the chief of police had ~~has~~ done his or her utmost to protect the prisoner, he or she may reinstate the chief of police; but, if he or she finds the chief of police guilty of not properly protecting the prisoner, a new chief of police shall be appointed. Any chief of police replaced is ~~shall~~ not be eligible to serve again in that ~~such~~ office.

(b) If a prisoner is taken from the custody of any sheriff or his or her deputy and lynched, it is ~~shall be~~ prima facie evidence of wrong-doing on the part of that ~~such~~ sheriff and he or she shall be suspended. The Governor ~~governor~~ shall appoint an acting sheriff until he or she has ascertained whether the suspended sheriff had ~~has~~ done all in his or her power to protect the life of the prisoner. If, upon hearing all evidence and argument, the Governor ~~governor~~ finds that the sheriff had ~~has~~ done his or her utmost to protect the prisoner, he or she shall reinstate the sheriff; but, if he or she finds the sheriff guilty of not properly protecting the prisoner, a new sheriff shall be duly elected or appointed, pursuant to the existing law provided for the filling of vacancies in that ~~such~~ office. Any sheriff replaced is ~~shall~~ not ~~be~~ eligible to serve again in that ~~such~~ office.

(Source: Laws 1961, p. 1983.)

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

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

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

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

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

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

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

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

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

(B) knowing, or having reason to know, that the financial transaction is designed in whole or in part:

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

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

(2) when, with the intent to:

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

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

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

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

(b) As used in this Section:

(0.5) "Knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, federal, or foreign law, regardless of whether or not such activity is specified in subdivision (b)(4).

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

(2) "Financial institution" means any bank; saving and loan association; trust company; agency or branch of a foreign bank in the United States; currency exchange; credit union, mortgage banking institution; pawnbroker; loan or finance company; operator of a credit card system; issuer, redeemer or cashier of travelers checks, checks or money orders; dealer in precious metals, stones or jewels; broker or dealer in securities or commodities; investment banker; or investment company.

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

(4) "Criminally derived property" means: (A) any property, real or personal, constituting or derived from proceeds obtained, directly or indirectly, pursuant to a violation of the Criminal Code of 1961, the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act; or (B) any property represented to be property constituting or derived from proceeds obtained, directly or indirectly, pursuant to a violation of this Code, the Illinois Controlled Substances Act, the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act.

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

(6) "Specified criminal activity" means any violation of Section 29D-15.1 ~~20.5-5~~ (720 ILCS 5/29D-15.1 ~~5/20.5-5~~) and any violation of Article 29D of this Code.

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

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

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

(c) Sentence.

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

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

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

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

(5) Laundering of criminally derived property of a value exceeding $500,000 is a Class 1 non-probationable felony.

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

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

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

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

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

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

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

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

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

(e) Duty to enforce this Article.

(1) It is the duty of the Department of State Police, and its agents, officers, and investigators, to enforce all provisions of this Article, except those specifically delegated, and to cooperate with all agencies charged with the enforcement of the laws of the United States, or of any state, relating to money laundering. Only an agent, officer, or investigator designated by the Director may be authorized in accordance with this Section to serve seizure notices, warrants, subpoenas, and summonses under the authority of this State.

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

(f) Protective orders.

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

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

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

(i) there is probable cause to believe that the State will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed,

removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

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

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

(2) A temporary restraining order under this subsection may be entered upon application of the State without notice or opportunity for a hearing when an indictment, information, complaint, or administrative notice has not yet been filed with respect to the property, if the State demonstrates that there is probable cause to believe that the property with respect to which the order is sought would be subject to forfeiture under this Section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 30 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

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

(4) Order to repatriate and deposit.

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

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

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

(h) Forfeiture.

(1) The following are subject to forfeiture:

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

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

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

(i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this Section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Article;

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

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

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

(2) Property subject to forfeiture under this Article may be seized by the Director or any peace officer upon process or seizure warrant issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

(A) if the seizure is incident to a seizure 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 based upon

this Article;

(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 Article and the property is seized under circumstances in which a warrantless seizure or arrest would be reasonable; or

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

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

(4) Property taken or detained under this Section shall not be subject to replevin, but is deemed to be in the custody of the Director subject only to the order and judgments of the circuit court having jurisdiction over the forfeiture proceedings and the decisions of the State's Attorney under this Article. When property is seized under this Article, the seizing agency shall promptly conduct an inventory of the seized property and estimate the property's value and shall forward a copy of the inventory of seized property and the estimate of the property's value to the Director. Upon receiving notice of seizure, the Director may:

(A) place the property under seal;

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

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

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

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

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

(5) When property is forfeited under this Article, the Director shall sell all such property unless such property is required by law to be destroyed or is harmful to the public, and shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with paragraph (6). However, upon the application of the seizing agency or prosecutor who was responsible for the investigation, arrest or arrests and prosecution which lead to the forfeiture, the Director may return any item of forfeited property to the seizing agency or prosecutor for official use in the enforcement of laws, if the agency or prosecutor can demonstrate that the item requested would be useful to the agency or prosecutor in its enforcement efforts. When any real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds of the sale shall be delivered to the Director and distributed in accordance with paragraph (6).

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

(A) 65% shall be distributed to the metropolitan enforcement group, local, municipal, county, or State law enforcement agency or agencies which conducted or participated in the investigation resulting in the forfeiture. The distribution shall bear a reasonable relationship to the degree of direct participation of the law enforcement agency in the effort resulting in the forfeiture, taking into account the total value of the property forfeited and the total law enforcement effort with respect to the violation of the law upon which the forfeiture is based. Amounts distributed to the agency or agencies shall be used for the enforcement of laws.

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

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

(C) 10% shall be retained by the Department of State Police for expenses related to

the administration and sale of seized and forfeited property.

(i) Notice to owner or interest holder.

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

(A) If the owner's or interest holder's name and current address are known, then by either personal service or mailing a copy of the notice by certified mail, return receipt requested, to that address. For purposes of notice under this Section, if a person has been arrested for the conduct giving rise to the forfeiture, then the address provided to the arresting agency at the time of arrest shall be deemed to be that person's known address. Provided, however, if an owner or interest holder's address changes prior to the effective date of the notice of pending forfeiture, the owner or interest holder shall promptly notify the seizing agency of the change in address or, if the owner or interest holder's address changes subsequent to the effective date of the notice of pending forfeiture, the owner or interest holder shall promptly notify the State's Attorney of the change in address; or

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

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

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

(j) Notice to State's Attorney. The law enforcement agency seizing property for forfeiture under this Article shall, within 90 days after seizure, notify the State's Attorney for the county, either where an act or omission giving rise to the forfeiture occurred or where the property was seized, of the seizure of the property and the facts and circumstances giving rise to the seizure and shall provide the State's Attorney with the inventory of the property and its estimated value. When the property seized for forfeiture is a vehicle, the law enforcement agency seizing the property shall immediately notify the Secretary of State that forfeiture proceedings are pending regarding such vehicle.

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

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

(2) The notice of pending forfeiture must include a description of the property, the estimated value of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

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

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

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

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

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

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

(vi) the specific provision of law relied on in asserting the property is not subject to forfeiture;

(vii) all essential facts supporting each assertion; and

(viii) the relief sought.

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

(C) If none of the seized property is forfeited in the judicial in rem proceeding, the clerk of the court shall return to the claimant, unless the court orders otherwise, 90% of the sum which has been deposited and shall retain as costs 10% of the money deposited. If any of the seized property is forfeited under the judicial forfeiture proceeding, the clerk of the court shall transfer 90% of the sum which has been deposited to the State's Attorney prosecuting the civil forfeiture to be applied to the costs of prosecution and the clerk shall retain as costs 10% of the sum deposited.

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

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

(1) If, after a review of the facts surrounding the seizure, the State's Attorney is of the opinion that the seized property is subject to forfeiture, then within 45 days of the receipt of notice of seizure by the seizing agency or the filing of the claim and cost bond, whichever is later, the State's Attorney shall institute judicial forfeiture proceedings by filing a verified complaint for forfeiture and, if the claimant has filed a claim and cost bond, by depositing the cost bond with the clerk of the court. When authorized by law, a forfeiture must be ordered by a court on an action in rem brought by a State's Attorney under a verified complaint for forfeiture.

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

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

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

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

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

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

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

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

(F) all essential facts supporting each assertion; and

(G) the precise relief sought.

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

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

(7) The State shall show the existence of probable cause for forfeiture of the property.

If the State shows probable cause, the claimant has the burden of showing by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture.

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

(9) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding under this Article regardless of the pendency of an appeal from that conviction. However, evidence of the pendency of an appeal is admissible.

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

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

(12) A civil action under this Article must be commenced within 5 years after the last conduct giving rise to forfeiture became known or should have become known or 5 years after the forfeitable property is discovered, whichever is later, excluding any time during which either the property or claimant is out of the State or in confinement or during which criminal proceedings relating to the same conduct are in progress.

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

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

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

(p) Construction. It is the intent of the General Assembly that the forfeiture provisions of this Article be liberally construed so as to effect their remedial purpose. The forfeiture of property and other remedies hereunder shall be considered to be in addition to, and not exclusive of, any sentence or other remedy provided by law.

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

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

(s) Review of administrative decisions. All administrative findings, rulings, final determinations, findings, and conclusions of the State's Attorney's Office under this Article are final and conclusive decisions of the matters involved. Any person aggrieved by the decision may obtain review of the decision pursuant to the provisions of the Administrative Review Law and the rules adopted pursuant to that Law. Pending final decision on such review, the administrative acts, orders, and rulings of the State's Attorney's Office remain in full force and effect unless modified or suspended by order of court pending final judicial decision. Pending final decision on such review, the

acts, orders, and rulings of the State's Attorney's Office remain in full force and effect, unless stayed by order of court. However, no stay of any decision of the administrative agency shall issue unless the person aggrieved by the decision establishes by a preponderance of the evidence that good cause exists for the stay. In determining good cause, the court shall find that the aggrieved party has established a substantial likelihood of prevailing on the merits and that granting the stay will not have an injurious effect on the general public.

(Source: P.A. 93-520, eff. 8-6-03; 94-364, eff. 7-29-05; 94-556, eff. 9-11-05; 94-955, eff. 6-27-06.)

(720 ILCS 5/29D-14.9) (was 720 ILCS 5/29D-30)

Sec. 29D-14.9 ~~29D-30~~. Terrorism.

(a) A person commits the offense ~~is guilty~~ of terrorism when, with the intent to intimidate or coerce a significant portion of a civilian population:

(1) he or she knowingly commits a terrorist act as defined in Section 29D-10(1) of this Code within this State; or

(2) he or she, while outside this State, knowingly commits a terrorist act as defined in Section 29D-10(1) of this Code that takes effect within this State or produces substantial detrimental effects within this State.

(b) Sentence. Terrorism is a Class X felony. If no deaths are caused by the terrorist act, the sentence shall be a term of 20 years to natural life imprisonment; ~~however,~~ if the terrorist act caused the death of one or more persons, however, a mandatory term of natural life imprisonment shall be the sentence if ~~in the event~~ the death penalty is not imposed.

(Source: P.A. 92-854, eff. 12-5-02.)

(720 ILCS 5/29D-15.1) (was 720 ILCS 5/20.5-5)

Sec. 29D-15.1 ~~20.5-5~~. Causing a catastrophe.

(a) A person commits the offense of causing a catastrophe if he or she knowingly causes a catastrophe by explosion, fire, flood, collapse of a building, or release of poison, radioactive material, bacteria, virus, or other dangerous and difficult to confine force or substance.

(b) As used in this Section, "catastrophe" means serious physical injury to 5 or more persons, ~~or~~ substantial damage to 5 or more buildings or inhabitable structures , or substantial damage to a vital public facility that seriously impairs its usefulness or operation; and "vital public facility" means a facility that is necessary to ensure or protect the public health, safety, or welfare, including, but not limited to, a hospital, a law enforcement agency, a fire department, a private or public utility company, a national defense contractor, a facility of the armed forces, or an emergency services agency.

(c) Sentence. Causing a catastrophe is a Class X felony.

(Source: P.A. 90-669, eff. 7-31-98.)

(720 ILCS 5/29D-15.2) (was 720 ILCS 5/20.5-6)

Sec. 29D-15.2 ~~20.5-6~~. Possession of a deadly substance.

(a) A person commits the offense of possession of a deadly substance when he or she possesses, manufactures, or transports any poisonous gas, deadly biological or chemical contaminant or agent, or radioactive substance either with the intent to use that ~~such~~ gas, biological or chemical contaminant or agent, or radioactive substance to commit a felony or with the knowledge that another person intends to use that ~~such~~ gas, biological or chemical contaminant or agent, or radioactive substance to commit a felony.

(b) Sentence. Possession of a deadly substance is a Class 1 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 4 years and not more than 30 years.

(Source: P.A. 91-121, eff. 7-15-99.)

(720 ILCS 5/29D-25)

Sec. 29D-25. Falsely making a terrorist threat.

(a) A person commits the offense ~~is guilty~~ of falsely making a terrorist threat when in any manner he or she knowingly makes a threat to commit or cause to be committed a terrorist act as defined in Section 29D-10(1) or otherwise knowingly creates the impression or belief that a terrorist act is about to be or has been committed, or in any manner knowingly makes a threat to commit or cause to be committed a catastrophe as defined in Section 29D-15.1 ~~20.5-5~~ (720 ILCS 5/29D-15.1 ~~5/20.5-5~~) of this Code that ~~which~~ he or she knows is false.

(b) Sentence. Falsely making a terrorist threat is a Class 1 felony.

(Source: P.A. 92-854, eff. 12-5-02.)

(720 ILCS 5/29D-29.9) (was 720 ILCS 5/29D-15)

Sec. 29D-29.9 ~~29D-15~~. Material ~~Soliciting material~~ support for terrorism~~; providing material support for a terrorist act~~.

(a) A person commits the offense ~~is guilty~~ of soliciting or providing material support for terrorism if

he or she knowingly raises, solicits, ~~or~~ collects , or provides material support or resources knowing that the material support or resources will be used, in whole or in part, to plan, prepare, carry out, facilitate, or avoid apprehension for committing terrorism as defined in Section 29D-14.9 (720 ILCS 5/29D-14.9) ~~29D-30~~ or causing a catastrophe as defined in Section 29D-15.1 ~~20.5-5~~ (720 ILCS 5/29D-15.1 ~~5/20.5-5~~) of this Code, or who knows and intends that the material support or resources so raised, solicited, ~~or~~ collected , or provided will be used in the commission of a terrorist act as defined in Section 29D-10(1) of this Code by an organization designated under 8 U.S.C. 1189, as amended. It is not an element of the offense that the defendant actually knows that an organization has been designated under 8 U.S.C. 1189, as amended.

~~(b) A person is guilty of providing material support for terrorism if he or she knowingly provides material support or resources to a person knowing that the person will use that support or those resources in whole or in part to plan, prepare, carry out, facilitate, or to avoid apprehension for committing terrorism as defined in Section 29D-30 or to cause a catastrophe as defined in Section 20.5-5 (720 ILCS 5/20.5-5) of this Code.~~

(b) ~~(c)~~ Sentence. Soliciting or providing material support for terrorism is a Class X felony for which the sentence shall be a term of imprisonment of no less than 9 years and no more than 40 years. ~~Providing material support for a terrorist act is a Class X felony for which the sentence shall be a term of imprisonment of no less than 9 years and no more than 40 years.~~

(Source: P.A. 92-854, eff. 12-5-02.)

(720 ILCS 5/29D-35)

Sec. 29D-35. Hindering prosecution of terrorism.

(a) A person commits the offense ~~is guilty~~ of hindering prosecution of terrorism when he or she renders criminal assistance to a person who has committed terrorism as defined in Section 29D-14.9 ~~29D-30~~ or caused a catastrophe~~,~~ as defined in Section 29D-15.1 ~~20.5-5~~ of this Code when he or she knows that the person to whom he or she rendered criminal assistance engaged in an act of terrorism or caused a catastrophe.

(b) Hindering prosecution of terrorism is a Class X felony, the sentence for which shall be a term of 20 years to natural life imprisonment if no death was caused by the act of terrorism committed by the person to whom the defendant rendered criminal assistance and a mandatory term of natural life imprisonment if death was caused by the act of terrorism committed by the person to whom the defendant rendered criminal assistance.

(Source: P.A. 92-854, eff. 12-5-02.)

(720 ILCS 5/29D-35.1 new)

Sec. 29D-35.1. Boarding or attempting to board an aircraft with weapon.

(a) It is unlawful for any person to board or attempt to board any commercial or charter aircraft, knowingly having in his or her possession any firearm, explosive of any type, or other lethal or dangerous weapon.

(b) This Section does not apply to any person authorized by either the federal government or any state government to carry firearms, but the person so exempted from the provisions of this Section shall notify the commander of any aircraft he or she is about to board that he or she does possess a firearm and show identification satisfactory to the aircraft commander that he or she is authorized to carry that firearm.

(c) Any person purchasing a ticket to board any commercial or charter aircraft shall by that purchase consent to a search of his or her person or personal belongings by the company selling the ticket to him or her. The person may refuse to submit to a search of his or her person or personal belongings by the aircraft company, but the person refusing may be denied the right to board the commercial or charter aircraft at the discretion of the carrier. Such a refusal creates no inference of unlawful conduct.

(d) Any evidence of criminal activity found during a search made pursuant to this Section shall be admissible in legal proceedings for the sole purpose of supporting a charge of violation of this Section and is inadmissible as evidence in any legal proceeding for any other purpose, except in the prosecution of offenses related to weapons as set out in Article 24 of this Code.

(e) No action may be brought against any commercial or charter airline company operating in this State for the refusal of that company to permit a person to board any aircraft if that person refused to be searched as set out in subsection (c) of this Section.

(f) Violation of this Section is a Class 4 felony.

(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, 18-2, 19-1, 19-2, 19-3, 20-1, 20-2, 29D-15.2

~~20.5-6~~, 24-1.2, 24-1.2-5, 24-1.5, or 28-1 of this Code, 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. 93-187, eff. 7-11-03; 94-329, eff. 1-1-06; 94-1017, eff. 7-7-06.)

(720 ILCS 5/8-1.1 rep.) (720 ILCS 5/Art. 10A rep.) (720 ILCS 5/42-1 rep.) (720 ILCS 5/42-2 rep.)

Section 30. The Criminal Code of 1961 is amended by repealing Sections 8-1.1, 42-1, and 42-2 and by repealing Article 10A.

(720 ILCS 545/Act rep.)

Section 35. The Boarding Aircraft With Weapon Act is repealed.

Section 40. The Code of Criminal Procedure of 1963 is amended by changing Sections 108B-3 and 115-10 as follows:

(725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

Sec. 108B-3. Authorization for the interception of private communication.

(a) The State's Attorney, or a person designated in writing or by law to act for him and to perform his duties during his absence or disability, may authorize, in writing, an ex parte application to the chief judge of a court of competent jurisdiction for an order authorizing the interception of a private communication when no party has consented to the interception and (i) the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit, a violation of Section 8-1(b) ~~8-1.1~~ (solicitation of murder), 8-1.2 (solicitation of murder for hire), 9-1 (first degree murder), or 29B-1 (money laundering) of the Criminal Code of 1961, Section 401, 401.1 (controlled substance trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of the Illinois Controlled Substances Act or any Section of the Methamphetamine Control and Community Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3, 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 conspiracy to commit money laundering or conspiracy to commit first degree murder; (ii) in response to a clear and present danger of imminent death or great bodily harm to persons resulting from: (1) a kidnapping or the holding of a hostage by force or the threat of the imminent use of force; or (2) the occupation by force or the threat of the imminent use of force of any premises, place, vehicle, vessel or aircraft; (iii) to aid an investigation or prosecution of a civil action brought under the Illinois Streetgang Terrorism Omnibus Prevention Act when there is probable cause to believe the interception of the private communication will provide evidence that a streetgang is committing, has committed, or will commit a second or subsequent gang-related offense or that the interception of the private communication will aid in the collection of a judgment entered under that Act; or (iv) upon information and belief that a streetgang has committed, is committing, or is about to commit a felony.

(b) The State's Attorney or a person designated in writing or by law to act for the State's Attorney and to perform his or her duties during his or her absence or disability, may authorize, in writing, an ex parte application to the chief judge of a circuit court for an order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit, a violation of an offense under Article 29D of the Criminal Code of 1961.

(b-1) Subsection (b) is inoperative on and after January 1, 2005.

(b-2) No conversations recorded or monitored pursuant to subsection (b) shall be made inadmissible in a court of law by virtue of subsection (b-1).

(c) As used in this Section, "streetgang" and "gang-related" have the meanings ascribed to them in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 94-468, eff. 8-4-05; 94-556, eff. 9-11-05; 95-331, eff. 8-21-07.)

(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 ~~and~~ 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.)

Section 45. The Unified Code of Corrections is amended by changing Section 3-1-2 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 ~~and~~ 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), 11-15.1 (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), 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: 12-13 (criminal sexual assault), 12-14 (aggravated criminal sexual assault), 12-16 (aggravated criminal sexual abuse), and 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.

(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. 94-159, eff. 7-11-05; 94-696, eff. 6-1-06.)

Section 50. The Predator Accountability Act is amended by changing Section 10 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: 11-15 (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 Section 10-9 ~~Article 10A~~ 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) 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 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) pimping: the prostitute from whom anything of value is received;

(7) 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) 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: 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 ~~10A-5~~ of the Criminal Code of 1961.

(Source: P.A. 94-998, eff. 7-3-06.)

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 January 1, 2010.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Dillard, **Senate Bill No. 1300**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Risinger
Bivins	Forby	Lauzen	Rutherford
Bomke	Frerichs	Lightford	Sandoval
Bond	Garrett	Link	Schoenberg
Brady	Haine	Luechtefeld	Silverstein
Burzynski	Harmon	Maloney	Steans
Clayborne	Hendon	Martinez	Sullivan
Collins	Holmes	McCarter	Syverson
Cronin	Hultgren	Meeks	Trotter
Crotty	Hunter	Muñoz	Viverito
Dahl	Hutchinson	Murphy	Wilhelmi
DeLeo	Jacobs	Noland	Mr. President
Delgado	Jones, E.	Radogno	
Demuzio	Jones, J.	Raoul	

Dillard Koehler Righter

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).

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

SENATE BILL RECALLED

On motion of Senator Dillard, **Senate Bill No. 1320** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and Senator Dillard moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1320

AMENDMENT NO. 1. Amend Senate Bill 1320 by replacing everything after the enacting clause with the following:

"Section 5. The Unified Code of Corrections is amended by adding Section 5-8-8 as follows:

(730 ILCS 5/5-8-8 new)

Sec. 5-8-8. Illinois Sentencing Policy Advisory Council.

(a) Creation. There is created under the jurisdiction of the Supreme Court the Illinois Sentencing Policy Advisory Council, hereinafter referred to as the Council.

(b) Purposes and goals. The purpose of the Council is to review sentencing policies and practices and examine how these policies and practices impact the criminal justice system as a whole in the State of Illinois. In carrying out its duties, the Council shall be mindful of and aim to achieve the purposes of sentencing in Illinois, which are set out in Section 1-1-2 of this Code:

(1) prescribe sanctions proportionate to the seriousness of the offenses and permit the recognition of differences in rehabilitation possibilities among individual offenders;

(2) forbid and prevent the commission of offenses;

(3) prevent arbitrary or oppressive treatment of persons adjudicated offenders or delinquents; and

(4) restore offenders to useful citizenship.

(c) Council composition.

(1) The Council shall consist of the following members:

(A) the President of the Senate or his or her designee;

(B) the Minority Leader of the Senate or his or her designee;

(C) the Speaker of the House or his or her designee;

(D) the Minority Leader of the House or his or her designee;

(E) the Chief Judge of the Circuit Court of Cook County or his or her designee;

(F) two judges, who may be circuit or appellate court judges, active or retired, to be appointed by the Supreme Court;

(G) the Governor, or his or her designee;

(H) the Attorney General, or his or her designee;

(I) the Cook County State's Attorney, or his or her designee;

(J) the Cook County Public Defender, or his or her designee;

(K) a State's Attorney not from Cook County, appointed by the State's Attorney's Appellate Prosecutor;

(L) the State Appellate Defender, or his or her designee;

(M) a representative of probation services, appointed by the Supreme Court;

(N) a victim of a violent felony or a representative of a crime victims' organization, selected by the members of the Council designated in clauses (c)(1)(A) through (M);

(O) a representative of a community-based organization, selected by the members of the Council designated in clauses (c)(1)(A) through (M);

(P) a criminal justice academic researcher, to be selected by the members of the Council designated in clauses (c)(1)(A) through (M);

(Q) a representative of law enforcement from a unit of local government to be selected by the members of the Council designated in clauses (c)(1)(A) through (M);

(R) a sheriff selected by the members of the Council designated in clauses (c)(1)(A) through (M);

(S) ex-officio members shall include:

(i) the Director of Corrections, or his or her designee;

(ii) the Chair of the Prisoner Review Board, or his or her designee;

(iii) the Director of the Illinois State Police, or his or her designee;

(iv) the Director of the Illinois Criminal Justice Information Authority, or his or her designee; and

(v) the Director of the Administrative Office of the Illinois Courts, or his or her designee; and

(T) the Chair and Vice Chair shall be elected from among its members by a majority of the members of the Council.

(2) Members of the Council who serve because of their public office or position, or those who are designated as members by such officials, shall serve only as long as they hold such office or position.

(3) Council members shall serve without compensation but shall be reimbursed for travel and per diem expenses incurred in their work for the Council.

(4) The Council may exercise any power, perform any function, take any action, or do anything in furtherance of its purposes and goals upon the appointment of a quorum of its members. The term of office of each member of the Council ends on the date of repeal of this amendatory Act of the 96th General Assembly.

(d) Duties. The Council shall perform, as resources permit, duties including:

(1) Collect and analyze information including sentencing data, crime trends, and existing correctional resources to support legislative and executive action affecting the use of correctional resources on the State and local levels.

(2) Prepare criminal justice population projections annually, including correctional and community-based supervision populations.

(3) Analyze data relevant to proposed sentencing legislation and its effect on current policies or practices, and provide information to support evidence-based sentencing.

(4) Ensure that adequate resources and facilities are available for carrying out sentences imposed on offenders and that rational priorities are established for the use of those resources. To do so, the Council shall prepare criminal justice resource statements, identifying the fiscal and practical effects of proposed criminal sentencing legislation, including, but not limited to, the correctional population, court processes, and county or local government resources.

(5) Perform such other studies or tasks pertaining to sentencing policies as may be requested by the Governor, the Supreme Court, or the Illinois General Assembly.

(6) Perform such other functions as may be required by law or as are necessary to carry out the purposes and goals of the Council prescribed in subsection (b).

(e) Authority.

(1) The Council shall have the power to perform the functions necessary to carry out its duties, purposes and goals under this Act. In so doing, the Council shall utilize information and analysis developed by the Illinois Criminal Justice Information Authority, the Administrative Office of the Illinois Courts, and the Illinois Department of Corrections.

(2) Upon request from the Council, each executive agency and department of State and local government shall provide information and records to the Council in the execution of its duties. Those entities under the jurisdiction of the Supreme Court shall submit information as the Court may direct. Such information and records shall include arrest and criminal history records and relevant information from pre-sentence investigation reports.

(f) Report. The Council shall report in writing annually to the General Assembly, the Governor, and the Supreme Court.

(g) This Section is repealed on December 31, 2012.

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

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Cullerton offered the following amendment and Senator Dillard moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 1320

AMENDMENT NO. _2_. Amend Senate Bill 1320 by replacing everything after the enacting clause with the following:

"Section 5. The Unified Code of Corrections is amended by adding Section 5-8-8 as follows:

(730 ILCS 5/5-8-8 new)

Sec. 5-8-8. Illinois Sentencing Policy Advisory Council.

(a) Creation. There is created under the jurisdiction of the Governor the Illinois Sentencing Policy Advisory Council, hereinafter referred to as the Council.

(b) Purposes and goals. The purpose of the Council is to review sentencing policies and practices and examine how these policies and practices impact the criminal justice system as a whole in the State of Illinois. In carrying out its duties, the Council shall be mindful of and aim to achieve the purposes of sentencing in Illinois, which are set out in Section 1-1-2 of this Code:

(1) prescribe sanctions proportionate to the seriousness of the offenses and permit the recognition of differences in rehabilitation possibilities among individual offenders;

(2) forbid and prevent the commission of offenses;

(3) prevent arbitrary or oppressive treatment of persons adjudicated offenders or delinquents; and

(4) restore offenders to useful citizenship.

(c) Council composition.

(1) The Council shall consist of the following members:

(A) the President of the Senate or his or her designee;

(B) the Minority Leader of the Senate or his or her designee;

(C) the Speaker of the House or his or her designee;

(D) the Minority Leader of the House or his or her designee;

(E) the Governor, or his or her designee;

(F) the Attorney General, or his or her designee;

(G) two retired judges, who may have been circuit, appellate or supreme court judges, selected by the members of the Council designated in clauses (c)(1) (A) through (L);

(H) the Cook County State's Attorney, or his or her designee;

(I) the Cook County Public Defender, or his or her designee;

(J) a State's Attorney not from Cook County, appointed by the State's Attorney's Appellate Prosecutor;

(K) the State Appellate Defender, or his or her designee;

(L) the Director of the Administrative Office of the Illinois Courts, or his or her designee;

(M) a victim of a violent felony or a representative of a crime victims' organization, selected by the members of the Council designated in clauses (c)(1)(A) through (L);

(N) a representative of a community-based organization, selected by the members of the Council designated in clauses (c)(1)(A) through ((L);

(O) a criminal justice academic researcher, to be selected by the members of the Council designated in clauses (c)(1)(A) through ((L));

(P) a representative of law enforcement from a unit of local government to be selected by the members of the Council designated in clauses (c)(1)(A) through ((L));

(Q) a sheriff selected by the members of the Council designated in clauses (c)(1)(A) through ((L));

(R) ex-officio members shall include:

(i) the Director of Corrections, or his or her designee;

(ii) the Chair of the Prisoner Review Board, or his or her designee;

(iii) the Director of the Illinois State Police, or his or her designee;

(iv) the Director of the Illinois Criminal Justice Information Authority, or his or her designee; and

(v) the assistant Director of the Administrative Office of the Illinois Courts, or his or her designee; and

(T) the Chair and Vice Chair shall be elected from among its members by a majority of the members of the Council.

(2) Members of the Council who serve because of their public office or position, or those who are designated as members by such officials, shall serve only as long as they hold such office or position.

(3) Council members shall serve without compensation but shall be reimbursed for travel and per diem expenses incurred in their work for the Council.

(4) The Council may exercise any power, perform any function, take any action, or do anything in furtherance of its purposes and goals upon the appointment of a quorum of its members. The term of office of each member of the Council ends on the date of repeal of this amendatory Act of the 96th General Assembly.

(d) Duties. The Council shall perform, as resources permit, duties including:

(1) Collect and analyze information including sentencing data, crime trends, and existing correctional resources to support legislative and executive action affecting the use of correctional

resources on the State and local levels.

(2) Prepare criminal justice population projections annually, including correctional and community-based supervision populations.

(3) Analyze data relevant to proposed sentencing legislation and its effect on current policies or practices, and provide information to support evidence-based sentencing.

(4) Ensure that adequate resources and facilities are available for carrying out sentences imposed on offenders and that rational priorities are established for the use of those resources. To do so, the Council shall prepare criminal justice resource statements, identifying the fiscal and practical effects of proposed criminal sentencing legislation, including, but not limited to, the correctional population, court processes, and county or local government resources.

(5) Perform such other studies or tasks pertaining to sentencing policies as may be requested by the Governor or the Illinois General Assembly.

(6) Perform such other functions as may be required by law or as are necessary to carry out the purposes and goals of the Council prescribed in subsection (b).

(e) Authority.

(1) The Council shall have the power to perform the functions necessary to carry out its duties, purposes and goals under this Act. In so doing, the Council shall utilize information and analysis developed by the Illinois Criminal Justice Information Authority, the Administrative Office of the Illinois Courts, and the Illinois Department of Corrections.

(2) Upon request from the Council, each executive agency and department of State and local government shall provide information and records to the Council in the execution of its duties.

(f) Report. The Council shall report in writing annually to the General Assembly and the Governor.

(g) This Section is repealed on December 31, 2012.

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 foregoing Amendments numbered 1 and 2 were ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Dillard, **Senate Bill No. 1320**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President
Dillard	Koehler	Radogno	

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).

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

SENATE BILL RECALLED

On motion of Senator DeLeo, **Senate Bill No. 552** was recalled from the order of third reading to the order of second reading.

Senator DeLeo offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 552

AMENDMENT NO. 1. Amend Senate Bill 552 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Pension Code is amended by changing Sections 3-110 and 5-212 and by adding Section 5-214.3 as follows:

(40 ILCS 5/3-110) (from Ch. 108 1/2, par. 3-110)

Sec. 3-110. Creditable service.

(a) "Creditable service" is the time served by a police officer as a member of a regularly constituted police force of a municipality. In computing creditable service furloughs without pay exceeding 30 days shall not be counted, but all leaves of absence for illness or accident, regardless of length, and all periods of disability retirement for which a police officer has received no disability pension payments under this Article shall be counted.

(a-5) Up to 3 years of time during which the police officer receives a disability pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 shall be counted as creditable service, provided that (i) the police officer returns to active service after the disability for a period at least equal to the period for which credit is to be established and (ii) the police officer makes contributions to the fund based on the rates specified in Section 3-125.1 and the salary upon which the disability pension is based. These contributions may be paid at any time prior to the commencement of a retirement pension. The police officer may, but need not, elect to have the contributions deducted from the disability pension or to pay them in installments on a schedule approved by the board. If not deducted from the disability pension, the contributions shall include interest at the rate of 6% per year, compounded annually, from the date for which service credit is being established to the date of payment. If contributions are paid under this subsection (a-5) in excess of those needed to establish the credit, the excess shall be refunded. This subsection (a-5) applies to persons receiving a disability pension under Section 3-114.1, 3-114.2, 3-114.3, or 3-114.6 on the effective date of this amendatory Act of the 91st General Assembly, as well as persons who begin to receive such a disability pension after that date.

(b) Creditable service includes all periods of service in the military, naval or air forces of the United States entered upon while an active police officer of a municipality, provided that upon applying for a permanent pension, and in accordance with the rules of the board, the police officer pays into the fund the amount the officer would have contributed if he or she had been a regular contributor during such period, to the extent that the municipality which the police officer served has not made such contributions in the officer's behalf. The total amount of such creditable service shall not exceed 5 years, except that any police officer who on July 1, 1973 had more than 5 years of such creditable service shall receive the total amount thereof.

(b-5) Creditable service includes all periods of service in the military, naval, or air forces of the United States entered upon before beginning service as an active police officer of a municipality, provided that, in accordance with the rules of the board, the police officer pays into the fund the amount the police officer would have contributed if he or she had been a regular contributor during such period, plus an amount determined by the Board to be equal to the municipality's normal cost of the benefit, plus interest at the actuarially assumed rate calculated from the date the employee last became a police officer under this Article. The total amount of such creditable service shall not exceed 2 years.

(c) Creditable service also includes service rendered by a police officer while on leave of absence from a police department to serve as an executive of an organization whose membership consists of members of a police department, subject to the following conditions: (i) the police officer is a participant of a fund established under this Article with at least 10 years of service as a police officer; (ii) the police officer received no credit for such service under any other retirement system, pension fund, or annuity

and benefit fund included in this Code; (iii) pursuant to the rules of the board the police officer pays to the fund the amount he or she would have contributed had the officer been an active member of the police department; and (iv) the organization pays a contribution equal to the municipality's normal cost for that period of service.

(d)(1) Creditable service also includes periods of service originally established in another police pension fund under this Article or in the Fund established under Article 7 of this Code for which (i) the contributions have been transferred under Section 3-110.7 or Section 7-139.9 and (ii) any additional contribution required under paragraph (2) of this subsection has been paid in full in accordance with the requirements of this subsection (d).

(2) If the board of the pension fund to which creditable service and related contributions are transferred under Section 3-110.7 or 7-139.9 determines that the amount transferred is less than the true cost to the pension fund of allowing that creditable service to be established, then in order to establish that creditable service the police officer must pay to the pension fund, within the payment period specified in paragraph (3) of this subsection, an additional contribution equal to the difference, as determined by the board in accordance with the rules and procedures adopted under paragraph (6) of this subsection.

(3) Except as provided in paragraph (4), the additional contribution must be paid to the board (i) within 5 years from the date of the transfer of contributions under Section 3-110.7 or 7-139.9 and (ii) before the police officer terminates service with the fund. The additional contribution may be paid in a lump sum or in accordance with a schedule of installment payments authorized by the board.

(4) If the police officer dies in service before payment in full has been made and before the expiration of the 5-year payment period, the surviving spouse of the officer may elect to pay the unpaid amount on the officer's behalf within 6 months after the date of death, in which case the creditable service shall be granted as though the deceased police officer had paid the remaining balance on the day before the date of death.

(5) If the additional contribution is not paid in full within the required time, the creditable service shall not be granted and the police officer (or the officer's surviving spouse or estate) shall be entitled to receive a refund of (i) any partial payment of the additional contribution that has been made by the police officer and (ii) those portions of the amounts transferred under subdivision (a)(1) of Section 3-110.7 or subdivisions (a)(1) and (a)(3) of Section 7-139.9 that represent employee contributions paid by the police officer (but not the accumulated interest on those contributions) and interest paid by the police officer to the prior pension fund in order to reinstate service terminated by acceptance of a refund.

At the time of paying a refund under this item (5), the pension fund shall also repay to the pension fund from which the contributions were transferred under Section 3-110.7 or 7-139.9 the amount originally transferred under subdivision (a)(2) of that Section, plus interest at the rate of 6% per year, compounded annually, from the date of the original transfer to the date of repayment. Amounts repaid to the Article 7 fund under this provision shall be credited to the appropriate municipality.

Transferred credit that is not granted due to failure to pay the additional contribution within the required time is lost; it may not be transferred to another pension fund and may not be reinstated in the pension fund from which it was transferred.

(6) The Public Employee Pension Fund Division of the Department of Insurance shall establish by rule the manner of making the calculation required under paragraph (2) of this subsection, taking into account the appropriate actuarial assumptions; the police officer's service, age, and salary history; the level of funding of the pension fund to which the credits are being transferred; and any other factors that the Division determines to be relevant. The rules may require that all calculations made under paragraph (2) be reported to the Division by the board performing the calculation, together with documentation of the creditable service to be transferred, the amounts of contributions and interest to be transferred, the manner in which the calculation was performed, the numbers relied upon in making the calculation, the results of the calculation, and any other information the Division may deem useful.

(e)(1) Creditable service also includes periods of service originally established in the Fund established under Article 7 of this Code for which the contributions have been transferred under Section 7-139.11.

(2) If the board of the pension fund to which creditable service and related contributions are transferred under Section 7-139.11 determines that the amount transferred is less than the true cost to the pension fund of allowing that creditable service to be established, then the

amount of creditable service the police officer may establish under this subsection (e) shall be reduced by an amount equal to the difference, as determined by the board in accordance with the rules and procedures adopted under paragraph (3) of this subsection.

(3) The Public Pension Division of the Department of Financial and Professional Regulation shall establish by rule the manner of making the calculation required under paragraph (2) of this subsection, taking into account the appropriate actuarial assumptions; the police officer's service, age, and salary history; the level of funding of the pension fund to which the credits are being transferred; and any other factors that the Division determines to be relevant. The rules may require that all calculations made under paragraph (2) be reported to the Division by the board performing the calculation, together with documentation of the creditable service to be transferred, the amounts of contributions and interest to be transferred, the manner in which the calculation was performed, the numbers relied upon in making the calculation, the results of the calculation, and any other information the Division may deem useful.

(4) Until January 1, 2010, a police officer who transferred service from the Fund established under Article 7 of this Code under the provisions of Public Act 94-356 may establish additional credit, but only for the amount of the service credit reduction in that transfer, as calculated under paragraph (3) of this subsection (e). This credit may be established upon payment by the police officer of an amount to be determined by the board, equal to (1) the amount that would have been contributed as employee and employer contributions had all of the service been as an employee under this Article, plus interest thereon at the rate of 6% per year, compounded annually from the date of service to the date of transfer, less (2) the total amount transferred from the Article 7 Fund, plus (3) interest on the difference at the rate of 6% per year, compounded annually, from the date of the transfer to the date of payment. The additional service credit is allowed under this amendatory Act of the 95th General Assembly notwithstanding the provisions of Article 7 terminating all transferred credits on the date of transfer.

(Source: P.A. 94-356, eff. 7-29-05; 95-812, eff. 8-13-08.)

(40 ILCS 5/5-212) (from Ch. 108 1/2, par. 5-212)

Sec. 5-212. Computation of service. In computing the service rendered by a policeman prior to the effective date, the following periods shall be counted, in addition to all periods during where he performed the duties of his position, as periods of service for annuity purposes only: all periods of (a) vacation; (b) leave of absence with whole or part pay; (c) leave of absence without pay on account of disability; and (d) leave of absence during which the policeman was engaged in the military or naval service of the United States of America. Service credit shall not be allowed for a policeman in receipt of a pension on account of disability from any pension fund superseded by this fund.

In computing the service rendered by a policeman on or after the effective date, the following periods shall be counted, in addition to all periods during which he performed the duties of his position, as periods of service for annuity purposes only: all periods of (a) vacation; (b) leave of absence with whole or part pay; (c) leave of absence during which the policeman was engaged in the military or naval service of the United States of America; (d) time that the policeman was engaged in the military or naval service of the United States of America, during which he was passed over on any eligible list posted from an entrance examination, due to the fact that he was in such military or naval service at the time he was called for appointment to the Police Department, to be computed from the date he was passed over on any eligible list and would have been first sworn in as a policeman had he not been engaged in the military or naval service of the United States of America, until the date of his discharge from such military or naval service; provided that such policeman shall pay into this Fund the same amount that would have been deducted from his salary had he been a policeman during the aforementioned portion of such military or naval service; (e) disability for which the policeman receives any disability benefit; (f) disability for which the policeman receives whole or part pay; ~~and~~ (g) service for which credits and creditable service have been transferred to this Fund under Section 9-121.1, 14-105.1 or 15-134.3 of this Code ; and (h) periods of service in the military, naval, or air forces of the United States entered upon before beginning service as an active policeman of a municipality as provided in Section 5-214.3.

In computing service on or after the effective date for ordinary disability benefit, all periods described in the preceding paragraph, except any such period for which a policeman receives ordinary disability benefit, shall be counted as periods of service.

In computing service for any of the purposes of this Article, no credit shall be given for any period during which a policeman was not rendering active service because of his discharge from the service, unless proceedings to test the legality of the discharge are filed in a court of competent jurisdiction within one year from the date of discharge and a final judgment is entered therein declaring the discharge illegal.

No overtime or extra service shall be included in computing service of a policeman and not more than one year or a fractional part thereof of service shall be allowed for service rendered during any calendar year.

In computing service for any of the purposes of this Article, credit shall be given for any periods during which a policeman who is a member of the General Assembly is on leave of absence or is otherwise authorized to be absent from duty to enable him or her to perform legislative duties, notwithstanding any reduction in salary for such periods and notwithstanding that the contributions paid by the policeman were based on a reduced salary rather than the full amount of salary attached to his or her career service rank.

(Source: P.A. 92-52, eff. 7-12-01.)

(40 ILCS 5/5-214.3 new)

Sec. 5-214.3. Credit for military service. A policeman may establish creditable service under this Article for all periods of service in the military, naval, or air forces of the United States entered upon before beginning service as an active policeman of a municipality, provided that the policeman pays into the fund the amount the policeman would have contributed if he or she had been a regular contributor during such period, plus an amount determined by the Board to be equal to the municipality's normal cost of the benefit, plus interest at the actuarially assumed rate calculated from the date the employee last became a policeman under this Article. The total amount of such creditable service shall not exceed 2 years.

Section 90. The State Mandates Act is amended by adding Section 8.33 as follows:

(30 ILCS 805/8.33 new)

Sec. 8.33. Exempt mandate. Notwithstanding Sections 6 and 8 of this Act, no reimbursement by the State is required for the implementation of any mandate created by this amendatory Act of the 96th General Assembly.

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 foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator DeLeo, **Senate Bill No. 552**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 59; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Raoul
Bivins	Forby	Lauzen	Righter
Bomke	Frerichs	Lightford	Risinger
Bond	Garrett	Link	Rutherford
Brady	Haine	Luechtefeld	Sandoval
Burzynski	Harmon	Maloney	Schoenberg
Clayborne	Hendon	Martinez	Silverstein
Collins	Holmes	McCarter	Steans
Cronin	Hultgren	Meeks	Sullivan
Crotty	Hunter	Millner	Syverson
Dahl	Hutchinson	Muñoz	Trotter
DeLeo	Jacobs	Murphy	Viverito
Delgado	Jones, E.	Noland	Wilhelmi
Demuzio	Jones, J.	Pankau	Mr. President

Dillard Koehler Radogno

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).

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

SENATE BILL RECALLED

On motion of Senator DeLeo, **Senate Bill No. 932** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment No. 1 was withdrawn by the sponsor.

Senator DeLeo offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO SENATE BILL 932

AMENDMENT NO. 2. Amend Senate Bill 932 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 6-106.1, 12-813.1, and 12-816 and by adding Section 12-811.5 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, 12-6, 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 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.

(7) The Secretary of State shall suspend a school bus driver permit for a period of 3 years upon receiving notice that the school bus driver has received 3 convictions for violating subsection (e) of Section 12-813.1 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) has 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.

(Source: P.A. 93-895, eff. 1-1-05; 94-556, eff. 9-11-05.)

(625 ILCS 5/12-813.1)

Sec. 12-813.1. School bus driver communication devices. ~~Operation of a school bus while using a cellular radio telecommunication device.~~

(a) In this Section:

"School bus driver" means a person operating a school bus who has a valid school bus driver permit as required under Sections 6-104 and 6-106.1 of this Code.

"Cellular radio telecommunication device" means a device capable of sending or receiving telephone communications without an access line for service and which requires the operator to dial numbers manually. It does not, however, include citizens band radios or citizens band radio hybrids.

"Possession of a school bus" means the period of time from which a bus driver takes possession until the school bus driver returns possession of the school bus, whether or not the school bus driver is operating the school bus.

"Using a cellular radio telecommunication device" means talking or listening to or dialing a cellular

radio telecommunication device.

To "operate" means to have the vehicle in motion while it contains one or more passengers.

(b) A school bus driver may not operate a school bus while using a cellular radio telecommunication device.

(c) Subsection (b) of this ~~This~~ Section does not apply:

(1) To the use of a cellular radio telecommunication device for the purpose of communicating with any of the following regarding an emergency situation:

(A) an emergency response operator;

(B) a hospital;

(C) a physician's office or health clinic;

(D) an ambulance service;

(E) a fire department, fire district, or fire company; or

(F) a police department.

(2) To the use of a cellular radio telecommunication device to call for assistance in the event that there is a mechanical breakdown or other mechanical problem that impairs the safe operation of the bus.

(3) To the use of a cellular radio telecommunication device that has a digital two-way radio service capability owned and operated by the school district, when that device is being used as a digital two-way radio.

(4) When the school bus is parked.

(d) A school bus driver who violates subsection (b) or (e) of this Section is guilty of a petty offense punishable by a fine of not less than $100 and not more than $250.

(e) A school bus must contain an operating digital two-way radio while the school bus driver is in possession of a school bus. The digital two-way radio in this subsection must be turned on and adjusted in a manner that would alert the school bus driver of an incoming communication request.

(Source: P.A. 92-730, eff. 1-1-03.)

(625 ILCS 5/12-816)

Sec. 12-816. Post-trip inspection policy for school buses.

(a) In order to provide for the welfare and safety of children who are transported on school buses throughout the State of Illinois, each school district shall have in place, by January 1, 2008, a policy to ensure that the school bus driver is the last person leaving the bus and that no passenger is left behind or remains on the vehicle at the end of a route, a work shift, or the work day. This policy and procedure shall, at a minimum, require the school bus driver, before leaving the bus at the end of each route, work shift, or work day, to walk to the rear of the bus and check the bus for children or other passengers in the bus.

(b) If a school district has a contract with a private sector school bus company for the transportation of the district's students, the school district shall require in the contract with the private sector company that the company have a post-trip inspection policy in place. This policy and procedure shall, at a minimum, require the school bus driver, before leaving the bus at the end of each route, work shift, or work day, to walk to the rear of the bus and check the bus for children or other passengers in the bus ~~in and under each seat for sleeping children~~.

(c) Before this inspection, the school bus driver shall activate the interior lights of the bus to assist the driver in seeing in and under the seats during a visual sweep of the bus.

(d) This policy may include, at the discretion of the school district, the installation of a mechanical or electronic post-trip inspection reminder system which requires the school bus driver to walk to the rear of the bus to deactivate the system before the driver leaves the bus. The system shall require that when the driver turns off the vehicle's ignition system, the vehicle's interior lights must illuminate to assist the driver in seeing in and under the seats during a visual sweep of the bus.

(Source: P.A. 95-260, eff. 8-17-07.)

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 foregoing Amendment No. 2 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator DeLeo, **Senate Bill No. 932**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 51; NAYS 5.

The following voted in the affirmative:

Althoff	Duffy	Lightford	Raoul
Bivins	Forby	Link	Righter
Bond	Frerichs	Luechtefeld	Risinger
Brady	Garrett	Maloney	Sandoval
Clayborne	Haine	Martinez	Schoenberg
Collins	Harmon	McCarter	Silverstein
Cronin	Hendon	Meeks	Steans
Crotty	Holmes	Millner	Sullivan
Dahl	Hunter	Muñoz	Trotter
DeLeo	Hutchinson	Murphy	Viverito
Delgado	Jacobs	Noland	Wilhelmi
Demuzio	Koehler	Pankau	Mr. President
Dillard	Kotowski	Radogno	

The following voted in the negative:

Bomke	Hultgren	Rutherford
Burzynski	Lauzen	

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).

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

Senator E. Jones asked and obtained unanimous consent for the Journal to reflect his intention to vote in the affirmative on **Senate Bill 932**.

REPORTS FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 27, 2009 meeting, reported the following House Resolution has been assigned to the indicated Standing Committee of the Senate:

State Government and Veterans Affairs: **House Joint Resolution No. 40.**

State Government and Veterans Affairs: **Senate Resolutions Numbered 273, 290, 291, 296 and 297.**

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 27, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Appropriations I: **Senate Floor Amendment No. 1 to Senate Bill 2169**.

Criminal Law: **Senate Floor Amendment No. 1 to House Bill 1105; Senate Floor Amendment No. 2 to House Bill 1105**.

Environment: **Senate Floor Amendment No. 2 to House Bill 3987**.

Executive: **Senate Floor Amendment No. 1 to House Bill 88; Senate Committee Amendment No. 2 to House Bill 3923; Senate Committee Amendment No. 3 to House Bill 3923**.

Insurance: **Senate Floor Amendment No. 1 to House Bill 2652**.

Local Government: **Senate Floor Amendment No. 1 to Senate Bill 2190; Senate Floor Amendment No. 2 to House Bill 3986**.

Pensions and Investments: **Senate Floor Amendment No. 1 to House Bill 2643; Senate Floor Amendment No. 2 to House Bill 2643**.

Public Health: **Senate Floor Amendment No. 3 to House Bill 810**.

Revenue: **Senate Committee Amendment No. 1 to House Bill 4046; Senate Committee Amendment No. 2 to House Bill 4046**.

State Government and Veterans Affairs: **Senate Committee Amendment No. 1 to Senate Resolution 273**.

Telecommunications and Information Technology: **Senate Floor Amendment No. 1 to Senate Bill 120**.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 27, 2009 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Education: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 1293**
Motion to Concur in House Amendment 1 to Senate Bill 1926

Energy: **Motion to Concur in House Amendment 1 to Senate Bill 1140**

Environment: **Motion to Concur in House Amendment 1 to Senate Bill 2103**

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 138**
Motion to Concur in House Amendment 1 to Senate Bill 933
Motion to Concur in House Amendment 1 to Senate Bill 1296
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1333
Motion to Concur in House Amendment 1 to Senate Bill 1477

Gaming: **Motion to Concur in House Amendment 1 to Senate Bill 1576**

Human Services: **Motion to Concur in House Amendment 1 to Senate Bill 275**

Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 1285**
Motion to Concur in House Amendment 1 to Senate Bill 1335
Motion to Concur in House Amendments 1 and 2 to Senate Bill 2112

Public Health: **Motion to Concur in House Amendment 1 to Senate Bill 2256**

Revenue: **Motion to Concur in House Amendment 1 to Senate Bill 1553**
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1750

Transportation: **Motion to Concur in House Amendment 1 to Senate Bill 2217**

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. 189

A bill for AN ACT concerning 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. 189
House Amendment No. 2 to SENATE BILL NO. 189
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 189

AMENDMENT NO. 1. Amend Senate Bill 189 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Governmental Ethics Act is amended by changing Section 1-105 as follows:

(5 ILCS 420/1-105) (from Ch. 127, par. 601-105)

Sec. 1-105. "Economic opportunity" means any purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services wherein a legislator may gain an economic benefit. The ~~The~~ term shall not include gifts.

(Source: Laws 1967, p. 3401.)".

AMENDMENT NO. 2 TO SENATE BILL 189

AMENDMENT NO. 2. Amend Senate Bill 189, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Open Meetings Act is amended by changing Section 3 and adding Sections 1.05, 3.5, and 7.5 as follows:

(5 ILCS 120/1.05 new)

Sec. 1.05. Training. Every public body shall designate employees, officers, or members to receive training on compliance with this Act. Each public body shall submit a list of designated employees, officers, or members to the Public Access Counselor. Within 6 months after the effective date of this amendatory Act of the 96th General Assembly, the designated employees, officers, and members must successfully complete an electronic training curriculum, developed and administered by the Public Access Counselor, and thereafter must successfully complete an annual training program. Thereafter, whenever a public body designates an additional employee, officer, or member to receive this training, that person must successfully complete the electronic training curriculum within 30 days after that designation.

(5 ILCS 120/3) (from Ch. 102, par. 43)

Sec. 3. (a) Where the provisions of this Act are not complied with, or where there is probable cause to believe that the provisions of this Act will not be complied with, any person, including the State's Attorney of the county in which such noncompliance may occur, may bring a civil action in the circuit court for the judicial circuit in which the alleged noncompliance has occurred or is about to occur, or in which the affected public body has its principal office, prior to or within 60 days of the meeting alleged to be in violation of this Act or, if facts concerning the meeting are not discovered within the 60-day period, within 60 days of the discovery of a violation by the State's Attorney.

Records that are obtained by a State's Attorney from a public body for purposes of reviewing whether the public body has complied with this Act may not be disclosed to the public. Those records, while in the possession of the State's Attorney, are exempt from disclosure under the Freedom of Information Act.

(b) In deciding such a case the court may examine in camera any portion of the minutes of a meeting at which a violation of the Act is alleged to have occurred, and may take such additional evidence as it deems necessary.

(c) The court, having due regard for orderly administration and the public interest, as well as for the interests of the parties, may grant such relief as it deems appropriate, including granting a relief by mandamus requiring that a meeting be open to the public, granting an injunction against future violations

of this Act, ordering the public body to make available to the public such portion of the minutes of a meeting as is not authorized to be kept confidential under this Act, or declaring null and void any final action taken at a closed meeting in violation of this Act.

(d) The court may assess against any party, except a State's Attorney, reasonable attorney's fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with this Section, provided that costs may be assessed against any private party or parties bringing an action pursuant to this Section only upon the court's determination that the action is malicious or frivolous in nature.

(Source: P.A. 88-621, eff. 1-1-95.)

(5 ILCS 120/3.5 new)

Sec. 3.5. Public Access Counselor; opinions.

(a) A person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the alleged violation. The request for review must be in writing, must be signed by the requester, and must include a summary of the facts supporting the allegation.

(b) Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. If the Public Access Counselor determines from the request for review that the alleged violation is unfounded, he or she shall so advise the requester and the public body and no further action shall be undertaken. In all other cases, the Public Access Counselor shall forward a copy of the request for review to the public body within 7 working days. The Public Access Counselor shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, the public body shall provide copies of the records requested and shall otherwise fully cooperate with the Public Access Counselor. If a public body fails to furnish specified records pursuant to this Section, or if otherwise necessary, the Attorney General may issue a subpoena to any person or public body having knowledge of or records pertaining to an alleged violation of this Act. For purposes of conducting a thorough review, the Public Access Counselor has the same right to examine a verbatim recording of a meeting closed to the public or the minutes of a closed meeting as does a court in a civil action brought to enforce this Act.

(c) Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the public body may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. Upon request, the public body may also furnish the Public Access Counselor with a redacted copy of the answer excluding specific references to any matters at issue. The Public Access Counselor shall forward a copy of the answer or redacted answer, if furnished, to the person submitting the request for review. The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the public body.

(d) In addition to the request for review, and the answer and the response thereto, if any, a requester or a public body may furnish affidavits and records concerning any matter germane to the review.

(e) Unless the Public Access Counselor extends the time by no more than 21 business days by sending written notice to the requester and public body that includes a statement of the reasons for the extension in the notice, or decides to address the matter without the issuance of a binding opinion, the Attorney General shall examine the issues and the records, shall make findings of fact and conclusions of law, and shall issue to the requester and the public body an opinion within 60 days after initiating review. The opinion shall be binding upon both the requester and the public body, subject to administrative review under Section 7.5 of this Act.

In responding to any written request under this Section 3.5, the Attorney General may exercise his or her discretion and choose to resolve a request for review by mediation or by a means other than the issuance of a binding opinion. The decision not to issue a binding opinion shall not be reviewable.

Upon receipt of a binding opinion concluding that a violation of this Act has occurred, the public body shall either take necessary action as soon as practical to comply with the directive of the opinion or shall initiate administrative review under Section 7.5. If the opinion concludes that no violation of the Act has occurred, the requester may initiate administrative review under Section 7.5.

(f) If the requester files suit under Section 3 with respect to the same alleged violation that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall take no further action with respect to the request for review and shall so notify the public body.

(g) Records that are obtained by the Public Access Counselor from a public body for purposes of addressing a request for review under this Section 3.5 may not be disclosed to the public, including the requester, by the Public Access Counselor. Those records, while in the possession of the Public Access

Counselor, shall be exempt from disclosure by the Public Access Counselor under the Freedom of Information Act.

(h) The Attorney General may also issue advisory opinions to public bodies regarding compliance with this Act. A review may be initiated upon receipt of a written request from the head of the public body or its attorney. The request must contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the public body in order to facilitate the review. A public body that relies in good faith on an advisory opinion of the Attorney General in complying with the requirements of this Act is not liable for penalties under this Act, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.

(5 ILCS 120/7.5 new)

Sec. 7.5. Administrative review. A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law (735 ILCS 5/Art. III). An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook or Sangamon County. An advisory opinion issued to a public body shall not be considered a final decision of the Attorney General for purposes of this Section.

Section 10. The Freedom of Information Act is amended by changing Sections 1, 2, 3, 4, 6, 7, 9, and 11 and by adding Sections 1.2, 2.5, 2.10, 2.15, 2.20, 3.1, 3.3, 3.5, 7.5, 9.5, and 11.5 as follows:

(5 ILCS 140/1) (from Ch. 116, par. 201)

Sec. 1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.

The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government. It is a fundamental obligation of government to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act.

This Act is not intended to cause an unwarranted invasion of personal ~~be used to violate individual~~ privacy, nor to allow the requests of ~~for the purpose of furthering~~ a commercial enterprise to unduly burden public resources, or to disrupt the duly-undertaken work of any public body independent of the fulfillment of any of the fore-mentioned rights of the people to access to information.

This Act is not intended to create an obligation on the part of any public body to maintain or prepare any public record which was not maintained or prepared by such public body at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law.

Restraints ~~These restraints~~ on access to information, to the extent permitted by this Act, are ~~access should be seen as~~ limited exceptions to the principle ~~general rule~~ that the people of this State have a right to full disclosure of information relating to ~~know~~ the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of any or all of the people. The provisions of this Act shall be construed in accordance with this principle ~~to this end~~. This Act shall be construed to require disclosure of requested information as expediently and efficiently as possible and adherence to the deadlines established in this Act.

The General Assembly recognizes that this Act imposes fiscal obligations on public bodies to provide adequate staff and equipment to comply with its requirements. The General Assembly declares that providing records in compliance with the requirements of this Act is a primary duty of public bodies to the people of this State, and this Act should be construed to this end, fiscal obligations notwithstanding.

The General Assembly further recognizes that technology may advance at a rate that outpaces its ability to address those advances legislatively. To the extent that this Act may not expressly apply to those technological advances, this Act should nonetheless be interpreted to further the declared policy of this Act that public records shall be made available upon request except when denial of access furthers the public policy underlying a specific exemption.

This Act shall be the exclusive State statute on freedom of information, except to the extent that other State statutes might create additional restrictions on disclosure of information or other laws in Illinois might create additional obligations for disclosure of information to the public.

(Source: P.A. 83-1013.)

(5 ILCS 140/1.2 new)

Sec. 1.2. Presumption. All records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by clear and convincing evidence that it is exempt.

(5 ILCS 140/2) (from Ch. 116, par. 202)

Sec. 2. Definitions. As used in this Act:

(a) "Public body" means all ~~any~~ legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof ~~which are supported in whole or in part by tax revenue, or which expend tax revenue~~, and a School Finance Authority created under Article 1E of the School Code. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act.

(b) "Person" means any individual, corporation, partnership, firm, organization or association, acting individually or as a group.

(c) "Public records" means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, ~~possessed~~ or under the control of any public body.

(c-5) "Private information" means unique identifiers, including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses. Private information also includes home address and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person.

(c-10) "Commercial purpose" means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services. For purposes of this definition, requests made by news media and non-profit, scientific, or academic organizations shall not be considered to be made for a "commercial purpose" when the principal purpose of the request is (i) to access and disseminate information concerning news and current or passing events, (ii) for articles of opinion or features of interest to the public, or (iii) for the purpose of academic, scientific, or public research or education. ~~"Public records" includes, but is expressly not limited to: (i) administrative manuals, procedural rules, and instructions to staff, unless exempted by Section 7(p) of this Act; (ii) final opinions and orders made in the adjudication of cases, except an educational institution's adjudication of student or employee grievance or disciplinary cases; (iii) substantive rules; (iv) statements and interpretations of policy which have been adopted by a public body; (v) final planning policies, recommendations, and decisions; (vi) factual reports, inspection reports, and studies whether prepared by or for the public body; (vii) all information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds of public bodies; (viii) the names, salaries, titles, and dates of employment of all employees and officers of public bodies; (ix) materials containing opinions concerning the rights of the state, the public, a subdivision of state or a local government, or of any private persons; (x) the name of every official and the final records of voting in all proceedings of public bodies; (xi) applications for any contract, permit, grant, or agreement except as exempted from disclosure by subsection (g) of Section 7 of this Act; (xii) each report, document, study, or publication prepared by independent consultants or other independent contractors for the public body; (xiii) all other information required by law to be made available for public inspection or copying; (xiv) information relating to any grant or contract made by or between a public body and another public body or private organization; (xv) waiver documents filed with the State Superintendent of Education or the president of the University of Illinois under Section 30-12.5 of the School Code, concerning nominees for General Assembly scholarships under Sections 30-9, 30-10, and 30-11 of the School Code; (xvi) complaints, results of complaints, and Department of Children and Family Services staff findings of licensing violations at day care facilities, provided that personal and identifying information is not released; and (xvii) records, reports, forms, writings, letters, memoranda, books, papers, and other documentary information, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed, or under the control of the Illinois Sports Facilities Authority dealing with the receipt or expenditure of public funds or other funds of the Authority in connection with~~

~~the reconstruction, renovation, remodeling, extension, or improvement of all or substantially all of an existing "facility" as that term is defined in the Illinois Sports Facilities Authority Act.~~

(d) "Copying" means the reproduction of any public record by means of any photographic, electronic, mechanical or other process, device or means now known or hereafter developed and available to the public body.

(e) "Head of the public body" means the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public body, or such person's duly authorized designee.

(f) "News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

(Source: P.A. 91-935, eff. 6-1-01; 92-335, eff. 8-10-01; 92-468, eff. 8-22-01; 92-547, eff. 6-13-02; 92-651, eff. 7-11-02.)

(5 ILCS 140/2.5 new)

Sec. 2.5. Records of funds. All records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public.

(5 ILCS 140/2.10 new)

Sec. 2.10. Payrolls. Certified payroll records submitted to a public body under Section 5(a)(2) of the Prevailing Wage Act are public records subject to inspection and copying in accordance with the provisions of this Act; except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted by the public body prior to disclosure.

(5 ILCS 140/2.15 new)

Sec. 2.15. Arrest reports and criminal history records.

(a) Arrest reports. The following chronologically maintained arrest and criminal history information maintained by State or local criminal justice agencies shall be furnished as soon as practical, but in no event later than 72 hours after the arrest, notwithstanding the time limits otherwise provided for in Section 3 of this Act: (i) information that identifies the individual, including the name, age, address, and photograph, when and if available; (ii) information detailing any charges relating to the arrest; (iii) the time and location of the arrest; (iv) the name of the investigating or arresting law enforcement agency; (v) if the individual is incarcerated, the amount of any bail or bond; and (vi) if the individual is incarcerated, the time and date that the individual was received into, discharged from, or transferred from the arresting agency's custody.

(b) Criminal history records. The following documents maintained by a public body pertaining to criminal history record information are public records subject to inspection and copying by the public pursuant to this Act: (i) court records that are public; (ii) records that are otherwise available under State or local law; and (iii) records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi).

(c) Information described in items (iii) through (vi) of subsection (a) may be withheld if it is determined that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency; (ii) endanger the life or physical safety of law enforcement or correctional personnel or any other person; or (iii) compromise the security of any correctional facility.

(d) The provisions of this Section do not supersede the confidentiality provisions for arrest records of the Juvenile Court Act of 1987.

(5 ILCS 140/2.20 new)

Sec. 2.20. Settlement agreements. All settlement agreements entered into by or on behalf of a public body are public records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 7 of this Act may be redacted.

(5 ILCS 140/3) (from Ch. 116, par. 203)

Sec. 3. (a) Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act. Notwithstanding any other law, a public body may not grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record as defined in this Act.

(b) Subject to the fee provisions of Section 6 of this Act, each public body shall promptly provide, to any person who submits a ~~written~~ request, a copy of any public record required to be disclosed by subsection (a) of this Section and shall certify such copy if so requested.

(c) Requests for inspection or copies shall be made in writing and directed to the public body. Written

requests may be submitted to a public body via personal delivery, mail, telefax, or other means available to the public body. A public body may honor oral requests for inspection or copying. A public body may not require that a request be submitted on a standard form or require the requester to specify the purpose for a request, except to determine whether the records are requested for a commercial purpose or whether to grant a request for a fee waiver. All requests for inspection and copying received by a public body shall immediately be forwarded to its Freedom of Information officer or designee.

(d) ~~(c)~~ Each public body shall, promptly, either comply with or deny a ~~written~~ request for public records within 5 business ~~7 working~~ days after its receipt of the request, unless the time for response is properly extended under subsection (e) of this Section. Denial shall be in writing ~~by letter~~ as provided in Section 9 of this Act. Failure to comply with ~~respond to~~ a written request , extend the time for response, or deny a request within 5 business days ~~7 working days~~ after its receipt shall be considered a denial of the request. A public body that fails to respond to a request within the requisite periods in this Section but thereafter provides the requester with copies of the requested public records may not impose a fee for such copies. A public body that fails to respond to a request received may not treat the request as unduly burdensome under subsection (g).

(e) ~~(d)~~ The time for response under ~~limits prescribed in paragraph (c) of~~ this Section may be extended by the public body ~~in each case~~ for not more than 5 business ~~7 additional working~~ days from the original due date for any of the following reasons:

(i) the requested records are stored in whole or in part at other locations than the office having charge of the requested records;

(ii) the request requires the collection of a substantial number of specified records;

(iii) the request is couched in categorical terms and requires an extensive search for the records responsive to it;

(iv) the requested records have not been located in the course of routine search and additional efforts are being made to locate them;

(v) the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions;

(vi) the request for records cannot be complied with by the public body within the time limits prescribed by paragraph (c) of this Section without unduly burdening or interfering with the operations of the public body;

(vii) there is a need for consultation, which shall be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

The person making a request and the public body may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the public body agree to extend the period for compliance, a failure by the public body to comply with any previous deadlines shall not be treated as a denial of the request for the records.

(f) ~~(e)~~ When additional time is required for any of the above reasons, the public body shall , within 5 business days after receipt of the request, notify ~~by letter~~ the person making the ~~written~~ request ~~within the time limits specified by paragraph (c) of this Section~~ of the reasons for the extension ~~delay~~ and the date by which the response ~~records~~ will be ~~made available or denial will be~~ forthcoming. Failure to respond within the time permitted for extension shall be considered a denial of the request. A public body that fails to respond to a request within the time permitted for extension but thereafter provides the requester with copies of the requested public records may not impose a fee for those copies. A public body that requests an extension and subsequently fails to respond to the request may not treat the request as unduly burdensome under subsection (g). ~~In no instance, may the delay in processing last longer than 7 working days. A failure to render a decision within 7 working days shall be considered a denial of the request.~~

(g) ~~(f)~~ Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information.

Repeated requests from the same person for the same records that are unchanged or identical to

records previously provided or properly denied under this Act ~~for the same public records by the same person~~ shall be deemed unduly burdensome under this provision.

(h) ~~(g)~~ Each public body may promulgate rules and regulations in conformity with the provisions of this Section pertaining to the availability of records and procedures to be followed, including:

(i) the times and places where such records will be made available, and

(ii) the persons from whom such records may be obtained.

(i) The time periods for compliance or denial of a request to inspect or copy records set out in this Section shall not apply to requests for records made for a commercial purpose. Such requests shall be subject to the provisions of Section 3.1 of this Act.

(Source: P.A. 90-206, eff. 7-25-97.)

(5 ILCS 140/3.1 new)

Sec. 3.1. Requests for commercial purposes.

(a) A public body shall respond to a request for records to be used for a commercial purpose within 21 working days after receipt. The response shall (i) provide to the requester an estimate of the time required by the public body to provide the records requested and an estimate of the fees to be charged, which the public body may require the person to pay in full before copying the requested documents, (ii) deny the request pursuant to one or more of the exemptions set out in this Act, (iii) notify the requester that the request is unduly burdensome and extend an opportunity to the requester to attempt to reduce the request to manageable proportions, or (iv) provide the records requested.

(b) Unless the records are exempt from disclosure, a public body shall comply with a request within a reasonable period considering the size and complexity of the request, and giving priority to records requested for non-commercial purposes.

(c) It is a violation of this Act for a person to knowingly obtain a public record for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the public body.

(5 ILCS 140/3.3 new)

Sec. 3.3. This Act is not intended to compel public bodies to interpret or advise requesters as to the meaning or significance of the public records.

(5 ILCS 140/3.5 new)

Sec. 3.5. Freedom of Information officers.

(a) Each public body shall designate one or more officials or employees to act as its Freedom of Information officer or officers. Except in instances when records are furnished immediately, Freedom of Information officers, or their designees, shall receive requests submitted to the public body under this Act, ensure that the public body responds to requests in a timely fashion, and issue responses under this Act. Freedom of Information officers shall develop a list of documents or categories of records that the public body shall immediately disclose upon request.

Upon receiving a request for a public record, the Freedom of Information officer shall:

(1) note the date the public body receives the written request;

(2) compute the day on which the period for response will expire and make a notation of that date on the written request;

(3) maintain an electronic or paper copy of a written request, including all documents submitted with the request until the request has been complied with or denied; and

(4) create a file for the retention of the original request, a copy of the response, a record of written communications with the requester, and a copy of other communications.

(b) All Freedom of Information officers shall, within 6 months after the effective date of this amendatory Act of the 96th General Assembly, successfully complete an electronic training curriculum to be developed by the Public Access Counselor and thereafter successfully complete an annual training program. Thereafter, whenever a new Freedom of Information officer is designated by a public body, that person shall successfully complete the electronic training curriculum within 30 days after assuming the position. Successful completion of the required training curriculum within the periods provided shall be a prerequisite to continue serving as a Freedom of Information officer.

(5 ILCS 140/4) (from Ch. 116, par. 204)

Sec. 4. Each public body shall prominently display at each of its administrative or regional offices, make available for inspection and copying, and send through the mail if requested, each of the following:

(a) A brief description of itself, which will include, but not be limited to, a short summary of its purpose, a block diagram giving its functional subdivisions, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any board, commission, committee, or council which operates in an advisory capacity relative to the operation of the public body, or which exercises control over its policies or procedures, or to which the public body is required to report and be

answerable for its operations; and

(b) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officer or officers, the address where ~~by titles and addresses those employees to whom~~ requests for public records should be directed, and any fees allowable under Section 6 of this Act.

(c) A public body that maintains a website shall also post this information on its website.

(Source: P.A. 83-1013.)

(5 ILCS 140/6) (from Ch. 116, par. 206)

Sec. 6. Authority to charge fees.

(a) When a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester. A public body may charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium. A public body may not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records. Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records when furnished in an electronic format.

(b) ~~(a)~~ Except when a fee is otherwise fixed by statute, each ~~Each~~ public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records . No fees shall be charged for the first 50 pages of black and white, letter or legal sized copies requested by a requester. The fee for black and white, letter or legal sized copies shall not exceed 15 cents per page. If a public body provides copies in color or in a size other than letter or legal, the public body may not charge more than its actual cost for reproducing the records. In calculating its actual cost for reproducing records or for the use of the equipment of the public body to reproduce records, a public body shall not include ~~Such fees shall exclude~~ the costs of any search for and review of the records or other personnel costs associated with reproducing the records ~~record, and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by State statute~~. Such fees shall be imposed according to a standard scale of fees, established and made public by the body imposing them. The cost for certifying a record shall not exceed $1.

(c) ~~(b)~~ Documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. For purposes of this subsection, "commercial benefit" shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public. In setting the amount of the waiver or reduction, the public body may take into consideration the amount of materials requested and the cost of copying them.

(d) ~~(c)~~ The ~~purposeful~~ imposition of a fee not consistent with subsections (6)(a) and (b) of this Act constitutes ~~shall be considered~~ a denial of access to public records for the purposes of judicial review.

(d) The fee for each ~~an~~ abstract of a driver's record shall be as provided in Section 6-118 of "The Illinois Vehicle Code", approved September 29, 1969, as amended , whether furnished as a paper copy or as an electronic copy.

(Source: P.A. 90-144, eff. 7-23-97.)

(5 ILCS 140/7) (from Ch. 116, par. 207)

(Text of Section after amendment by P.A. 95-988)

Sec. 7. Exemptions.

(1) When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body may elect to redact the information that is exempt. The public body shall make the remaining information available for inspection and copying. Subject to this requirement, the ~~The~~ following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing ~~adopted under~~ federal or State law.

(b) Private information, unless disclosure is required by another provision of this Act, a State or

federal law or a court order.

(c) Personal information contained within public records, the disclosure of which ~~(b) Information that, if disclosed,~~ would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. ~~Information exempted under this subsection (b) shall include but is not limited to:~~

~~(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;~~

~~(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;~~

~~(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;~~

~~(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;~~

~~(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection;~~

~~(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs; and~~

~~(vii) the Notarial Record or other medium containing the thumbprint or fingerprint required by Section 3-102(e)(6) of the Illinois Notary Public Act.~~

(d) ~~(c)~~ Records in the possession of ~~compiled by~~ any public body created in the course of ~~for~~ administrative enforcement proceedings , and any law enforcement or correctional agency for law enforcement purposes, ~~or for internal matters of a public body,~~ but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request;

(ii) interfere with active ~~pending~~ administrative enforcement proceedings conducted by the ~~any~~ public body that is the recipient of the request;

(iii) create a substantial likelihood that ~~deprive~~ a person will be deprived of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request ~~a confidential source or confidential information furnished only by the confidential source~~;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

~~(vi) constitute an invasion of personal privacy under subsection (b) of this Section;~~

(vi) ~~(vii)~~ endanger the life or physical safety of law enforcement personnel or any other person; or

(vii) ~~(viii)~~ obstruct an ongoing criminal investigation by the agency that is the recipient of the request.

~~(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:~~

~~(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;~~

~~(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;~~

~~(iii) court records that are public;~~

~~(iv) records that are otherwise available under State or local law; or~~

~~(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (e) of subsection (1) of this Section.~~

~~"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial 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 individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.~~

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or commercial or financial information are furnished under a claim that they are proprietary, privileged or confidential, and that ~~or where~~ disclosure of the trade secrets or commercial or financial information would ~~may~~ cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested. ~~, including:~~

~~(i) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.~~

(i) ~~(ii)~~ All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) The following information pertaining to educational matters:

(i) test ~~Test~~ questions, scoring keys and other examination data used to administer an academic examination; ~~or determined the qualifications of an applicant for a license or employment.~~

(ii) information received by a primary or secondary school, college, or university under its procedures for the evaluation of faculty members by their academic peers;

(iii) information concerning a school or university's adjudication of student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and

(iv) course materials or research materials used by faculty members.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, including but not limited to power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security ~~, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings~~.

~~(l) Library circulation and order records identifying library users with specific materials.~~

(l) ~~(m)~~ Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(m) ~~(n)~~ Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(n) ~~(o)~~ Records relating to a public body's adjudication of employee grievances or disciplinary cases; however, this exemption shall not extend to the final outcome of cases in which discipline is imposed ~~Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers~~.

(o) ~~(p)~~ Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(p) ~~(q)~~ Records ~~Documents or materials~~ relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(q) ~~(r)~~ Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment. ~~Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.~~

(r) ~~(s)~~ The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(s) ~~(t)~~ Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool. Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

~~(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.~~

~~(v) Course materials or research materials used by faculty members.~~

~~(w) Information related solely to the internal personnel rules and practices of a public body.~~

(t) ~~(x)~~ Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

~~(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.~~

~~(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.~~

~~(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.~~

~~(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.~~

~~(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.~~

~~(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.~~

~~(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.~~

~~(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.~~

~~(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.~~

~~(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.~~

(u) ~~(ii)~~ Information ~~Beginning July 1, 1999, information~~ that would disclose or might lead to the disclosure of secret or confidential

information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

~~(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.~~

~~(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.~~

(v) ~~(ll)~~ Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(x) ~~(mm)~~ Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency.

~~(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.~~

~~(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.~~

~~(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.~~

~~(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.~~

(y) ~~(rr)~~ Information contained in or related to proposals, bids, or negotiations related to electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

~~(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.~~

(2) A public record that is not in the possession of a public body but is in the possession of a party

with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

(3) ~~(2)~~ This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act.

(Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff. 8-28-07; 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; revised 10-20-08.)

(5 ILCS 140/7.5 new)

Sec. 7.5. Statutory Exemptions. To the extent provided for by the statutes referenced below, the following shall be exempt from inspection and copying:

(a) All information determined to be confidential under Section 4002 of the Technology Advancement and Development Act.

(b) Library circulation and order records identifying library users with specific materials under the Library Records Confidentiality Act.

(c) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(d) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(e) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(f) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(g) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.

(h) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained by an Executive Inspector General's office under that Act.

(i) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(j) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(k) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(l) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(m) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(n) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (n) shall apply until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

(o) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

(p) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(q) Information prohibited from being disclosed by the Personnel Records Review Act.

(r) Information prohibited from being disclosed by the Illinois School Student Records Act.

(s) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(5 ILCS 140/9) (from Ch. 116, par. 209)

Sec. 9. (a) Each public body ~~or head of a public body~~ denying a request for public records shall notify the requester in writing ~~by letter the person making the request~~ of the decision to deny the request ~~such~~, the reasons for the denial, including a detailed factual basis for the application of any exemption

claimed, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public body shall also inform such person of the ~~his~~ right to review by the Public Access Counselor and provide the address and phone number for the Public Access Counselor ~~appeal to the head of the public body~~. Each notice of denial ~~of an appeal by the head of a public body~~ shall inform such person of his right to judicial review under Section 11 of this Act.

(b) When a request for public records is denied on the grounds that the records are exempt under Section 7 of this Act, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to supporting legal authority. Copies of all notices of denial shall be retained by each public body in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

(c) Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to that request if the public body fails to act within the time periods provided in Section 3 of this Act.

(Source: P.A. 83-1013.)

(5 ILCS 140/9.5 new)

Sec. 9.5. Public Access Counselor; opinions.

(a) A person whose request to inspect or copy a public record is denied by a public body, except the General Assembly and committees, commissions, and agencies thereof, may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. The request for review must be in writing, signed by the requester, and include (i) a copy of the request for access to records and (ii) any responses from the public body.

(b) A public body that receives a request for records, and asserts that the records are exempt under subsection (1)(c) or (1)(f) of Section 7 of this Act, shall, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor of its intent to deny the request in whole or in part. The notice shall include: (i) a copy of the request for access to records; (ii) the proposed response from the public body; and (iii) a detailed summary of the public body's basis for asserting the exemption. Upon receipt of a notice of intent to deny from a public body, the Public Access Counselor shall determine whether further inquiry is warranted. Within 5 working days after receipt of the notice of intent to deny, the Public Access Counselor shall notify the public body and the requester whether further inquiry is warranted. If the Public Access Counselor determines that further inquiry is warranted, the procedures set out in this Section regarding the review of denials, including the production of documents, shall also be applicable to the inquiry and resolution of a notice of intent to deny from a public body. Times for response or compliance by the public body under Section 3 of this Act shall be tolled until the Public Access Counselor concludes his or her inquiry.

(c) Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. If the Public Access Counselor determines that the alleged violation is unfounded, he or she shall so advise the requester and the public body and no further action shall be undertaken. In all other cases, the Public Access Counselor shall forward a copy of the request for review to the public body within 7 working days after receipt and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, the public body shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. If a public body fails to furnish specified records pursuant to this Section, or if otherwise necessary, the Attorney General may issue a subpoena to any person or public body having knowledge of or records pertaining to a request for review of a denial of access to records under the Act. To the extent that records or documents produced by a public body contain information that is claimed to be exempt from disclosure under Section 7 of this Act, the Public Access Counselor shall not further disclose that information.

(d) Within 7 working days after it receives a copy of a request for review and request for production of records from the Public Access Counselor, the public body may, but is not required to, answer the allegations of the request for review. The answer may take the form of a letter, brief, or memorandum. The Public Access Counselor shall forward a copy of the answer to the person submitting the request for review, with any alleged confidential information to which the request pertains redacted from the copy. The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the public body.

(e) In addition to the request for review, and the answer and the response thereto, if any, a requester or a public body may furnish affidavits or records concerning any matter germane to the review.

(f) Unless the Public Access Counselor extends the time by no more than 21 business days by sending written notice to the requester and the public body that includes a statement of the reasons for the

extension in the notice, or decides to address the matter without the issuance of a binding opinion, the Attorney General shall examine the issues and the records, shall make findings of fact and conclusions of law, and shall issue to the requester and the public body an opinion in response to the request for review within 60 days after its receipt. The opinion shall be binding upon both the requester and the public body, subject to administrative review under Section 11.5.

In responding to any request under this Section 9.5, the Attorney General may exercise his or her discretion and choose to resolve a request for review by mediation or by a means other than the issuance of a binding opinion. The decision not to issue a binding opinion shall not be reviewable.

Upon receipt of a binding opinion concluding that a violation of this Act has occurred, the public body shall either take necessary action immediately to comply with the directive of the opinion or shall initiate administrative review under Section 11.5. If the opinion concludes that no violation of the Act has occurred, the requester may initiate administrative review under Section 11.5.

A public body that discloses records in accordance with an opinion of the Attorney General is immune from all liabilities by reason thereof and shall not be liable for penalties under this Act.

(g) If the requester files suit under Section 11 with respect to the same denial that is the subject of a pending request for review, the requester shall notify the Public Access Counselor, and the Public Access Counselor shall take no further action with respect to the request for review and shall so notify the public body.

(h) The Attorney General may also issue advisory opinions to public bodies regarding compliance with this Act. A review may be initiated upon receipt of a written request from the head of the public body or its attorney, which shall contain sufficient accurate facts from which a determination can be made. The Public Access Counselor may request additional information from the public body in order to assist in the review. A public body that relies in good faith on an advisory opinion of the Attorney General in responding to a request is not liable for penalties under this Act, so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor.

(5 ILCS 140/11) (from Ch. 116, par. 211)

Sec. 11. (a) Any person denied access to inspect or copy any public record by ~~the head of~~ a public body may file suit for injunctive or declaratory relief.

(b) Where the denial is from ~~the head of~~ a public body of the State, suit may be filed in the circuit court for the county where the public body has its principal office or where the person denied access resides.

(c) Where the denial is from ~~the head of~~ a municipality or other public body, except as provided in subsection (b) of this Section, suit may be filed in the circuit court for the county where the public body is located.

(d) The circuit court shall have the jurisdiction to enjoin the public body from withholding public records and to order the production of any public records improperly withheld from the person seeking access. If the public body can show that exceptional circumstances exist, and that the body is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records.

(e) On motion of the plaintiff, prior to or after in camera inspection, the court shall order the public body to provide an index of the records to which access has been denied. The index shall include the following:

(i) A description of the nature or contents of each document withheld, or each deletion from a released document, provided, however, that the public body shall not be required to disclose the information which it asserts is exempt; and

(ii) A statement of the exemption or exemptions claimed for each such deletion or withheld document.

(f) In any action considered by the court, the court shall consider the matter de novo, and shall conduct such in camera examination of the requested records as it finds appropriate to determine if such records or any part thereof may be withheld under any provision of this Act. The burden shall be on the public body to establish that its refusal to permit public inspection or copying is in accordance with the provisions of this Act. Any public body that asserts that a record is exempt from disclosure has the burden of proving that it is exempt by clear and convincing evidence.

(g) In the event of noncompliance with an order of the court to disclose, the court may enforce its order against any public official or employee so ordered or primarily responsible for such noncompliance through the court's contempt powers.

(h) Except as to causes the court considers to be of greater importance, proceedings arising under this Section shall take precedence on the docket over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way.

(i) If a person seeking the right to inspect or receive a copy of a public record ~~substantially~~ prevails in a proceeding under this Section, the court shall ~~may~~ award such person reasonable attorneys' fees and costs. In determining what amount of attorney's fees is reasonable, the court shall consider the degree to which the relief obtained relates to the relief sought. The changes contained in this subsection apply to an action filed on or after the effective date of this amendatory Act of the 96th General Assembly. ~~If, however, the court finds that the fundamental purpose of the request was to further the commercial interests of the requestor, the court may award reasonable attorneys' fees and costs if the court finds that the record or records in question were of clearly significant interest to the general public and that the public body lacked any reasonable basis in law for withholding the record.~~

(j) If the court determines that a public body willfully and intentionally failed to comply with this Act, or otherwise acted in bad faith, the court shall also impose upon the public body a civil penalty of not less that $2,500 nor more than $5,000 for each occurrence. In assessing the civil penalty, the court shall consider in aggravation or mitigation the budget of the public body and whether the public body has previously been assessed penalties for violations of this Act. The changes contained in this subsection apply to an action filed an or after the effective date of this amendatory Act of the 96th General Assembly.

(Source: P.A. 93-466, eff. 1-1-04.)

(5 ILCS 140/11.5 new)

Sec. 11.5. Administrative review. A binding opinion issued by the Attorney General shall be considered a final decision of an administrative agency, for purposes of administrative review under the Administrative Review Law (735 ILCS 5/Art. III). An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook or Sangamon County. An advisory opinion issued to a public body shall not be considered a final decision of the Attorney General for purposes of this Section.

(5 ILCS 140/7.1 rep.) (5 ILCS 140/8 rep.) (5 ILCS 140/10 rep.)

Section 15. The Freedom of Information Act is amended by repealing Sections 7.1, 8, and 10.

Section 20. The Attorney General Act is amended by changing Section 4 and by adding Section 7 as follows:

(15 ILCS 205/4) (from Ch. 14, par. 4)

Sec. 4. The duties of the Attorney General shall be--

First - To appear for and represent the people of the State before the supreme court in all cases in which the State or the people of the State are interested.

Second - To institute and prosecute all actions and proceedings in favor of or for the use of the State, which may be necessary in the execution of the duties of any State officer.

Third - To defend all actions and proceedings against any State officer, in his official capacity, in any of the courts of this State or the United States.

Fourth - To consult with and advise the several State's Attorneys in matters relating to the duties of their office; and when, in his judgment, the interest of the people of the State requires it, he shall attend the trial of any party accused of crime, and assist in the prosecution. When the Attorney General has requested in writing that a State's Attorney initiate court proceedings to enforce any provisions of the Election Code or to initiate a criminal prosecution with respect to a violation of the Election Code, and when the State's Attorney has declined in writing to initiate those proceedings or prosecutions or when the State's Attorney has neither initiated the proceedings or prosecutions nor responded in writing to the Attorney General within 60 days of the receipt of the request, the Attorney General may, concurrently with or independently of the State's Attorney, initiate such proceedings or prosecutions. The Attorney General may investigate and prosecute any violation of the Election Code at the request of the State Board of Elections or a State's Attorney.

Fifth - To investigate alleged violations of the statutes which the Attorney General has a duty to enforce and to conduct other investigations in connection with assisting in the prosecution of a criminal offense at the request of a State's Attorney.

Sixth - To consult with and advise the governor and other State officers, and give, when requested, written opinions upon all legal or constitutional questions relating to the duties of such officers respectively.

Seventh - To prepare, when necessary, proper drafts for contracts and other writings relating to subjects in which the State is interested.

Eighth - To give written opinions, when requested by either branch of the general assembly, or any committee thereof, upon constitutional or legal questions.

Ninth - To enforce the proper application of funds appropriated to the public institutions of the State,

prosecute breaches of trust in the administration of such funds, and, when necessary, prosecute corporations for failure or refusal to make the reports required by law.

Tenth - To keep, a register of all cases prosecuted or defended by him, in behalf of the State or its officers, and of all proceedings had in relation thereto, and to deliver the same to his successor in office.

Eleventh - To keep on file in his office a copy of the official opinions issued by the Attorney General and deliver same to his successor.

Twelfth - To pay into the State treasury all moneys received by him for the use of the State.

Thirteenth - To attend to and perform any other duty which may, from time to time, be required of him by law.

Fourteenth - To attend, present evidence to and prosecute indictments returned by each Statewide Grand Jury.

Fifteenth - To give written binding and advisory public access opinions as provided in Section 7 of this Act.

(Source: P.A. 94-291, eff. 7-21-05; 95-699, eff. 11-9-07.)

(15 ILCS 205/7 new)

Sec. 7. Public Access Counselor.

(a) The General Assembly finds that members of the public have encountered obstacles in obtaining copies of public records from units of government, and that many of those obstacles result from difficulties that both members of the public and public bodies have had in interpreting and applying the Freedom of Information Act. The General Assembly further finds that members of the public have encountered difficulties in resolving alleged violations of the Open Meetings Act. The public's significant interest in access to public records and in open meetings would be better served if there were a central office available to provide advice and education with respect to the interpretation and implementation of the Freedom of Information Act and the Open Meetings Act.

(b) Therefore, there is created in the Office of the Attorney General the Office of Public Access Counselor. The Attorney General shall appoint a Public Access Counselor, who shall be an attorney licensed to practice in Illinois. The Public Access Counselor's Office shall be comprised of the Public Access Counselor and such assistant attorneys general and other staff as are deemed necessary by the Attorney General.

(c) Through the Public Access Counselor, the Attorney General shall have the power:

(1) to establish and administer a program to provide free training for public officials and to educate the public on the rights of the public and the responsibilities of public bodies under the Freedom of Information Act and the Open Meetings Act;

(2) to prepare and distribute interpretive or educational materials and programs;

(3) to resolve disputes involving a potential violation of the Open Meetings Act or the Freedom of Information Act in response to a request for review initiated by an aggrieved party, as provided in those Acts, by mediating or otherwise informally resolving the dispute or by issuing a binding opinion; except that the Attorney General may not issue an opinion concerning a specific matter with respect to which a lawsuit has been filed under Section 3 of the Open Meetings Act or Section 11 of the Freedom of Information Act;

(4) to issue advisory opinions with respect to the Open Meetings Act and the Freedom of Information Act either in response to a request for review or otherwise;

(5) to respond to informal inquiries made by the public and public bodies;

(6) to conduct research on compliance issues;

(7) to make recommendations to the General Assembly concerning ways to improve access to public records and public access to the processes of government;

(8) to develop and make available on the Attorney General's website or by other means an electronic training curriculum for Freedom of Information officers;

(9) to develop and make available on the Attorney General's website or by other means an electronic Open Meetings Act training curriculum for employees, officers, and members designated by public bodies;

(10) to prepare and distribute to public bodies model policies for compliance with the Freedom of Information Act; and

(11) to promulgate rules to implement these powers.

(d) To accomplish the objectives and to carry out the duties prescribed by this Section, the Public Access Counselor, in addition to other powers conferred upon him or her by this Section, may request that subpoenas be issued by the Attorney General in accordance with the provisions of Section 9.5 of the Freedom of Information Act and Section 3.5 of the Open Meetings Act. Service by the Attorney General of any subpoena upon any person shall be made:

(i) personally by delivery of a duly executed copy thereof to the person to be served, or in the case of a public body, in the manner provided in Section 2-211 of the Civil Practice Law; or

(ii) by mailing by certified mail a duly executed copy thereof to the person to be served at his or her last known abode or, in the case of a public body, to its principal place of business.

(e) If any person or public body fails or refuses to obey any subpoena issued pursuant to this Section, the Attorney General may file a complaint in the circuit court to:

(i) obtain compliance with the subpoena;

(ii) obtain injunctive relief to prevent a violation of the Open Meetings Act or Freedom of Information Act; and

(iii) obtain such other relief as may be required.

(f) The Attorney General has the authority to file an action in the circuit court of Cook or Sangamon County for injunctive or other relief to compel compliance with a binding opinion issued pursuant to Section 3.5 of the Open Meetings Act or Section 9.5 of the Freedom of Information Act, to prevent a violation of the Open Meetings Act or the Freedom of Information Act, and for such other relief as may be required.

(g) The Attorney General shall post his or her binding opinions issued pursuant to Section 3.5 of the Open Meetings Act or Section 9.5 of the Freedom of Information Act and any rules on the official website of the Office of the Attorney General, with links to those opinions from the official home page, and shall make them available for immediate inspection in his or her office.

Section 99. Effective date. This Act takes effect January 1, 2010.".

Under the rules, the foregoing **Senate Bill No. 189**, 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. 2172

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. 2172
House Amendment No. 2 to SENATE BILL NO. 2172
Passed the House, as amended, May 27, 2009.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 2172

AMENDMENT NO. 1. Amend Senate Bill 2172 by replacing line 6 on page 1 with the following:

"amended by changing Sections 605-25, 605-550, 605-675, and 605-810 as follows:"; and

on page 3, immediately below line 8, by inserting the following:

(20 ILCS 605/605-550) (was 20 ILCS 605/46.71)

Sec. 605-550. Model domestic violence and sexual assault employee awareness and assistance policy.

(a) The Department shall convene a task force including members of the business community, employees, employee organizations, representatives from the Department of Labor, and directors of domestic violence and sexual assault programs, including representatives of statewide advocacy organizations for the prevention of domestic violence and sexual assault, to develop a model domestic violence and sexual assault employee awareness and assistance policy for businesses.

The Department shall give due consideration to the recommendations of the Governor, the President of the Senate, and the Speaker of the House of Representatives for participation by any person on the task force, and shall make reasonable efforts to assure regional balance in membership.

(b) The purpose of the model employee awareness and assistance policy shall be to provide businesses with the best practices, policies, protocols, and procedures in order that they ascertain domestic violence and sexual assault awareness in the workplace, assist affected employees, and provide a safe and helpful

working environment for employees currently or potentially experiencing the effects of domestic violence or sexual assault. The model plan shall include but not be limited to:

(1) the establishment of a definite corporate policy statement recognizing domestic violence and sexual assault as workplace issues as well as promoting the need to maintain job security for those employees currently involved in domestic violence or sexual assault disputes;

(2) policy and service publication requirements, including posting these policies and service availability pamphlets in break rooms, on bulletin boards, and in restrooms, and transmitting them through other communication methods;

(3) a listing of current domestic violence and sexual assault community resources such as shelters, crisis intervention programs, counseling and case management programs, and legal assistance and advocacy opportunities for affected employees;

(4) measures to ensure workplace safety including, where appropriate, designated parking areas, escort services, and other affirmative safeguards;

(5) training programs and protocols designed to educate employees and managers in how to recognize, approach, and assist employees experiencing domestic violence or sexual assault, including both victims and batterers; and

(6) other issues as shall be appropriate and relevant for the task force in developing the model policy.

(c) The model policy shall be reviewed by the task force to assure consistency with existing law and shall be made the subject of public hearings convened by the Department throughout the State at places and at times which are convenient for attendance by the public, after which the policy shall be reviewed by the task force and amended as necessary to reflect concerns raised at the hearings. If approved by the task force, the model policy shall be provided as approved with explanation of its provisions to the Governor and the General Assembly not later than one year after the effective date of this amendatory Act of the 91st General Assembly. The Department shall make every effort to notify businesses of the availability of the model domestic violence and sexual assault employee awareness and assistance policy.

(d) The Department, in consultation with the task force, providers of services, the advisory council, the Department of Labor, and representatives of statewide advocacy organizations for the prevention of domestic violence and sexual assault, shall provide technical support, information, and encouragement to businesses to implement the provisions of the model.

(e) Nothing contained in this Section shall be deemed to prevent businesses from adopting their own domestic violence and sexual assault employee awareness and assistance policy.

(f) The Department may ~~shall~~ survey businesses within 4 years of the effective date of this amendatory Act of the 91st General Assembly to determine the level of model policy adoption amongst businesses and shall take steps necessary to promote the further adoption of such policy.

(Source: P.A. 91-592, eff. 8-14-99; 92-16, eff. 6-28-01.)

(20 ILCS 605/605-675) (was 20 ILCS 605/46.66)

Sec. 605-675. Exporter award program. The Department may ~~shall~~ establish and operate, in cooperation with the Department of Agriculture and the Illinois Finance Authority, an annual awards program to recognize Illinois-based exporters. In developing criteria for the awards, the Department shall give consideration to the exporting efforts of small and medium sized businesses, first-time exporters, and other appropriate categories.

(Source: P.A. 93-205, eff. 1-1-04.)

(20 ILCS 605/605-810) (was 20 ILCS 605/46.19a in part)

Sec. 605-810. Reemployment of former employees. When the Department is involved in developing a federal or State funded training or retraining program for any employer, the Department may ~~will~~ assist and encourage that employer in making every effort to reemploy individuals previously employed at the facility. Further, the Department may ~~will~~ provide a list of those employees to the employer for consideration for reemployment ~~and will report the results of this effort to the Illinois Job Training Coordinating Council~~. This requirement shall be in effect when all of the following conditions are met:

(1) The employer is reopening, or is proposing to reopen, a facility that was last closed during the preceding 2 years.

(2) A substantial number of the persons who were employed at the facility before its most recent closure remain unemployed.

(3) The product or service produced by, or proposed to be produced by, the employer at the facility is substantially similar to the product or service produced at the facility before its most recent closure.

(Source: P.A. 90-454, eff. 8-16-97; 91-239, eff. 1-1-00.)

Section 10. The Energy Conservation and Coal Development Act is amended by changing Section 8 as follows:

(20 ILCS 1105/8) (from Ch. 96 1/2, par. 7408)

Sec. 8. Illinois Coal Development Board.

(a) There may ~~shall~~ be established as an advisory board to the Department, the Illinois Coal Development Board, hereinafter in this Section called the Board. The Board shall be composed of the following voting members: the Director of the Department, who shall be Chairman thereof; the Deputy Director of the Bureau of Business Development within the Department of Commerce and Economic Opportunity; the President of the University of Illinois or his or her designee; the Director of Natural Resources or that Director's designee; the Director of the Office of Mines and Minerals within the Department of Natural Resources; 4 members of the General Assembly (one each appointed by the President of the Senate, the Senate Minority Leader, the Speaker of the House, and the House Minority Leader); and 8 persons appointed by the Governor, with the advice and consent of the Senate, including representatives of Illinois industries that are involved in the extraction, utilization or transportation of Illinois coal, persons representing financial or banking interests in the State, and persons experienced in international business and economic development. These members shall be chosen from persons of recognized ability and experience in their designated field. The members appointed by the Governor shall serve for terms of 4 years, unless otherwise provided in this subsection. The initial terms of the original appointees shall expire on July 1, 1985, except that the Governor shall designate 3 of the original appointees to serve initial terms that shall expire on July 1, 1983. The initial term of the member appointed by the Governor to fill the office created after July 1, 1985 shall expire on July 1, 1989. The initial terms of the members appointed by the Governor to fill the offices created by this amendatory Act of 1993 shall expire on July 1, 1995, and July 1, 1997, as determined by the Governor. A member appointed by a Legislative Leader shall serve for the duration of the General Assembly for which he or she is appointed, so long as the member remains a member of that General Assembly.

The Board may ~~shall~~ meet at least annually or at the call of the Chairman. At any time the majority of the Board may petition the Chairman for a meeting of the Board. Nine members of the Board shall constitute a quorum. Members of the Board shall be reimbursed for actual and necessary expenses incurred while performing their duties as members of the Board from funds appropriated to the Department for such purpose.

(b) The Board shall provide advice and make recommendations on the following Department powers and duties:

(1) To develop an annual agenda which may include but is not limited to research and methodologies conducted for the purpose of increasing the utilization of Illinois' coal and other fossil fuel resources, with emphasis on high sulfur coal, in the following areas: coal extraction, preparation and characterization; coal technologies (combustion, gasification, liquefaction, and related processes); marketing; public awareness and education, as those terms are used in the Illinois Coal Technology Development Assistance Act; transportation; procurement of sites and issuance of permits; and environmental impacts.

(2) To support and coordinate Illinois coal research, and to approve projects consistent with the annual agenda and budget for coal research and the purposes of this Act and to approve the annual budget and operating plan for administration of the Board.

(3) To promote the coordination of available research information on the production, preparation, distribution and uses of Illinois coal. The Board shall advise the existing research institutions within the State on areas where research may be necessary.

(4) To cooperate to the fullest extent possible with State and federal agencies and departments, independent organizations, and other interested groups, public and private, for the purposes of promoting Illinois coal resources.

(5) To submit an annual report to the Governor and the General Assembly outlining the progress and accomplishments made in the year, providing an accounting of funds received and disbursed, reviewing the status of research contracts, and furnishing other relevant information.

(6) To focus on existing coal research efforts in carrying out its mission; to make use of existing research facilities in Illinois or other institutions carrying out research on Illinois coal; as far as practicable, to make maximum use of the research facilities available at the Illinois State Geological Survey of the University of Illinois, the Coal Extraction and Utilization Research Center, the Illinois Coal Development Park and universities and colleges located within the State of Illinois; and to create a consortium or center which conducts, coordinates and supports coal research activities in the State of Illinois. Programmatic activities of such a consortium or center shall be subject to

approval by the Department and shall be consistent with the purposes of this Act. The Department may authorize expenditure of funds in support of the administrative and programmatic operations of such a center or consortium consistent with its statutory authority. Administrative actions undertaken by or for such a center or consortium shall be subject to the approval of the Department.

(7) To make a reasonable attempt, before initiating any research under this Act, to avoid duplication of effort and expense by coordinating the research efforts among various agencies, departments, universities or organizations, as the case may be.

(8) To adopt, amend and repeal rules, regulations and bylaws governing the Board's organization and conduct of business.

(9) To authorize the expenditure of monies from the Coal Technology Development Assistance Fund, the Public Utility Fund and other funds in the State Treasury appropriated to the Department, consistent with the purposes of this Act.

(10) To seek, accept, and expend gifts or grants in any form, from any public agency or from any other source. Such gifts and grants may be held in trust by the Department and expended at the direction of the Department and in the exercise of the Department's powers and performance of the Department's duties.

(11) To publish, from time to time, the results of Illinois coal research projects funded through the Department.

(12) To authorize loans from appropriations from the Build Illinois Bond Purposes Fund, the Build Illinois Bond Fund and the Illinois Industrial Coal Utilization Fund.

(13) To authorize expenditures of monies for coal development projects under the authority of Section 13 of the General Obligation Bond Act.

(c) The Board shall also provide advice and make recommendations on the following Department powers and duties:

(1) To create and maintain thorough, current and accurate records on all markets for and actual uses of coal mined in Illinois, and to make such records available to the public upon request.

(2) To identify all current and anticipated future technical, economic, institutional, market, environmental, regulatory and other impediments to the utilization of Illinois coal.

(3) To monitor and evaluate all proposals and plans of public utilities related to compliance with the requirements of Title IV of the federal Clean Air Act Amendments of 1990, or with any other law which might affect the use of Illinois coal, for the purposes of (i) determining the effects of such proposals or plans on the use of Illinois coal, and (ii) identifying alternative plans or actions which would maintain or increase the use of Illinois coal.

(4) To develop strategies and to propose policies to promote environmentally responsible uses of Illinois coal for meeting electric power supply requirements and for other purposes.

(5) (Blank).

(Source: P.A. 94-793, eff. 5-19-06; 95-728, eff. date - See Sec. 999.)".

AMENDMENT NO. 2 TO SENATE BILL 2172

AMENDMENT NO. _2_. Amend Senate Bill 2172, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Department of Commerce and Economic Opportunity Law of the Civil Administrative Code of Illinois is amended by changing Sections 605-25, 605-550, 605-675, and 605-810 and by adding Section 605-725 as follows:

(20 ILCS 605/605-25) (was 20 ILCS 605/46.30a)

Sec. 605-25. Charges, gifts, and grants for promotional products and services; International and Promotional Fund.

(a) To establish, levy, and collect fees and charges and accept gifts, grants, and awards from other governmental entities, for profit organizations, and nonprofit associations in association with or as consideration for the provision of various promotional products and services through its tourism, films production promotion, and international business promotion programs. The Director may establish and collect nominal charges for premiums and other promotional materials produced or acquired as part of the Department's activities authorized under the Illinois Promotion Act from individuals and not-for-profit organizations intending to use those premiums and promotional materials for purposes consistent with the provisions of the Illinois Promotion Act, provided, however, that other State agencies shall be charged no more than the cost of the premium or promotional material to the Department.

(b) The Director may collect cost reimbursement monies from films and media production entities for police and related production security services in amounts determined by the provider of the security services and agreed to by the production entity. The reimbursements shall result only from the agreed costs of planned police and security services to be rendered to film and media production sites in the State of Illinois.

(c) The Director may establish and collect cost-sharing assessments and fees and accept gifts, grants, and awards from private businesses, trade associations, other governmental entities, and individuals desiring to participate in and support the development and conduct of overseas trade, catalog, and distributor shows and activities and to purchase informational materials to foster export sales of Illinois products and services as part of the Department's international business programs.

(d) All money received pursuant to this Section, except as provided in subsection (e), shall be deposited into the International and Promotional Fund within the State treasury which is hereby created; monies within the Fund shall be appropriated only for expenditure pursuant to this Section.

(e) The Department may contract with a vendor for the production of a tourism travel guide. The Department may allow the vendor to sell and collect sales revenues, including in-kind exchanges, for advertisements placed in the travel guide. The Department may allow the vendor to retain any sales revenues it collects as its fee and to cover the costs of producing the travel guide. Any revenue due to the Department, after the vendor retains its share, shall be deposited into the International and Promotional Fund.

(Source: P.A. 90-26, eff. 7-1-97; 91-239, eff. 1-1-00.)

(20 ILCS 605/605-550) (was 20 ILCS 605/46.71)

Sec. 605-550. Model domestic violence and sexual assault employee awareness and assistance policy.

(a) The Department shall convene a task force including members of the business community, employees, employee organizations, representatives from the Department of Labor, and directors of domestic violence and sexual assault programs, including representatives of statewide advocacy organizations for the prevention of domestic violence and sexual assault, to develop a model domestic violence and sexual assault employee awareness and assistance policy for businesses.

The Department shall give due consideration to the recommendations of the Governor, the President of the Senate, and the Speaker of the House of Representatives for participation by any person on the task force, and shall make reasonable efforts to assure regional balance in membership.

(b) The purpose of the model employee awareness and assistance policy shall be to provide businesses with the best practices, policies, protocols, and procedures in order that they ascertain domestic violence and sexual assault awareness in the workplace, assist affected employees, and provide a safe and helpful working environment for employees currently or potentially experiencing the effects of domestic violence or sexual assault. The model plan shall include but not be limited to:

(1) the establishment of a definite corporate policy statement recognizing domestic violence and sexual assault as workplace issues as well as promoting the need to maintain job security for those employees currently involved in domestic violence or sexual assault disputes;

(2) policy and service publication requirements, including posting these policies and service availability pamphlets in break rooms, on bulletin boards, and in restrooms, and transmitting them through other communication methods;

(3) a listing of current domestic violence and sexual assault community resources such as shelters, crisis intervention programs, counseling and case management programs, and legal assistance and advocacy opportunities for affected employees;

(4) measures to ensure workplace safety including, where appropriate, designated parking areas, escort services, and other affirmative safeguards;

(5) training programs and protocols designed to educate employees and managers in how to recognize, approach, and assist employees experiencing domestic violence or sexual assault, including both victims and batterers; and

(6) other issues as shall be appropriate and relevant for the task force in developing the model policy.

(c) The model policy shall be reviewed by the task force to assure consistency with existing law and shall be made the subject of public hearings convened by the Department throughout the State at places and at times which are convenient for attendance by the public, after which the policy shall be reviewed by the task force and amended as necessary to reflect concerns raised at the hearings. If approved by the task force, the model policy shall be provided as approved with explanation of its provisions to the Governor and the General Assembly not later than one year after the effective date of this amendatory Act of the 91st General Assembly. The Department shall make every effort to notify businesses of the availability of the model domestic violence and sexual assault employee awareness and assistance

policy.

(d) The Department, in consultation with the task force, providers of services, the advisory council, the Department of Labor, and representatives of statewide advocacy organizations for the prevention of domestic violence and sexual assault, shall provide technical support, information, and encouragement to businesses to implement the provisions of the model.

(e) Nothing contained in this Section shall be deemed to prevent businesses from adopting their own domestic violence and sexual assault employee awareness and assistance policy.

(f) The Department may ~~shall~~ survey businesses within 4 years of the effective date of this amendatory Act of the 91st General Assembly to determine the level of model policy adoption amongst businesses and shall take steps necessary to promote the further adoption of such policy.

(Source: P.A. 91-592, eff. 8-14-99; 92-16, eff. 6-28-01.)

(20 ILCS 605/605-675) (was 20 ILCS 605/46.66)

Sec. 605-675. Exporter award program. The Department may ~~shall~~ establish and operate, in cooperation with the Department of Agriculture and the Illinois Finance Authority, an annual awards program to recognize Illinois-based exporters. In developing criteria for the awards, the Department shall give consideration to the exporting efforts of small and medium sized businesses, first-time exporters, and other appropriate categories.

(Source: P.A. 93-205, eff. 1-1-04.)

(20 ILCS 605/605-725 new)

Sec. 605-725. Incentive grants for the Metropolitan Pier and Exposition Authority. The Department and the Metropolitan Pier and Exposition Authority may enter into grant agreements to reimburse the Authority for incentives awarded by the Authority to attract large conventions, meetings, and trade shows to its facilities. The Department may reimburse the Authority only for incentives provided in consultation with the Chicago Convention and Tourism Bureau for conventions, meetings, or trade shows that (i) the Authority certifies have registered attendance in excess of 10,000 individuals, (ii) but for the incentive, would not have used the facilities of the Authority, (iii) have been approved by the Chief Executive Officer of the Authority and the Chairman of the Authority at the time of the incentive, and (iv) have been approved by the Department. Reimbursements shall be made from amounts appropriated to the Department from the Metropolitan Pier and Exposition Authority Incentive Fund for those purposes. Reimbursements shall not exceed $10,000,000 annually.

No later than February 15 of each year, the Chairman of the Metropolitan Pier and Exposition Authority shall certify to the Department, the State Comptroller, and the State Treasurer the amounts provided during the previous calendar year as incentives for conventions, meetings, or trade shows that (i) have been approved by the Authority and the Department, (ii) demonstrate registered attendance in excess of 10,000 individuals, and (iii) but for the incentive, would not have used the facilities of the Authority for the convention, meeting, or trade show. The Department may audit the accuracy of the certification.

(20 ILCS 605/605-810) (was 20 ILCS 605/46.19a in part)

Sec. 605-810. Reemployment of former employees. When the Department is involved in developing a federal or State funded training or retraining program for any employer, the Department may ~~will~~ assist and encourage that employer in making every effort to reemploy individuals previously employed at the facility. Further, the Department may ~~will~~ provide a list of those employees to the employer for consideration for reemployment ~~and will report the results of this effort to the Illinois Job Training Coordinating Council~~. This requirement shall be in effect when all of the following conditions are met:

(1) The employer is reopening, or is proposing to reopen, a facility that was last closed during the preceding 2 years.

(2) A substantial number of the persons who were employed at the facility before its most recent closure remain unemployed.

(3) The product or service produced by, or proposed to be produced by, the employer at the facility is substantially similar to the product or service produced at the facility before its most recent closure.

(Source: P.A. 90-454, eff. 8-16-97; 91-239, eff. 1-1-00.)

Section 10. The Energy Conservation and Coal Development Act is amended by changing Section 8 as follows:

(20 ILCS 1105/8) (from Ch. 96 1/2, par. 7408)

Sec. 8. Illinois Coal Development Board.

(a) There may ~~shall~~ be established as an advisory board to the Department, the Illinois Coal Development Board, hereinafter in this Section called the Board. The Board shall be composed of the

following voting members: the Director of the Department, who shall be Chairman thereof; the Deputy Director of the Bureau of Business Development within the Department of Commerce and Economic Opportunity; the President of the University of Illinois or his or her designee; the Director of Natural Resources or that Director's designee; the Director of the Office of Mines and Minerals within the Department of Natural Resources; 4 members of the General Assembly (one each appointed by the President of the Senate, the Senate Minority Leader, the Speaker of the House, and the House Minority Leader); and 8 persons appointed by the Governor, with the advice and consent of the Senate, including representatives of Illinois industries that are involved in the extraction, utilization or transportation of Illinois coal, persons representing financial or banking interests in the State, and persons experienced in international business and economic development. These members shall be chosen from persons of recognized ability and experience in their designated field. The members appointed by the Governor shall serve for terms of 4 years, unless otherwise provided in this subsection. The initial terms of the original appointees shall expire on July 1, 1985, except that the Governor shall designate 3 of the original appointees to serve initial terms that shall expire on July 1, 1983. The initial term of the member appointed by the Governor to fill the office created after July 1, 1985 shall expire on July 1, 1989. The initial terms of the members appointed by the Governor to fill the offices created by this amendatory Act of 1993 shall expire on July 1, 1995, and July 1, 1997, as determined by the Governor. A member appointed by a Legislative Leader shall serve for the duration of the General Assembly for which he or she is appointed, so long as the member remains a member of that General Assembly.

The Board may ~~shall~~ meet at least annually or at the call of the Chairman. At any time the majority of the Board may petition the Chairman for a meeting of the Board. Nine members of the Board shall constitute a quorum. Members of the Board shall be reimbursed for actual and necessary expenses incurred while performing their duties as members of the Board from funds appropriated to the Department for such purpose.

(b) The Board shall provide advice and make recommendations on the following Department powers and duties:

(1) To develop an annual agenda which may include but is not limited to research and methodologies conducted for the purpose of increasing the utilization of Illinois' coal and other fossil fuel resources, with emphasis on high sulfur coal, in the following areas: coal extraction, preparation and characterization; coal technologies (combustion, gasification, liquefaction, and related processes); marketing; public awareness and education, as those terms are used in the Illinois Coal Technology Development Assistance Act; transportation; procurement of sites and issuance of permits; and environmental impacts.

(2) To support and coordinate Illinois coal research, and to approve projects consistent with the annual agenda and budget for coal research and the purposes of this Act and to approve the annual budget and operating plan for administration of the Board.

(3) To promote the coordination of available research information on the production, preparation, distribution and uses of Illinois coal. The Board shall advise the existing research institutions within the State on areas where research may be necessary.

(4) To cooperate to the fullest extent possible with State and federal agencies and departments, independent organizations, and other interested groups, public and private, for the purposes of promoting Illinois coal resources.

(5) To submit an annual report to the Governor and the General Assembly outlining the progress and accomplishments made in the year, providing an accounting of funds received and disbursed, reviewing the status of research contracts, and furnishing other relevant information.

(6) To focus on existing coal research efforts in carrying out its mission; to make use of existing research facilities in Illinois or other institutions carrying out research on Illinois coal; as far as practicable, to make maximum use of the research facilities available at the Illinois State Geological Survey of the University of Illinois, the Coal Extraction and Utilization Research Center, the Illinois Coal Development Park and universities and colleges located within the State of Illinois; and to create a consortium or center which conducts, coordinates and supports coal research activities in the State of Illinois. Programmatic activities of such a consortium or center shall be subject to approval by the Department and shall be consistent with the purposes of this Act. The Department may authorize expenditure of funds in support of the administrative and programmatic operations of such a center or consortium consistent with its statutory authority. Administrative actions undertaken by or for such a center or consortium shall be subject to the approval of the Department.

(7) To make a reasonable attempt, before initiating any research under this Act, to avoid duplication of effort and expense by coordinating the research efforts among various agencies, departments, universities or organizations, as the case may be.

(8) To adopt, amend and repeal rules, regulations and bylaws governing the Board's organization and conduct of business.

(9) To authorize the expenditure of monies from the Coal Technology Development Assistance Fund, the Public Utility Fund and other funds in the State Treasury appropriated to the Department, consistent with the purposes of this Act.

(10) To seek, accept, and expend gifts or grants in any form, from any public agency or from any other source. Such gifts and grants may be held in trust by the Department and expended at the direction of the Department and in the exercise of the Department's powers and performance of the Department's duties.

(11) To publish, from time to time, the results of Illinois coal research projects funded through the Department.

(12) To authorize loans from appropriations from the Build Illinois Bond Purposes Fund, the Build Illinois Bond Fund and the Illinois Industrial Coal Utilization Fund.

(13) To authorize expenditures of monies for coal development projects under the authority of Section 13 of the General Obligation Bond Act.

(c) The Board shall also provide advice and make recommendations on the following Department powers and duties:

(1) To create and maintain thorough, current and accurate records on all markets for and actual uses of coal mined in Illinois, and to make such records available to the public upon request.

(2) To identify all current and anticipated future technical, economic, institutional, market, environmental, regulatory and other impediments to the utilization of Illinois coal.

(3) To monitor and evaluate all proposals and plans of public utilities related to compliance with the requirements of Title IV of the federal Clean Air Act Amendments of 1990, or with any other law which might affect the use of Illinois coal, for the purposes of (i) determining the effects of such proposals or plans on the use of Illinois coal, and (ii) identifying alternative plans or actions which would maintain or increase the use of Illinois coal.

(4) To develop strategies and to propose policies to promote environmentally responsible uses of Illinois coal for meeting electric power supply requirements and for other purposes.

(5) (Blank).

(Source: P.A. 94-793, eff. 5-19-06; 95-728, eff. date - See Sec. 999.)

Section 15. The State Finance Act is amended by adding Section 5.723 as follows:

(30 ILCS 105/5.723 new)

Sec. 5.723. The Metropolitan Pier and Exposition Authority Incentive Fund.

Section 20. The Metropolitan Pier and Exposition Authority Act is amended by changing Section 5 as follows:

(70 ILCS 210/5) (from Ch. 85, par. 1225)

Sec. 5. The Metropolitan Pier and Exposition Authority shall also have the following rights and powers:

(a) To accept from Chicago Park Fair, a corporation, an assignment of whatever sums of money it may have received from the Fair and Exposition Fund, allocated by the Department of Agriculture of the State of Illinois, and Chicago Park Fair is hereby authorized to assign, set over and transfer any of those funds to the Metropolitan Pier and Exposition Authority. The Authority has the right and power hereafter to receive sums as may be distributed to it by the Department of Agriculture of the State of Illinois from the Fair and Exposition Fund pursuant to the provisions of Sections 5, 6i, and 28 of the State Finance Act. All sums received by the Authority shall be held in the sole custody of the secretary-treasurer of the Metropolitan Pier and Exposition Board.

(b) To accept the assignment of, assume and execute any contracts heretofore entered into by Chicago Park Fair.

(c) To acquire, own, construct, equip, lease, operate and maintain grounds, buildings and facilities to carry out its corporate purposes and duties, and to carry out or otherwise provide for the recreational, cultural, commercial or residential development of Navy Pier, and to fix and collect just, reasonable and nondiscriminatory charges for the use thereof. The charges so collected shall be made available to defray the reasonable expenses of the Authority and to pay the principal of and the interest upon any revenue bonds issued by the Authority. The Authority shall be subject to and comply with the Lake Michigan and Chicago Lakefront Protection Ordinance, the Chicago Building

Code, the Chicago Zoning Ordinance, and all ordinances and regulations of the City of Chicago contained in the following Titles of the Municipal Code of Chicago: Businesses, Occupations and Consumer Protection; Health and Safety; Fire Prevention; Public Peace, Morals and Welfare; Utilities and Environmental Protection; Streets, Public Ways, Parks, Airports and Harbors; Electrical Equipment and Installation; Housing and Economic Development (only Chapter 5-4 thereof); and Revenue and Finance (only so far as such Title pertains to the Authority's duty to collect taxes on behalf of the City of Chicago).

(d) To enter into contracts treating in any manner with the objects and purposes of this Act.

(e) To lease any buildings to the Adjutant General of the State of Illinois for the use of the Illinois National Guard or the Illinois Naval Militia.

(f) To exercise the right of eminent domain by condemnation proceedings in the manner provided by the Eminent Domain Act, including, with respect to Site B only, the authority to exercise quick take condemnation by immediate vesting of title under Article 20 of the Eminent Domain Act, to acquire any privately owned real or personal property and, with respect to Site B only, public property used for rail transportation purposes (but no such taking of such public property shall, in the reasonable judgment of the owner, interfere with such rail transportation) for the lawful purposes of the Authority in Site A, at Navy Pier, and at Site B. Just compensation for property taken or acquired under this paragraph shall be paid in money or, notwithstanding any other provision of this Act and with the agreement of the owner of the property to be taken or acquired, the Authority may convey substitute property or interests in property or enter into agreements with the property owner, including leases, licenses, or concessions, with respect to any property owned by the Authority, or may provide for other lawful forms of just compensation to the owner. Any property acquired in condemnation proceedings shall be used only as provided in this Act. Except as otherwise provided by law, the City of Chicago shall have a right of first refusal prior to any sale of any such property by the Authority to a third party other than substitute property. The Authority shall develop and implement a relocation plan for businesses displaced as a result of the Authority's acquisition of property. The relocation plan shall be substantially similar to provisions of the Uniform Relocation Assistance and Real Property Acquisition Act and regulations promulgated under that Act relating to assistance to displaced businesses. To implement the relocation plan the Authority may acquire property by purchase or gift or may exercise the powers authorized in this subsection (f), except the immediate vesting of title under Article 20 of the Eminent Domain Act, to acquire substitute private property within one mile of Site B for the benefit of displaced businesses located on property being acquired by the Authority. However, no such substitute property may be acquired by the Authority unless the mayor of the municipality in which the property is located certifies in writing that the acquisition is consistent with the municipality's land use and economic development policies and goals. The acquisition of substitute property is declared to be for public use. In exercising the powers authorized in this subsection (f), the Authority shall use its best efforts to relocate businesses within the area of McCormick Place or, failing that, within the City of Chicago.

(g) To enter into contracts relating to construction projects which provide for the delivery by the contractor of a completed project, structure, improvement, or specific portion thereof, for a fixed maximum price, which contract may provide that the delivery of the project, structure, improvement, or specific portion thereof, for the fixed maximum price is insured or guaranteed by a third party capable of completing the construction.

(h) To enter into agreements with any person with respect to the use and occupancy of the grounds, buildings, and facilities of the Authority, including concession, license, and lease agreements on terms and conditions as the Authority determines. Notwithstanding Section 24, agreements with respect to the use and occupancy of the grounds, buildings, and facilities of the Authority for a term of more than one year shall be entered into in accordance with the procurement process provided for in Section 25.1.

(i) To enter into agreements with any person with respect to the operation and management of the grounds, buildings, and facilities of the Authority or the provision of goods and services on terms and conditions as the Authority determines.

(j) After conducting the procurement process provided for in Section 25.1, to enter into one or more contracts to provide for the design and construction of all or part of the Authority's Expansion Project grounds, buildings, and facilities. Any contract for design and construction of the Expansion Project shall be in the form authorized by subsection (g), shall be for a fixed maximum price not in excess of the funds that are authorized to be made available for those purposes during the term of the contract, and shall be entered into before commencement of construction.

(k) To enter into agreements, including project agreements with labor unions, that the Authority deems necessary to complete the Expansion Project or any other construction or improvement project in the most timely and efficient manner and without strikes, picketing, or other actions that might cause disruption or delay and thereby add to the cost of the project.

(l) To provide incentives to organizations and entities that agree to make use of the grounds, buildings, and facilities of the Authority for conventions, meetings, or trade shows. The incentives may take the form of discounts from regular fees charged by the Authority, subsidies for or assumption of the costs incurred with respect to the convention, meeting, or trade show, or other inducements. The Authority shall be reimbursed by the Department of Commerce and Economic Opportunity for incentives that qualify under the provisions of Section 605-725 of the Civil Administrative Code of Illinois.

No later than February 15 of each year, the Chairman of the Metropolitan Pier and Exposition Authority shall certify to the Department of Commerce and Economic Opportunity, the State Comptroller, and the State Treasurer the amounts provided during the previous calendar year as incentives for conventions, meetings, or trade shows that (i) have been approved by the Authority and the Department of Commerce and Economic Opportunity, (ii) demonstrate registered attendance in excess of 10,000 individuals, and (iii) but for the incentive, would not have used the facilities of the Authority for the convention, meeting, or trade show. The Department of Commerce and Economic Opportunity may audit the accuracy of the certification. Subject to appropriation, on July 15 of each year the Comptroller shall order transferred and the Treasurer shall transfer into the Metropolitan Pier and Exposition Authority Incentive Fund from the General Revenue Fund the lesser of the amount certified by the Chairman or $10,000,000. No later than 30 days after the transfer, amounts in the Fund shall be paid by the Department of Commerce and Economic Opportunity to the Authority to reimburse the Authority for incentives paid to attract large conventions, meetings, and trade shows to its facilities in the previous calendar year as provided in Section 605-725 of the Civil Administrative Code of Illinois. Provided that all amounts certified by the Authority have been paid, on the last day of each fiscal year moneys remaining in the Fund shall be transferred to the General Revenue Fund.

Nothing in this Act shall be construed to authorize the Authority to spend the proceeds of any bonds or notes issued under Section 13.2 or any taxes levied under Section 13 to construct a stadium to be leased to or used by professional sports teams.
(Source: P.A. 94-1055, eff. 1-1-07.)".

Under the rules, the foregoing **Senate Bill No. 2172**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

SENATE BILL RECALLED

On motion of Senator Hunter, **Senate Bill No. 177** was recalled from the order of third reading to the order of second reading.

Senator Hunter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 177

AMENDMENT NO. 1. Amend Senate Bill 177 by replacing everything after the enacting clause with the following:

"Section 5. The Condominium Property Act is amended by changing Section 18 as follows:
(765 ILCS 605/18) (from Ch. 30, par. 318)
Sec. 18. Contents of bylaws. The bylaws shall provide for at least the following:
(a) (1) The election from among the unit owners of a board of managers, the number of persons constituting such board, and that the terms of at least one-third of the members of the board shall expire annually and that all members of the board shall be elected at large. If there are multiple owners of a single unit, only one of the multiple owners shall be eligible to serve as a member of the board at any one time.

(2) the powers and duties of the board;

(3) the compensation, if any, of the members of the board;

(4) the method of removal from office of members of the board;

(5) that the board may engage the services of a manager or managing agent;

(6) that each unit owner shall receive, at least 30 days prior to the adoption thereof

by the board of managers, a copy of the proposed annual budget together with an indication of which portions are intended for reserves, capital expenditures or repairs or payment of real estate taxes;

(7) that the board of managers shall annually supply to all unit owners an itemized accounting of the common expenses for the preceding year actually incurred or paid, together with an indication of which portions were for reserves, capital expenditures or repairs or payment of real estate taxes and with a tabulation of the amounts collected pursuant to the budget or assessment, and showing the net excess or deficit of income over expenditures plus reserves;

(8) (i) that each unit owner shall receive notice, in the same manner as is provided in this Act for membership meetings, of any meeting of the board of managers concerning the adoption of the proposed annual budget and regular assessments pursuant thereto or to adopt a separate (special) assessment, (ii) that except as provided in subsection (iv) below, if an adopted budget or any separate assessment adopted by the board would result in the sum of all regular and separate assessments payable in the current fiscal year exceeding 115% of the sum of all regular and separate assessments payable during the preceding fiscal year, the board of managers, upon written petition by unit owners with 20 percent of the votes of the association delivered to the board within 14 days of the board action, shall call a meeting of the unit owners within 30 days of the date of delivery of the petition to consider the budget or separate assessment; unless a majority of the total votes of the unit owners are cast at the meeting to reject the budget or separate assessment, it is ratified, (iii) that any common expense not set forth in the budget or any increase in assessments over the amount adopted in the budget shall be separately assessed against all unit owners, (iv) that separate assessments for expenditures relating to emergencies or mandated by law may be adopted by the board of managers without being subject to unit owner approval or the provisions of item (ii) above or item (v) below. As used herein, "emergency" means an immediate danger to the structural integrity of the common elements or to the life, health, safety or property of the unit owners, (v) that assessments for additions and alterations to the common elements or to association-owned property not included in the adopted annual budget, shall be separately assessed and are subject to approval of two-thirds of the total votes of all unit owners, (vi) that the board of managers may adopt separate assessments payable over more than one fiscal year. With respect to multi-year assessments not governed by items (iv) and (v), the entire amount of the multi-year assessment shall be deemed considered and authorized in the first fiscal year in which the assessment is approved;

(9) that meetings of the board of managers shall be open to any unit owner, except for the portion of any meeting held (i) to discuss litigation when an action against or on behalf of the particular association has been filed and is pending in a court or administrative tribunal, or when the board of managers finds that such an action is probable or imminent, (ii) to consider information regarding appointment, employment or dismissal of an employee, or (iii) to discuss violations of rules and regulations of the association or a unit owner's unpaid share of common expenses; that any vote on these matters shall be taken at a meeting or portion thereof open to any unit owner; that any unit owner may record the proceedings at meetings or portions thereof required to be open by this Act by tape, film or other means; that the board may prescribe reasonable rules and regulations to govern the right to make such recordings, that notice of such meetings shall be mailed or delivered at least 48 hours prior thereto, unless a written waiver of such notice is signed by the person or persons entitled to such notice pursuant to the declaration, bylaws, other condominium instrument, or provision of law other than this subsection before the meeting is convened, and that copies of notices of meetings of the board of managers shall be posted in entranceways, elevators, or other conspicuous places in the condominium at least 48 hours prior to the meeting of the board of managers except where there is no common entranceway for 7 or more units, the board of managers may designate one or more locations in the proximity of these units where the notices of meetings shall be posted;

(10) that the board shall meet at least 4 times annually;

(11) that no member of the board or officer shall be elected for a term of more than 2 years, but that officers and board members may succeed themselves. Any director may be removed from the Board of Directors at a special meeting of owners, called for said purpose by a two-thirds majority of those present or voting by absentee ballot. All procedures governing secret ballot elections shall hereby apply. A director, after notice and an opportunity for a hearing, may be suspended or removed for cause by a two-thirds majority by the Directors;

(12) the designation of an officer to mail and receive all notices and execute amendments to condominium instruments as provided for in this Act and in the condominium instruments;

(13) the method of filling vacancies on the board which shall include authority for the remaining members of the board to fill the vacancy by two-thirds vote until the next annual meeting of

unit owners or for a period terminating no later than 30 days following the filing of a petition signed by unit owners holding 20% of the votes of the association requesting a meeting of the unit owners to fill the vacancy for the balance of the term, and that a meeting of the unit owners shall be called for purposes of filling a vacancy on the board no later than 30 days following the filing of a petition signed by unit owners holding 20% of the votes of the association requesting such a meeting, and the method of filling vacancies among the officers that shall include the authority for the members of the board to fill the vacancy for the unexpired portion of the term;

(14) what percentage of the board of managers, if other than a majority, shall constitute a quorum;

(15) provisions concerning notice of board meetings to members of the board;

(16) the board of managers may not enter into a contract with a current board member or with a corporation or partnership in which a board member or a member of the board member's immediate family has 25% or more interest, unless notice of intent to enter the contract is given to unit owners within 20 days after a decision is made to enter into the contract and the unit owners are afforded an opportunity by filing a petition, signed by 20% of the unit owners, for an election to approve or disapprove the contract; such petition shall be filed within 20 days after such notice and such election shall be held within 30 days after filing the petition; for purposes of this subsection, a board member's immediate family means the board member's spouse, parents, and children;

(17) that the board of managers may disseminate to unit owners biographical and background information about candidates for election to the board if (i) reasonable efforts to identify all candidates are made and all candidates are given an opportunity to include biographical and background information in the information to be disseminated; and (ii) the board does not express a preference in favor of any candidate;

(18) any proxy distributed for board elections by the board of managers gives unit owners the opportunity to designate any person as the proxy holder, and gives the unit owner the opportunity to express a preference for any of the known candidates for the board or to write in a name;

(19) that special meetings of the board of managers can be called by the president or 25% of the members of the board; and

(20) that the board of managers may establish and maintain a system of master metering of public utility services and collect payments in connection therewith, subject to the requirements of the Tenant Utility Payment Disclosure Act.

(b) (1) What percentage of the unit owners, if other than 20%, shall constitute a quorum provided that, for condominiums with 20 or more units, the percentage of unit owners constituting a quorum shall be 20% unless the unit owners holding a majority of the percentage interest in the association provide for a higher percentage;

(2) that the association shall have one class of membership;

(3) that the members shall hold an annual meeting, one of the purposes of which shall be to elect members of the board of managers;

(4) the method of calling meetings of the unit owners;

(5) that special meetings of the members can be called by the president, board of managers, or by 20% of unit owners;

(6) that written notice of any membership meeting shall be mailed or delivered giving members no less than 10 and no more than 30 days notice of the time, place and purpose of such meeting;

(7) that voting shall be on a percentage basis, and that the percentage vote to which each unit is entitled is the percentage interest of the undivided ownership of the common elements appurtenant thereto, provided that the bylaws may provide for approval by unit owners in connection with matters where the requisite approval on a percentage basis is not specified in this Act, on the basis of one vote per unit;

(8) that, where there is more than one owner of a unit, if only one of the multiple owners is present at a meeting of the association, he is entitled to cast all the votes allocated to that unit, if more than one of the multiple owners are present, the votes allocated to that unit may be cast only in accordance with the agreement of a majority in interest of the multiple owners, unless the declaration expressly provides otherwise, that there is majority agreement if any one of the multiple owners cast the votes allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit;

(9)(A) that unless the Articles of Incorporation or the bylaws otherwise provide, and except as provided in subparagraph (B) of this paragraph (9) in connection with board elections, a unit

owner may vote by proxy executed in writing by the unit owner or by his duly authorized attorney in fact; that the proxy must bear the date of execution and, unless the condominium instruments or the written proxy itself provide otherwise, is invalid after 11 months from the date of its execution;

(B) that if a rule adopted at least 120 days before a board election or the declaration or bylaws provide for balloting as set forth in this subsection, unit owners may not vote by proxy in board elections, but may vote only (i) by submitting an association-issued ballot in person at the election meeting or (ii) by submitting an association-issued ballot to the association or its designated agent by mail or other means of delivery specified in the declaration, bylaws, or rule; that the ballots shall be mailed or otherwise distributed to unit owners not less than 10 and not more than 30 days before the election meeting, and the board shall give unit owners not less than 21 days' prior written notice of the deadline for inclusion of a candidate's name on the ballots; that the deadline shall be no more than 7 days before the ballots are mailed or otherwise distributed to unit owners; that every such ballot must include the names of all candidates who have given the board or its authorized agent timely written notice of their candidacy and must give the person casting the ballot the opportunity to cast votes for candidates whose names do not appear on the ballot; that a ballot received by the association or its designated agent after the close of voting shall not be counted; that a unit owner who submits a ballot by mail or other means of delivery specified in the declaration, bylaws, or rule may request and cast a ballot in person at the election meeting, and thereby void any ballot previously submitted by that unit owner;

(C) that if a written petition by unit owners with at least 20% of the votes of the association is delivered to the board within 14 days after the board's approval of a rule adopted pursuant to subparagraph (B) of this paragraph (9), the board shall call a meeting of the unit owners within 30 days after the date of delivery of the petition; that unless a majority of the total votes of the unit owners are cast at the meeting to reject the rule, the rule is ratified;

(10) that the association may, upon adoption of the appropriate rules by the board of managers, conduct elections by secret ballot whereby the voting ballot is marked only with the percentage interest for the unit and the vote itself, provided that the board further adopt rules to verify the status of the unit owner issuing a proxy or casting a ballot; and further, that a candidate for election to the board of managers or such candidate's representative shall have the right to be present at the counting of ballots at such election;

(11) that in the event of a resale of a condominium unit the purchaser of a unit from a seller other than the developer pursuant to an installment contract for purchase shall during such times as he or she resides in the unit be counted toward a quorum for purposes of election of members of the board of managers at any meeting of the unit owners called for purposes of electing members of the board, shall have the right to vote for the election of members of the board of managers and to be elected to and serve on the board of managers unless the seller expressly retains in writing any or all of such rights. In no event may the seller and purchaser both be counted toward a quorum, be permitted to vote for a particular office or be elected and serve on the board. Satisfactory evidence of the installment contact shall be made available to the association or its agents. For purposes of this subsection, "installment contact" shall have the same meaning as set forth in Section 1 (e) of "An Act relating to installment contracts to sell dwelling structures", approved August 11, 1967, as amended;

(12) the method by which matters subject to the approval of unit owners set forth in this Act, or in the condominium instruments, will be submitted to the unit owners at special membership meetings called for such purposes; and

(13) that matters subject to the affirmative vote of not less than 2/3 of the votes of unit owners at a meeting duly called for that purpose, shall include, but not be limited to:

(i) merger or consolidation of the association;

(ii) sale, lease, exchange, or other disposition (excluding the mortgage or pledge) of all, or substantially all of the property and assets of the association; and

(iii) the purchase or sale of land or of units on behalf of all unit owners.

(c) Election of a president from among the board of managers, who shall preside over the meetings of the board of managers and of the unit owners.

(d) Election of a secretary from among the board of managers, who shall keep the minutes of all meetings of the board of managers and of the unit owners and who shall, in general, perform all the duties incident to the office of secretary.

(e) Election of a treasurer from among the board of managers, who shall keep the financial records and books of account.

(f) Maintenance, repair and replacement of the common elements and payments therefor, including the method of approving payment vouchers.

(g) An association with 30 or more units shall obtain and maintain fidelity insurance covering persons who control or disburse funds of the association for the maximum amount of coverage available to protect funds in the custody or control of the association plus the association reserve fund. All management companies which are responsible for the funds held or administered by the association shall maintain and furnish to the association a fidelity bond for the maximum amount of coverage available to protect funds in the custody of the management company at any time. The association shall bear the cost of the fidelity insurance and fidelity bond, unless otherwise provided by contract between the association and a management company. The association shall be the direct obligee of any such fidelity bond. A management company holding reserve funds of an association shall at all times maintain a separate account for each association, provided, however, that for investment purposes, the Board of Managers of an association may authorize a management company to maintain the association's reserve funds in a single interest bearing account with similar funds of other associations. The management company shall at all times maintain records identifying all moneys of each association in such investment account. The management company may hold all operating funds of associations which it manages in a single operating account but shall at all times maintain records identifying all moneys of each association in such operating account. Such operating and reserve funds held by the management company for the association shall not be subject to attachment by any creditor of the management company.

For the purpose of this subsection a management company shall be defined as a person, partnership, corporation, or other legal entity entitled to transact business on behalf of others, acting on behalf of or as an agent for a unit owner, unit owners or association of unit owners for the purpose of carrying out the duties, responsibilities, and other obligations necessary for the day to day operation and management of any property subject to this Act. For purposes of this subsection, the term "fiduciary insurance coverage" shall be defined as both a fidelity bond and directors and officers liability coverage, the fidelity bond in the full amount of association funds and association reserves that will be in the custody of the association, and the directors and officers liability coverage at a level as shall be determined to be reasonable by the board of managers, if not otherwise established by the declaration or by laws.

Until one year after the effective date of this amendatory Act of 1985, if a condominium association has reserves plus assessments in excess of $250,000 and cannot reasonably obtain 100% fidelity bond coverage for such amount, then it must obtain a fidelity bond coverage of $250,000.

(h) Method of estimating the amount of the annual budget, and the manner of assessing and collecting from the unit owners their respective shares of such estimated expenses, and of any other expenses lawfully agreed upon.

(i) That upon 10 days notice to the manager or board of managers and payment of a reasonable fee, any unit owner shall be furnished a statement of his account setting forth the amount of any unpaid assessments or other charges due and owing from such owner.

(j) Designation and removal of personnel necessary for the maintenance, repair and replacement of the common elements.

(k) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common elements by the several unit owners.

(l) Method of adopting and of amending administrative rules and regulations governing the operation and use of the common elements.

(m) The percentage of votes required to modify or amend the bylaws, but each one of the particulars set forth in this section shall always be embodied in the bylaws.

(n) (i) The provisions of this Act, the declaration, bylaws, other condominium instruments, and rules and regulations that relate to the use of the individual unit or the common elements shall be applicable to any person leasing a unit and shall be deemed to be incorporated in any lease executed or renewed on or after the effective date of this amendatory Act of 1984. (ii) With regard to any lease entered into subsequent to the effective date of this amendatory Act of 1989, the unit owner leasing the unit shall deliver a copy of the signed lease to the board or if the lease is oral, a memorandum of the lease, not later than the date of occupancy or 10 days after the lease is signed, whichever occurs first. In addition to any other remedies, by filing an action jointly against the tenant and the unit owner, an association may seek to enjoin a tenant from occupying a unit or seek to evict a tenant under the provisions of Article IX of the Code of Civil Procedure for failure of the lessor-owner to comply with the leasing requirements prescribed by this Section or by the declaration, bylaws, and rules and regulations. The board of managers may proceed directly against a tenant, at law or in equity, or under the provisions of Article IX of the Code of Civil Procedure, for any other breach by tenant of any covenants, rules, regulations or bylaws.

(o) The association shall have no authority to forbear the payment of assessments by any unit owner.

(p) That when 30% or fewer of the units, by number, possess over 50% in the aggregate of the votes in the association, any percentage vote of members specified herein or in the condominium instruments shall require the specified percentage by number of units rather than by percentage of interest in the common elements allocated to units that would otherwise be applicable. For purposes of this subsection (p), when making a determination of whether 30% or fewer of the units, by number, possess over 50% in the aggregate of the votes in the association, a unit shall not include a garage unit or a storage unit.

(q) That a unit owner may not assign, delegate, transfer, surrender, or avoid the duties, responsibilities, and liabilities of a unit owner under this Act, the condominium instruments, or the rules and regulations of the Association; and that such an attempted assignment, delegation, transfer, surrender, or avoidance shall be deemed void.

The provisions of this Section are applicable to all condominium instruments recorded under this Act. Any portion of a condominium instrument which contains provisions contrary to these provisions shall be void as against public policy and ineffective. Any such instrument which fails to contain the provisions required by this Section shall be deemed to incorporate such provisions by operation of law. (Source: P.A. 95-624, eff. 6-1-08.)".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Hunter, **Senate Bill No. 177**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 56; NAYS None.

The following voted in the affirmative:

Althoff	Frerichs	Lightford	Risinger
Bivins	Garrett	Link	Rutherford
Bomke	Haine	Luechtefeld	Sandoval
Bond	Harmon	Maloney	Schoenberg
Burzynski	Hendon	Martinez	Silverstein
Clayborne	Holmes	McCarter	Steans
Collins	Hultgren	Meeks	Sullivan
Cronin	Hunter	Millner	Syverson
Crotty	Hutchinson	Muñoz	Trotter
Dahl	Jacobs	Murphy	Viverito
DeLeo	Jones, E.	Noland	Mr. President
Delgado	Jones, J.	Pankau	
Demuzio	Koehler	Radogno	
Dillard	Kotowski	Raoul	
Duffy	Lauzen	Righter	

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).

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

On motion of Senator Hunter, **Senate Bill No. 291**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 57; NAYS None.

The following voted in the affirmative:

Althoff	Forby	Lauzen	Risinger
Bivins	Frerichs	Lightford	Rutherford
Bomke	Garrett	Link	Sandoval
Bond	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	Raoul	
Duffy	Kotowski	Righter	

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).

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

On motion of Senator Hunter, **Senate Bill No. 292**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 58; NAYS None.

The following voted in the affirmative:

Althoff	Duffy	Kotowski	Righter
Bivins	Forby	Lauzen	Risinger
Bomke	Frerichs	Lightford	Rutherford
Bond	Garrett	Link	Sandoval
Brady	Haine	Luechtefeld	Schoenberg
Burzynski	Harmon	Maloney	Silverstein
Clayborne	Hendon	Martinez	Steans
Collins	Holmes	Meeks	Sullivan
Cronin	Hultgren	Millner	Syverson
Crotty	Hunter	Muñoz	Trotter
Dahl	Hutchinson	Murphy	Viverito
DeLeo	Jacobs	Noland	Wilhelmi
Delgado	Jones, E.	Pankau	Mr. President
Demuzio	Jones, J.	Radogno	
Dillard	Koehler	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).

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

SENATE BILL RECALLED

On motion of Senator Haine, **Senate Bill No. 1381** was recalled from the order of third reading to the order of second reading.

Senate Floor Amendment Nos. 1, 2, 3 and 4 were postponed in the Committee on Public Health.

Senator Haine offered the following amendment and moved its adoption:

AMENDMENT NO. 5 TO SENATE BILL 1381

AMENDMENT NO. 5. Amend Senate Bill 1381 on page 2, line 17, by replacing "practitioners" with "physicians"; and

on page 3, by replacing line 12 with the following:
"more than 2 ounces of dried usable cannabis and 6 cannabis plants, no more than 3 of which can be mature cannabis plants. As used in this subsection (a), "mature cannabis plant" means a female cannabis plant that meets one or more of the following 3 criteria: (1) has observable flowers or buds, (2) is at least 12 inches in height, or (3) is at least 12 inches in diameter."; and

by replacing lines 16 through 26 on page 3 and lines 1 through 6 on page 4 with the following:
"(b) "Debilitating medical condition" means one or more of the following:
(1) cancer, glaucoma, positive status for human immunodeficiency virus, acquired immune deficiency syndrome, hepatitis C, amyotrophic lateral sclerosis, Crohn's disease, agitation of Alzheimer's disease, nail patella, or the treatment of these conditions;
(2) a chronic or debilitating disease or medical condition or its treatment that produces one or more of the following: cachexia or wasting syndrome; seizures, including but not limited to those characteristic of epilepsy; or severe and persistent muscle spasms, including but not limited to those characteristic of multiple sclerosis;
(3) a debilitating disease or medical condition or its treatment that produces intractable pain, which is severe, debilitating pain that did not respond to other reasonable medical efforts for a reasonable period of time, including in cases where other treatment options produced serious side effects;
(4) a debilitating disease or medical condition or its treatment that produces severe, debilitating nausea that did not respond to other reasonable medical efforts for a reasonable period of time, including cases where other treatment options produced serious side effects; or
(5) any other medical condition or its treatment approved by the Department, as provided for in subsection (a) of Section 20."; and

on page 5, by replacing lines 4 through 6 with the following:
"(h) "Physician" means a person licensed under the Medical Practice Act of 1987 to practice medicine in all its branches who has the authority to prescribe under Article III of the Illinois Controlled Substances Act."; and

on page 5, line 17, by replacing "practitioner" with "physician"; and

on page 6, by replacing lines 4 through 15 with the following:
"(n) "Written certification" means a document signed by a physician, stating: (1) that in the physician's professional opinion the patient is likely to receive therapeutic or palliative benefit from the medical use of cannabis to treat or alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition; (2) that the qualifying patient has a debilitating medical condition and specifying what debilitating medical condition the qualifying patient has; and (3) that the patient is under the physician's care for the debilitating medical condition. A written certification shall be made only in the course of a bona fide physician-patient relationship after the physician has completed a full assessment of the qualifying patient's medical history."; and

on page 9, line 20, by replacing "practitioner" with "physician"; and

on page 9, line 26, by replacing "practitioner's" with "physician's"; and

on page 10, line 6, by replacing "practitioner" with "physician"; and

on page 11, by inserting immediately below line 19 the following:
"(n) For purposes of Illinois State law, the consumption or use of cannabis by a registered qualifying patient shall be considered lawful if it is authorized by and in accordance with this Act."; and

on page 12, by replacing lines 16 through 18 with the following:
"Act. The fee shall include an additional $3 per registry identification card which shall be used to develop and disseminate educational information about the health risks associated with the abuse of cannabis and prescription medications. The Department may establish a sliding scale of"; and

on page 12, by inserting immediately below line 21 the following:
"(c) Not later than 120 days after the effective date of this Act, the Department shall promulgate rules governing the manner in which it shall consider applications for and renewals of registration certificates for medical cannabis organizations, including rules governing the form and content of registration and renewal applications, and a standard form for written certifications."; and

on page 13, line 1, by inserting after "certification" the following:
", which shall be on a form developed by the Department"; and

on page 13, line 7, by replacing "practitioner" with "physician"; and

on page 13, line 13, by replacing "practitioner" with "physician"; and

on page 15, line 14, by replacing "practitioner" with "physician"; and

on page 16, line 25, by replacing "practitioners" with "physicians"; and

on page 18, line 3, by replacing "practitioners" with "physicians"; and

on page 18, line 13, by replacing "practitioners" with "physicians"; and

on page 18, by replacing lines 15 through 24 with the following:
"(j) The Department shall develop and disseminate educational information about the health risks associated with the abuse of cannabis and prescription medications, which shall be funded by the $3 fees generated from registry identification cards."; and

on page 19, line 2, by inserting ", nor shall it prevent the imposition of any civil, criminal, or other penalties for any such actions" after "following"; and

on page 19, by inserting immediately below line 21 the following:
"(5) Use cannabis if that person does not have a serious or debilitating medical condition.
(6) Allow any person who is not allowed to use cannabis under this Act to use cannabis that a cardholder is allowed to possess pursuant to this Act.
(7) Transfer cannabis to any person who is not allowed to possess cannabis under this Act."; and

on page 20, by inserting immediately line 13 the following:
"(d) Nothing in this Act shall be construed to prevent the arrest or prosecution of a registered qualifying patient for reckless driving or driving under the influence of cannabis where probable cause exists.
(e) This Act shall in no way limit an employer's ability to discipline an employee for ingesting cannabis in the workplace or for working while under the influence of cannabis. This Act shall in no way limit an employer's ability to discipline an employee for failing a drug test if failing to do so would put the employer in violation of federal law or cause it to lose a federal contract or funding."; and

on page 20, line 21, by replacing "practitioner" with "physician"; and

on page 20, line 22, by replacing "practitioner's" with "physician's"; and

on page 20, line 25, by replacing "practitioner-patient" with "physician-patient"; and

on page 27, line 7, by replacing "reasonable" with "random"; and

by replacing lines 15 through 24 on page 30 and lines 1 through 13 on page 31 with the following:

"(a) By July 1, 2010, the Department shall adopt rules defining the quantity of cannabis that could reasonably be presumed to be a 60-day supply for qualifying patients.

(b) During the rule-making process, the Department shall make a good faith effort to include all stakeholders identified in the rule-making analysis as being impacted by the rule.

(c) Stakeholders shall include, but are not limited to:

(1) at least 3 physicians, one of whom must have prior experience treating medical cannabis patients and another who specializes in oncology;

(2) 2 nurses, one of whom must have prior experience treating HIV/AIDS patients;

(3) a representative from hospice;

(4) a representative from the law enforcement community;

(5) the Director of State Police or his or her designee;

(6) a prosecuting attorney currently employed by the State of Illinois;

(7) a public defender currently employed by the State of Illinois;

(8) a defense attorney in private practice;

(9) a licensed phlebotomist;

(10) a horticulturist; and

(11) a representative of the business community."; and

on page 34, by inserting immediately below line 5 the following:

"(3) Any registered qualifying patient or registered primary caregiver who distributes cannabis to someone who is not allowed to use cannabis is subject to a penalty enhancement of not more than 2 years in prison or a fine of not more than $2,000, or both, for abuse of the Compassionate Use of Medical Cannabis Pilot Program Act.".

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 5 was ordered engrossed, and the bill, as amended, was ordered to a third reading.

READING BILL OF THE SENATE A THIRD TIME

On motion of Senator Haine, **Senate Bill No. 1381**, having been transcribed and typed and all amendments adopted thereto having been printed, 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 30; NAYS 28; Present 1.

The following voted in the affirmative:

Clayborne	Holmes	Martinez	Steans
Crotty	Hutchinson	Meeks	Syverson
Dahl	Jacobs	Muñoz	Trotter
DeLeo	Jones, E.	Noland	Viverito
Delgado	Koehler	Raoul	Wilhelmi
Haine	Kotowski	Sandoval	Mr. President
Harmon	Lightford	Schoenberg	
Hendon	Link	Silverstein	

The following voted in the negative:

Althoff	Dillard	Lauzen	Righter
Bivins	Duffy	Luechtefeld	Risinger
Bomke	Forby	Maloney	Rutherford
Bond	Frerichs	McCarter	Sullivan
Brady	Garrett	Millner	
Burzynski	Hultgren	Murphy	
Cronin	Hunter	Pankau	
Demuzio	Jones, J.	Radogno	

The following voted present:

Collins

This roll call verified.

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).

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

LEGISLATIVE MEASURES FILED

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

Senate Floor Amendment No. 2 to Senate Bill 350
Senate Floor Amendment No. 1 to Senate Bill 2206

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 88
Senate Floor Amendment No. 2 to House Bill 1195

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 Amendments 1 and 2 to Senate Bill 189
Motion to Concur in House Amendment 1 to Senate Bill 235
Motion to Concur in House Amendments 1, 2 and 5 to Senate Bill 1289
Motion to Concur in House Amendments 1 and 2 to Senate Bill 1682
Motion to Concur in House Amendments 1, 2 and 5 to Senate Bill 1905
Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 2091

REPORT FROM COMMITTEE ON ASSIGNMENTS

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 27, 2009 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Executive: **Senate Floor Amendment No. 2 to House Bill 88**.

Gaming: **Senate Floor Amendment No. 8 to Senate Bill 744**.

Senator Clayborne, Chairperson of the Committee on Assignments, during its May 27, 2009 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Executive: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 189**

Human Services: **Motion to Concur in House Amendments 1, 2 and 5 to Senate Bill 1905**

Insurance: **Motion to Concur in House Amendments 1, 2 and 3 to Senate Bill 2091**

State Government and Veterans Affairs: **Motion to Concur in House Amendments 1 and 2 to Senate Bill 1682**

COMMITTEE MEETING ANNOUNCEMENTS

The Chair announced the following committee will meet tomorrow, Thursday, May 28, 2009:

Executive Appointments, as previously scheduled, at 8:30 o'clock a.m. in Room 212
Public Health at 9:30 o'clock a.m. in Room 212
Executive at 10:00 o'clock a.m. in Room 212
Revenue at 10:00 o'clock a.m. in Room 400

State Government & Veterans Affairs Committee, previously scheduled for Thursday, May 28, 2009, at 9:00 o'clock a.m., will instead be meeting at a revised posting time, soon to be announced.
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POSTING NOTICES WAIVED

Senator Holmes moved to waive the six-day posting requirement on **Senate Resolution No. 273** so that the bill may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet May 28, 2009.
The motion prevailed.

Senator Collins moved to waive the six-day posting requirement on **Senate Resolution No. 290** so that the bill may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet May 28, 2009.
The motion prevailed.

Senator Hunter moved to waive the six-day posting requirement on **Senate Resolution No. 291** so that the bill may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet May 28, 2009.
The motion prevailed.

Senator Harmon moved to waive the six-day posting requirement on **Senate Resolution No. 297** so that the bill may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet May 28, 2009.
The motion prevailed.

Senator E. Jones moved to waive the six-day posting requirement on **House Joint Resolution No. 40** so that the bill may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet May 28, 2009.
The motion prevailed.

Senator Steans moved to waive the six-day posting requirement on **House Bill No. 3923** so that the bill may be heard in the Committee on Executive that is scheduled to meet May 28, 2009.
The motion prevailed.

Senator Maloney moved to waive the six-day posting requirement on **House Bill No. 4046** so that the bill may be heard in the Committee on Revenue that is scheduled to meet May 28, 2009.

The motion prevailed.

Senator Brady moved to waive the six-day posting requirement on **Senate Resolution No. 296** so that the bill may be heard in the Committee on State Government and Veterans Affairs that is scheduled to meet May 28, 2009.

The motion prevailed.

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 adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 9

A bill for AN ACT concerning health.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 9
Concurred in by the House, May 27, 2009.

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 170

A bill for AN ACT concerning regulation.
Which amendment is as follows:
Senate Amendment No. 2 to HOUSE BILL NO. 170
Concurred in by the House, May 27, 2009.

MARK MAHONEY, Clerk of the House

Senator Muñoz announced a Democrat caucus to begin immediately upon adjournment.

At the hour of 6:18 o'clock p.m., the Chair announced that the Senate stand adjourned until Thursday, May 28, 2009, at 9:00 o'clock a.m.