

1 AN ACT in relation to elderly persons and persons with  
2 disabilities.

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

5 Section 5. The Elder Abuse and Neglect Act is amended by  
6 changing Sections 3.5, 4, and 7 as follows:

7 (320 ILCS 20/3.5)

8 Sec. 3.5. Other Responsibilities. The Department shall  
9 also be responsible for the following activities, contingent  
10 upon adequate funding:

11 (a) promotion of a wide range of endeavors for the  
12 purpose of preventing elder abuse, neglect, and financial  
13 exploitation in both domestic and institutional settings,  
14 including, but not limited to, promotion of public and  
15 professional education to increase awareness of elder abuse,  
16 neglect, and financial exploitation, to increase reports, and  
17 to improve response by various legal, financial, social, and  
18 health systems;

19 (b) coordination of efforts with other agencies,  
20 councils, and like entities, to include but not be limited  
21 to, the Office of the Attorney General, the State Police, the  
22 Illinois Law Enforcement Training Standards Board, the State  
23 Triad, the Illinois Criminal Justice Information Authority,  
24 the Departments of Public Health, Public Aid, and Human  
25 Services, the Family Violence Coordinating Council, the  
26 Illinois Violence Prevention Authority, and other entities  
27 which may impact awareness of, and response to, elder abuse,  
28 neglect, and financial exploitation;

29 (c) collection and analysis of data;

30 (d) monitoring of the performance of regional  
31 administrative agencies and elder abuse provider agencies;

1 and

2 (e) promotion of prevention activities;-

3 (f) establishing and coordinating a training program on  
 4 the unique nature of elder abuse cases with other agencies,  
 5 councils, and like entities, to include but not be limited to  
 6 the Office of the Attorney General, the State Police, the  
 7 Illinois Law Enforcement Training Standards Board, the State  
 8 Triad, the Illinois Criminal Justice Information Authority,  
 9 the State departments of Public Health, Public Aid, and Human  
 10 Services, the Family Violence Coordinating Council, the  
 11 Illinois Violence Prevention Authority, and other entities  
 12 that may impact awareness of, and response to elder abuse,  
 13 neglect, and financial exploitation;

14 (g) solicitation of financial institutions for the  
 15 purpose of making information available to the general public  
 16 warning of financial exploitation of the elderly and related  
 17 financial fraud or abuse, including such information and  
 18 warnings available through signage or other written materials  
 19 provided by the Department on the premises of such financial  
 20 institutions, provided that the manner of displaying or  
 21 distributing such information is subject to the sole  
 22 discretion of each financial institution; and

23 (h) coordinating efforts with utility and electric  
 24 companies to send notices in utility bills to explain to  
 25 persons 60 years of age or older their rights regarding  
 26 telemarketing and home repair fraud.

27 (Source: P.A. 92-16, eff. 6-28-01.)

28 (320 ILCS 20/4) (from Ch. 23, par. 6604)

29 Sec. 4. Reports of abuse or neglect.

30 (a) Any person who suspects the abuse, neglect, or  
 31 financial exploitation of an eligible adult may report this  
 32 suspicion to an agency designated to receive such reports  
 33 under this Act or to the Department.

1           (a-5) If any mandated reporter has reason to believe  
2 that an eligible adult, who because of dysfunction is unable  
3 to seek assistance for himself or herself, has, within the  
4 previous 12 months, been subjected to abuse, neglect, or  
5 financial exploitation, the mandated reporter shall, within  
6 24 hours after developing such belief, report this suspicion  
7 to an agency designated to receive such reports under this  
8 Act or to the Department. Whenever a mandated reporter is  
9 required to report under this Act in his or her capacity as a  
10 member of the staff of a medical or other public or private  
11 institution, facility, board and care home, or agency, he or  
12 she shall make a report to an agency designated to receive  
13 such reports under this Act or to the Department in  
14 accordance with the provisions of this Act and may also  
15 notify the person in charge of the institution, facility,  
16 board and care home, or agency or his or her designated agent  
17 that the report has been made. Under no circumstances shall  
18 any person in charge of such institution, facility, board and  
19 care home, or agency, or his or her designated agent to whom  
20 the notification has been made, exercise any control,  
21 restraint, modification, or other change in the report or the  
22 forwarding of the report to an agency designated to receive  
23 such reports under this Act or to the Department. The  
24 privileged quality of communication between any professional  
25 person required to report and his or her patient or client  
26 shall not apply to situations involving abused, neglected, or  
27 financially exploited eligible adults and shall not  
28 constitute grounds for failure to report as required by this  
29 Act.

30           (a-7) A person making a report under this Act in the  
31 belief that it is in the alleged victim's best interest shall  
32 be immune from criminal or civil liability or professional  
33 disciplinary action on account of making the report,  
34 notwithstanding any requirements concerning the

1 confidentiality of information with respect to such eligible  
2 adult which might otherwise be applicable.

3 (a-9) Law enforcement officers shall continue to report  
4 incidents of alleged abuse pursuant to the Illinois Domestic  
5 Violence Act of 1986, notwithstanding any requirements under  
6 this Act.

7 (b) Any person, institution or agency participating in  
8 the making of a report, providing information or records  
9 related to a report, assessment, or services, or  
10 participating in the investigation of a report under this Act  
11 in good faith, or taking photographs or x-rays as a result of  
12 an authorized assessment, shall have immunity from any civil,  
13 criminal or other liability in any civil, criminal or other  
14 proceeding brought in consequence of making such report or  
15 assessment or on account of submitting or otherwise  
16 disclosing such photographs or x-rays to any agency  
17 designated to receive reports of alleged or suspected abuse  
18 or neglect. Any person, institution or agency authorized by  
19 the Department to provide assessment, intervention, or  
20 administrative services under this Act shall, in the good  
21 faith performance of those services, have immunity from any  
22 civil, criminal or other liability in any civil, criminal, or  
23 other proceeding brought as a consequence of the performance  
24 of those services. For the purposes of any civil, criminal,  
25 or other proceeding, the good faith of any person required to  
26 report, permitted to report, or participating in an  
27 investigation of a report of alleged or suspected abuse,  
28 neglect, or financial exploitation shall be presumed.

29 (c) The identity of a person making a report of alleged  
30 or suspected abuse or neglect under this Act may be disclosed  
31 by the Department or other agency provided for in this Act  
32 only with such person's written consent or by court order.

33 (d) The Department shall by rule establish a system for  
34 filing and compiling reports made under this Act.

1       (e) Any physician who willfully fails to report as  
2 required by this Act shall be referred to the Illinois State  
3 Medical Disciplinary Board for action in accordance with  
4 subdivision (A)(22) of Section 22 of the Medical Practice Act  
5 of 1987. Any dentist or dental hygienist who willfully fails  
6 to report as required by this Act shall be referred to the  
7 Department of Professional Regulation for action in  
8 accordance with paragraph 19 of Section 23 of the Illinois  
9 Dental Practice Act. Any other mandated reporter required by  
10 this Act to report suspected abuse, neglect, or financial  
11 exploitation who willfully fails to report the same is guilty  
12 of a Class A misdemeanor.

13       (Source: P.A. 90-628, eff. 1-1-99.)

14       (320 ILCS 20/7) (from Ch. 23, par. 6607)

15       Sec. 7. Review. All services provided to an eligible  
16 adult shall be reviewed by the provider agency on at least a  
17 quarterly basis for up to one year to determine whether the  
18 service care plan should be continued or modified, except  
19 that, upon review, the Department may grant a waiver to  
20 extend the service care plan for up to one additional year.

21       (Source: P.A. 90-628, eff. 1-1-99.)

22       Section 10. The Criminal Code of 1961 is amended by  
23 changing Sections 12-19, 12-21, and 16-1.3 as follows:

24       (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

25       Sec. 12-19. Abuse and Criminal Gross Neglect of a Long  
26 Term Care Facility Resident.

27       (a) Any person or any owner or licensee of a long term  
28 care facility who abuses a long term care facility resident  
29 is guilty of a Class 3 felony. Any person or any owner or  
30 licensee of a long term care facility who criminally grossly  
31 neglects a long term care facility resident is guilty of a

1 Class 4 felony. A person whose criminal neglect of a long  
2 term care facility resident results in the resident's death  
3 is guilty of a Class 3 felony. However, nothing herein shall  
4 be deemed to apply to a physician licensed to practice  
5 medicine in all its branches or a duly licensed nurse  
6 providing care within the scope of his or her professional  
7 judgment and within the accepted standards of care within the  
8 community.

9 (b) Notwithstanding the penalties in subsections (a) and  
10 (c) and in addition thereto, if a licensee or owner of a long  
11 term care facility or his or her employee has caused neglect  
12 of a resident, the licensee or owner is guilty of a petty  
13 offense. An owner or licensee is guilty under this  
14 subsection (b) only if the owner or licensee failed to  
15 exercise reasonable care in the hiring, training, supervising  
16 or providing of staff or other related routine administrative  
17 responsibilities.

18 (c) Notwithstanding the penalties in subsections (a) and  
19 (b) and in addition thereto, if a licensee or owner of a long  
20 term care facility or his or her employee has caused gross  
21 neglect of a resident, the licensee or owner is guilty of a  
22 business offense for which a fine of not more than \$10,000  
23 may be imposed. An owner or licensee is guilty under this  
24 subsection (c) only if the owner or licensee failed to  
25 exercise reasonable care in the hiring, training, supervising  
26 or providing of staff or other related routine administrative  
27 responsibilities.

28 (d) For the purpose of this Section:

29 (1) "Abuse" means intentionally or knowingly  
30 causing any physical or mental injury or committing any  
31 sexual offense set forth in this Code.

32 (2) "Criminal neglect" means an act whereby a  
33 person recklessly (i) performs acts that cause an elderly  
34 person's or person with a disability's life to be

1 endangered, health to be injured, or pre-existing  
2 physical or mental condition to deteriorate, or (ii)  
3 fails to perform acts that he or she knows or reasonably  
4 should know are necessary to maintain or preserve the  
5 life or health of an elderly person or person with a  
6 disability, and that failure causes the elderly person's  
7 or person with a disability's life to be endangered,  
8 health to be injured, or pre-existing physical or mental  
9 condition to deteriorate, or (iii) abandons an elderly  
10 person or person with a disability. "Gross-neglect"-means  
11 recklessly---failing---to---provide---adequate---medical---or  
12 personal-care-or-maintenance,-which--failure--results--in  
13 physical--or--mental--injury--or--the--deterioration-of-a  
14 physical-or-mental-condition.

15 (3) "Neglect" means negligently failing to provide  
16 adequate medical or personal care or maintenance, which  
17 failure results in physical or mental injury or the  
18 deterioration of a physical or mental condition.

19 (4) "Resident" means a person residing in a long  
20 term care facility.

21 (5) "Owner" means the person who owns a long term  
22 care facility as provided under the Nursing Home Care Act  
23 or an assisted living or shared housing establishment  
24 under the Assisted Living and Shared Housing Act.

25 (6) "Licensee" means the individual or entity  
26 licensed to operate a facility under the Nursing Home  
27 Care Act or the Assisted Living and Shared Housing Act.

28 (7) "Facility" or "long term care facility" means a  
29 private home, institution, building, residence, or any  
30 other place, whether operated for profit or not, or a  
31 county home for the infirm and chronically ill operated  
32 pursuant to Division 5-21 or 5-22 of the Counties Code,  
33 or any similar institution operated by the State of  
34 Illinois or a political subdivision thereof, which

1 provides, through its ownership or management, personal  
2 care, sheltered care or nursing for 3 or more persons not  
3 related to the owner by blood or marriage. The term also  
4 includes skilled nursing facilities and intermediate care  
5 facilities as defined in Title XVIII and Title XIX of the  
6 federal Social Security Act and assisted living  
7 establishments and shared housing establishments licensed  
8 under the Assisted Living and Shared Housing Act.

9 (e) Nothing contained in this Section shall be deemed to  
10 apply to the medical supervision, regulation or control of  
11 the remedial care or treatment of residents in a facility  
12 conducted for those who rely upon treatment by prayer or  
13 spiritual means in accordance with the creed or tenets of any  
14 well recognized church or religious denomination and which is  
15 licensed in accordance with Section 3-803 of the Nursing Home  
16 Care Act.

17 (Source: P.A. 91-656, eff. 1-1-01.)

18 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

19 Sec. 12-21. Criminal abuse or neglect of an elderly  
20 person or disabled person with a disability.

21 (a) A person commits the offense of criminal abuse or  
22 neglect of an elderly person or disabled person with a  
23 disability when he or she is a caregiver and he or she  
24 knowingly:

25 (1) performs acts that cause the elderly person or  
26 person with a disability's ~~disabled-person's~~ life to be  
27 endangered, health to be injured, or pre-existing  
28 physical or mental condition to deteriorate; or

29 (2) fails to perform acts that he or she knows or  
30 reasonably should know are necessary to maintain or  
31 preserve the life or health of the elderly person or  
32 disabled person with a disability and such failure causes  
33 the elderly person or person with a disability's ~~disabled~~



1        person's life to be endangered, health to be injured or  
2        pre-existing physical or mental condition to deteriorate;  
3        or

4            (3) abandons the elderly person or disabled person  
5        with a disability; or

6            (4) physically abuses, harasses, intimidates, or  
7        interferes with the personal liberty of the elderly  
8        person or disabled person with a disability or exposes  
9        the elderly person or disabled person with a disability  
10       to willful deprivation.

11       Criminal abuse or neglect of an elderly person or  
12       disabled person with a disability is a Class 3 felony.  
13       Criminal neglect of an elderly person or person with a  
14       disability is a Class 2 felony if the criminal neglect  
15       results in the death of the person neglected for which the  
16       defendant, if sentenced to a term of imprisonment, shall be  
17       sentenced to a term of not less than 3 years and not more  
18       than 14 years.

19       (b) For purposes of this Section:

20            (1) "Elderly person" means a person 60 years of age  
21        or older who ~~is suffering from a disease or infirmity~~  
22        ~~associated with advanced age and manifested by physical,~~  
23        ~~mental or emotional dysfunctioning to the extent that~~  
24        ~~such person~~ is incapable of adequately providing for his  
25        own health and personal care.

26            (2) "Disabled Person with a disability" means a  
27        person who suffers from a permanent physical or mental  
28        impairment, resulting from disease, injury, functional  
29        disorder or congenital condition which renders such  
30        person incapable of adequately providing for his own  
31        health and personal care.

32            (3) "Caregiver" means a person who has a duty to  
33        provide for an elderly person or person with a  
34        disability's ~~disabled person's~~ health and personal care,

1 at such person's place of residence, including but not  
2 limited to, food and nutrition, shelter, hygiene,  
3 prescribed medication and medical care and treatment.

4 "Caregiver" shall include:

5 (A) a parent, spouse, adult child or other  
6 relative by blood or marriage who resides with or  
7 resides in the same building with or and regularly  
8 visits the elderly person or disabled person with a  
9 disability, knows or reasonably should know of such  
10 person's physical or mental impairment and knows or  
11 reasonably should know that such person is unable to  
12 adequately provide for his own health and personal  
13 care;

14 (B) a person who is employed by the elderly  
15 person or disabled person with a disability or by  
16 another to reside with or regularly visit the  
17 elderly person or disabled person with a disability  
18 and provide for such person's health and personal  
19 care;

20 (C) a person who has agreed for consideration  
21 to reside with or regularly visit the elderly person  
22 or disabled person with a disability and provide  
23 for such person's health and personal care; and

24 (D) a person who has been appointed by a  
25 private or public agency or by a court of competent  
26 jurisdiction to provide for the elderly person or  
27 person with a disability's ~~disabled-person's~~ health  
28 and personal care.

29 "Caregiver" shall not include a long-term care  
30 facility licensed or certified under the Nursing Home  
31 Care Act or any administrative, medical or other  
32 personnel of such a facility, or a health care provider  
33 who is licensed under the Medical Practice Act of 1987  
34 and renders care in the ordinary course of his

1 profession.

2 (4) "Abandon" means to desert or knowingly forsake  
3 an elderly person or disabled person with a disability  
4 under circumstances in which a reasonable person would  
5 continue to provide care and custody.

6 (5) "Willful deprivation" has the meaning ascribed  
7 to it in paragraph (15) of Section 103 of the Illinois  
8 Domestic Violence Act of 1986.

9 (c) Nothing in this Section shall be construed to limit  
10 the remedies available to the victim under the Illinois  
11 Domestic Violence Act.

12 (d) Nothing in this Section shall be construed to impose  
13 criminal liability on a person who has made a good faith  
14 effort to provide for the health and personal care of an  
15 elderly person or disabled person with a disability, but  
16 through no fault of his own has been unable to provide such  
17 care.

18 (e) Nothing in this Section shall be construed as  
19 prohibiting a person from providing treatment by spiritual  
20 means through prayer alone and care consistent therewith in  
21 lieu of medical care and treatment in accordance with the  
22 tenets and practices of any church or religious denomination  
23 of which the elderly person or disabled person with a  
24 disability is a member.

25 (f) It is not a defense to criminal abuse or neglect of  
26 an elderly person or disabled person with a disability that  
27 the accused reasonably believed that the victim was not an  
28 elderly person or disabled person with a disability.

29 (Source: P.A. 92-328, eff. 1-1-02.)

30 (720 ILCS 5/16-1.3) (from Ch. 38, par. 16-1.3)

31 Sec. 16-1.3. Financial exploitation of an elderly person  
32 or a person with a disability.

33 (a) A person commits the offense of financial

1 exploitation of an elderly person or a person with a  
2 disability when he or she stands in a position of trust or  
3 confidence with the elderly person or a person with a  
4 disability and he or she knowingly and by deception or  
5 intimidation obtains control over the property of an elderly  
6 person or a person with a disability or illegally uses the  
7 assets or resources of an elderly person or a person with a  
8 disability. The illegal use of the assets or resources of an  
9 elderly person or a person with a disability includes, but is  
10 not limited to, the misappropriation of those assets or  
11 resources by undue influence, breach of a fiduciary  
12 relationship, fraud, deception, extortion, or use of the  
13 assets or resources contrary to law with--the--intent--to  
14 permanently--deprive--the-elderly-person-or-the-person-with-a  
15 disability-of-the-use, benefit, or possession of his--or--her  
16 property.

17 Financial exploitation of an elderly person or a person  
18 with a disability is a Class 4 felony if the value of the  
19 property is \$300 or less, a Class 3 felony if the value of  
20 the property is more than \$300 but less than \$5,000, a Class  
21 2 felony if the value of the property is \$5,000 or more but  
22 less than \$100,000 and a Class 1 felony if the value of the  
23 property is \$100,000 or more or if the elderly person is over  
24 70 years of age and the value of the property is \$15,000 or  
25 more or if the elderly person is 80 years of age or older and  
26 the value of the property is \$5,000 or more.

27 (b) For purposes of this Section:

28 (1) "Elderly person" means a person 60 years of age  
29 or older who-is-suffering-from-a--disease--or--infirmity  
30 that--impairs-the-individual's-mental-or-physical-ability  
31 to-independently-manage-his-or-her-property-or--financial  
32 resources, or both.

33 (2) "Person with a disability" means a person who  
34 suffers from a permanent physical or mental impairment

1 resulting from disease, injury, functional disorder or  
2 congenital condition that impairs the individual's mental  
3 or physical ability to independently manage his or her  
4 property or financial resources, or both.

5 (3) "Intimidation" means the communication to an  
6 elderly person or a person with a disability that he or  
7 she shall be deprived of food and nutrition, shelter,  
8 prescribed medication or medical care and treatment.

9 (4) "Deception" means, in addition to its meaning  
10 as defined in Section 15-4 of this Code, a  
11 misrepresentation or concealment of material fact  
12 relating to the terms of a contract or agreement entered  
13 into with the elderly person or person with a disability  
14 or to the existing or pre-existing condition of any of  
15 the property involved in such contract or agreement; or  
16 the use or employment of any misrepresentation, false  
17 pretense or false promise in order to induce, encourage  
18 or solicit the elderly person or person with a disability  
19 to enter into a contract or agreement.

20 (c) For purposes of this Section, a person stands in a  
21 position of trust and confidence with an elderly person or  
22 person with a disability when he (1) is a parent, spouse,  
23 adult child or other relative by blood or marriage of the  
24 elderly person or person with a disability, (2) is a joint  
25 tenant or tenant in common with the elderly person or person  
26 with a disability, (3) has a legal or fiduciary relationship  
27 with the elderly person or person with a disability, or (4)  
28 is a financial planning or investment professional.

29 (d) Nothing in this Section shall be construed to limit  
30 the remedies available to the victim under the Illinois  
31 Domestic Violence Act of 1986.

32 (e) Nothing in this Section shall be construed to impose  
33 criminal liability on a person who has made a good faith  
34 effort to assist the elderly person or person with a

1 disability in the management of his or her property, but  
2 through no fault of his or her own has been unable to provide  
3 such assistance.

4 (f) It shall not be a defense to financial exploitation  
5 of an elderly person or person with a disability that the  
6 accused reasonably believed that the victim was not an  
7 elderly person or person with a disability.

8 (g) Civil Liability. A person who is charged by  
9 information or indictment with the offense of financial  
10 exploitation of an elderly person or person with a disability  
11 and who fails or refuses to return the victim's property  
12 within 60 days following a written demand from the victim or  
13 the victim's legal representative shall be liable to the  
14 victim or to the estate of the victim in damages of treble  
15 the amount of the value of the property obtained, plus  
16 reasonable attorney fees and court costs. The burden of  
17 proof that the defendant unlawfully obtained the victim's  
18 property shall be by a preponderance of the evidence. This  
19 subsection shall be operative whether or not the defendant  
20 has been convicted of the offense.

21 (Source: P.A. 91-236, eff. 7-22-99; 92-808, eff. 8-21-02.)

22 Section 15. The Code of Criminal Procedure of 1963 is  
23 amended by changing Section 115-10.3 and adding Section  
24 114-13.5 as follows:

25 (725 ILCS 5/114-13.5 new)

26 Sec. 114-13.5. Evidence deposition; elder abuse. In a  
27 prosecution for abuse, neglect, or financial exploitation of  
28 an eligible adult as defined in the Elder Abuse and Neglect  
29 Act, the eligible adult may give testimony in the form of an  
30 evidence deposition and not be required to appear in court to  
31 testify.

1 (725 ILCS 5/115-10.3)

2 Sec. 115-10.3. Hearsay exception regarding elder adults.

3 (a) In a prosecution for a physical act, abuse, neglect,  
 4 or financial exploitation perpetrated upon or against an  
 5 eligible adult, as defined in the Elder Abuse and Neglect  
 6 Act, ~~who at-the-time-the-act-was-committed-or--prior--to--the~~  
 7 ~~time-of-the-trial~~ has been diagnosed by a physician to suffer  
 8 from (i) any form of dementia, developmental disability, or  
 9 other form of mental incapacity or (ii) any physical  
 10 infirmity, including but not limited to prosecutions for  
 11 violations of Sections 10-1, 10-2, 10-3, 10-3.1, 10-4, 11-11,  
 12 12-1, 12-2, 12-3, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.5,  
 13 12-4.6, 12-4.7, 12-5, 12-6, 12-7.3, 12-7.4, 12-11, 12-11.1,  
 14 12-13, 12-14, 12-15, 12-16, 12-21, 16-1, 16-1.3, 17-1, 17-3,  
 15 18-1, 18-2, 18-3, 18-4, 18-5, 20-1.1, 24-1.2, and 33A-2 of  
 16 the Criminal Code of 1961, the following evidence shall be  
 17 admitted as an exception to the hearsay rule:

18 (1) testimony by an eligible adult, of an out of  
 19 court statement made by the eligible adult, that he or  
 20 she complained of such act to another; and

21 (2) testimony of an out of court statement made by  
 22 the eligible adult, describing any complaint of such act  
 23 or matter or detail pertaining to any act which is an  
 24 element of an offense which is the subject of a  
 25 prosecution for a physical act, abuse, neglect, or  
 26 financial exploitation perpetrated upon or against the  
 27 eligible adult.

28 (b) Such testimony shall only be admitted if:

29 (1) The court finds in a hearing conducted outside  
 30 the presence of the jury that the time, content, and  
 31 circumstances of the statement provide sufficient  
 32 safeguards of reliability; and

33 (2) The eligible adult either:

34 (A) testifies at the proceeding; or

1                   (B) is unavailable as a witness and there is  
2                   corroborative evidence of the act which is the  
3                   subject of the statement.

4           (c) If a statement is admitted pursuant to this Section,  
5           the court shall instruct the jury that it is for the jury to  
6           determine the weight and credibility to be given the  
7           statement and that, in making the determination, it shall  
8           consider the condition of the eligible adult, the nature of  
9           the statement, the circumstances under which the statement  
10           was made, and any other relevant factor.

11           (d) The proponent of the statement shall give the  
12           adverse party reasonable notice of his or her intention to  
13           offer the statement and the particulars of the statement.

14           (Source: P.A. 92-91, eff. 7-18-01.)

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

17           (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

18           Sec. 5-5-3. Disposition.

19           (a) Every person convicted of an offense shall be  
20           sentenced as provided in this Section.

21           (b) The following options shall be appropriate  
22           dispositions, alone or in combination, for all felonies and  
23           misdemeanors other than those identified in subsection (c) of  
24           this Section:

25                   (1) A period of probation.

26                   (2) A term of periodic imprisonment.

27                   (3) A term of conditional discharge.

28                   (4) A term of imprisonment.

29                   (5) An order directing the offender to clean up and  
30           repair the damage, if the offender was convicted under  
31           paragraph (h) of Section 21-1 of the Criminal Code of  
32           1961.



1           (6) A fine.

2           (7) An order directing the offender to make  
3           restitution to the victim under Section 5-5-6 of this  
4           Code.

5           (8) A sentence of participation in a county impact  
6           incarceration program under Section 5-8-1.2 of this Code.

7           Whenever an individual is sentenced for an offense based  
8           upon an arrest for a violation of Section 11-501 of the  
9           Illinois Vehicle Code, or a similar provision of a local  
10          ordinance, and the professional evaluation recommends  
11          remedial or rehabilitative treatment or education, neither  
12          the treatment nor the education shall be the sole disposition  
13          and either or both may be imposed only in conjunction with  
14          another disposition. The court shall monitor compliance with  
15          any remedial education or treatment recommendations contained  
16          in the professional evaluation. Programs conducting alcohol  
17          or other drug evaluation or remedial education must be  
18          licensed by the Department of Human Services. However, if  
19          the individual is not a resident of Illinois, the court may  
20          accept an alcohol or other drug evaluation or remedial  
21          education program in the state of such individual's  
22          residence. Programs providing treatment must be licensed  
23          under existing applicable alcoholism and drug treatment  
24          licensure standards.

25          In addition to any other fine or penalty required by law,  
26          any individual convicted of a violation of Section 11-501 of  
27          the Illinois Vehicle Code or a similar provision of local  
28          ordinance, whose operation of a motor vehicle while in  
29          violation of Section 11-501 or such ordinance proximately  
30          caused an incident resulting in an appropriate emergency  
31          response, shall be required to make restitution to a public  
32          agency for the costs of that emergency response. Such  
33          restitution shall not exceed \$500 per public agency for each  
34          such emergency response. For the purpose of this paragraph,

1 emergency response shall mean any incident requiring a  
2 response by: a police officer as defined under Section 1-162  
3 of the Illinois Vehicle Code; a fireman carried on the rolls  
4 of a regularly constituted fire department; and an ambulance  
5 as defined under Section 4.05 of the Emergency Medical  
6 Services (EMS) Systems Act.

7 Neither a fine nor restitution shall be the sole  
8 disposition for a felony and either or both may be imposed  
9 only in conjunction with another disposition.

10 (c) (1) When a defendant is found guilty of first degree  
11 murder the State may either seek a sentence of  
12 imprisonment under Section 5-8-1 of this Code, or where  
13 appropriate seek a sentence of death under Section 9-1 of  
14 the Criminal Code of 1961.

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

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

24 (B) Attempted first degree murder.

25 (C) A Class X felony.

26 (D) A violation of Section 401.1 or 407 of the  
27 Illinois Controlled Substances Act, or a violation  
28 of subdivision (c)(1) or (c)(2) of Section 401 of  
29 that Act which relates to more than 5 grams of a  
30 substance containing heroin or cocaine or an analog  
31 thereof.

32 (E) A violation of Section 5.1 or 9 of the  
33 Cannabis Control Act.

34 (F) A Class 2 or greater felony if the

1 offender had been convicted of a Class 2 or greater  
2 felony within 10 years of the date on which the  
3 offender committed the offense for which he or she  
4 is being sentenced, except as otherwise provided in  
5 Section 40-10 of the Alcoholism and Other Drug Abuse  
6 and Dependency Act.

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

10 (H) Criminal sexual assault, except as  
11 otherwise provided in subsection (e) of this  
12 Section.

13 (I) Aggravated battery of a senior citizen.

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

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

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

26 (K) Vehicular hijacking.

27 (L) A second or subsequent conviction for the  
28 offense of hate crime when the underlying offense  
29 upon which the hate crime is based is felony  
30 aggravated assault or felony mob action.

31 (M) A second or subsequent conviction for the  
32 offense of institutional vandalism if the damage to  
33 the property exceeds \$300.

34 (N) A Class 3 felony violation of paragraph

1 (1) of subsection (a) of Section 2 of the Firearm  
2 Owners Identification Card Act.

3 (O) A violation of Section 12-6.1 of the  
4 Criminal Code of 1961.

5 (P) A violation of paragraph (1), (2), (3),  
6 (4), (5), or (7) of subsection (a) of Section  
7 11-20.1 of the Criminal Code of 1961.

8 (Q) A violation of Section 20-1.2 of the  
9 Criminal Code of 1961.

10 (R) A violation of Section 24-3A of the  
11 Criminal Code of 1961.

12 (S) A violation of Section 11-501(c-1)(3) of  
13 the Illinois Vehicle Code.

14 (3) A minimum term of imprisonment of not less than  
15 5 days or 30 days of community service as may be  
16 determined by the court shall be imposed for a second  
17 violation committed within 5 years of a previous  
18 violation of Section 11-501 of the Illinois Vehicle Code  
19 or a similar provision of a local ordinance. In the case  
20 of a third or subsequent violation committed within 5  
21 years of a previous violation of Section 11-501 of the  
22 Illinois Vehicle Code or a similar provision of a local  
23 ordinance, a minimum term of either 10 days of  
24 imprisonment or 60 days of community service shall be  
25 imposed.

26 (4) A minimum term of imprisonment of not less than  
27 10 consecutive days or 30 days of community service shall  
28 be imposed for a violation of paragraph (c) of Section  
29 6-303 of the Illinois Vehicle Code.

30 (4.1) A minimum term of 30 consecutive days of  
31 imprisonment, 40 days of 24 hour periodic imprisonment or  
32 720 hours of community service, as may be determined by  
33 the court, shall be imposed for a violation of Section  
34 11-501 of the Illinois Vehicle Code during a period in

1           which the defendant's driving privileges are revoked or  
2           suspended, where the revocation or suspension was for a  
3           violation of Section 11-501 or Section 11-501.1 of that  
4           Code.

5           (4.2) Except as provided in paragraph (4.3) of this  
6           subsection (c), a minimum of 100 hours of community  
7           service shall be imposed for a second violation of  
8           Section 6-303 of the Illinois Vehicle Code.

9           (4.3) A minimum term of imprisonment of 30 days or  
10          300 hours of community service, as determined by the  
11          court, shall be imposed for a second violation of  
12          subsection (c) of Section 6-303 of the Illinois Vehicle  
13          Code.

14          (4.4) Except as provided in paragraph (4.5) and  
15          paragraph (4.6) of this subsection (c), a minimum term of  
16          imprisonment of 30 days or 300 hours of community  
17          service, as determined by the court, shall be imposed for  
18          a third or subsequent violation of Section 6-303 of the  
19          Illinois Vehicle Code.

20          (4.5) A minimum term of imprisonment of 30 days  
21          shall be imposed for a third violation of subsection (c)  
22          of Section 6-303 of the Illinois Vehicle Code.

23          (4.6) A minimum term of imprisonment of 180 days  
24          shall be imposed for a fourth or subsequent violation of  
25          subsection (c) of Section 6-303 of the Illinois Vehicle  
26          Code.

27          (5) The court may sentence an offender convicted of  
28          a business offense or a petty offense or a corporation or  
29          unincorporated association convicted of any offense to:

30                  (A) a period of conditional discharge;

31                  (B) a fine;

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

34          (5.1) In addition to any penalties imposed under

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

8 (5.2) In addition to any penalties imposed under  
9 paragraph (5) of this subsection (c), and except as  
10 provided in paragraph (5.3), a person convicted of  
11 violating subsection (c) of Section 11-907 of the  
12 Illinois Vehicle Code shall have his or her driver's  
13 license, permit, or privileges suspended for at least 180  
14 days but not more than 2 years, if the violation resulted  
15 in injury to another person.

16 (5.3) In addition to any penalties imposed under  
17 paragraph (5) of this subsection (c), a person convicted  
18 of violating subsection (c) of Section 11-907 of the  
19 Illinois Vehicle Code shall have his or her driver's  
20 license, permit, or privileges suspended for 2 years, if  
21 the violation resulted in the death of another person.

22 (6) In no case shall an offender be eligible for a  
23 disposition of probation or conditional discharge for a  
24 Class 1 felony committed while he was serving a term of  
25 probation or conditional discharge for a felony.

26 (7) When a defendant is adjudged a habitual  
27 criminal under Article 33B of the Criminal Code of 1961,  
28 the court shall sentence the defendant to a term of  
29 natural life imprisonment.

30 (8) When a defendant, over the age of 21 years, is  
31 convicted of a Class 1 or Class 2 felony, after having  
32 twice been convicted in any state or federal court of an  
33 offense that contains the same elements as an offense now  
34 classified in Illinois as a Class 2 or greater Class

1 felony and such charges are separately brought and tried  
2 and arise out of different series of acts, such defendant  
3 shall be sentenced as a Class X offender. This paragraph  
4 shall not apply unless (1) the first felony was committed  
5 after the effective date of this amendatory Act of 1977;  
6 and (2) the second felony was committed after conviction  
7 on the first; and (3) the third felony was committed  
8 after conviction on the second. A person sentenced as a  
9 Class X offender under this paragraph is not eligible to  
10 apply for treatment as a condition of probation as  
11 provided by Section 40-10 of the Alcoholism and Other  
12 Drug Abuse and Dependency Act.

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

16 (10) When a person is convicted of violating  
17 Section 11-501 of the Illinois Vehicle Code or a similar  
18 provision of a local ordinance, the following penalties  
19 apply when his or her blood, breath, or urine was .16 or  
20 more based on the definition of blood, breath, or urine  
21 units in Section 11-501.2 or that person is convicted of  
22 violating Section 11-501 of the Illinois Vehicle Code  
23 while transporting a child under the age of 16:

24 (A) For a first violation of subsection (a) of  
25 Section 11-501, in addition to any other penalty  
26 that may be imposed under subsection (c) of Section  
27 11-501: a mandatory minimum of 100 hours of  
28 community service and a minimum fine of \$500.

29 (B) For a second violation of subsection (a)  
30 of Section 11-501, in addition to any other penalty  
31 that may be imposed under subsection (c) of Section  
32 11-501 within 10 years: a mandatory minimum of 2  
33 days of imprisonment and a minimum fine of \$1,250.

34 (C) For a third violation of subsection (a) of

1           Section 11-501, in addition to any other penalty  
2           that may be imposed under subsection (c) of Section  
3           11-501 within 20 years: a mandatory minimum of 90  
4           days of imprisonment and a minimum fine of \$2,500.

5           (D) For a fourth or subsequent violation of  
6           subsection (a) of Section 11-501: ineligibility for  
7           a sentence of probation or conditional discharge and  
8           a minimum fine of \$2,500.

9           (d) In any case in which a sentence originally imposed  
10          is vacated, the case shall be remanded to the trial court.  
11          The trial court shall hold a hearing under Section 5-4-1 of  
12          the Unified Code of Corrections which may include evidence of  
13          the defendant's life, moral character and occupation during  
14          the time since the original sentence was passed. The trial  
15          court shall then impose sentence upon the defendant. The  
16          trial court may impose any sentence which could have been  
17          imposed at the original trial subject to Section 5-5-4 of the  
18          Unified Code of Corrections. If a sentence is vacated on  
19          appeal or on collateral attack due to the failure of the  
20          trier of fact at trial to determine beyond a reasonable doubt  
21          the existence of a fact (other than a prior conviction)  
22          necessary to increase the punishment for the offense beyond  
23          the statutory maximum otherwise applicable, either the  
24          defendant may be re-sentenced to a term within the range  
25          otherwise provided or, if the State files notice of its  
26          intention to again seek the extended sentence, the defendant  
27          shall be afforded a new trial.

28          (e) In cases where prosecution for criminal sexual  
29          assault or aggravated criminal sexual abuse under Section  
30          12-13 or 12-16 of the Criminal Code of 1961 results in  
31          conviction of a defendant who was a family member of the  
32          victim at the time of the commission of the offense, the  
33          court shall consider the safety and welfare of the victim and  
34          may impose a sentence of probation only where:



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

3           (A) the defendant is willing to undergo a  
4 court approved counseling program for a minimum  
5 duration of 2 years; or

6           (B) the defendant is willing to participate in  
7 a court approved plan including but not limited to  
8 the defendant's:

9                   (i) removal from the household;

10                   (ii) restricted contact with the victim;

11                   (iii) continued financial support of the  
12 family;

13                   (iv) restitution for harm done to the  
14 victim; and

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

17           (2) the court orders the defendant to pay for the  
18 victim's counseling services, to the extent that the  
19 court finds, after considering the defendant's income and  
20 assets, that the defendant is financially capable of  
21 paying for such services, if the victim was under 18  
22 years of age at the time the offense was committed and  
23 requires counseling as a result of the offense.

24           Probation may be revoked or modified pursuant to Section  
25 5-6-4; except where the court determines at the hearing that  
26 the defendant violated a condition of his or her probation  
27 restricting contact with the victim or other family members  
28 or commits another offense with the victim or other family  
29 members, the court shall revoke the defendant's probation and  
30 impose a term of imprisonment.

31           For the purposes of this Section, "family member" and  
32 "victim" shall have the meanings ascribed to them in Section  
33 12-12 of the Criminal Code of 1961.

34           (f) This Article shall not deprive a court in other

1 proceedings to order a forfeiture of property, to suspend or  
2 cancel a license, to remove a person from office, or to  
3 impose any other civil penalty.

4 (g) Whenever a defendant is convicted of an offense  
5 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,  
6 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,  
7 12-15 or 12-16 of the Criminal Code of 1961, the defendant  
8 shall undergo medical testing to determine whether the  
9 defendant has any sexually transmissible disease, including a  
10 test for infection with human immunodeficiency virus (HIV) or  
11 any other identified causative agent of acquired  
12 immunodeficiency syndrome (AIDS). Any such medical test  
13 shall be performed only by appropriately licensed medical  
14 practitioners and may include an analysis of any bodily  
15 fluids as well as an examination of the defendant's person.  
16 Except as otherwise provided by law, the results of such test  
17 shall be kept strictly confidential by all medical personnel  
18 involved in the testing and must be personally delivered in a  
19 sealed envelope to the judge of the court in which the  
20 conviction was entered for the judge's inspection in camera.  
21 Acting in accordance with the best interests of the victim  
22 and the public, the judge shall have the discretion to  
23 determine to whom, if anyone, the results of the testing may  
24 be revealed. The court shall notify the defendant of the test  
25 results. The court shall also notify the victim if requested  
26 by the victim, and if the victim is under the age of 15 and  
27 if requested by the victim's parents or legal guardian, the  
28 court shall notify the victim's parents or legal guardian of  
29 the test results. The court shall provide information on the  
30 availability of HIV testing and counseling at Department of  
31 Public Health facilities to all parties to whom the results  
32 of the testing are revealed and shall direct the State's  
33 Attorney to provide the information to the victim when  
34 possible. A State's Attorney may petition the court to obtain

1 the results of any HIV test administered under this Section,  
2 and the court shall grant the disclosure if the State's  
3 Attorney shows it is relevant in order to prosecute a charge  
4 of criminal transmission of HIV under Section 12-16.2 of the  
5 Criminal Code of 1961 against the defendant. The court shall  
6 order that the cost of any such test shall be paid by the  
7 county and may be taxed as costs against the convicted  
8 defendant.

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

20 (h) Whenever a defendant is convicted of an offense  
21 under Section 1 or 2 of the Hypodermic Syringes and Needles  
22 Act, the defendant shall undergo medical testing to determine  
23 whether the defendant has been exposed to human  
24 immunodeficiency virus (HIV) or any other identified  
25 causative agent of acquired immunodeficiency syndrome (AIDS).  
26 Except as otherwise provided by law, the results of such test  
27 shall be kept strictly confidential by all medical personnel  
28 involved in the testing and must be personally delivered in a  
29 sealed envelope to the judge of the court in which the  
30 conviction was entered for the judge's inspection in camera.  
31 Acting in accordance with the best interests of the public,  
32 the judge shall have the discretion to determine to whom, if  
33 anyone, the results of the testing may be revealed. The court  
34 shall notify the defendant of a positive test showing an

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

15 (i) All fines and penalties imposed under this Section  
16 for any violation of Chapters 3, 4, 6, and 11 of the Illinois  
17 Vehicle Code, or a similar provision of a local ordinance,  
18 and any violation of the Child Passenger Protection Act, or a  
19 similar provision of a local ordinance, shall be collected  
20 and disbursed by the circuit clerk as provided under Section  
21 27.5 of the Clerks of Courts Act.

22 (j) In cases when prosecution for any violation of  
23 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,  
24 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
25 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or  
26 12-16 of the Criminal Code of 1961, any violation of the  
27 Illinois Controlled Substances Act, or any violation of the  
28 Cannabis Control Act results in conviction, a disposition of  
29 court supervision, or an order of probation granted under  
30 Section 10 of the Cannabis Control Act or Section 410 of the  
31 Illinois Controlled Substance Act of a defendant, the court  
32 shall determine whether the defendant is employed by a  
33 facility or center as defined under the Child Care Act of  
34 1969, a public or private elementary or secondary school, or

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

12 (j-5) A defendant at least 17 years of age who is  
13 convicted of a felony and who has not been previously  
14 convicted of a misdemeanor or felony and who is sentenced to  
15 a term of imprisonment in the Illinois Department of  
16 Corrections shall as a condition of his or her sentence be  
17 required by the court to attend educational courses designed  
18 to prepare the defendant for a high school diploma and to  
19 work toward a high school diploma or to work toward passing  
20 the high school level Test of General Educational Development  
21 (GED) or to work toward completing a vocational training  
22 program offered by the Department of Corrections. If a  
23 defendant fails to complete the educational training required  
24 by his or her sentence during the term of incarceration, the  
25 Prisoner Review Board shall, as a condition of mandatory  
26 supervised release, require the defendant, at his or her own  
27 expense, to pursue a course of study toward a high school  
28 diploma or passage of the GED test. The Prisoner Review  
29 Board shall revoke the mandatory supervised release of a  
30 defendant who wilfully fails to comply with this subsection  
31 (j-5) upon his or her release from confinement in a penal  
32 institution while serving a mandatory supervised release  
33 term; however, the inability of the defendant after making a  
34 good faith effort to obtain financial aid or pay for the

1 educational training shall not be deemed a wilful failure to  
2 comply. The Prisoner Review Board shall recommit the  
3 defendant whose mandatory supervised release term has been  
4 revoked under this subsection (j-5) as provided in Section  
5 3-3-9. This subsection (j-5) does not apply to a defendant  
6 who has a high school diploma or has successfully passed the  
7 GED test. This subsection (j-5) does not apply to a defendant  
8 who is determined by the court to be developmentally disabled  
9 or otherwise mentally incapable of completing the educational  
10 or vocational program.

11 (k) A court may not impose a sentence or disposition for  
12 a felony or misdemeanor that requires the defendant to be  
13 implanted or injected with or to use any form of birth  
14 control.

15 (l) (A) Except as provided in paragraph (C) of  
16 subsection (l), whenever a defendant, who is an alien as  
17 defined by the Immigration and Nationality Act, is  
18 convicted of any felony or misdemeanor offense, the court  
19 after sentencing the defendant may, upon motion of the  
20 State's Attorney, hold sentence in abeyance and remand  
21 the defendant to the custody of the Attorney General of  
22 the United States or his or her designated agent to be  
23 deported when:

24 (1) a final order of deportation has been  
25 issued against the defendant pursuant to proceedings  
26 under the Immigration and Nationality Act, and

27 (2) the deportation of the defendant would not  
28 deprecate the seriousness of the defendant's conduct  
29 and would not be inconsistent with the ends of  
30 justice.

31 Otherwise, the defendant shall be sentenced as  
32 provided in this Chapter V.

33 (B) If the defendant has already been sentenced for  
34 a felony or misdemeanor offense, or has been placed on

1           probation under Section 10 of the Cannabis Control Act or  
2           Section 410 of the Illinois Controlled Substances Act,  
3           the court may, upon motion of the State's Attorney to  
4           suspend the sentence imposed, commit the defendant to the  
5           custody of the Attorney General of the United States or  
6           his or her designated agent when:

7                   (1) a final order of deportation has been  
8                   issued against the defendant pursuant to proceedings  
9                   under the Immigration and Nationality Act, and

10                   (2) the deportation of the defendant would not  
11                   deprecate the seriousness of the defendant's conduct  
12                   and would not be inconsistent with the ends of  
13                   justice.

14           (C) This subsection (1) does not apply to offenders  
15           who are subject to the provisions of paragraph (2) of  
16           subsection (a) of Section 3-6-3.

17           (D) Upon motion of the State's Attorney, if a  
18           defendant sentenced under this Section returns to the  
19           jurisdiction of the United States, the defendant shall be  
20           recommitted to the custody of the county from which he or  
21           she was sentenced. Thereafter, the defendant shall be  
22           brought before the sentencing court, which may impose any  
23           sentence that was available under Section 5-5-3 at the  
24           time of initial sentencing. In addition, the defendant  
25           shall not be eligible for additional good conduct credit  
26           for meritorious service as provided under Section 3-6-6.

27           (m) A person convicted of criminal defacement of  
28           property under Section 21-1.3 of the Criminal Code of 1961,  
29           in which the property damage exceeds \$300 and the property  
30           damaged is a school building, shall be ordered to perform  
31           community service that may include cleanup, removal, or  
32           painting over the defacement.

33           (n) The court may sentence a person convicted of a  
34           violation of Section 12-19, 12-21, or 16-1.3 of the Criminal

1 Code of 1961 (i) to an impact incarceration program if the  
2 person is otherwise eligible for that program under Section  
3 5-8-1.1, (ii) to community service, or (iii) if the person is  
4 an addict or alcoholic, as defined in the Alcoholism and  
5 Other Drug Abuse and Dependency Act, to a substance or  
6 alcohol abuse program licensed under that Act.

7 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;  
8 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.  
9 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,  
10 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;  
11 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.  
12 7-19-02.)

13 Section 25. The Probate Act of 1975 is amended by adding  
14 Section 2-6.6 as follows:

15 (755 ILCS 5/2-6.6 new)

16 Sec. 2-6.6. Person convicted of certain offenses against  
17 the elderly or disabled. A person who is convicted of a  
18 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
19 Code of 1961 may not receive any property, benefit, or other  
20 interest by reason of the death of the victim of that  
21 offense, whether as heir, legatee, beneficiary, joint tenant,  
22 tenant by the entirety, survivor, appointee, or in any other  
23 capacity and whether the property, benefit, or other interest  
24 passes pursuant to any form of title registration,  
25 testamentary or nontestamentary instrument, intestacy,  
26 renunciation, or any other circumstance. The property,  
27 benefit, or other interest shall pass as if the person  
28 convicted of a violation of Section 12-19, 12-21, or 16-1.3  
29 of the Criminal Code of 1961 died before the decedent;  
30 provided that with respect to joint tenancy property or  
31 property held in tenancy by the entirety, the interest  
32 possessed prior to the death by the person convicted may not



1 be diminished by the application of this Section.  
2 Notwithstanding the foregoing, a person convicted of a  
3 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
4 Code of 1961 shall be entitled to receive property, a  
5 benefit, or an interest in any capacity and under any  
6 circumstances described in this Section if it is demonstrated  
7 by clear and convincing evidence that the victim of that  
8 offense knew of the conviction and subsequent to the  
9 conviction expressed or ratified his or her intent to  
10 transfer the property, benefit, or interest to the person  
11 convicted of a violation of Section 12-19, 12-21, or 16-1.3  
12 of the Criminal Code of 1961 in any manner contemplated by  
13 this Section.

14 The holder of any property subject to the provisions of  
15 this Section is not liable for distributing or releasing the  
16 property to the person convicted of violating Section 12-19,  
17 12-21, or 16-1.3 of the Criminal Code of 1961.

18 If the holder is a financial institution, trust company,  
19 trustee, or similar entity or person, the holder shall not be  
20 liable for any distribution or release of the property,  
21 benefit, or other interest to the person convicted of a  
22 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal  
23 Code of 1961 unless the holder knowingly distributes or  
24 releases the property, benefit, or other interest to the  
25 person so convicted after first having received actual  
26 written notice of the conviction in sufficient time to act  
27 upon the notice.

28 The Department of State Police shall have access to State  
29 of Illinois databases containing information that may help in  
30 the identification or location of persons convicted of the  
31 offenses enumerated in this Section. Interagency agreements  
32 shall be implemented, consistent with security and procedures  
33 established by the State agency and consistent with the laws  
34 governing the confidentiality of the information in the

1 databases. Information shall be used only for administration  
2 of this Section.