



Sen. John J. Cullerton

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1 AMENDMENT TO SENATE BILL 31

2 AMENDMENT NO. _____. Amend Senate Bill 31 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Trust Act.

6 Section 5. Legislative intent. It is the intent of the
7 General Assembly that this Act shall not be construed as
8 providing, expanding, or ratifying the legal authority for any
9 State or local law enforcement agency to detain an individual
10 on an immigration detainer or administrative warrant, or
11 perform any other civil immigration enforcement function.

12 Section 10. Definitions. In this Act:

13 "Administrative warrant" means an immigration warrant of
14 arrest, order to detain or release aliens, notice of custody
15 determination, notice to appear, removal order, warrant of

1 removal, or any other document issued by an immigration agent
2 that can form the basis for an individual's arrest or detention
3 for a civil immigration enforcement purpose not including any
4 warrants issued by a criminal court upon a determination of
5 probable cause and in compliance with the requirements of the
6 Fourth Amendment to the United States Constitution and Article
7 I, Section 6 of the Illinois Constitution.

8 "Appropriate personnel" means the personnel of a facility
9 listed in subsection (a) of Section 40 of this Act that the
10 Department of Human Services has determined by rule to be a
11 person of authority for that facility. For a public elementary
12 or secondary school, the Department shall deem "appropriate
13 personnel" to be the school district's superintendent, in
14 consultation with the school district's chief legal counsel.
15 For an institution of higher education, the Department shall
16 deem "appropriate personnel" to be the president or chancellor
17 of the institution.

18 "Certification" means any law enforcement certification or
19 statement required by federal immigration law including, but
20 not limited to, the information required by Section 1184(p) of
21 Title 8 of the United States Code (including current United
22 States Citizenship and Immigration Service Form I-918,
23 Supplement B, or any successor forms) for purposes of obtaining
24 a U visa, or by Section 1184(o) of Title 8 of the United States
25 Code (including current United States Citizenship and
26 Immigration Service Form I-914, Supplement B, or any successor

1 forms) for purposes of obtaining a T visa.

2 "Certifying agency" means a State or local law enforcement
3 agency, prosecutor, or other authority that has responsibility
4 for the detection, investigation, or prosecution of criminal
5 activity including an agency that has criminal investigative
6 jurisdiction in its respective areas of expertise, and
7 specifically includes the Department of Labor, the Department
8 of Children and Family Services, the Department of Human
9 Services, and the Illinois Workers' Compensation Commission,
10 but not including any State court.

11 "Citizenship or immigration status" means all matters
12 regarding questions of citizenship of the United States or any
13 other country, the authority to reside in or otherwise be
14 present in the United States, the time or manner of a person's
15 entry into the United States, or any other civil immigration
16 matter enforced by the federal Department of Homeland Security
17 or other federal agency charged with the enforcement of civil
18 immigration laws.

19 "Coerce" means to use express or implied threats towards a
20 person or family member of a person that attempts to put the
21 person in immediate fear of the consequences in order to compel
22 that person to act against his or her will.

23 "Contact information" means home address, work address,
24 telephone number, electronic mail address, social media
25 information, or any other personal identifying information
26 that could be used as a means to contact an individual.

1 "Eligible for release from custody" means that the
2 individual may be released from custody because one of the
3 following conditions has occurred:

4 (1) all criminal charges against the individual have
5 been dropped or dismissed;

6 (2) the individual has been acquitted of all criminal
7 charges filed against him or her;

8 (3) the individual has served all the time required for
9 his or her sentence;

10 (4) the individual has posted a bond; or

11 (5) the individual is otherwise eligible for release
12 under State or local law or local policy.

13 "Family member" means a person's (i) mother or father
14 (including step), spouse, brother or sister (including blood,
15 step, or half), son or daughter (including blood, step, or
16 half), father-in-law, mother-in-law, daughter-in-law,
17 son-in-law, brother-in-law, sister-in-law, grandparent, or
18 grandchild; (ii) court-appointed legal guardian or a person for
19 whom the person is a court-appointed legal guardian; or (iii)
20 domestic partner or the domestic partner's mother or father
21 (including step), brother or sister (including blood, step, or
22 half), or son or daughter (including blood, step, or half).

23 "Immigration agent" means an agent of federal Immigration
24 and Customs Enforcement, federal Customs and Border
25 Protection, an individual authorized to conduct enforcement of
26 civil immigration laws under Section 1357(g) of Title 8 of the

1 United States Code or any other federal law, any other federal
2 agent charged with enforcement of civil immigration laws, or
3 any successor.

4 "Immigration detainer" means a document issued by an
5 immigration agent to a federal, State, or local law enforcement
6 agency that requests that the law enforcement agency provide
7 notice of release or maintain custody of an individual based on
8 an alleged violation of a civil immigration law, including
9 detainers issued under Section 287.7 of Title 8 of the United
10 States Code or Section 236.1 of Title 8 of the Code of Federal
11 Regulations.

12 "Immigration enforcement operation" means any operation
13 that has as one of its objectives the identification or
14 apprehension of a person or persons: (1) in order to subject
15 them to civil immigration detention, removal proceedings, and
16 removal from the United States; or (2) to criminally prosecute
17 a person or persons for offenses related to immigration status,
18 including but not limited to, violations of Sections 1253,
19 1304, 1306(a), 1306(b), 1325, or 1326 of Title 8 of the United
20 States Code.

21 "Law enforcement agency" means an agency in this State
22 charged with enforcement of State, county, or municipal laws or
23 with managing custody of detained persons in the State,
24 including municipal police departments, sheriff's departments,
25 campus police departments, the Department of State Police, and
26 the Department of Juvenile Justice.

1 "Law enforcement official" means any officer or other agent
2 of a State or local law enforcement agency authorized to
3 enforce criminal laws, rules, regulations, or local ordinances
4 or to operate jails, correctional facilities, or juvenile
5 detention facilities or to maintain custody of individuals in
6 jails, correctional facilities, or juvenile detention
7 facilities.

8 "Qualifying criminal activity" means any activity
9 regardless of the stage of detection, investigation, or
10 prosecution, involving one or more of the following or any
11 similar activity in violation of federal, State, or local
12 criminal law: rape; torture; trafficking; incest; domestic
13 violence; sexual assault; abusive sexual contact;
14 prostitution; sexual exploitation; stalking; female genital
15 mutilation; being held hostage; peonage; involuntary
16 servitude; slave trade; kidnapping; abduction; unlawful
17 criminal restraint; false imprisonment; blackmail; extortion;
18 manslaughter; murder; felonious assault; witness tampering;
19 obstruction of justice; perjury; fraud in foreign labor
20 contracting (as defined in in Section 1351 of Title 18 of the
21 United States Code); or attempt, conspiracy, or solicitation to
22 commit any of the above mentioned crimes; and any criminal
23 activity that has an articulable similarity to any activity
24 listed under this definition, but is not specifically listed
25 under this definition. Qualifying criminal activity also means
26 any qualifying criminal activity that occurs during the

1 commission of non-qualifying criminal activity, regardless of
2 whether or not criminal prosecution was sought for the
3 qualifying criminal activity. There is no statute of
4 limitations on the criminal activity which falls under this
5 definition.

6 "Verbal abuse" means the use of a remark which is overtly
7 insulting, mocking, or belittling directed at a person based
8 upon the actual or perceived: (1) race, color, sex, religion,
9 national origin, English proficiency, sexual orientation, or
10 gender identity of that person, or (2) citizenship or
11 immigration status of that person or that person's family
12 member.

13 "Victim of qualifying criminal activity" means any
14 individual who:

15 (1) has reported qualifying criminal activity to a law
16 enforcement agency or certifying agency;

17 (2) has otherwise participated in the detection,
18 investigation, or prosecution of qualifying criminal
19 activity;

20 (3) has suffered direct or proximate harm as a result
21 of the commission of any qualifying criminal activity;
22 including, but not limited to, any indirect victim
23 regardless of the direct victim's immigration or
24 citizenship status, who, in any case in which the direct
25 victim is deceased, incompetent, or incapacitated, is the
26 direct victim's spouse, the direct victim's child under 21

1 years of age, or (if the direct victim is under 21 years of
2 age) the direct victim's parent or unmarried sibling under
3 18 years of age; or

4 (4) was a victim of a severe form of trafficking in
5 persons as defined in Section 7102 of Title 22 of the
6 United States Code and Section 10-9 of the Criminal Code of
7 2012.

8 A bystander victim may also be considered as a "victim of
9 qualifying criminal activity". More than one victim may be
10 identified and provided with certification depending upon the
11 circumstances. For purposes of the definition of "victim of
12 qualifying criminal activity," the term "incapacitated" means
13 unable to interact with law enforcement agency or certifying
14 agency personnel as a result of a cognitive impairment or other
15 physical limitation, or because of physical restraint or
16 disappearance.

17 Section 15. Prohibited immigration enforcement activities;
18 exceptions.

19 (a) A law enforcement agency may not detain or continue to
20 detain any individual solely on the basis of any immigration
21 detainer or administrative warrant, or otherwise comply with an
22 immigration detainer or administrative warrant after that
23 individual becomes eligible for release from custody.

24 (b) A law enforcement official shall not stop, arrest,
25 search, detain, or continue to detain a person solely based on

1 an individual's citizenship or immigration status or on an
2 administrative warrant entered into the Federal Bureau of
3 Investigation's National Crime Information Center database, or
4 any successor or similar database maintained by the United
5 States.

6 (c) A law enforcement agency shall not enter into an
7 agreement under Section 1357(g) of Title 8 of the United States
8 Code or any other federal law that permits State or local
9 governmental entities to enforce federal civil immigration
10 laws.

11 (d) A law enforcement agency shall not be permitted to
12 accept requests by immigration agents or other agencies to
13 support or assist in any capacity with immigration enforcement
14 operations, including, but not limited to, requests to provide
15 information on persons that may be the subject of immigration
16 enforcement operations, except as may be required under
17 subsection (g) of this Section, to establish traffic
18 perimeters, or to otherwise be present to assist or support an
19 operation.

20 (e) Except as provided in subsection (f) of this Section, a
21 law enforcement official or other law enforcement agency
22 personnel shall not:

23 (1) give any immigration agent access to any individual
24 or allow any immigration agent to use law enforcement
25 agency facilities for investigative interviews or other
26 investigative purposes;

1 (2) transfer any person into an immigration agent's
2 custody;

3 (3) permit federal Immigration and Customs Enforcement
4 agents use of agency facilities, information except as may
5 be required under subsection (g) of this Section, or
6 equipment, including any agency electronic databases, for
7 investigative interviews or other investigative purpose or
8 for purposes of executing an immigration enforcement
9 operation; or

10 (4) respond to immigration agent inquiries regarding
11 any individual's incarceration status, release date, or
12 contact information except insofar as the agency makes that
13 information available to the public.

14 (f) If an immigration agent presents to a law enforcement
15 official or law enforcement agency a valid and properly issued
16 criminal warrant related to the investigation or prosecution of
17 any criminal offense, including offenses provided for in the
18 laws of another state or federal law, or the immigration agent
19 otherwise demonstrates that he or she is engaged in the
20 investigation or prosecution of a criminal offense, then the
21 law enforcement official or law enforcement agency may conduct
22 any of the activities listed in subsection (e) of this Section
23 or otherwise communicate or coordinate with an immigration
24 agent solely for assisting that specific purpose.

25 (g) Nothing in this Section prohibits any State or local
26 entity or official from sending to, or receiving from, any

1 local, State, or federal agency information regarding an
2 individual's citizenship or immigration status. All law
3 enforcement agencies shall instruct their officials that
4 federal law does not allow any this prohibition. "Information
5 regarding an individual's citizenship or immigration status,"
6 for purposes of this subsection (g), means a statement of the
7 individual's country of citizenship or a statement of the
8 individual's immigration status.

9 (h) Subsections (a), (d), (e), (f), and (g) of this Section
10 shall not apply to the Department of Corrections.

11 (i) Nothing in this Section shall be construed as
12 restricting any expenditure or activity necessary to the
13 performance by the State, any local unit of government, or any
14 law enforcement or other agency, official, employee, or agent
15 of any obligations under any contract between the State, the
16 local unit of government, or the agency and federal officials
17 regarding the use of a facility to detain individuals in
18 federal immigration removal proceedings.

19 Section 20. Prohibited activities related to immigration
20 detention facilities. Notwithstanding subsection (i) of
21 Section 15 of this Act, no State, local unit of government, or
22 agency shall be permitted to contract with a private for-profit
23 vendor or contractor for the provision of services, other than
24 ancillary services as defined under the Section 3 of Private
25 Correctional Facility Moratorium Act, relating to the

1 operation or management of a facility to detain individuals in
2 federal immigration removal proceedings, or to approve any
3 permits, zoning changes, or other measures required for, or to
4 otherwise facilitate, the construction, operation, or
5 management of a facility.

6 Section 25. Other prohibited activities; verbal abuse and
7 coercion. A law enforcement agency or law enforcement official
8 shall not:

9 (1) coerce any person based upon the person's actual or
10 perceived citizenship or immigration status or the actual or
11 perceived citizenship or immigration status of the person's
12 family member;

13 (2) communicate a threat to deport that person or any
14 family member of that person under circumstances that
15 reasonably tend to produce a fear that the threat will be
16 carried out; or

17 (3) otherwise subject a person to verbal abuse as defined
18 by Section 10 of this Act.

19 Section 30. Other prohibited activities; registry
20 programs. A law enforcement agency or law enforcement official
21 shall not expend any time, facilities, equipment, information,
22 or other resources of the agency or agent to facilitate the
23 creation, publication, or maintenance of any federal program to
24 register individuals present in the United States based on

1 their race, color, ancestry, national origin, or religion, or
2 the participation in such a registry of any residents of the
3 jurisdiction served by that agency or official.

4 Section 35. Certifications for victims of qualifying
5 criminal activity.

6 (a) A certifying agency shall execute any certification
7 requested by any victim of qualifying criminal activity or
8 representative of the victim including, but not limited to, the
9 victim's attorney, accredited representative, or domestic
10 violence service provider, within 90 days of receiving the
11 request. If the victim seeking certification is in federal
12 immigration removal proceedings, then the certifying agency
13 shall execute the certification no later than 14 days after the
14 request is received by the agency. If the victim's children,
15 parents, or siblings will become ineligible for benefits under
16 Sections 1184(p) and 1184(o) of Title 8 of the United States
17 Code by virtue of the victim's children having reached the age
18 of 21 years, the victim having reached the age of 21 years, or
19 the victim's sibling having reached the age of 18 years within
20 90 days from the date that the certifying agency receives the
21 certification request, the certifying agency shall execute the
22 certification no later than 14 days after the request is
23 received by the agency, or in the event that the loss of the
24 benefit would occur less than 14 days of receipt of the
25 certification request, the agency shall execute a

1 certification within 3 days. Requests for expedited
2 certification must be affirmatively raised by the victim or
3 representative of the victim.

4 (b) If a certifying agency fails to certify within the time
5 limit under subsection (a) of this Section, or a victim of
6 qualifying criminal activity or representative of the victim
7 disputes the content of a certification, then the victim of
8 qualifying criminal activity may bring an action in circuit
9 court to seek certification or amend the certification. The
10 court shall award court costs and reasonable attorney's fees to
11 any person who brings a proceeding under this subsection (b)
12 who prevails. Nothing in this subsection (b) shall limit a
13 State judge's authority to execute a certification outside the
14 procedures established by this Section.

15 (c) Each certifying agency has independent legal authority
16 to issue a certification. The head of each certifying agency,
17 or a designated agent who performs a supervisory role within
18 the certifying agency, shall perform the following
19 responsibilities:

20 (1) respond to requests for certifications as required
21 by this Section;

22 (2) provide outreach to victims of qualifying criminal
23 activity to inform them of the agency's certification
24 process; and

25 (3) keep written records of all certification requests
26 and responses, which shall be reported to the Illinois

1 Trust Act Compliance Board on an annual basis.

2 (d) A certifying agency shall reissue any certification
3 within 90 days of receiving a request from the victim of
4 qualifying criminal activity or representative of the victim
5 including, but not limited to, the victim's attorney,
6 accredited representative, or domestic violence service
7 provider. If the victim seeking recertification has a deadline
8 for a request for evidence response, the certifying agency
9 shall execute the certification no later than 14 days after the
10 request is received by the agency. Requests for expedited
11 recertification shall be affirmatively raised by the victim or
12 representative of the victim.

13 (e) Notwithstanding any other provision of this Section, a
14 certifying agency's completion of a certification shall not be
15 considered sufficient evidence that the victim has met
16 eligibility requirements for a U or T visa and completion of a
17 certification by a certifying agency shall not be construed to
18 guarantee that a victim will receive federal immigration
19 relief. It is the exclusive responsibility of federal
20 immigration officials to determine whether a victim of
21 qualifying criminal activity is eligible for a U or T visa.
22 Completion of a certification by a certifying agency merely
23 verifies factual information relevant to the immigration
24 benefit sought, including information relevant for federal
25 immigration officials to determine eligibility for a U or T
26 visa. By completing a certification, the certifying agency

1 attests that the information is true and correct to the best of
2 the certifying official's knowledge. If after completion of a
3 certification, the victim unreasonably refuses to assist in the
4 investigation or prosecution of the qualifying criminal
5 activity of which he or she is a victim, then the certifying
6 agency may notify United States Citizenship and Immigration
7 Services in writing.

8 (f) All certifying agencies not subject to the training
9 requirements established in Section 10.17-5 of the Illinois
10 Police Training Act shall adopt a training program on U and T
11 nonimmigrant visas and other remedies for immigrant victims of
12 qualifying criminal activity.

13 (g) All certifying agencies shall adopt and implement a
14 language access protocol for non-English speaking victims of
15 qualifying criminal activity.

16 Section 40. Certain State-funded schools and facilities.

17 (a) The following entities in this State shall not grant
18 access to any immigration agent or to any law enforcement
19 agency acting under an agreement with federal Immigration and
20 Customs Enforcement or otherwise undertaking other joint
21 immigration enforcement operations with federal, State, or
22 local law enforcement agencies, unless a court has issued a
23 warrant and appropriate personnel have reviewed that warrant:

24 (1) State-funded schools, including licensed day care
25 centers, pre-schools, and other early learning programs;

1 elementary and secondary schools, and institutions of
2 higher education.

3 (2) State-funded medical treatment and health care
4 facilities, including hospitals, health clinics, emergency
5 or urgent care facilities, nursing homes, group homes for
6 persons with developmental disabilities,
7 community-integrated living arrangements, and State mental
8 health facilities.

9 (3) Facilities operated by the Office of the Secretary
10 of State.

11 (b) Employees of elementary and secondary schools in this
12 State and institutions of higher education in this State shall
13 be prohibited from asking about a student's immigration status
14 or that of the student's family members, except in cases of
15 in-State or in-district tuition verification, scholarships,
16 grants, or services that are contingent upon this information.

17 (c) In accordance with rules adopted by the Department of
18 Human Services, that Department shall provide training or make
19 training available from a source with expertise in immigration
20 to teachers, administrators, and other staff of elementary and
21 secondary schools in this State, as well as to staff of medical
22 treatment and health care facilities, on how to deal with
23 issues concerning the legal status of immigrants and the
24 process of deportation, and how to notify families of those
25 issues in multiple languages. Training in how to deal with
26 immigration issues may include, but is not limited to,

1 providing information regarding the legal rights of
2 immigrants, explaining the process of deportation, assisting
3 in finding resources available to help immigrants, and other
4 information the Department determines by rule.

5 (d) The appropriate personnel of a facility listed in
6 subsection (a) of this Section shall develop a plan within 90
7 days after the effective date of this Act to provide
8 assistance, information, and safety to persons who are
9 concerned about the government's immigration enforcement
10 efforts.

11 (e) Beginning on and after the effective date of this Act,
12 all applications, questionnaires, and interview forms used in
13 relation to benefits, opportunities, or services provided by a
14 State agency or in-State or in-district tuition verification,
15 scholarships, grants, or services provided by a public
16 elementary or secondary school or public institution of higher
17 education shall be promptly reviewed by that State agency,
18 school, or institution, and any questions regarding
19 citizenship or immigration status, other than those required by
20 statute, ordinance, federal law, or court order, shall be
21 removed within 60 days after the effective date of this Act.
22 Sixty days after the effective date of this Act, no
23 applications, questionnaires, or interview forms used in
24 relation to benefits, opportunities, or services provided by a
25 State agency or in-State or in-district tuition verification,
26 scholarships, grants, or services provided by a public

1 elementary or secondary school or public institution of higher
2 education may contain any questions regarding citizenship or
3 immigration status, other than those required by statute,
4 ordinance, federal law, or court order.

5 (f) The Department of Human Services shall adopt any rules
6 necessary to implement this Section.

7 Section 45. Equal access to educational, rehabilitative,
8 and diversionary programs in the criminal justice system.
9 Neither the Department of Corrections nor any law enforcement
10 agency may consider an immigration detainer or administrative
11 warrant in determining an individual's eligibility or
12 placement in any educational, rehabilitative, or diversionary
13 program described in the Unified Code of Corrections or any
14 other educational, rehabilitative, or diversionary program
15 administered by a law enforcement agency.

16 Section 50. Compliance Board; oversight.

17 (a) The Governor shall appoint, with the advice and consent
18 of the Senate, an Illinois Trust Act Compliance Board within 90
19 days after the effective date of this Act. This Board shall
20 consist of 13 members, serving terms of 3 years, and the
21 members shall elect their chairperson. No more than 7 members
22 shall be of the same political party. All appointments shall be
23 made in writing and filed with the Secretary of State as a
24 public record.

1 (b) The Board shall consist of the following members:

2 (1) one representative of the Governor's office;

3 (2) one representative of the Attorney General's
4 office;

5 (3) one representative of the Illinois Legislative
6 Latino Caucus;

7 (4) one representative of law enforcement from the
8 Chicago Police Department;

9 (5) one representative of law enforcement from Cook
10 County;

11 (6) 2 representatives of law enforcement from outside
12 of Cook County;

13 (7) one representative that advocates for immigrants
14 in the Latino or Hispanic community in this State;

15 (8) one representative that advocates for immigrants
16 in the Asian American community in this State;

17 (9) one representative that advocates for immigrants
18 in the African, Arab, or Muslim American community in this
19 State;

20 (10) one representative that advocates for immigrant
21 in this State;

22 (11) 2 representatives that advocate for immigrant
23 victims of domestic violence in Illinois;

24 (c) This Board shall be charged with the following
25 responsibilities:

26 (1) monitoring compliance with this Act;

1 (2) disseminating information about this Act to
2 affected communities and the general public;

3 (3) establishing mechanisms by which the public can
4 report concerns and recommendations regarding
5 implementation of this Act;

6 (4) identifying implementation issues and other
7 trends, and providing recommendations to the Governor and
8 the Attorney General for addressing these issues;

9 (5) conducting research regarding sharing personally
10 identifiable information between law enforcement agencies
11 and federal Immigration and Customs Enforcement, including
12 but not limited to, research regarding:

13 (A) requests for or investigations involving
14 personally identifiable information by law enforcement
15 agencies and officials;

16 (B) sharing of information and data posted in the
17 Illinois Law Enforcement Agencies Database System
18 (LEADS) or any other State administered database to
19 which immigration agents have access;

20 (C) immigration agents' use of the LEADS database
21 or any other State administered database; and

22 (D) the impact of the requests, investigations,
23 and sharing and use of information on relations between
24 law enforcement agencies and immigrant communities;

25 (6) conducting additional research as may be
26 necessary, including, but not limited to, requesting and

1 disseminating data from law enforcement agencies relevant
2 to this Act and this Act's impact on law enforcement
3 agencies, police-community relations, affected
4 communities, and the State overall;

5 (7) publishing a report of its activities no less than
6 once each calendar year; and

7 (8) any other responsibilities relating to this Act as
8 the Board may identify.

9 Section 55. Private right of action.

10 (a) Any person may bring an action in State circuit court
11 to challenge any law enforcement official or agency for failure
12 to fully comply with this Act. If there is a judicial finding
13 that a law enforcement official or agency has violated this
14 Act, then the court shall order that the law enforcement
15 official or agency pay a civil penalty of not less than \$1,000
16 and not more than \$5,000 for each instance that the law
17 enforcement official or agency has violated this Act.

18 (b) The court shall collect the civil penalty prescribed in
19 subsection (a) and remit the civil penalty to the Crime Victim
20 Services Division of the Office of the Attorney General for use
21 in its programs to assist victims of crime.

22 (c) The court may award court costs and reasonable
23 attorney's fees to any person who prevails by an adjudication
24 on the merits in a proceeding brought under this Section.

25 (d) Except in relation to matters in which a law

1 enforcement officer is adjudged to have acted in bad faith, a
2 law enforcement officer shall be indemnified by the law
3 enforcement agency for reasonable costs and expenses,
4 including attorney's fees, incurred by an officer in connection
5 with any action, suit, or proceeding brought under this Section
6 in which the officer may be a defendant by reason of the
7 officer being or having been a member of the law enforcement
8 agency.

9 Section 97. The Illinois Notary Public Act is amended by
10 changing Section 3-104 as follows:

11 (5 ILCS 312/3-104) (from Ch. 102, par. 203-104)

12 Sec. 3-104. Maximum Fee.

13 (a) Except as provided in subsection (b) of this Section,
14 the maximum fee in this State is \$1.00 for any notarial act
15 performed and, until July 1, 2018, up to \$25 for any notarial
16 act performed pursuant to Section 3-102.

17 (b) Fees for a notary public, agency, or any other person
18 who is not an attorney or an accredited representative filling
19 out immigration forms shall be limited to the following:

20 (1) \$10 per form completion;

21 (2) \$10 per page for the translation of a non-English
22 language into English where such translation is required
23 for immigration forms;

24 (3) \$1 for notarizing;

1 (4) \$3 to execute any procedures necessary to obtain a
2 document required to complete immigration forms; and

3 (5) A maximum of \$75 for one complete application.

4 Fees authorized under this subsection shall not include
5 application fees required to be submitted with immigration
6 applications.

7 Any person who violates the provisions of this subsection
8 shall be guilty of a Class A misdemeanor for a first offense
9 and a Class 3 felony for a second or subsequent offense
10 committed within 5 years of a previous conviction for the same
11 offense.

12 (c) Upon his own information or upon complaint of any
13 person, the Attorney General or any State's Attorney, or their
14 designee, may maintain an action for injunctive relief in the
15 court against any notary public or any other person who
16 violates the provisions of subsection (b) of this Section.
17 These remedies are in addition to, and not in substitution for,
18 other available remedies.

19 (c-5) Notwithstanding subsection (c) of this Section, any
20 person may file a civil action to enforce the provisions of
21 this subsection and maintain an action for injunctive relief,
22 for compensatory damages to recover prohibited fees, or for
23 such additional relief as may be appropriate to deter, prevent,
24 or compensate for the violation. In order to deter violations
25 of this Section, courts shall not require a showing of the
26 traditional elements for equitable relief. A prevailing

1 plaintiff may be awarded 3 times the prohibited fees, or a
2 minimum of \$1,000 in punitive damages, attorney's fees, and
3 costs of bringing an action under this Section. It is the
4 express intention of the General Assembly that remedies for
5 violation of this Section be cumulative. ~~If the Attorney~~
6 ~~General or any State's Attorney fails to bring an action as~~
7 ~~provided pursuant to this subsection within 90 days of receipt~~
8 ~~of a complaint, any person may file a civil action to enforce~~
9 ~~the provisions of this subsection and maintain an action for~~
10 ~~injunctive relief.~~

11 (d) All notaries public must provide receipts and keep
12 records for fees accepted for services provided. Failure to
13 provide receipts and keep records that can be presented as
14 evidence of no wrongdoing shall be construed as a presumptive
15 admission of allegations raised in complaints against the
16 notary for violations related to accepting prohibited fees.

17 (Source: P.A. 98-29, eff. 6-21-13.)

18 Section 100. The Illinois Police Training Act is amended by
19 adding Section 10.17-5 as follows:

20 (50 ILCS 705/10.17-5 new)

21 Sec. 10.17-5. Training program on federal nonimmigrant
22 visas. The Board shall conduct or approve a training program on
23 U and T nonimmigrant visas and other immigration remedies for
24 immigrant victims of qualifying criminal activity as defined in

1 Section 10 of the Illinois Trust Act. A law enforcement
2 agency's continuing education program shall provide to the head
3 of the agency and the agency's certifying agent, as designated
4 under subsection (c) of Section 35 of the Illinois Trust Act,
5 continuing education concerning U and T nonimmigrant visas, and
6 continuing education concerning cultural diversity awareness.

7 Section 105. The Juvenile Court Act of 1987 is amended by
8 changing Section 2-4a as follows:

9 (705 ILCS 405/2-4a)

10 Sec. 2-4a. Special Immigrant Juvenile Status ~~Special~~
11 ~~immigrant minor.~~

12 (a) Upon filing of a petition on behalf of an immigrant
13 minor alleging that the minor satisfies the prerequisites for
14 special immigrant juvenile status under 8 U.S.C.
15 1101(a)(27)(J) and stating the custodial status sought on
16 behalf of the minor, a juvenile court shall declare the
17 immigrant minor a dependent of the court, order that an
18 immigrant minor be placed under the custody of an appropriate
19 State agency, or order that an immigrant minor be placed with
20 an individual or entity appointed by the State or the court, if
21 the court makes the following findings:

22 (1) that a reasonable diligent search for one or
23 both of the biological parents or prior adoptive parents
24 has been conducted; and

1 (2) that reunification with one or both of the
2 minor's biological parents or prior adoptive parents is not
3 a viable option due to abuse, neglect, abandonment, or
4 similar basis; and

5 (3) that it would not be in the immigrant minor's
6 best interest to be returned to the minor's or parent's
7 previous country of nationality or country of last habitual
8 residence.

9 ~~Except as otherwise provided in this Act, a special immigrant~~
10 ~~minor under 18 years of age who has been made a ward of the~~
11 ~~court may be deemed eligible by the court for long term~~
12 ~~foster care due to abuse, neglect, or abandonment and~~
13 ~~remain under the jurisdiction of the juvenile court until~~
14 ~~his or her special immigrant juvenile status and adjustment~~
15 ~~of status applications are adjudicated. The petition filed~~
16 ~~on behalf of the special immigrant minor must allege that~~
17 ~~he or she otherwise satisfies the prerequisites for special~~
18 ~~immigrant juvenile status pursuant to 8 U.S.C. Section~~
19 ~~1101(a)(27)(J) and must state the custodial status sought~~
20 ~~on behalf of the minor.~~

21 (b) (Blank). ~~For the purposes of this Section, a juvenile~~
22 ~~court may make a finding that a special immigrant minor is~~
23 ~~eligible for long term foster care if the court makes the~~
24 ~~following findings:~~

25 ~~(1) That a reasonable diligent search for biological~~
26 ~~parents, prior adoptive parents, or prior legal guardians~~

1 ~~has been conducted; and~~

2 ~~(2) That reunification with the minor's biological~~
3 ~~parents or prior adoptive parents is not a viable option.~~

4 (b-5) An immigrant minor for whom the court makes the
5 necessary findings under subsection (a) shall remain under the
6 jurisdiction of the court until his or her special immigrant
7 juvenile status and adjustment of status applications are
8 adjudicated by the United States Citizenship and Immigration
9 Services or its successor agency with such responsibilities.

10 (c) For the purposes of this Section:

11 (1) The terms "neglected or abused minor" and
12 "dependent minor" as described in Sections 2-3 and 2-4 of
13 the Act shall include a minor under the age of 21 years.

14 (2) The term "abandonment" means any occasion when a
15 biological or adoptive the failure of a parent whether
16 intentionally, negligently, or due to a physical or mental
17 disability, fails or legal guardian to maintain a
18 reasonable degree of interest, concern, or responsibility
19 for the welfare of his or her minor child or when a
20 diligent search has been conducted and one parent is not
21 located or one parent has died ward.

22 (2) (Blank). The term "special immigrant minor" means
23 an immigrant minor who (i) is present in the United States
24 and has been made a ward of the court and (ii) for whom it
25 has been determined by the juvenile court or in an
26 administrative or judicial proceeding that it would not be

1 ~~in his or her best interests to be returned to his or her~~
2 ~~previous country of nationality or country of last habitual~~
3 ~~residence.~~

4 (d) (Blank). ~~This Section does not apply to a minor who~~
5 ~~applies for special immigrant minor status solely for the~~
6 ~~purpose of qualifying for financial assistance for himself or~~
7 ~~herself or for his or her parents, guardian, or custodian.~~

8 (Source: P.A. 93-145, eff. 7-10-03.)

9 Section 110. The Cannabis Control Act is amended by
10 changing Section 10 as follows:

11 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

12 Sec. 10. (a) Whenever any person who has not previously
13 been convicted of, or placed on probation or court supervision
14 for, any offense under this Act or any law of the United States
15 or of any State relating to cannabis, or controlled substances
16 as defined in the Illinois Controlled Substances Act, pleads
17 guilty to or is found guilty of violating Sections 4(a), 4(b),
18 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without
19 entering a judgment and with the consent of such person,
20 sentence him to probation.

21 (b) When a person is placed on probation, the court shall
22 enter an order specifying a period of probation of 24 months,
23 and shall defer further proceedings in the case until the
24 conclusion of the period or until the filing of a petition

1 alleging violation of a term or condition of probation.

2 (c) The conditions of probation shall be that the person:

3 (1) not violate any criminal statute of any jurisdiction; (2)
4 refrain from possession of a firearm or other dangerous weapon;
5 (3) submit to periodic drug testing at a time and in a manner
6 as ordered by the court, but no less than 3 times during the
7 period of the probation, with the cost of the testing to be
8 paid by the probationer; and (4) perform no less than 30 hours
9 of community service, provided community service is available
10 in the jurisdiction and is funded and approved by the county
11 board.

12 (d) The court may, in addition to other conditions, require
13 that the person:

14 (1) make a report to and appear in person before or
15 participate with the court or such courts, person, or
16 social service agency as directed by the court in the order
17 of probation;

18 (2) pay a fine and costs;

19 (3) work or pursue a course of study or vocational
20 training;

21 (4) undergo medical or psychiatric treatment; or
22 treatment for drug addiction or alcoholism;

23 (5) attend or reside in a facility established for the
24 instruction or residence of defendants on probation;

25 (6) support his dependents;

26 (7) refrain from possessing a firearm or other

1 dangerous weapon;

2 (7-5) refrain from having in his or her body the
3 presence of any illicit drug prohibited by the Cannabis
4 Control Act, the Illinois Controlled Substances Act, or the
5 Methamphetamine Control and Community Protection Act,
6 unless prescribed by a physician, and submit samples of his
7 or her blood or urine or both for tests to determine the
8 presence of any illicit drug;

9 (8) and in addition, if a minor:

10 (i) reside with his parents or in a foster home;

11 (ii) attend school;

12 (iii) attend a non-residential program for youth;

13 (iv) contribute to his own support at home or in a
14 foster home.

15 (e) Upon violation of a term or condition of probation, the
16 court may enter a judgment on its original finding of guilt and
17 proceed as otherwise provided.

18 (f) Upon fulfillment of the terms and conditions of
19 probation, the court shall discharge such person and dismiss
20 the proceedings against him.

21 (g) A disposition of probation is considered to be a
22 conviction for the purposes of imposing the conditions of
23 probation and for appeal, however, discharge and dismissal
24 under this Section is not a conviction for purposes of
25 disqualification or disabilities imposed by law upon
26 conviction of a crime (including the additional penalty imposed

1 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)
2 of this Act).

3 (h) Discharge and dismissal under this Section, Section 410
4 of the Illinois Controlled Substances Act, Section 70 of the
5 Methamphetamine Control and Community Protection Act, Section
6 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections, or
7 subsection (c) of Section 11-14 of the Criminal Code of 1961 or
8 the Criminal Code of 2012 may occur only once with respect to
9 any person.

10 (i) If a person is convicted of an offense under this Act,
11 the Illinois Controlled Substances Act, or the Methamphetamine
12 Control and Community Protection Act within 5 years subsequent
13 to a discharge and dismissal under this Section, the discharge
14 and dismissal under this Section shall be admissible in the
15 sentencing proceeding for that conviction as a factor in
16 aggravation.

17 (j) Notwithstanding subsection (a), before a person is
18 sentenced to probation under this Section, the court may refer
19 the person to the drug court established in that judicial
20 circuit pursuant to Section 15 of the Drug Court Treatment Act.
21 The drug court team shall evaluate the person's likelihood of
22 successfully completing a sentence of probation under this
23 Section and shall report the results of its evaluation to the
24 court. If the drug court team finds that the person suffers
25 from a substance abuse problem that makes him or her
26 substantially unlikely to successfully complete a sentence of

1 probation under this Section, then the drug court shall set
2 forth its findings in the form of a written order, and the
3 person shall not be sentenced to probation under this Section,
4 but may be considered for the drug court program.

5 (k) In any case in which a person is sentenced to probation
6 under this Section and has performed satisfactorily during the
7 period in which probation was granted, and any criminal charge
8 against that person was discharged and dismissed under this
9 Section, the court shall, upon request of the defendant, permit
10 the defendant to withdraw the plea of guilty or nolo contendere
11 and enter a plea of not guilty, and the court shall dismiss the
12 complaint or information against the defendant. If court
13 records showing the case resolution are no longer available,
14 the person's declaration, under penalty of perjury, that the
15 charges were dismissed after he or she completed the
16 requirements for probation, shall be presumed to be true if the
17 person has submitted a copy of his or her state summary
18 criminal history information maintained by the Department of
19 State Police that either shows that the defendant successfully
20 completed the probation or that the record is incomplete in
21 that it does not show a final disposition. For purposes of this
22 Section, a final disposition means that the state summary
23 criminal history information shows either a dismissal after
24 completion of the probation or a sentence after termination of
25 the probation.

26 (Source: P.A. 98-164, eff. 1-1-14; 99-480, eff. 9-9-15.)

1 Section 115. The Illinois Controlled Substances Act is
2 amended by changing Section 410 as follows:

3 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

4 Sec. 410. (a) Whenever any person who has not previously
5 been convicted of, or placed on probation or court supervision
6 for any offense under this Act or any law of the United States
7 or of any State relating to cannabis or controlled substances,
8 pleads guilty to or is found guilty of possession of a
9 controlled or counterfeit substance under subsection (c) of
10 Section 402 or of unauthorized possession of prescription form
11 under Section 406.2, the court, without entering a judgment and
12 with the consent of such person, may sentence him or her to
13 probation.

14 (b) When a person is placed on probation, the court shall
15 enter an order specifying a period of probation of 24 months
16 and shall defer further proceedings in the case until the
17 conclusion of the period or until the filing of a petition
18 alleging violation of a term or condition of probation.

19 (c) The conditions of probation shall be that the person:
20 (1) not violate any criminal statute of any jurisdiction; (2)
21 refrain from possessing a firearm or other dangerous weapon;
22 (3) submit to periodic drug testing at a time and in a manner
23 as ordered by the court, but no less than 3 times during the
24 period of the probation, with the cost of the testing to be

1 paid by the probationer; and (4) perform no less than 30 hours
2 of community service, provided community service is available
3 in the jurisdiction and is funded and approved by the county
4 board.

5 (d) The court may, in addition to other conditions, require
6 that the person:

7 (1) make a report to and appear in person before or
8 participate with the court or such courts, person, or
9 social service agency as directed by the court in the order
10 of probation;

11 (2) pay a fine and costs;

12 (3) work or pursue a course of study or vocational
13 training;

14 (4) undergo medical or psychiatric treatment; or
15 treatment or rehabilitation approved by the Illinois
16 Department of Human Services;

17 (5) attend or reside in a facility established for the
18 instruction or residence of defendants on probation;

19 (6) support his or her dependents;

20 (6-5) refrain from having in his or her body the
21 presence of any illicit drug prohibited by the Cannabis
22 Control Act, the Illinois Controlled Substances Act, or the
23 Methamphetamine Control and Community Protection Act,
24 unless prescribed by a physician, and submit samples of his
25 or her blood or urine or both for tests to determine the
26 presence of any illicit drug;

1 (7) and in addition, if a minor:

2 (i) reside with his or her parents or in a foster
3 home;

4 (ii) attend school;

5 (iii) attend a non-residential program for youth;

6 (iv) contribute to his or her own support at home
7 or in a foster home.

8 (e) Upon violation of a term or condition of probation, the
9 court may enter a judgment on its original finding of guilt and
10 proceed as otherwise provided.

11 (f) Upon fulfillment of the terms and conditions of
12 probation, the court shall discharge the person and dismiss the
13 proceedings against him or her.

14 (g) A disposition of probation is considered to be a
15 conviction for the purposes of imposing the conditions of
16 probation and for appeal, however, discharge and dismissal
17 under this Section is not a conviction for purposes of this Act
18 or for purposes of disqualifications or disabilities imposed by
19 law upon conviction of a crime.

20 (h) There may be only one discharge and dismissal under
21 this Section, Section 10 of the Cannabis Control Act, Section
22 70 of the Methamphetamine Control and Community Protection Act,
23 Section 5-6-3.3 or 5-6-3.4 of the Unified Code of Corrections,
24 or subsection (c) of Section 11-14 of the Criminal Code of 1961
25 or the Criminal Code of 2012 with respect to any person.

26 (i) If a person is convicted of an offense under this Act,

1 the Cannabis Control Act, or the Methamphetamine Control and
2 Community Protection Act within 5 years subsequent to a
3 discharge and dismissal under this Section, the discharge and
4 dismissal under this Section shall be admissible in the
5 sentencing proceeding for that conviction as evidence in
6 aggravation.

7 (j) Notwithstanding subsection (a), before a person is
8 sentenced to probation under this Section, the court may refer
9 the person to the drug court established in that judicial
10 circuit pursuant to Section 15 of the Drug Court Treatment Act.
11 The drug court team shall evaluate the person's likelihood of
12 successfully completing a sentence of probation under this
13 Section and shall report the results of its evaluation to the
14 court. If the drug court team finds that the person suffers
15 from a substance abuse problem that makes him or her
16 substantially unlikely to successfully complete a sentence of
17 probation under this Section, then the drug court shall set
18 forth its findings in the form of a written order, and the
19 person shall not be sentenced to probation under this Section,
20 but may be considered for the drug court program.

21 (k) In any case in which a person is sentenced to probation
22 under this Section and has performed satisfactorily during the
23 period in which probation was granted, and any criminal charge
24 against that person was discharged and dismissed under this
25 Section, the court shall, upon request of the defendant, permit
26 the defendant to withdraw the plea of guilty or nolo contendere

1 and enter a plea of not guilty, and the court shall dismiss the
2 complaint or information against the defendant. If court
3 records showing the case resolution are no longer available,
4 the person's declaration, under penalty of perjury, that the
5 charges were dismissed after he or she completed the
6 requirements for probation, shall be presumed to be true if the
7 person has submitted a copy of his or her state summary
8 criminal history information maintained by the Department of
9 State Police that either shows that the defendant successfully
10 completed the probation or that the record is incomplete in
11 that it does not show a final disposition. For purposes of this
12 Section, a final disposition means that the state summary
13 criminal history information shows either a dismissal after
14 completion of the probation or a sentence after termination of
15 the probation.

16 (Source: P.A. 98-164, eff. 1-1-14; 99-480, eff. 9-9-15.)

17 Section 120. The Code of Criminal Procedure of 1963 is
18 amended by changing Sections 113-8, 122-1, and 122-2.1 and by
19 adding Section 110-5.2 as follows:

20 (725 ILCS 5/110-5.2 new)

21 Sec. 110-5.2. An individual subject to an immigration
22 detainer or administrative warrant shall not be denied bail
23 solely on the basis of that immigration detainer or
24 administrative warrant. Nothing in this Section may be

1 construed to undermine the authority of a court to set bail or
2 a bond determination under this Article.

3 (725 ILCS 5/113-8)

4 Sec. 113-8. Advisement concerning status as an alien.
5 Before the acceptance of a plea of guilty, guilty but mentally
6 ill, or nolo contendere to a misdemeanor or felony offense, the
7 court shall give the following advisement to the defendant in
8 open court:

9 "If you are not a citizen of the United States, you are
10 hereby advised that conviction of the offense for which you
11 have been charged may have the consequences of deportation,
12 exclusion from admission to the United States, or denial of
13 naturalization under the laws of the United States."

14 Nothing in this Section shall be construed to authorize or
15 direct any court to request that the defendant state his or her
16 immigration or citizenship status, or to require that the
17 defendant provide such information.

18 (Source: P.A. 93-373, eff. 1-1-04.)

19 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

20 Sec. 122-1. Petition in the trial court.

21 (a) Any person convicted or adjudicated delinquent of an
22 offense punishable by a sentence of imprisonment or another
23 form of detention ~~imprisoned in the penitentiary~~ may institute
24 a proceeding under this Article if the person asserts that:

1 (1) in the proceedings which resulted in his or her
2 conviction or delinquency adjudication there was a
3 substantial denial of his or her rights under the
4 Constitution of the United States or of the State of
5 Illinois or both; or

6 (2) ~~the death penalty was imposed and there is newly~~
7 ~~discovered evidence not available to the person at the time~~
8 ~~of the proceeding that resulted in his or her conviction~~
9 that establishes a substantial basis to believe that the
10 defendant is actually innocent by clear and convincing
11 evidence.

12 (a-5) A proceeding under paragraph (2) of subsection (a)
13 may be commenced within a reasonable period of time after the
14 person's conviction or delinquency adjudication
15 notwithstanding any other provisions of this Article. ~~In such a~~
16 ~~proceeding regarding actual innocence, if the court determines~~
17 ~~the petition is frivolous or is patently without merit, it~~
18 ~~shall dismiss the petition in a written order, specifying the~~
19 ~~findings of fact and conclusions of law it made in reaching its~~
20 ~~decision. Such order of dismissal is a final judgment and shall~~
21 ~~be served upon the petitioner by certified mail within 10 days~~
22 ~~of its entry.~~

23 (b) The proceeding shall be commenced by filing with the
24 clerk of the court in which the conviction or delinquency
25 adjudication took place a petition (together with a copy
26 thereof) verified by affidavit. Petitioner shall also serve

1 another copy upon the State's Attorney by any of the methods
2 provided in Rule 7 of the Supreme Court. The clerk shall docket
3 the petition for consideration by the court pursuant to Section
4 122-2.1 upon his or her receipt thereof and bring the same
5 promptly to the attention of the court.

6 (c) Except as otherwise provided in subsection (a-5), ~~if~~
7 ~~the petitioner is under sentence of death and a petition for~~
8 ~~writ of certiorari is filed, no proceedings under this Article~~
9 ~~shall be commenced more than 6 months after the conclusion of~~
10 ~~proceedings in the United States Supreme Court, unless the~~
11 ~~petitioner alleges facts showing that the delay was not due to~~
12 ~~his or her culpable negligence. If a petition for certiorari is~~
13 ~~not filed, no proceedings under this Article shall be commenced~~
14 ~~more than 6 months from the date for filing a certiorari~~
15 ~~petition, unless the petitioner alleges facts showing that the~~
16 ~~delay was not due to his or her culpable negligence.~~

17 ~~When a defendant has a sentence other than death,~~ no
18 proceedings under this Article shall be commenced more than 6
19 months after the conclusion of proceedings in the United States
20 Supreme Court, unless the petitioner alleges facts showing that
21 the delay was not due to his or her culpable negligence. If a
22 petition for certiorari is not filed, no proceedings under this
23 Article shall be commenced more than 6 months from the date for
24 filing a certiorari petition, unless the petitioner alleges
25 facts showing that the delay was not due to his or her culpable
26 negligence. If a defendant does not file a direct appeal, the

1 post-conviction petition shall be filed no later than 3 years
2 from the date of conviction or delinquency adjudication, unless
3 the petitioner alleges facts showing that the delay was not due
4 to his or her culpable negligence.

5 This limitation does not apply to a petition advancing a
6 claim of actual innocence.

7 (d) A person seeking relief by filing a petition under this
8 Section must specify in the petition or its heading that it is
9 filed under this Section. A trial court that has received a
10 petition complaining of a conviction, delinquency
11 adjudication, or sentence that fails to specify in the petition
12 or its heading that it is filed under this Section need not
13 evaluate the petition to determine whether it could otherwise
14 have stated some grounds for relief under this Article.

15 (e) A proceeding under this Article may not be commenced on
16 behalf of a defendant ~~who has been sentenced to death~~ without
17 the written consent of the defendant, unless the defendant,
18 because of a mental or physical condition, is incapable of
19 asserting his or her own claim.

20 (f) Only one petition may be filed by a petitioner under
21 this Article without leave of the court. The determination as
22 to whether to grant leave of court shall be made prior to or
23 contemporaneously with any order made under paragraph (2) of
24 subsection (a) or subsection (b) of Section 122-2.1 of this
25 Article without pleadings from the State. Leave of court may be
26 granted only if a petitioner demonstrates:

1 (1) cause for his or her failure to bring the claim in
2 his or her initial post-conviction proceedings and
3 prejudice results from that failure; or

4 (2) that there has been a fundamental miscarriage of
5 justice.

6 For purposes of this subsection (f):

7 (1) a petitioner demonstrates ~~prisoner shows~~ cause by
8 adequately pleading that ~~identifying~~ an identified
9 ~~objective~~ factor ~~that~~ impeded his or her ability to raise a
10 specific claim during his or her initial post-conviction
11 proceedings; ~~and~~

12 (2) a petitioner demonstrates ~~prisoner shows~~ prejudice
13 by adequately pleading ~~demonstrating~~ that the claim not
14 raised during his or her initial post-conviction
15 proceedings so infected the trial that the resulting
16 conviction or sentence violated due process; and

17 (3) a petitioner demonstrates a fundamental
18 miscarriage of justice by adequately pleading that there is
19 newly discovered evidence that establishes a substantial
20 basis to believe that the petitioner is actually innocent
21 by clear and convincing evidence.

22 (Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03;
23 93-972, eff. 8-20-04.)

24 (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

25 Sec. 122-2.1. (a) Within 90 days after the filing and

1 docketing of each petition, the court shall examine the ~~such~~
2 petition and enter an order thereon under ~~pursuant~~ to this
3 Section.

4 (1) If the petitioner is under sentence of death and is
5 without counsel and alleges that he is without means to
6 procure counsel, he shall state whether or not he wishes
7 counsel to be appointed to represent him. If appointment of
8 counsel is so requested, the court shall appoint counsel if
9 satisfied that the petitioner has no means to procure
10 counsel.

11 (2) If ~~the petitioner is sentenced to imprisonment and~~
12 the court determines the petition is frivolous or is
13 patently without merit, it shall dismiss the petition in a
14 written order, specifying the findings of fact and
15 conclusions of law it made in reaching its decision. This
16 ~~Such~~ order of dismissal is a final judgment and shall be
17 served upon the petitioner by certified mail within 10 days
18 of its entry.

19 (b) If the petition is not dismissed under ~~pursuant to~~ this
20 Section, the court shall order the petition to be docketed for
21 further consideration in accordance with Sections 122-4
22 through 122-6. If the petitioner is under sentence of death,
23 the court shall order the petition to be docketed for further
24 consideration and hearing within one year of the filing of the
25 petition. Continuances may be granted as the court deems
26 appropriate.

1 (c) In considering a petition under ~~pursuant to~~ this
2 Section, the court may examine the court file of the proceeding
3 in which the petitioner was convicted, any action taken by an
4 appellate court in that ~~such~~ proceeding and any transcripts of
5 that ~~such~~ proceeding.

6 (Source: P.A. 93-605, eff. 11-19-03.)

7 Section 125. The Probation and Probation Officers Act is
8 amended by changing Section 12 as follows:

9 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

10 Sec. 12. The duties of probation officers shall be:

11 (1) To investigate as required by Section 5-3-1 of the
12 "Unified Code of Corrections", approved July 26, 1972, as
13 amended, the case of any person to be placed on probation. Full
14 opportunity shall be afforded a probation officer to confer
15 with the person under investigation when such person is in
16 custody.

17 (2) To notify the court of any previous conviction for
18 crime or previous probation of any defendant invoking the
19 provisions of this Act.

20 (3) All reports and notifications required in this Act to
21 be made by probation officers shall be in writing and shall be
22 filed by the clerk in the respective cases.

23 (4) To preserve complete and accurate records of cases
24 investigated, including a description of the person

1 investigated, the action of the court with respect to his case
2 and his probation, the subsequent history of such person, if he
3 becomes a probationer, during the continuance of his probation,
4 which records shall be open to inspection by any judge or by
5 any probation officer pursuant to order of court, but shall not
6 be a public record, and its contents shall not be divulged
7 otherwise than as above provided, except upon order of court;
8 provided that nothing in this Section shall be construed to
9 require or direct any probation officer to (i) inquire to the
10 federal Department of Homeland Security regarding the
11 citizenship or immigration status of a person or (ii) provide
12 to the federal Department of Homeland Security any personal
13 information regarding that person, unless otherwise required
14 by law.

15 (5) To take charge of and watch over all persons placed on
16 probation under such regulations and for such terms as may be
17 prescribed by the court, and giving to each probationer full
18 instructions as to the terms of his release upon probation and
19 requiring from him such periodical reports as shall keep the
20 officer informed as to his conduct.

21 (6) To develop and operate programs of reasonable public or
22 community service for any persons ordered by the court to
23 perform public or community service, providing, however, that
24 no probation officer or any employee of a probation office
25 acting in the course of his official duties shall be liable for
26 any tortious acts of any person performing public or community

1 service except for wilful misconduct or gross negligence on the
2 part of the probation officer or employee.

3 (7) When any person on probation removes from the county
4 where his offense was committed, it shall be the duty of the
5 officer under whose care he was placed to report the facts to
6 the probation officer in the county to which the probationer
7 has removed; and it shall thereupon become the duty of such
8 probation officer to take charge of and watch over said
9 probationer the same as if the case originated in that county;
10 and for that purpose he shall have the same power and authority
11 over said probationer as if he had been originally placed in
12 said officer's charge; and such officer shall be required to
13 report in writing every 6 months, or more frequently upon
14 request the results of his supervision to the probation officer
15 in whose charge the said probationer was originally placed by
16 the court.

17 (8) To authorize travel permits to individuals under their
18 supervision unless otherwise ordered by the court.

19 (9) To perform such other duties as are provided for in
20 this act or by rules of court and such incidental duties as may
21 be implied from those expressly required.

22 (10) To send written notification to a public housing
23 agency if a person on probation for a felony who is under the
24 supervision of the probation officer informs the probation
25 officer that he or she has resided, resides, or will reside at
26 an address that is a housing facility owned, managed, operated,

1 or leased by that public housing agency.

2 (11) If a person on probation for a felony offense who is
3 under the supervision of the probation officer becomes a
4 resident of a facility licensed or regulated by the Department
5 of Public Health, the Illinois Department of Public Aid, or
6 Illinois Department of Human Services, the probation officer
7 shall within 3 days of the person becoming a resident, notify
8 the licensing or regulating Department and licensed or
9 regulated facility and shall provide the licensed or regulated
10 facility and licensing or regulating Department with copies of
11 the following:

12 (a) (blank);

13 (b) any applicable probation orders and corresponding
14 compliance plans;

15 (c) the name and contact information for the assigned
16 probation officer.

17 (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

18 Section 130. The Probate Act of 1975 is amended by changing
19 Section 11-3 as follows:

20 (755 ILCS 5/11-3) (from Ch. 110 1/2, par. 11-3)

21 Sec. 11-3. Who may act as guardian.

22 (a) A person is qualified to act as guardian of the person
23 and as guardian of the estate if the court finds that the
24 proposed guardian is capable of providing an active and

1 suitable program of guardianship for the minor and that the
2 proposed guardian:

3 (1) has attained the age of 18 years;

4 (2) lives in ~~is a resident of~~ the United States;

5 (3) is not of unsound mind;

6 (4) is not an adjudged person with a disability as
7 defined in this Act; and

8 (5) has not been convicted of a felony, unless the
9 court finds appointment of the person convicted of a felony
10 to be in the minor's best interests, and as part of the
11 best interest determination, the court has considered the
12 nature of the offense, the date of offense, and the
13 evidence of the proposed guardian's rehabilitation. No
14 person shall be appointed who has been convicted of a
15 felony involving harm or threat to a child, including a
16 felony sexual offense.

17 One person may be appointed guardian of the person and another
18 person appointed guardian of the estate.

19 (b) The Department of Human Services or the Department of
20 Children and Family Services may with the approval of the court
21 designate one of its employees to serve without fees as
22 guardian of the estate of a minor patient in a State mental
23 hospital or a resident in a State institution when the value of
24 the personal estate does not exceed \$1,000.

25 (Source: P.A. 99-143, eff. 7-27-15.)

1 Section 135. The Consumer Fraud and Deceptive Business
2 Practices Act is amended by changing Section 2AA as follows:

3 (815 ILCS 505/2AA)

4 Sec. 2AA. Immigration services.

5 (a) "Immigration matter" means any proceeding, filing, or
6 action affecting the nonimmigrant, immigrant or citizenship
7 status of any person that arises under immigration and
8 naturalization law, executive order or presidential
9 proclamation of the United States or any foreign country, or
10 that arises under action of the United States Citizenship and
11 Immigration Services, the United States Department of Labor, or
12 the United States Department of State.

13 "Immigration assistance service" means any information or
14 action provided or offered to customers or prospective
15 customers related to immigration matters, excluding legal
16 advice, recommending a specific course of legal action, or
17 providing any other assistance that requires legal analysis,
18 legal judgment, or interpretation of the law.

19 "Compensation" means money, property, services, promise of
20 payment, or anything else of value.

21 "Employed by" means that a person is on the payroll of the
22 employer and the employer deducts from the employee's paycheck
23 social security and withholding taxes, or receives
24 compensation from the employer on a commission basis or as an
25 independent contractor.

1 "Reasonable costs" means actual costs or, if actual costs
2 cannot be calculated, reasonably estimated costs of such things
3 as photocopying, telephone calls, document requests, and
4 filing fees for immigration forms, and other nominal costs
5 incidental to assistance in an immigration matter.

6 (a-1) The General Assembly finds and declares that private
7 individuals who assist persons with immigration matters have a
8 significant impact on the ability of their clients to reside
9 and work within the United States and to establish and maintain
10 stable families and business relationships. The General
11 Assembly further finds that that assistance and its impact also
12 have a significant effect on the cultural, social, and economic
13 life of the State of Illinois and thereby substantially affect
14 the public interest. It is the intent of the General Assembly
15 to establish rules of practice and conduct for those
16 individuals to promote honesty and fair dealing with residents
17 and to preserve public confidence.

18 (a-5) The following persons are exempt from this Section,
19 provided they prove the exemption by a preponderance of the
20 evidence:

21 (1) An attorney licensed to practice law in any state
22 or territory of the United States, or of any foreign
23 country when authorized by the Illinois Supreme Court, to
24 the extent the attorney renders immigration assistance
25 service in the course of his or her practice as an
26 attorney.

1 (2) A legal intern, as described by the rules of the
2 Illinois Supreme Court, employed by and under the direct
3 supervision of a licensed attorney and rendering
4 immigration assistance service in the course of the
5 intern's employment.

6 (3) A not-for-profit organization recognized by the
7 Board of Immigration Appeals under 8 C.F.R. 292.2(a) and
8 employees of those organizations accredited under 8 C.F.R.
9 292.2(d).

10 (4) Any organization employing or desiring to employ a
11 documented or undocumented immigrant or nonimmigrant
12 alien, where the organization, its employees or its agents
13 provide advice or assistance in immigration matters to
14 documented or undocumented immigrant or nonimmigrant alien
15 employees or potential employees without compensation from
16 the individuals to whom such advice or assistance is
17 provided.

18 Nothing in this Section shall regulate any business to the
19 extent that such regulation is prohibited or preempted by State
20 or federal law.

21 All other persons providing or offering to provide
22 immigration assistance service shall be subject to this
23 Section.

24 (b) Any person who provides or offers to provide
25 immigration assistance service may perform only the following
26 services:

1 (1) Completing a government agency form, requested by
2 the customer and appropriate to the customer's needs, only
3 if the completion of that form does not involve a legal
4 judgment for that particular matter.

5 (2) Transcribing responses to a government agency form
6 which is related to an immigration matter, but not advising
7 a customer as to his or her answers on those forms.

8 (3) Translating information on forms to a customer and
9 translating the customer's answers to questions posed on
10 those forms.

11 (4) Securing for the customer supporting documents
12 currently in existence, such as birth and marriage
13 certificates, which may be needed to be submitted with
14 government agency forms.

15 (5) Translating documents from a foreign language into
16 English.

17 (6) Notarizing signatures on government agency forms,
18 if the person performing the service is a notary public of
19 the State of Illinois.

20 (7) Making referrals, without fee, to attorneys who
21 could undertake legal representation for a person in an
22 immigration matter.

23 (8) Preparing or arranging for the preparation of
24 photographs and fingerprints.

25 (9) Arranging for the performance of medical testing
26 (including X-rays and AIDS tests) and the obtaining of

1 reports of such test results.

2 (10) Conducting English language and civics courses.

3 (11) Other services that the Attorney General
4 determines by rule may be appropriately performed by such
5 persons in light of the purposes of this Section.

6 Fees for a notary public, agency, or any other person who
7 is not an attorney or an accredited representative filling out
8 immigration forms shall be limited to the maximum fees set
9 forth in subsections (a) and (b) of Section 3-104 of the Notary
10 Public Act (5 ILCS 312/3-104). The maximum fee schedule set
11 forth in subsections (a) and (b) of Section 3-104 of the Notary
12 Public Act shall apply to any person that provides or offers to
13 provide immigration assistance service performing the services
14 described therein. The Attorney General may promulgate rules
15 establishing maximum fees that may be charged for any services
16 not described in that subsection. The maximum fees must be
17 reasonable in light of the costs of providing those services
18 and the degree of professional skill required to provide the
19 services.

20 No person subject to this Act shall charge fees directly or
21 indirectly for referring an individual to an attorney or for
22 any immigration matter not authorized by this Article, provided
23 that a person may charge a fee for notarizing documents as
24 permitted by the Illinois Notary Public Act.

25 (c) Any person performing such services shall register with
26 the Illinois Attorney General and submit verification of

1 malpractice insurance or of a surety bond.

2 (d) Except as provided otherwise in this subsection, before
3 providing any assistance in an immigration matter a person
4 shall provide the customer with a written contract that
5 includes the following:

6 (1) An explanation of the services to be performed.

7 (2) Identification of all compensation and costs to be
8 charged to the customer for the services to be performed.

9 (3) A statement that documents submitted in support of
10 an application for nonimmigrant, immigrant, or
11 naturalization status may not be retained by the person for
12 any purpose, including payment of compensation or costs.

13 This subsection does not apply to a not-for-profit
14 organization that provides advice or assistance in immigration
15 matters to clients without charge beyond a reasonable fee to
16 reimburse the organization's or clinic's reasonable costs
17 relating to providing immigration services to that client.

18 (e) Any person who provides or offers immigration
19 assistance service and is not exempted from this Section, shall
20 post signs at his or her place of business, setting forth
21 information in English and in every other language in which the
22 person provides or offers to provide immigration assistance
23 service. Each language shall be on a separate sign. Signs shall
24 be posted in a location where the signs will be visible to
25 customers. Each sign shall be at least 11 inches by 17 inches,
26 and shall contain the following:

1 (1) The statement "I AM NOT AN ATTORNEY LICENSED TO
2 PRACTICE LAW AND MAY NOT GIVE LEGAL ADVICE OR ACCEPT FEES
3 FOR LEGAL ADVICE."

4 (2) The statement "I AM NOT ACCREDITED TO REPRESENT YOU
5 BEFORE THE UNITED STATES IMMIGRATION AND NATURALIZATION
6 SERVICE AND THE IMMIGRATION BOARD OF APPEALS."

7 (3) The fee schedule.

8 (4) The statement that "You may cancel any contract
9 within 3 working days and get your money back for services
10 not performed."

11 (5) Additional information the Attorney General may
12 require by rule.

13 Every person engaged in immigration assistance service who
14 is not an attorney who advertises immigration assistance
15 service in a language other than English, whether by radio,
16 television, signs, pamphlets, newspapers, or other written
17 communication, with the exception of a single desk plaque,
18 shall include in the document, advertisement, stationery,
19 letterhead, business card, or other comparable written
20 material the following notice in English and the language in
21 which the written communication appears. This notice shall be
22 of a conspicuous size, if in writing, and shall state: "I AM
23 NOT AN ATTORNEY LICENSED TO PRACTICE LAW IN ILLINOIS AND MAY
24 NOT GIVE LEGAL ADVICE OR ACCEPT FEES FOR LEGAL ADVICE." If such
25 advertisement is by radio or television, the statement may be
26 modified but must include substantially the same message.

1 Any person who provides or offers immigration assistance
2 service and is not exempted from this Section shall not, in any
3 document, advertisement, stationery, letterhead, business
4 card, or other comparable written material, literally
5 translate from English into another language terms or titles
6 including, but not limited to, notary public, notary, licensed,
7 attorney, lawyer, or any other term that implies the person is
8 an attorney. To illustrate, the words "notario" and "poder
9 notarial" are prohibited under this provision.

10 If not subject to penalties under subsection (a) of Section
11 3-103 of the Notary Public Act (5 ILCS 312/3-103), violations
12 of this subsection shall result in a fine of \$1,000. Violations
13 shall not preempt or preclude additional appropriate civil or
14 criminal penalties.

15 (f) The written contract shall be in both English and in
16 the language of the customer.

17 (g) A copy of the contract shall be provided to the
18 customer upon the customer's execution of the contract.

19 (h) A customer has the right to rescind a contract within
20 72 hours after his or her signing of the contract.

21 (i) Any documents identified in paragraph (3) of subsection
22 (c) shall be returned upon demand of the customer.

23 (j) No person engaged in providing immigration services who
24 is not exempted under this Section shall do any of the
25 following:

26 (1) Make any statement that the person can or will

1 obtain special favors from or has special influence with
2 the United States Immigration and Naturalization Service
3 or any other government agency.

4 (2) Retain any compensation for service not performed.

5 (2.5) Accept payment in exchange for providing legal
6 advice or any other assistance that requires legal
7 analysis, legal judgment, or interpretation of the law.

8 (3) Refuse to return documents supplied by, prepared on
9 behalf of, or paid for by the customer upon the request of
10 the customer. These documents must be returned upon request
11 even if there is a fee dispute between the immigration
12 assistant and the customer.

13 (4) Represent or advertise, in connection with the
14 provision assistance in immigration matters, other titles
15 of credentials, including but not limited to "notary
16 public" or "immigration consultant," that could cause a
17 customer to believe that the person possesses special
18 professional skills or is authorized to provide advice on
19 an immigration matter; provided that a notary public
20 appointed by the Illinois Secretary of State may use the
21 term "notary public" if the use is accompanied by the
22 statement that the person is not an attorney; the term
23 "notary public" may not be translated to another language;
24 for example "notario" is prohibited.

25 (5) Provide legal advice, recommend a specific course
26 of legal action, or provide any other assistance that

1 requires legal analysis, legal judgment, or interpretation
2 of the law.

3 (6) Make any misrepresentation of false statement,
4 directly or indirectly, to influence, persuade, or induce
5 patronage.

6 (k) (Blank)

7 (l) (Blank)

8 (m) Any person who violates any provision of this Section,
9 or the rules and regulations issued under this Section, shall
10 be guilty of a Class A misdemeanor for a first offense and a
11 Class 3 felony for a second or subsequent offense committed
12 within 5 years of a previous conviction for the same offense.

13 Upon his own information or upon the complaint of any
14 person, the Attorney General or any State's Attorney, or a
15 municipality with a population of more than 1,000,000, may
16 maintain an action for injunctive relief and also seek a civil
17 penalty not exceeding \$50,000 in the circuit court against any
18 person who violates any provision of this Section. These
19 remedies are in addition to, and not in substitution for, other
20 available remedies.

21 Notwithstanding this subsection (m), any ~~If the Attorney~~
22 ~~General or any State's Attorney or a municipality with a~~
23 ~~population of more than 1,000,000 fails to bring an action as~~
24 ~~provided under this Section any~~ person may file a civil action
25 to enforce the provisions of this Article and maintain an
26 action for injunctive relief, for compensatory damages to

1 recover prohibited fees, or for such additional relief as may
2 be appropriate to deter, prevent, or compensate for the
3 violation. In order to deter violations of this Section, courts
4 shall not require a showing of the traditional elements for
5 equitable relief. A prevailing plaintiff may be awarded 3 times
6 the prohibited fees or a minimum of \$1,000 in punitive damages,
7 attorney's fees, and costs of bringing an action under this
8 Section. It is the express intention of the General Assembly
9 that remedies for violation of this Section be cumulative.

10 (n) No unit of local government, including any home rule
11 unit, shall have the authority to regulate immigration
12 assistance services unless such regulations are at least as
13 stringent as those contained in this amendatory Act of 1992. It
14 is declared to be the law of this State, pursuant to paragraph
15 (i) of Section 6 of Article VII of the Illinois Constitution of
16 1970, that this amendatory Act of 1992 is a limitation on the
17 authority of a home rule unit to exercise powers concurrently
18 with the State. The limitations of this Section do not apply to
19 a home rule unit that has, prior to the effective date of this
20 amendatory Act, adopted an ordinance regulating immigration
21 assistance services.

22 (o) This Section is severable under Section 1.31 of the
23 Statute on Statutes.

24 (p) The Attorney General shall issue rules not inconsistent
25 with this Section for the implementation, administration, and
26 enforcement of this Section. The rules may provide for the

1 following:

2 (1) The content, print size, and print style of the
3 signs required under subsection (e). Print sizes and styles
4 may vary from language to language.

5 (2) Standard forms for use in the administration of
6 this Section.

7 (3) Any additional requirements deemed necessary.

8 (Source: P.A. 99-679, eff. 1-1-17.)

9 Section 997. Severability. The provisions of this Act are
10 severable under Section 1.31 of the Statute on Statutes.

11 Section 999. Effective date. This Act takes effect upon
12 becoming law."