

1 AN ACT to abolish the death penalty.

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

4 Section 3. The Department of State Police Law of the
5 Civil Administrative Code of Illinois is amended by changing
6 Section 2605-40 as follows:

7 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)

8 Sec. 2605-40. Division of Forensic Services. The
9 Division of Forensic Services shall exercise the following
10 functions:

11 (1) Exercise the rights, powers, and duties vested
12 by law in the Department by the Criminal Identification
13 Act.

14 (2) Exercise the rights, powers, and duties vested
15 by law in the Department by Section 2605-300 of this Law.

16 (3) Provide assistance to local law enforcement
17 agencies through training, management, and consultant
18 services.

19 (4) (Blank).

20 (5) Exercise other duties that may be assigned by
21 the Director in order to fulfill the responsibilities and
22 achieve the purposes of the Department.

23 (6) Establish and operate a forensic science
24 laboratory system, including a forensic toxicological
25 laboratory service, for the purpose of testing specimens
26 submitted by coroners and other law enforcement officers
27 in their efforts to determine whether alcohol, drugs, or
28 poisonous or other toxic substances have been involved in
29 deaths, accidents, or illness. Forensic toxicological
30 laboratories shall be established in Springfield,
31 Chicago, and elsewhere in the State as needed.

1 (7) (Blank). Subject--to--specific--appropriations
 2 made--for--these--purposes,--establish--and--coordinate-a
 3 system-for--providing--accurate--and--expedited--forensic
 4 science--and--other-investigative-and-laboratory-services
 5 to-local--law--enforcement--agencies--and--local--State's
 6 Attorneys--in--aid--of--the--investigation--and--trial-of
 7 capital-cases.

8 (Source: P.A. 90-130, eff. 1-1-98; 91-239, eff. 1-1-00;
 9 91-589, eff. 1-1-00; 91-760, eff. 1-1-01.)

10 Section 5. The Criminal Identification Act is amended by
 11 changing Section 2.1 as follows:

12 (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

13 Sec. 2.1. For the purpose of maintaining complete and
 14 accurate criminal records of the Department of State Police,
 15 it is necessary for all policing bodies of this State, the
 16 clerk of the circuit court, the Illinois Department of
 17 Corrections, the sheriff of each county, and State's Attorney
 18 of each county to submit certain criminal arrest, charge, and
 19 disposition information to the Department for filing at the
 20 earliest time possible. Unless otherwise noted herein, it
 21 shall be the duty of all policing bodies of this State, the
 22 clerk of the circuit court, the Illinois Department of
 23 Corrections, the sheriff of each county, and the State's
 24 Attorney of each county to report such information as
 25 provided in this Section, both in the form and manner
 26 required by the Department and within 30 days of the criminal
 27 history event. Specifically:

28 (a) Arrest Information. All agencies making arrests for
 29 offenses which are required by statute to be collected,
 30 maintained or disseminated by the Department of State Police
 31 shall be responsible for furnishing daily to the Department
 32 fingerprints, charges and descriptions of all persons who are

1 arrested for such offenses. All such agencies shall also
2 notify the Department of all decisions by the arresting
3 agency not to refer such arrests for prosecution. With
4 approval of the Department, an agency making such arrests may
5 enter into arrangements with other agencies for the purpose
6 of furnishing daily such fingerprints, charges and
7 descriptions to the Department upon its behalf.

8 (b) Charge Information. The State's Attorney of each
9 county shall notify the Department of all charges filed and
10 all petitions filed alleging that a minor is delinquent,
11 including all those added subsequent to the filing of a case,
12 and whether charges were not filed in cases for which the
13 Department has received information required to be reported
14 pursuant to paragraph (a) of this Section. With approval of
15 the Department, the State's Attorney may enter into
16 arrangements with other agencies for the purpose of
17 furnishing the information required by this subsection (b) to
18 the Department upon the State's Attorney's behalf.

19 (c) Disposition Information. The clerk of the circuit
20 court of each county shall furnish the Department, in the
21 form and manner required by the Supreme Court, with all final
22 dispositions of cases for which the Department has received
23 information required to be reported pursuant to paragraph (a)
24 or (d) of this Section. Such information shall include, for
25 each charge, all (1) judgments of not guilty, judgments of
26 guilty including the sentence pronounced by the court,
27 findings that a minor is delinquent and any sentence made
28 based on those findings, discharges and dismissals in the
29 court; (2) reviewing court orders filed with the clerk of the
30 circuit court which reverse or remand a reported conviction
31 or findings that a minor is delinquent or that vacate or
32 modify a sentence or sentence made following a trial that a
33 minor is delinquent; (3) continuances to a date certain in
34 furtherance of an order of supervision granted under Section

1 5-6-1 of the Unified Code of Corrections or an order of
2 probation granted under Section 10 of the Cannabis Control
3 Act, Section 410 of the Illinois Controlled Substances Act,
4 Section 12-4.3 of the Criminal Code of 1961, Section 10-102
5 of the Illinois Alcoholism and Other Drug Dependency Act,
6 Section 40-10 of the Alcoholism and Other Drug Abuse and
7 Dependency Act, Section 10 of the Steroid Control Act, or
8 Section 5-615 of the Juvenile Court Act of 1987; and (4)
9 judgments or court orders terminating or revoking a sentence
10 to or juvenile disposition of probation, supervision or
11 conditional discharge and any resentencing or new court
12 orders entered by a juvenile court relating to the
13 disposition of a minor's case involving delinquency after
14 such revocation.

15 (d) Fingerprints After Sentencing.

16 (1) After the court pronounces sentence, sentences a
17 minor following a trial in which a minor was found to be
18 delinquent or issues an order of supervision or an order
19 of probation granted under Section 10 of the Cannabis
20 Control Act, Section 410 of the Illinois Controlled
21 Substances Act, Section 12-4.3 of the Criminal Code of
22 1961, Section 10-102 of the Illinois Alcoholism and Other
23 Drug Dependency Act, Section 40-10 of the Alcoholism and
24 Other Drug Abuse and Dependency Act, Section 10 of the
25 Steroid Control Act, or Section 5-615 of the Juvenile
26 Court Act of 1987 for any offense which is required by
27 statute to be collected, maintained, or disseminated by
28 the Department of State Police, the State's Attorney of
29 each county shall ask the court to order a law
30 enforcement agency to fingerprint immediately all persons
31 appearing before the court who have not previously been
32 fingerprinted for the same case. The court shall so order
33 the requested fingerprinting, if it determines that any
34 such person has not previously been fingerprinted for the

1 same case. The law enforcement agency shall submit such
2 fingerprints to the Department daily.

3 (2) After the court pronounces sentence or makes a
4 disposition of a case following a finding of delinquency
5 for any offense which is not required by statute to be
6 collected, maintained, or disseminated by the Department
7 of State Police, the prosecuting attorney may ask the
8 court to order a law enforcement agency to fingerprint
9 immediately all persons appearing before the court who
10 have not previously been fingerprinted for the same case.
11 The court may so order the requested fingerprinting, if
12 it determines that any so sentenced person has not
13 previously been fingerprinted for the same case. The law
14 enforcement agency may retain such fingerprints in its
15 files.

16 (e) Corrections Information. The Illinois Department of
17 Corrections and the sheriff of each county shall furnish the
18 Department with all information concerning the receipt,
19 escape, execution before the effective date of this
20 amendatory Act of the 93rd General Assembly, death, release,
21 pardon, parole, commutation of sentence, granting of
22 executive clemency or discharge of an individual who has been
23 sentenced or committed to the agency's custody for any
24 offenses which are mandated by statute to be collected,
25 maintained or disseminated by the Department of State Police.
26 For an individual who has been charged with any such offense
27 and who escapes from custody or dies while in custody, all
28 information concerning the receipt and escape or death,
29 whichever is appropriate, shall also be so furnished to the
30 Department.

31 (Source: P.A. 90-590, eff. 1-1-00.)

32 (30 ILCS 105/5.518 rep.)

33 Section 10. The State Finance Act is amended by

1 repealing Section 5.518 on July 1, 2003.

2 Section 15. The Counties Code is amended by changing
3 Sections 3-9005 and 3-4011 as follows:

4 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)
5 Sec. 3-9005. Powers and duties of State's attorney.

6 (a) The duty of each State's attorney shall be:

7 (1) To commence and prosecute all actions, suits,
8 indictments and prosecutions, civil and criminal, in the
9 circuit court for his county, in which the people of the
10 State or county may be concerned.

11 (2) To prosecute all forfeited bonds and
12 recognizances, and all actions and proceedings for the
13 recovery of debts, revenues, moneys, fines, penalties and
14 forfeitures accruing to the State or his county, or to
15 any school district or road district in his county; also,
16 to prosecute all suits in his county against railroad or
17 transportation companies, which may be prosecuted in the
18 name of the People of the State of Illinois.

19 (3) To commence and prosecute all actions and
20 proceedings brought by any county officer in his official
21 capacity.

22 (4) To defend all actions and proceedings brought
23 against his county, or against any county or State
24 officer, in his official capacity, within his county.

25 (5) To attend the examination of all persons
26 brought before any judge on habeas corpus, when the
27 prosecution is in his county.

28 (6) To attend before judges and prosecute charges
29 of felony or misdemeanor, for which the offender is
30 required to be recognized to appear before the circuit
31 court, when in his power so to do.

32 (7) To give his opinion, without fee or reward, to

1 any county officer in his county, upon any question or
2 law relating to any criminal or other matter, in which
3 the people or the county may be concerned.

4 (8) To assist the attorney general whenever it may
5 be necessary, and in cases of appeal from his county to
6 the Supreme Court, to which it is the duty of the
7 attorney general to attend, he shall furnish the attorney
8 general at least 10 days before such is due to be filed,
9 a manuscript of a proposed statement, brief and argument
10 to be printed and filed on behalf of the people, prepared
11 in accordance with the rules of the Supreme Court.
12 However, if such brief, argument or other document is due
13 to be filed by law or order of court within this 10 day
14 period, then the State's attorney shall furnish such as
15 soon as may be reasonable.

16 (9) To pay all moneys received by him in trust,
17 without delay, to the officer who by law is entitled to
18 the custody thereof.

19 (10) To notify, by first class mail, complaining
20 witnesses of the ultimate disposition of the cases
21 arising from an indictment or an information.

22 (11) To perform such other and further duties as
23 may, from time to time, be enjoined on him by law.

24 (12) To appear in all proceedings by collectors of
25 taxes against delinquent taxpayers for judgments to sell
26 real estate, and see that all the necessary preliminary
27 steps have been legally taken to make the judgment legal
28 and binding.

29 (b) The State's Attorney of each county shall have
30 authority to appoint one or more special investigators to
31 serve subpoenas, make return of process and conduct
32 investigations which assist the State's Attorney in the
33 performance of his duties. A special investigator shall not
34 carry firearms except with permission of the State's Attorney

1 and only while carrying appropriate identification indicating
2 his employment and in the performance of his assigned duties.

3 Subject to the qualifications set forth in this
4 subsection, special investigators shall be peace officers and
5 shall have all the powers possessed by investigators under
6 the State's Attorneys Appellate Prosecutor's Act.

7 No special investigator employed by the State's Attorney
8 shall have peace officer status or exercise police powers
9 unless he or she successfully completes the basic police
10 training course mandated and approved by the Illinois Law
11 Enforcement Training Standards Board or such board waives the
12 training requirement by reason of the special investigator's
13 prior law enforcement experience or training or both. Any
14 State's Attorney appointing a special investigator shall
15 consult with all affected local police agencies, to the
16 extent consistent with the public interest, if the special
17 investigator is assigned to areas within that agency's
18 jurisdiction.

19 Before a person is appointed as a special investigator,
20 his fingerprints shall be taken and transmitted to the
21 Department of State Police. The Department shall examine its
22 records and submit to the State's Attorney of the county in
23 which the investigator seeks appointment any conviction
24 information concerning the person on file with the
25 Department. No person shall be appointed as a special
26 investigator if he has been convicted of a felony or other
27 offense involving moral turpitude. A special investigator
28 shall be paid a salary and be reimbursed for actual expenses
29 incurred in performing his assigned duties. The county board
30 shall approve the salary and actual expenses and appropriate
31 the salary and expenses in the manner prescribed by law or
32 ordinance.

33 (c) The State's Attorney may request and receive from
34 employers, labor unions, telephone companies, and utility

1 companies location information concerning putative fathers
2 and noncustodial parents for the purpose of establishing a
3 child's paternity or establishing, enforcing, or modifying a
4 child support obligation. In this subsection, "location
5 information" means information about (i) the physical
6 whereabouts of a putative father or noncustodial parent, (ii)
7 the putative father or noncustodial parent's employer, or
8 (iii) the salary, wages, and other compensation paid and the
9 health insurance coverage provided to the putative father or
10 noncustodial parent by the employer of the putative father or
11 noncustodial parent or by a labor union of which the putative
12 father or noncustodial parent is a member.

13 ~~(d) For each State fiscal year, the State's Attorney of~~
14 ~~Cook County shall appear before the General Assembly and~~
15 ~~request appropriations to be made from the Capital Litigation~~
16 ~~Trust Fund to the State Treasurer for the purpose of~~
17 ~~providing assistance in the prosecution of capital cases in~~
18 ~~Cook County. The State's Attorney may appear before the~~
19 ~~General Assembly at other times during the State's fiscal~~
20 ~~year to request supplemental appropriations from the Trust~~
21 ~~Fund to the State Treasurer.~~

22 (e) The State's Attorney shall have the authority to
23 enter into a written agreement with the Department of Revenue
24 for pursuit of civil liability under Section 17-1a of the
25 Criminal Code of 1961 against persons who have issued to the
26 Department checks or other orders in violation of the
27 provisions of paragraph (d) of subsection (B) of Section 17-1
28 of the Criminal Code of 1961, with the Department to retain
29 the amount owing upon the dishonored check or order along
30 with the dishonored check fee imposed under the Uniform
31 Penalty and Interest Act, with the balance of damages, fees,
32 and costs collected under Section 17-1a of the Criminal Code
33 of 1961 to be retained by the State's Attorney. The
34 agreement shall not affect the allocation of fines and costs

1 imposed in any criminal prosecution.

2 (Source: P.A. 91-589, eff. 1-1-00; 92-492, eff. 1-1-02.)

3 (55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)

4 Sec. 3-4011. Expenses and legal services for indigent
5 defendants in felony cases. It shall be the duty of the
6 county board in counties containing fewer than 500,000
7 inhabitants to appropriate a sufficient sum for the purpose
8 of paying for the legal services necessarily rendered for the
9 defense of indigent persons in felony cases, and for costs,
10 expenses and legal services necessary in the prosecution of
11 an appeal when the sentence is death and the sentence was
12 imposed before the effective date of this amendatory Act of
13 the 93rd General Assembly, which is to be paid upon the
14 orders of a court of competent jurisdiction. It shall
15 likewise be the duty of the county board in counties
16 containing fewer than 500,000 inhabitants to appropriate a
17 sufficient sum for the payment of out of pocket expenses
18 necessarily incurred by appointed counsel in the prosecution
19 of an appeal on behalf of an indigent incarcerated defendant
20 in felony cases. In such cases payment shall be made upon the
21 order of the reviewing court.

22 (Source: P.A. 86-962.)

23 (55 ILCS 5/3-4006.1 rep.)

24 Section 20. The Counties Code is amended by repealing
25 Section 3-4006.1.

26 Section 25. The School Code is amended by changing
27 Section 21-23b as follows:

28 (105 ILCS 5/21-23b) (from Ch. 122, par. 21-23b)

29 Sec. 21-23b. Conviction of felony.

30 (a) Whenever the holder of any certificate issued under

1 this Article is employed by the school board of any school
 2 district, including a special charter district or school
 3 district organized under Article 34, and is convicted, either
 4 after a bench trial, trial by jury, or plea of guilty, of any
 5 offense for which a sentence to death--~~er~~ a term of
 6 imprisonment in a penitentiary for one year or more is
 7 provided, the school board shall promptly notify the State
 8 Board of Education in writing of the name of the certificate
 9 holder, the fact of the conviction, and the name and location
 10 of the court in which the conviction occurred.

11 (b) Whenever the State Board of Education receives
 12 notice of a conviction under subsection (a) or otherwise
 13 learns that any person who is a "teacher" as that term is
 14 defined in Section 16-106 of the Illinois Pension Code has
 15 been convicted, either after a bench trial, trial by jury, or
 16 plea of guilty, of any offense for which a sentence to death
 17 ~~er~~ a term of imprisonment in a penitentiary for one year or
 18 more is provided, the State Board of Education shall promptly
 19 notify in writing the board of trustees of the Teachers'
 20 Retirement System of the State of Illinois and the board of
 21 trustees of the Public School Teachers' Pension and
 22 Retirement Fund of the City of Chicago of the name of the
 23 certificate holder or teacher, the fact of the conviction,
 24 the name and location of the court in which the conviction
 25 occurred, and the number assigned in that court to the case
 26 in which the conviction occurred.

27 (Source: P.A. 87-1001.)

28 Section 30. The Illinois Public Aid Code is amended by
 29 changing Section 1-8 as follows:

30 (305 ILCS 5/1-8)

31 Sec. 1-8. Fugitives ineligible.

32 (a) The following persons are not eligible for aid under

1 this Code, or federal food stamps or federal food stamp
2 benefits:

3 (1) A person who has fled from the jurisdiction of
4 any court of record of this or any other state or of the
5 United States to avoid prosecution for a felony or to
6 avoid giving testimony in any criminal proceeding
7 involving the alleged commission of a felony.

8 (2) A person who has fled to avoid imprisonment in
9 a correctional facility of this or any other state or the
10 United States for having committed a felony.

11 (3) A person who has escaped from a correctional
12 facility of this or any other state or the United States
13 if the person was incarcerated for having committed a
14 felony.

15 (4) A person who is violating a condition of
16 probation or parole imposed under federal or State law.

17 In this Section, "felony" means a violation of a penal
18 statute of this State for which a sentence to a term of
19 imprisonment in a penitentiary for one year or more is
20 provided or a violation of a penal statute of ~~er~~ any other
21 state or the United States for which a sentence to death or
22 to a term of imprisonment in a penitentiary for one year or
23 more is provided.

24 To implement this Section, the Illinois Department may
25 exchange necessary information with an appropriate law
26 enforcement agency of this or any other state, a political
27 subdivision of this or any other state, or the United States.

28 (b) (Blank).

29 (Source: P.A. 92-111, eff. 1-1-02.)

30 Section 35. The Criminal Code of 1961 is amended by
31 changing Sections 2-7, 7-10, 9-1, 9-1.2, 30-1, and 33B-1 as
32 follows:

1 (720 ILCS 5/2-7) (from Ch. 38, par. 2-7)

2 Sec. 2-7. "Felony".

3 "Felony" means an offense for which a sentence to death
4 ~~er--te~~ a term of imprisonment in a penitentiary for one year
5 or more is provided.

6 (Source: P.A. 77-2638.)

7 (720 ILCS 5/7-10) (from Ch. 38, par. 7-10)

8 Sec. 7-10. Execution of death sentence.

9 A public officer who, in the exercise of his official
10 duty, puts a person to death pursuant to a sentence of a
11 court of competent jurisdiction made before the effective
12 date of this amendatory Act of the 93rd General Assembly, is
13 justified if he acts in accordance with the sentence
14 pronounced and the law prescribing the procedure for
15 execution of a death sentence.

16 (Source: Laws 1961, p. 1983.)

17 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

18 Sec. 9-1. First degree Murder - ~~Death--penalties---~~
19 ~~Exeptions---Separate-Hearings---Proof---Findings---Appellate~~
20 ~~procedures---Reversals.~~

21 (a) A person who kills an individual without lawful
22 justification commits first degree murder if, in performing
23 the acts which cause the death:

24 (1) he either intends to kill or do great bodily
25 harm to that individual or another, or knows that such
26 acts will cause death to that individual or another; or

27 (2) he knows that such acts create a strong
28 probability of death or great bodily harm to that
29 individual or another; or

30 (3) he is attempting or committing a forcible
31 felony other than second degree murder.

32 (b) Aggravating Factors. A defendant who at the time of

1 the commission of the offense has attained the age of 18 or
2 more and who has been found guilty of first degree murder may
3 be sentenced to a term of natural life imprisonment death if:

4 (1) the murdered individual was a peace officer or
5 fireman killed in the course of performing his official
6 duties, to prevent the performance of his official
7 duties, or in retaliation for performing his official
8 duties, and the defendant knew or should have known that
9 the murdered individual was a peace officer or fireman;
10 or

11 (2) the murdered individual was an employee of an
12 institution or facility of the Department of Corrections,
13 or any similar local correctional agency, killed in the
14 course of performing his official duties, to prevent the
15 performance of his official duties, or in retaliation for
16 performing his official duties, or the murdered
17 individual was an inmate at such institution or facility
18 and was killed on the grounds thereof, or the murdered
19 individual was otherwise present in such institution or
20 facility with the knowledge and approval of the chief
21 administrative officer thereof; or

22 (3) the defendant has been convicted of murdering
23 two or more individuals under subsection (a) of this
24 Section or under any law of the United States or of any
25 state which is substantially similar to subsection (a) of
26 this Section regardless of whether the deaths occurred
27 as the result of the same act or of several related or
28 unrelated acts so long as the deaths were the result of
29 either an intent to kill more than one person or of
30 separate acts which the defendant knew would cause death
31 or create a strong probability of death or great bodily
32 harm to the murdered individual or another; or

33 (4) the murdered individual was killed as a result
34 of the hijacking of an airplane, train, ship, bus or

1 other public conveyance; or

2 (5) the defendant committed the murder pursuant to
3 a contract, agreement or understanding by which he was to
4 receive money or anything of value in return for
5 committing the murder or procured another to commit the
6 murder for money or anything of value; or

7 (6) the murdered individual was killed in the
8 course of another felony if:

9 (a) the murdered individual:

10 (i) was actually killed by the defendant,
11 or

12 (ii) received physical injuries
13 personally inflicted by the defendant
14 substantially contemporaneously with physical
15 injuries caused by one or more persons for
16 whose conduct the defendant is legally
17 accountable under Section 5-2 of this Code, and
18 the physical injuries inflicted by either the
19 defendant or the other person or persons for
20 whose conduct he is legally accountable caused
21 the death of the murdered individual; and

22 (b) in performing the acts which caused the
23 death of the murdered individual or which resulted
24 in physical injuries personally inflicted by the
25 defendant on the murdered individual under the
26 circumstances of subdivision (ii) of subparagraph
27 (a) of paragraph (6) of subsection (b) of this
28 Section, the defendant acted with the intent to kill
29 the murdered individual or with the knowledge that
30 his acts created a strong probability of death or
31 great bodily harm to the murdered individual or
32 another; and

33 (c) the other felony was one of the following:
34 armed robbery, armed violence, robbery, predatory

1 criminal sexual assault of a child, aggravated
2 criminal sexual assault, aggravated kidnapping,
3 aggravated vehicular hijacking, forcible detention,
4 arson, aggravated arson, aggravated stalking,
5 burglary, residential burglary, home invasion,
6 calculated criminal drug conspiracy as defined in
7 Section 405 of the Illinois Controlled Substances
8 Act, streetgang criminal drug conspiracy as defined
9 in Section 405.2 of the Illinois Controlled
10 Substances Act, or the attempt to commit any of the
11 felonies listed in this subsection (c); or

12 (7) the murdered individual was under 12 years of
13 age and the death resulted from exceptionally brutal or
14 heinous behavior indicative of wanton cruelty; or

15 (8) the defendant committed the murder with intent
16 to prevent the murdered individual from testifying in any
17 criminal prosecution or giving material assistance to the
18 State in any investigation or prosecution, either against
19 the defendant or another; or the defendant committed the
20 murder because the murdered individual was a witness in
21 any prosecution or gave material assistance to the State
22 in any investigation or prosecution, either against the
23 defendant or another; or

24 (9) the defendant, while committing an offense
25 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
26 407 or 407.1 or subsection (b) of Section 404 of the
27 Illinois Controlled Substances Act, or while engaged in a
28 conspiracy or solicitation to commit such offense,
29 intentionally killed an individual or counseled,
30 commanded, induced, procured or caused the intentional
31 killing of the murdered individual; or

32 (10) the defendant was incarcerated in an
33 institution or facility of the Department of Corrections
34 at the time of the murder, and while committing an

1 offense punishable as a felony under Illinois law, or
2 while engaged in a conspiracy or solicitation to commit
3 such offense, intentionally killed an individual or
4 counseled, commanded, induced, procured or caused the
5 intentional killing of the murdered individual; or

6 (11) the murder was committed in a cold, calculated
7 and premeditated manner pursuant to a preconceived plan,
8 scheme or design to take a human life by unlawful means,
9 and the conduct of the defendant created a reasonable
10 expectation that the death of a human being would result
11 therefrom; or

12 (12) the murdered individual was an emergency
13 medical technician - ambulance, emergency medical
14 technician - intermediate, emergency medical technician -
15 paramedic, ambulance driver, or other medical assistance
16 or first aid personnel, employed by a municipality or
17 other governmental unit, killed in the course of
18 performing his official duties, to prevent the
19 performance of his official duties, or in retaliation for
20 performing his official duties, and the defendant knew or
21 should have known that the murdered individual was an
22 emergency medical technician - ambulance, emergency
23 medical technician - intermediate, emergency medical
24 technician - paramedic, ambulance driver, or other
25 medical assistance or first aid personnel; or

26 (13) the defendant was a principal administrator,
27 organizer, or leader of a calculated criminal drug
28 conspiracy consisting of a hierarchical position of
29 authority superior to that of all other members of the
30 conspiracy, and the defendant counseled, commanded,
31 induced, procured, or caused the intentional killing of
32 the murdered person; or

33 (14) the murder was intentional and involved the
34 infliction of torture. For the purpose of this Section

1 torture means the infliction of or subjection to extreme
2 physical pain, motivated by an intent to increase or
3 prolong the pain, suffering or agony of the victim; or

4 (15) the murder was committed as a result of the
5 intentional discharge of a firearm by the defendant from
6 a motor vehicle and the victim was not present within the
7 motor vehicle; or

8 (16) the murdered individual was 60 years of age or
9 older and the death resulted from exceptionally brutal or
10 heinous behavior indicative of wanton cruelty; or

11 (17) the murdered individual was a disabled person
12 and the defendant knew or should have known that the
13 murdered individual was disabled. For purposes of this
14 paragraph (17), "disabled person" means a person who
15 suffers from a permanent physical or mental impairment
16 resulting from disease, an injury, a functional disorder,
17 or a congenital condition that renders the person
18 incapable of adequately providing for his or her own
19 health or personal care; or

20 (18) the murder was committed by reason of any
21 person's activity as a community policing volunteer or to
22 prevent any person from engaging in activity as a
23 community policing volunteer; or

24 (19) the murdered individual was subject to an
25 order of protection and the murder was committed by a
26 person against whom the same order of protection was
27 issued under the Illinois Domestic Violence Act of 1986;
28 or

29 (20) the murdered individual was known by the
30 defendant to be a teacher or other person employed in any
31 school and the teacher or other employee is upon the
32 grounds of a school or grounds adjacent to a school, or
33 is in any part of a building used for school purposes; or

34 (21) the murder was committed by the defendant in

1 connection with or as a result of the offense of
2 terrorism as defined in Section 29D-30 of this Code.

3 (c) (Blank). Consideration--of-factors-in-Aggravation
4 and-Mitigation-

5 The-court-shall-consider,-or-shall-instruct-the--jury--to
6 consider-any-aggravating-and-any-mitigating-factors-which-are
7 relevant-to-the-imposition-of-the-death-penalty.--Aggravating
8 factors--may-include-but-need-not-be-limited-to-those-factors
9 set-forth-in-subsection-(b)-.Mitigating-factors--may--include
10 but-need-not-be-limited-to-the-following:

11 (1)--the--defendant--has--no--significant-history-of
12 prior-criminal-activity;

13 (2)--the-murder-was-committed--while--the--defendant
14 was--under--the--influence-of-extreme-mental-or-emotional
15 disturbance,-although-not-such-as-to-constitute-a-defense
16 to-prosecution;

17 (3)--the-murdered-individual-was--a--participant--in
18 the--defendant's--homicidal--conduct--or-consented-to-the
19 homicidal-act;

20 (4)--the-defendant-acted--under--the--compulsion--of
21 threat--or--menace-of-the-imminent-in infliction-of-death-or
22 great-bodily-harm;

23 (5)--the-defendant-was-not-personally-present-during
24 commission-of-the-act-or-acts-causing-death.

25 (d) (Blank). Separate-sentencing-hearing-

26 Where-requested-by-the-State,-the-court-shall--conduct--a
27 separate--sentencing-proceeding-to-determine-the-existence-of
28 factors-set-forth-in--subsection--(b)--and--to--consider--any
29 aggravating--or-mitigating-factors-as-indicated-in-subsection
30 (c)-.-The-proceeding-shall-be-conducted:

31 (1)--before-the-jury-that-determined-the-defendant's
32 guilt;-or

33 (2)--before-a-jury-impanelled-for-the-purpose-of-the
34 proceeding-if:

1 A.--the-defendant-was-convicted-upon-a-plea--of
2 guilty;-or

3 B.--the--defendant--was-convicted-after-a-trial
4 before-the-court-sitting-without-a-jury;-or

5 C.--the-court-for-good-cause--shown--discharges
6 the-jury-that-determined-the-defendant's-guilt;-or

7 (3)--before--the-court-alone-if-the-defendant-waives
8 a-jury-for-the-separate-proceeding.

9 (e) Blank. Evidence-and-Argument.

10 During-the-proceeding-any-information-relevant-to-any--of
11 the--factors--set-forth-in-subsection-(b)-may-be-presented-by
12 either-the-State-or-the-defendant-under-the--rules--governing
13 the---admission---of---evidence---at--criminal--trials.---Any
14 information-relevant-to-any-additional-aggravating-factors-or
15 any-mitigating-factors-indicated-in--subsection--(c)--may--be
16 presented--by--the--State--or--defendant--regardless--of--its
17 admissibility--under--the--rules--governing--the-admission-of
18 evidence-at-eriminal-trials.--The--State--and--the--defendant
19 shall--be--given--fair--opportunity--to-rebut-any-information
20 received-at-the-hearing.

21 (f) Blank. Proof.

22 The-burden-of-proof-of-establishing-the-existence-of--any
23 of--the--factors--set-forth-in-subsection-(b)-is-on-the-State
24 and-shall--not--be--satisfied--unless--established--beyond--a
25 reasonable-doubt.

26 (g) Blank. Procedure---Jury.

27 If--at--the-separate-sentencing-proceeding-the-jury-finds
28 that-none-of-the-factors-set-forth-in-subsection-(b)--exists,
29 the---court--shall--sentence--the--defendant--to--a--term--of
30 imprisonment--under--Chapter--V--of--the--Unified---Code---of
31 Corrections.---If--there--is--a-unanimous-finding-by-the-jury
32 that-one-or-more-of-the-factors-set-forth-in--subsection--(b)
33 exist,--the--jury--shall--consider-aggravating-and-mitigating
34 factors-as--instructed--by--the--court--and--shall--determine

1 whether--the-sentence-of-death-shall-be-imposed.--If-the-jury
2 determines-unanimously-that-there-are-no--mitigating--factors
3 sufficient--to-preclude-the-imposition-of-the-death-sentence,
4 the-court-shall-sentence-the-defendant-to-death.

5 Unless-the-jury--unanimously--finds--that--there--are--no
6 mitigating--factors--sufficient-to-preclude-the-imposition-of
7 the-death-sentence-the-court-shall-sentence-the-defendant--to
8 a-term-of-imprisonment-under-Chapter-V-of-the-Unified-Code-of
9 Corrections.

10 (h) (Blank). Procedure--No-Jury.

11 In--a--proceeding--before--the--court-alone,-if-the-court
12 finds-that-none--of--the--factors--found--in--subsection--(b)
13 exists,-the--court-shall-sentence-the-defendant-to-a-term-of
14 imprisonment--under--Chapter--V--of--the--Unified--Code--of
15 Corrections.

16 If--the--Court-determines-that-one-or-more-of-the-factors
17 set-forth-in-subsection-(b)-exists,-the-Court-shall--consider
18 any--aggravating--and--mitigating--factors--as--indicated--in
19 subsection--(c).---If--the-Court-determines-that-there-are-no
20 mitigating-factors-sufficient-to-preclude-the--imposition--of
21 the-death-sentence,-the-Court-shall-sentence-the-defendant-to
22 death.

23 Unless--the--court--finds--that--there--are-no-mitigating
24 factors-sufficient-to-preclude-the-imposition-of-the-sentence
25 of-death,-the-court-shall-sentence-the-defendant-to-a-term-of
26 imprisonment--under--Chapter--V--of--the--Unified--Code--of
27 Corrections.

28 (i) (Blank). Appellate-Procedure.

29 The--conviction-and-sentence-of-death-shall-be-subject-to
30 automatic-review-by-the-Supreme-Court.--Such-review-shall--be
31 in-accordance-with-rules-promulgated-by-the-Supreme-Court.

32 (j) (Blank). Disposition-of-reversed-death-sentence.

33 In--the--event-that-the-death-penalty-in-this-Act-is-held
34 to-be-unconstitutional-by-the-Supreme--Court--of--the--United

1 States--or--of--the--State--of--Illinois,--any--person--convicted--of
 2 first--degree--murder--shall--be--sentenced--by--the--court--to--a--term
 3 of--imprisonment--under--Chapter--V--of--the--Unified--Code--of
 4 Corrections.

5 In--the--event--that--any--death--sentence--pursuant--to--the
 6 sentencing--provisions--of--this--Section--is--declared
 7 unconstitutional--by--the--Supreme--Court--of--the--United--States--or
 8 of--the--State--of--Illinois,--the--court--having--jurisdiction--over
 9 a--person--previously--sentenced--to--death--shall--cause--the
 10 defendant--to--be--brought--before--the--court,--and--the--court--shall
 11 sentence--the--defendant--to--a--term--of--imprisonment--under
 12 Chapter--V--of--the--Unified--Code--of--Corrections.

13 (Source: P.A. 91-357, eff. 7-29-99; 91-434, eff. 1-1-00;
 14 92-854, eff. 12-5-02.)

15 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

16 Sec. 9-1.2. Intentional Homicide of an Unborn Child.

17 (a) A person commits the offense of intentional homicide
 18 of an unborn child if, in performing acts which cause the
 19 death of an unborn child, he without lawful justification:

20 (1) either intended to cause the death of or do
 21 great bodily harm to the pregnant woman or her unborn
 22 child or knew that such acts would cause death or great
 23 bodily harm to the pregnant woman or her unborn child; or

24 (2) he knew that his acts created a strong
 25 probability of death or great bodily harm to the pregnant
 26 woman or her unborn child; and

27 (3) he knew that the woman was pregnant.

28 (b) For purposes of this Section, (1) "unborn child"
 29 shall mean any individual of the human species from
 30 fertilization until birth, and (2) "person" shall not include
 31 the pregnant woman whose unborn child is killed.

32 (c) This Section shall not apply to acts which cause the
 33 death of an unborn child if those acts were committed during

1 any abortion, as defined in Section 2 of the Illinois
2 Abortion Law of 1975, as amended, to which the pregnant woman
3 has consented. This Section shall not apply to acts which
4 were committed pursuant to usual and customary standards of
5 medical practice during diagnostic testing or therapeutic
6 treatment.

7 (d) Penalty. The sentence for intentional homicide of
8 an unborn child shall be the same as for first degree murder,
9 except that:

10 (1) ~~(Blank); the death penalty may not be imposed;~~

11 (2) if the person committed the offense while armed
12 with a firearm, 15 years shall be added to the term of
13 imprisonment imposed by the court;

14 (3) if, during the commission of the offense, the
15 person personally discharged a firearm, 20 years shall be
16 added to the term of imprisonment imposed by the court;

17 (4) if, during the commission of the offense, the
18 person personally discharged a firearm that proximately
19 caused great bodily harm, permanent disability, permanent
20 disfigurement, or death to another person, 25 years or up
21 to a term of natural life shall be added to the term of
22 imprisonment imposed by the court.

23 (e) The provisions of this Act shall not be construed to
24 prohibit the prosecution of any person under any other
25 provision of law.

26 (Source: P.A. 91-404, eff. 1-1-00.)

27 (720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

28 Sec. 30-1. Treason. (a) A person owing allegiance to this
29 State commits treason when he or she knowingly:

30 (1) Levies war against this State; or

31 (2) Adheres to the enemies of this State, giving
32 them aid or comfort.

33 (b) No person may be convicted of treason except on the

1 testimony of 2 witnesses to the same overt act, or on his
2 confession in open court.

3 (c) Sentence. Treason is a Class X felony ~~for which an~~
4 ~~offender may be sentenced to death under Section 5-5-3 of the~~
5 ~~Unified Code of Corrections.~~

6 (Source: P.A. 80-1099.)

7 (720 ILCS 5/33B-1) (from Ch. 38, par. 33B-1)

8 Sec. 33B-1. (a) Every person who has been twice
9 convicted in any state or federal court of an offense that
10 contains the same elements as an offense now classified in
11 Illinois as a Class X felony, criminal sexual assault,
12 aggravated kidnapping or first degree murder, and is
13 thereafter convicted of a Class X felony, criminal sexual
14 assault or first degree murder, committed after the 2 prior
15 convictions, shall be adjudged an habitual criminal.

16 (b) The 2 prior convictions need not have been for the
17 same offense.

18 (c) Any convictions which result from or are connected
19 with the same transaction, or result from offenses committed
20 at the same time, shall be counted for the purposes of this
21 Section as one conviction.

22 (d) This Article shall not apply unless each of the
23 following requirements are satisfied:

24 (1) the third offense was committed after the
25 effective date of this Act;

26 (2) the third offense was committed within 20 years
27 of the date that judgment was entered on the first
28 conviction, provided, however, that time spent in custody
29 shall not be counted;

30 (3) the third offense was committed after
31 conviction on the second offense;

32 (4) the second offense was committed after
33 conviction on the first offense.

1 (e) ~~Except when the death penalty is imposed,~~ Anyone
2 adjudged an habitual criminal shall be sentenced to life
3 imprisonment.

4 (Source: P.A. 88-677, eff. 12-15-94.)

5 Section 40. The Cannabis Control Act is amended by
6 changing Section 9 as follows:

7 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

8 Sec. 9. (a) Any person who engages in a calculated
9 criminal cannabis conspiracy, as defined in subsection (b),
10 is guilty of a Class 3 felony, and fined not more than
11 \$200,000 and shall be subject to the forfeitures prescribed
12 in subsection (c); except that, if any person engages in such
13 offense after one or more prior convictions under this
14 Section, Section 4 (d), Section 5 (d), Section 8 (d) or any
15 law of the United States or of any State relating to
16 cannabis, or controlled substances as defined in the Illinois
17 Controlled Substances Act, in addition to the fine and
18 forfeiture authorized above, he shall be guilty of a Class 1
19 felony ~~for which an offender may not be sentenced to death.~~

20 (b) For purposes of this Section, a person engages in a
21 calculated criminal cannabis conspiracy when:

22 (1) he violates Section 4 (d), 4 (e), 5 (d), 5 (e), 8
23 (c) or 8 (d) of this Act; and

24 (2) such violation is a part of a conspiracy undertaken
25 or carried on with 2 or more other persons; and

26 (3) he obtains anything of value greater than \$500 from,
27 or organizes, directs or finances such violation or
28 conspiracy.

29 (c) Any person who is convicted under this Section of
30 engaging in a calculated criminal cannabis conspiracy shall
31 forfeit to the State of Illinois:

32 (1) the receipts obtained by him in such conspiracy; and

1 (2) any of his interests in, claims against, receipts
2 from, or property or rights of any kind affording a source of
3 influence over, such conspiracy.

4 (d) The circuit court may enter such injunctions,
5 restraining orders, directions, or prohibitions, or take such
6 other actions, including the acceptance of satisfactory
7 performance bonds, in connection with any property, claim,
8 receipt, right or other interest subject to forfeiture under
9 this Section, as it deems proper.

10 (Source: P.A. 84-1233.)

11 Section 45. The Code of Criminal Procedure of 1963 is
12 amended by changing Sections 104-26, 113-3, 114-5, 115-4,
13 115-4.1, 119-5, 121-13, 122-1, 122-2.1 and 122-4 as follows:

14 (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

15 Sec. 104-26. Disposition of Defendants suffering
16 disabilities.

17 (a) A defendant convicted following a trial conducted
18 under the provisions of Section 104-22 shall not be sentenced
19 before a written presentence report of investigation is
20 presented to and considered by the court. The presentence
21 report shall be prepared pursuant to Sections 5-3-2, 5-3-3
22 and 5-3-4 of the Unified Code of Corrections, as now or
23 hereafter amended, and shall include a physical and mental
24 examination unless the court finds that the reports of prior
25 physical and mental examinations conducted pursuant to this
26 Article are adequate and recent enough so that additional
27 examinations would be unnecessary.

28 (b) (Blank). ~~A defendant convicted following a trial~~
29 ~~under Section 104-22 shall not be subject to the death~~
30 ~~penalty.~~

31 (c) A defendant convicted following a trial under
32 Section 104-22 shall be sentenced according to the procedures

1 and dispositions authorized under the Unified Code of
2 Corrections, as now or hereafter amended, subject to the
3 following provisions:

4 (1) The court shall not impose a sentence of
5 imprisonment upon the offender if the court believes that
6 because of his disability a sentence of imprisonment
7 would not serve the ends of justice and the interests of
8 society and the offender or that because of his
9 disability a sentence of imprisonment would subject the
10 offender to excessive hardship. In addition to any other
11 conditions of a sentence of conditional discharge or
12 probation the court may require that the offender undergo
13 treatment appropriate to his mental or physical
14 condition.

15 (2) After imposing a sentence of imprisonment upon
16 an offender who has a mental disability, the court may
17 remand him to the custody of the Department of Human
18 Services and order a hearing to be conducted pursuant to
19 the provisions of the Mental Health and Developmental
20 Disabilities Code, as now or hereafter amended. If the
21 offender is committed following such hearing, he shall be
22 treated in the same manner as any other civilly committed
23 patient for all purposes except as provided in this
24 Section. If the defendant is not committed pursuant to
25 such hearing, he shall be remanded to the sentencing
26 court for disposition according to the sentence imposed.

27 (3) If the court imposes a sentence of imprisonment
28 upon an offender who has a mental disability but does not
29 proceed under subparagraph (2) of paragraph (c) of this
30 Section, it shall order the Department of Corrections to
31 proceed pursuant to Section 3-8-5 of the Unified Code of
32 Corrections, as now or hereafter amended.

33 (4) If the court imposes a sentence of imprisonment
34 upon an offender who has a physical disability, it may

1 authorize the Department of Corrections to place the
2 offender in a public or private facility which is able to
3 provide care or treatment for the offender's disability
4 and which agrees to do so.

5 (5) When an offender is placed with the Department
6 of Human Services or another facility pursuant to
7 subparagraph (2) or (4) of this paragraph (c), the
8 Department or private facility shall not discharge or
9 allow the offender to be at large in the community
10 without prior approval of the court. If the defendant is
11 placed in the custody of the Department of Human
12 Services, the defendant shall be placed in a secure
13 setting unless the court determines that there are
14 compelling reasons why such placement is not necessary.
15 The offender shall accrue good time and shall be eligible
16 for parole in the same manner as if he were serving his
17 sentence within the Department of Corrections. When the
18 offender no longer requires hospitalization, care, or
19 treatment, the Department of Human Services or the
20 facility shall transfer him, if his sentence has not
21 expired, to the Department of Corrections. If an
22 offender is transferred to the Department of Corrections,
23 the Department of Human Services shall transfer to the
24 Department of Corrections all related records pertaining
25 to length of custody and treatment services provided
26 during the time the offender was held.

27 (6) The Department of Corrections shall notify the
28 Department of Human Services or a facility in which an
29 offender has been placed pursuant to subparagraph (2) or
30 (4) of paragraph (c) of this Section of the expiration of
31 his sentence. Thereafter, an offender in the Department
32 of Human Services shall continue to be treated pursuant
33 to his commitment order and shall be considered a civilly
34 committed patient for all purposes including discharge.

1 An offender who is in a facility pursuant to subparagraph
 2 (4) of paragraph (c) of this Section shall be informed by
 3 the facility of the expiration of his sentence, and shall
 4 either consent to the continuation of his care or
 5 treatment by the facility or shall be discharged.

6 (Source: P.A. 89-507, eff. 7-1-97.)

7 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

8 Sec. 113-3. (a) Every person charged with an offense
 9 shall be allowed counsel before pleading to the charge. If
 10 the defendant desires counsel and has been unable to obtain
 11 same before arraignment the court shall recess court or
 12 continue the cause for a reasonable time to permit defendant
 13 to obtain counsel and consult with him before pleading to the
 14 charge. If the accused is a dissolved corporation, and is not
 15 represented by counsel, the court may, in the interest of
 16 justice, appoint as counsel a licensed attorney of this
 17 State.

18 (b) In all cases, except where the penalty is a fine
 19 only, if the court determines that the defendant is indigent
 20 and desires counsel, the Public Defender shall be appointed
 21 as counsel. If there is no Public Defender in the county or
 22 if the defendant requests counsel other than the Public
 23 Defender and the court finds that the rights of the defendant
 24 will be prejudiced by the appointment of the Public Defender,
 25 the court shall appoint as counsel a licensed attorney at law
 26 of this State, except that in a county having a population of
 27 2,000,000 ~~1,000,000~~ or more the Public Defender shall be
 28 appointed as counsel in all misdemeanor cases where the
 29 defendant is indigent and desires counsel unless the case
 30 involves multiple defendants, in which case the court may
 31 appoint counsel other than the Public Defender for the
 32 additional defendants. The court shall require an affidavit
 33 signed by any defendant who requests court-appointed counsel.

1 Such affidavit shall be in the form established by the
2 Supreme Court containing sufficient information to ascertain
3 the assets and liabilities of that defendant. The Court may
4 direct the Clerk of the Circuit Court to assist the defendant
5 in the completion of the affidavit. Any person who knowingly
6 files such affidavit containing false information concerning
7 his assets and liabilities shall be liable to the county
8 where the case, in which such false affidavit is filed, is
9 pending for the reasonable value of the services rendered by
10 the public defender or other court-appointed counsel in the
11 case to the extent that such services were unjustly or
12 falsely procured.

13 (c) Upon the filing with the court of a verified
14 statement of services rendered the court shall order the
15 county treasurer of the county of trial to pay counsel other
16 than the Public Defender a reasonable fee. The court shall
17 consider all relevant circumstances, including but not
18 limited to the time spent while court is in session, other
19 time spent in representing the defendant, and expenses
20 reasonably incurred by counsel. In counties with a
21 population greater than 2,000,000, the court shall order the
22 county treasurer of the county of trial to pay counsel other
23 than the Public Defender a reasonable fee stated in the order
24 and based upon a rate of compensation of not more than \$40
25 for each hour spent while court is in session and not more
26 than \$30 for each hour otherwise spent representing a
27 defendant, and such compensation shall not exceed \$150 for
28 each defendant represented in misdemeanor cases and \$1250 in
29 felony cases, in addition to expenses reasonably incurred as
30 hereinafter in this Section provided, except that, in
31 extraordinary circumstances, payment in excess of the limits
32 herein stated may be made if the trial court certifies that
33 such payment is necessary to provide fair compensation for
34 protracted representation. A trial court may entertain the

1 filing of this verified statement before the termination of
2 the cause, and may order the provisional payment of sums
3 during the pendency of the cause.

4 (d) (Blank). ~~In-capital-cases, in-addition-to-counsel,~~
5 ~~if-the-court-determines-that-the-defendant-is-indigent-the~~
6 ~~court-may, upon-the-filing-with-the-court-of-a-verified~~
7 ~~statement-of-services-rendered, order-the-county-Treasurer-of~~
8 ~~the-county-of-trial-to-pay-necessary-expert-witnesses-for~~
9 ~~defendant-reasonable-compensation-stated-in-the-order-not-to~~
10 ~~exceed-\$250-for-each-defendant.~~

11 (e) If the court in any county having a population
12 greater than 2,000,000 ~~1,000,000~~ determines that the
13 defendant is indigent the court may, upon the filing with the
14 court of a verified statement of such expenses, order the
15 county treasurer of the county of trial, in such counties
16 having a population greater than 2,000,000 ~~1,000,000~~ to pay
17 the general expenses of the trial incurred by the defendant
18 not to exceed \$50 for each defendant.

19 (f) (Blank). ~~The-provisions-of-this-Section-relating-to~~
20 ~~appointment-of-counsel, compensation-of-counsel, and-payment~~
21 ~~of-expenses-in-capital-cases-apply-except-when-the~~
22 ~~compensation-and-expenses-are-being-provided-under-the~~
23 ~~Capital-Crimes-Litigation-Act.~~

24 (Source: P.A. 91-589, eff. 1-1-00.)

25 (725 ILCS 5/114-5) (from Ch. 38, par. 114-5)
26 Sec. 114-5. Substitution of judge.

27 (a) Within 10 days after a cause involving only one
28 defendant has been placed on the trial call of a judge the
29 defendant may move the court in writing for a substitution of
30 that judge on the ground that such judge is so prejudiced
31 against him that he cannot receive a fair trial. Upon the
32 filing of such a motion the court shall proceed no further in
33 the cause but shall transfer it to another judge not named in

1 the motion. The defendant may name only one judge as
2 prejudiced, pursuant to this subsection; provided, however,
3 that in a case in which the offense charged is a Class X
4 felony or may be punished by death-~~or~~ life imprisonment, the
5 defendant may name two judges as prejudiced.

6 (b) Within 24 hours after a motion is made for
7 substitution of judge in a cause with multiple defendants
8 each defendant shall have the right to move in accordance
9 with subsection (a) of this Section for a substitution of one
10 judge. The total number of judges named as prejudiced by all
11 defendants shall not exceed the total number of defendants.
12 The first motion for substitution of judge in a cause with
13 multiple defendants shall be made within 10 days after the
14 cause has been placed on the trial call of a judge.

15 (c) Within 10 days after a cause has been placed on the
16 trial call of a judge the State may move the court in writing
17 for a substitution of that judge on the ground that such
18 judge is prejudiced against the State. Upon the filing of
19 such a motion the court shall proceed no further in the cause
20 but shall transfer it to another judge not named in the
21 motion. The State may name only one judge as prejudiced,
22 pursuant to this subsection.

23 (d) In addition to the provisions of subsections (a),
24 (b) and (c) of this Section the State or any defendant may
25 move at any time for substitution of judge for cause,
26 supported by affidavit. Upon the filing of such motion a
27 hearing shall be conducted as soon as possible after its
28 filing by a judge not named in the motion; provided, however,
29 that the judge named in the motion need not testify, but may
30 submit an affidavit if the judge wishes. If the motion is
31 allowed, the case shall be assigned to a judge not named in
32 the motion. If the motion is denied the case shall be
33 assigned back to the judge named in the motion.

34 (Source: P.A. 84-1428.)

1 (725 ILCS 5/115-4) (from Ch. 38, par. 115-4)
2 Sec. 115-4. Trial by Court and Jury.) (a) Questions of
3 law shall be decided by the court and questions of fact by
4 the jury.

5 (b) The jury shall consist of 12 members.

6 (c) Upon request the parties shall be furnished with a
7 list of prospective jurors with their addresses if known.

8 (d) Each party may challenge jurors for cause. If a
9 prospective juror has a physical impairment, the court shall
10 consider such prospective juror's ability to perceive and
11 appreciate the evidence when considering a challenge for
12 cause.

13 (e) A defendant tried alone shall be allowed 20
14 ~~peremptory--challenges--in--a--capital--case,~~ 10 peremptory
15 challenges in a case in which the punishment may be
16 imprisonment in the penitentiary, and 5 in all other cases;
17 except that, in a single trial of more than one defendant,
18 each defendant shall be allowed ~~12-peremptory-challenges-in-a~~
19 ~~capital--case,~~ 6 peremptory challenges in a case in which the
20 punishment may be imprisonment in the penitentiary, and 3 in
21 all other cases. If several charges against a defendant or
22 defendants are consolidated for trial, each defendant shall
23 be allowed peremptory challenges upon one charge only, which
24 single charge shall be the charge against that defendant
25 authorizing the greatest maximum penalty. The State shall be
26 allowed the same number of peremptory challenges as all of
27 the defendants.

28 (f) After examination by the court the jurors may be
29 examined, passed upon, accepted and tendered by opposing
30 counsel as provided by Supreme Court rules.

31 (g) After the jury is impaneled and sworn the court may
32 direct the selection of 2 alternate jurors who shall take the
33 same oath as the regular jurors. Each party shall have one
34 additional peremptory challenge for each alternate juror. If

1 before the final submission of a cause a member of the jury
2 dies or is discharged he shall be replaced by an alternate
3 juror in the order of selection.

4 (h) A trial by the court and jury shall be conducted in
5 the presence of the defendant unless he waives the right to
6 be present.

7 (i) After arguments of counsel the court shall instruct
8 the jury as to the law.

9 (j) Unless the affirmative defense of insanity has been
10 presented during the trial, the jury shall return a general
11 verdict as to each offense charged. When the affirmative
12 defense of insanity has been presented during the trial, the
13 court shall provide the jury not only with general verdict
14 forms but also with a special verdict form of not guilty by
15 reason of insanity, as to each offense charged, and in such
16 event the court shall separately instruct the jury that a
17 special verdict of not guilty by reason of insanity may be
18 returned instead of a general verdict but such special
19 verdict requires a unanimous finding by the jury that the
20 defendant committed the acts charged but at the time of the
21 commission of those acts the defendant was insane. In the
22 event of a verdict of not guilty by reason of insanity, a
23 hearing shall be held pursuant to the Mental Health and
24 Developmental Disabilities Code to determine whether the
25 defendant is subject to involuntary admission. When the
26 affirmative defense of insanity has been presented during the
27 trial, the court, where warranted by the evidence, shall also
28 provide the jury with a special verdict form of guilty but
29 mentally ill, as to each offense charged and shall separately
30 instruct the jury that a special verdict of guilty but
31 mentally ill may be returned instead of a general verdict,
32 but that such special verdict requires a unanimous finding by
33 the jury that: (1) the State has proven beyond a reasonable
34 doubt that the defendant is guilty of the offense charged;

1 and (2) the defendant has failed to prove his insanity as
2 required in subsection (b) of Section 3-2 of the Criminal
3 Code of 1961, as amended, and subsections (a), (b) and (e) of
4 Section 6-2 of the Criminal Code of 1961, as amended; and (3)
5 the defendant has proven by a preponderance of the evidence
6 that he was mentally ill, as defined in subsections (c) and
7 (d) of Section 6-2 of the Criminal Code of 1961, as amended,
8 at the time of the offense.

9 (k) When, at the close of the State's evidence or at the
10 close of all of the evidence, the evidence is insufficient to
11 support a finding or verdict of guilty the court may and on
12 motion of the defendant shall make a finding or direct the
13 jury to return a verdict of not guilty, enter a judgment of
14 acquittal and discharge the defendant.

15 (l) When the jury retires to consider its verdict an
16 officer of the court shall be appointed to keep them together
17 and to prevent conversation between the jurors and others;
18 however, if any juror is deaf, the jury may be accompanied by
19 and may communicate with a court-appointed interpreter during
20 its deliberations. Upon agreement between the State and
21 defendant or his counsel the jury may seal and deliver its
22 verdict to the clerk of the court, separate, and then return
23 such verdict in open court at its next session.

24 (m) In the trial of an ~~a-capital-or-ether~~ offense, any
25 juror who is a member of a panel or jury which has been
26 impaneled and sworn as a panel or as a jury shall be
27 permitted to separate from other such jurors during every
28 period of adjournment to a later day, until final submission
29 of the cause to the jury for determination, except that no
30 such separation shall be permitted in any trial after the
31 court, upon motion by the defendant or the State or upon its
32 own motion, finds a probability that prejudice to the
33 defendant or to the State will result from such separation.

34 (n) The members of the jury shall be entitled to take

1 notes during the trial, and the sheriff of the county in
2 which the jury is sitting shall provide them with writing
3 materials for this purpose. Such notes shall remain
4 confidential, and shall be destroyed by the sheriff after the
5 verdict has been returned or a mistrial declared.

6 (o) A defendant tried by the court and jury shall only
7 be found guilty, guilty but mentally ill, not guilty or not
8 guilty by reason of insanity, upon the unanimous verdict of
9 the jury.

10 (Source: P.A. 86-392.)

11 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)

12 Sec. 115-4.1. Absence of defendant.

13 (a) When a defendant after arrest and an initial court
14 appearance for a ~~non-capital~~ felony or a misdemeanor, fails
15 to appear for trial, at the request of the State and after
16 the State has affirmatively proven through substantial
17 evidence that the defendant is willfully avoiding trial, the
18 court may commence trial in the absence of the defendant.
19 Absence of a defendant as specified in this Section shall not
20 be a bar to indictment of a defendant, return of information
21 against a defendant, or arraignment of a defendant for the
22 charge for which bail has been granted. If a defendant fails
23 to appear at arraignment, the court may enter a plea of "not
24 guilty" on his behalf. ~~If-a-defendant-absents-himself-before~~
25 ~~trial-on-a-capital-felony,-trial-may-proceed-as-specified--in~~
26 ~~this--Section--provided-that-the-State-certifies-that-it-will~~
27 ~~not-see-a-death-sentence-following-conviction.~~ Trial in the
28 defendant's absence shall be by jury unless the defendant had
29 previously waived trial by jury. The absent defendant must
30 be represented by retained or appointed counsel. The court,
31 at the conclusion of all of the proceedings, may order the
32 clerk of the circuit court to pay counsel such sum as the
33 court deems reasonable, from any bond monies which were

1 posted by the defendant with the clerk, after the clerk has
2 first deducted all court costs. If trial had previously
3 commenced in the presence of the defendant and the defendant
4 willfully absents himself for two successive court days, the
5 court shall proceed to trial. All procedural rights
6 guaranteed by the United States Constitution, Constitution of
7 the State of Illinois, statutes of the State of Illinois, and
8 rules of court shall apply to the proceedings the same as if
9 the defendant were present in court and had not either
10 forfeited his bail bond or escaped from custody. The court
11 may set the case for a trial which may be conducted under
12 this Section despite the failure of the defendant to appear
13 at the hearing at which the trial date is set. When such
14 trial date is set the clerk shall send to the defendant, by
15 certified mail at his last known address indicated on his
16 bond slip, notice of the new date which has been set for
17 trial. Such notification shall be required when the
18 defendant was not personally present in open court at the
19 time when the case was set for trial.

20 (b) The absence of a defendant from a trial conducted
21 pursuant to this Section does not operate as a bar to
22 concluding the trial, to a judgment of conviction resulting
23 therefrom, or to a final disposition of the trial in favor of
24 the defendant.

25 (c) Upon a verdict of not guilty, the court shall enter
26 judgment for the defendant. Upon a verdict of guilty, the
27 court shall set a date for the hearing of post-trial motions
28 and shall hear such motion in the absence of the defendant.
29 If post-trial motions are denied, the court shall proceed to
30 conduct a sentencing hearing and to impose a sentence upon
31 the defendant.

32 (d) A defendant who is absent for part of the
33 proceedings of trial, post-trial motions, or sentencing, does
34 not thereby forfeit his right to be present at all remaining

1 proceedings.

2 (e) When a defendant who in his absence has been either
 3 convicted or sentenced or both convicted and sentenced
 4 appears before the court, he must be granted a new trial or
 5 new sentencing hearing if the defendant can establish that
 6 his failure to appear in court was both without his fault and
 7 due to circumstances beyond his control. A hearing with
 8 notice to the State's Attorney on the defendant's request for
 9 a new trial or a new sentencing hearing must be held before
 10 any such request may be granted. At any such hearing both
 11 the defendant and the State may present evidence.

12 (f) If the court grants only the defendant's request for
 13 a new sentencing hearing, then a new sentencing hearing
 14 shall be held in accordance with the provisions of the
 15 Unified Code of Corrections. At any such hearing, both the
 16 defendant and the State may offer evidence of the defendant's
 17 conduct during his period of absence from the court. The
 18 court may impose any sentence authorized by the Unified Code
 19 of Corrections and is not in any way limited or restricted by
 20 any sentence previously imposed.

21 (g) A defendant whose motion under paragraph (e) for a
 22 new trial or new sentencing hearing has been denied may file
 23 a notice of appeal therefrom. Such notice may also include a
 24 request for review of the judgment and sentence not vacated
 25 by the trial court.

26 (Source: P.A. 90-787, eff. 8-14-98.)

27 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

28 Sec. 119-5. Execution of Death Sentence. On or after the
 29 effective date of this amendatory Act of the 93rd General
 30 Assembly, no person may be executed in this State.

31 ~~(a)-(1)--A-defendant-sentenced--to--death--shall--be~~
 32 ~~executed--by--an--intravenous--administration--of--a--lethal~~
 33 ~~quantity---of---an---ultrashort-acting---barbiturate---in~~

1 combination-with-a-chemical-paralytic-agent-and-potassium
 2 chloride-or-other-equally-effective-substances-sufficient
 3 to-cause-death-until-death-is-pronounced--by--a--licensed
 4 physician--according--to--accepted--standards--of-medical
 5 practice.

6 (2)--If-the-execution-of-the-sentence--of--death--as
 7 provided---in---paragraph---(1)---is---held---illegal--or
 8 unconstitutional--by--a--reviewing--court--of---competent
 9 jurisdiction,--the-sentence-of-death-shall-be-carried-out
 10 by-electrocution.

11 (b)--In-pronouncing-the-sentence-of-death-the-court-shall
 12 set-the-date-of-the-execution-which-shall-be-not-less-than-60
 13 nor-more-than-90-days-from-the-date-sentence-is-pronounced.

14 (c)--A--sentence--of--death--shall--be--executed---at---a
 15 Department-of-Corrections-facility.

16 (d)--The--warden-of-the-penitentiary-shall-supervise-such
 17 execution,--which-shall-be-conducted--in--the--presence--of--6
 18 witnesses--who--shall--certify-the-execution-of-the-sentence.
 19 The-certification-shall-be-filed-with-the-clerk-of-the--court
 20 that-imposed-the-sentence.

21 (e)--The--identity--of-executioners-and-other-persons-who
 22 participate-or-perform-ancillary-functions--in--an--execution
 23 and--information--contained--in--records--that-would-identify
 24 those-persons-shall-remain-confidential,--shall-not-be-subject
 25 to-disclosure,--and-shall-not-be-admissible-as-evidence-or--be
 26 discoverable-in-any-action-of-any-kind-in-any-court-or-before
 27 any--tribunal,--board,--agency,--or-person.--In-order-to-protect
 28 the-confidentiality-of-persons-participating-in-an-execution,
 29 the-Director-of-Corrections-may-direct--that--the--Department
 30 make-payments-in-cash-for-such-services.

31 (f)--The--amendatory-changes-to-this-Section-made-by-this
 32 amendatory-Act-of-1991-are-severable-under--Section--1.31--of
 33 the-Statute-on-Statutes.

34 (g)--Notwithstanding---any---other---provision---of--law,

1 assistance, participation in, or the performance of ancillary
2 or other functions pursuant to this Section, including but
3 not limited to the administration of the lethal substance or
4 substances required by this Section, shall not be construed
5 to constitute the practice of medicine.

6 (h) Notwithstanding any other provision of law, any
7 pharmacist or pharmaceutical supplier is authorized to
8 dispense drugs to the Director of Corrections or his or her
9 designee, without prescription, in order to carry out the
10 provisions of this Section.

11 (Source: P.A. 89-8, eff. 3-21-95.)

12 (725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

13 Sec. 121-13. Pauper Appeals.

14 (a) In any case wherein the defendant was convicted of a
15 felony, if the court determines that the defendant desires
16 counsel on appeal but is indigent the Public Defender or the
17 State Appellate Defender shall be appointed as counsel,
18 unless with the consent of the defendant and for good cause
19 shown, the court may appoint counsel other than the Public
20 Defender or the State Appellate Defender.

21 (b) In any case wherein the defendant was convicted of a
22 felony and a sentence of death was not imposed in the trial
23 court the reviewing court, upon petition of the defendant's
24 counsel made not more frequently than every 60 days after
25 appointment, shall determine a reasonable amount to be
26 allowed an indigent defendant's counsel other than the Public
27 Defender or the State Appellate Defender for compensation and
28 reimbursement of expenditures necessarily incurred in the
29 prosecution of the appeal or review proceedings. The
30 compensation shall not exceed \$1500 in each case, except
31 that, in extraordinary circumstances, payment in excess of
32 the limits herein stated may be made if the reviewing court
33 certifies that the payment is necessary to provide fair

1 compensation for protracted representation. The reviewing
2 court shall enter an order directing the county treasurer of
3 the county where the case was tried to pay the amount allowed
4 by the court. The reviewing court may order the provisional
5 payment of sums during the pendency of the cause.

6 (c) In any case in which a sentence of death was imposed
7 in the trial court before the effective date of this
8 amendatory Act of the 93rd General Assembly, the Supreme
9 Court, upon written petition of the defendant's counsel made
10 not more than every 60 days after appointment, shall
11 determine reasonable compensation for an indigent defendant's
12 attorneys on appeal. The compensation shall not exceed \$2,000
13 in each case, except that, in extraordinary circumstances,
14 payment in excess of the limits herein stated may be made if
15 the reviewing court certifies that the payment is necessary
16 to provide fair compensation for protracted representation.
17 The Supreme Court shall enter an order directing the county
18 treasurer of the county where the case was tried to pay
19 compensation and reimburse expenditures necessarily incurred
20 in the prosecution of the appeal or review proceedings. The
21 Supreme Court may order the provisional payment of sums
22 during the pendency of the cause.

23 (Source: P.A. 86-318; 87-580.)

24 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

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

26 (a) Any person imprisoned in the penitentiary who
27 asserts that in the proceedings which resulted in his or her
28 conviction there was a substantial denial of his or her
29 rights under the Constitution of the United States or of the
30 State of Illinois or both may institute a proceeding under
31 this Article.

32 (b) The proceeding shall be commenced by filing with the
33 clerk of the court in which the conviction took place a

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

8 (c) No proceedings under this Article shall be commenced
9 more than 6 months after the denial of a petition for leave
10 to appeal or the date for filing such a petition if none is
11 filed or more than 45 days after the defendant files his or
12 her brief in the appeal of the sentence before the Illinois
13 Supreme Court (or more than 45 days after the deadline for
14 the filing of the defendant's brief with the Illinois Supreme
15 Court if no brief is filed) or 3 years from the date of
16 conviction, whichever is sooner, unless the petitioner
17 alleges facts showing that the delay was not due to his or
18 her culpable negligence.

19 (d) A person seeking relief by filing a petition under
20 this Section must specify in the petition or its heading that
21 it is filed under this Section. A trial court that has
22 received a petition complaining of a conviction or sentence
23 that fails to specify in the petition or its heading that it
24 is filed under this Section need not evaluate the petition to
25 determine whether it could otherwise have stated some grounds
26 for relief under this Article.

27 (e) (Blank). ~~A proceeding under this Article may not be~~
28 ~~commenced on behalf of a defendant who has been sentenced to~~
29 ~~death without the written consent of the defendant, unless~~
30 ~~the defendant, because of a mental or physical condition, is~~
31 ~~incapable of asserting his or her own claim.~~

32 (Source: P.A. 89-284, eff. 1-1-96; 89-609, eff. 1-1-97;
33 89-684, eff. 6-1-97; 90-14, eff. 7-1-97.)

1 (725 ILCS 5/122-2.1) (from Ch. 38, par. 122-2.1)

2 Sec. 122-2.1. (a) Within 90 days after the filing and
3 docketing of each petition, the court shall examine such
4 petition and enter an order thereon pursuant to this Section.

5 (1) If the petitioner is under sentence of death
6 imposed before the effective date of this amendatory Act
7 of the 93rd General Assembly and is without counsel and
8 alleges that he is without means to procure counsel, he
9 shall state whether or not he wishes counsel to be
10 appointed to represent him. If appointment of counsel is
11 so requested, the court shall appoint counsel if
12 satisfied that the petitioner has no means to procure
13 counsel.

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

22 (b) If the petition is not dismissed pursuant to this
23 Section, the court shall order the petition to be docketed
24 for further consideration in accordance with Sections 122-4
25 through 122-6.

26 (c) In considering a petition pursuant to this Section,
27 the court may examine the court file of the proceeding in
28 which the petitioner was convicted, any action taken by an
29 appellate court in such proceeding and any transcripts of
30 such proceeding.

31 (Source: P.A. 86-655; 87-904.)

32 (725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

33 Sec. 122-4. Pauper Petitions. If the petition is not

1 dismissed pursuant to Section 122-2.1, and alleges that the
2 petitioner is unable to pay the costs of the proceeding, the
3 court may order that the petitioner be permitted to proceed
4 as a poor person and order a transcript of the proceedings
5 delivered to petitioner in accordance with Rule of the
6 Supreme Court. If the petitioner is without counsel and
7 alleges that he is without means to procure counsel, he shall
8 state whether or not he wishes counsel to be appointed to
9 represent him. If appointment of counsel is so requested,
10 and the petition is not dismissed pursuant to Section
11 122-2.1, the court shall appoint counsel if satisfied that
12 the petitioner has no means to procure counsel. A petitioner
13 who is a prisoner in an Illinois Department of Corrections
14 facility who files a pleading, motion, or other filing that
15 purports to be a legal document seeking post-conviction
16 relief under this Article against the State, the Illinois
17 Department of Corrections, the Prisoner Review Board, or any
18 of their officers or employees in which the court makes a
19 specific finding that the pleading, motion, or other filing
20 that purports to be a legal document is frivolous shall not
21 proceed as a poor person and shall be liable for the full
22 payment of filing fees and actual court costs as provided in
23 Article XXII of the Code of Civil Procedure.

24 A Circuit Court or the Illinois Supreme Court may appoint
25 the State Appellate Defender to provide post-conviction
26 representation in a case in which the defendant was is
27 sentenced to death before the effective date of this
28 amendatory Act of the 93rd General Assembly. Any attorney
29 assigned by the Office of the State Appellate Defender to
30 provide post-conviction representation for indigent
31 defendants in cases in which a sentence of death was imposed
32 in the trial court may, from time to time submit bills and
33 time sheets to the Office of the State Appellate Defender for
34 payment of services rendered and the Office of the State

1 Appellate Defender shall pay bills from funds appropriated
2 for this purpose in accordance with rules promulgated by the
3 State Appellate Defender.

4 The court, at the conclusion of the proceedings upon
5 receipt of a petition by the appointed counsel, shall
6 determine a reasonable amount to be allowed an indigent
7 defendant's counsel other than the Public Defender or the
8 State Appellate Defender for compensation and reimbursement
9 of expenditures necessarily incurred in the proceedings. The
10 compensation shall not exceed \$500 in each case, except that,
11 in extraordinary circumstances, payment in excess of the
12 limits herein stated may be made if the trial court certifies
13 that the payment is necessary to provide fair compensation
14 for protracted representation, and the amount is approved by
15 the chief judge of the circuit. The court shall enter an
16 order directing the county treasurer of the county where the
17 case was tried to pay the amount thereby allowed by the
18 court. The court may order the provisional payment of sums
19 during the pendency of the cause.

20 (Source: P.A. 90-505, eff. 8-19-97.)

21 Section 50. The State Appellate Defender Act is amended
22 by changing Sections 10 and 10.5 as follows:

23 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

24 Sec. 10. Powers and duties of State Appellate Defender.

25 (a) The State Appellate Defender shall represent
26 indigent persons on appeal in criminal and delinquent minor
27 proceedings, when appointed to do so by a court under a
28 Supreme Court Rule or law of this State.

29 (b) The State Appellate Defender shall submit a budget
30 for the approval of the State Appellate Defender Commission.

31 (c) The State Appellate Defender may:

32 (1) maintain a panel of private attorneys available

1 to serve as counsel on a case basis;

2 (2) establish programs, alone or in conjunction
3 with law schools, for the purpose of utilizing volunteer
4 law students as legal assistants;

5 (3) cooperate and consult with state agencies,
6 professional associations, and other groups concerning
7 the causes of criminal conduct, the rehabilitation and
8 correction of persons charged with and convicted of
9 crime, the administration of criminal justice, and, in
10 counties of less than 1,000,000 population, study,
11 design, develop and implement model systems for the
12 delivery of trial level defender services, and make an
13 annual report to the General Assembly;

14 (4) provide investigative services to appointed
15 counsel and county public defenders;

16 (5) (blank). ~~in-cases-in-which-a-death-sentence--is~~
17 ~~an-authorized-disposition, provide-trial-counsel-with-the~~
18 ~~assistance---of---expert--witnesses,--investigators,--and~~
19 ~~mitigation-specialists-from--funds--appropriated--to--the~~
20 ~~State-Appellate-Defender-specifically-for-that-purpose-by~~
21 ~~the--General--Assembly.---The--Office--of-State-Appellate~~
22 ~~Defender-shall-not-be-appointed-to-serve-as-trial-counsel~~
23 ~~in-capital-cases.~~

24 (d) (Blank). ~~For--each--State--fiscal--year,--the--State~~
25 ~~Appellate--Defender--shall-appear-before-the-General-Assembly~~
26 ~~and-request--appropriations--to--be--made--from--the--Capital~~
27 ~~Litigation--Trust-Fund-to-the-State-Treasurer-for-the-purpose~~
28 ~~of-providing-defense-assistance-in-capital-cases--outside--of~~
29 ~~Cook--County.--The-State-Appellate-Defender-may-appear-before~~
30 ~~the-General-Assembly-at-other-times-during-the-State's-fiscal~~
31 ~~year-to-request-supplemental-appropriations--from--the--Trust~~
32 ~~Fund-to-the-State-Treasurer.~~

33 (e) The requirement for reporting to the General
34 Assembly shall be satisfied by filing copies of the report

1 with the Speaker, the Minority Leader and the Clerk of the
2 House of Representatives and the President, the Minority
3 Leader and the Secretary of the Senate and the Legislative
4 Research Unit, as required by Section 3.1 of the General
5 Assembly Organization Act and filing such additional copies
6 with the State Government Report Distribution Center for the
7 General Assembly as is required under paragraph (t) of
8 Section 7 of the State Library Act.

9 (Source: P.A. 91-589, eff. 1-1-00.)

10 (725 ILCS 105/10.5)

11 Sec. 10.5. Competitive bidding for appellate services.

12 (a) The State Appellate Defender may, to the extent
13 necessary to dispose of its backlog of indigent criminal
14 appeals, institute a competitive bidding program under which
15 contracts for the services of attorneys in ~~non-death-penalty~~
16 criminal appeals are awarded to the lowest responsible
17 bidder.

18 (b) The State Appellate Defender, before letting out
19 bids for contracts for the services of attorneys to represent
20 indigent defendants on appeal in criminal cases, shall
21 advertise the letting of the bids in a publication or
22 publications of the Illinois State Bar Association, the
23 Chicago Daily Law Bulletin, and the Chicago Lawyer. The
24 State Appellate Defender shall also advertise the letting of
25 the bids in newspapers of general circulation in major
26 municipalities to be determined by the State Appellate
27 Defender. The State Appellate Defender shall mail notices of
28 the letting of the bids to county and local bar associations.

29 (c) Bids may be let in packages of one to 5, appeals.
30 Additional cases may be assigned, in the discretion of the
31 State Appellate Defender, after a successful bidder completes
32 work on existing packages.

33 (d) A bid for services of an attorney under this Section

1 shall be let only to an attorney licensed to practice law in
 2 Illinois who has prior criminal appellate experience or to an
 3 attorney who is a member or employee of a law firm which has
 4 at least one member with that experience. Prospective bidders
 5 must furnish legal writing samples that are deemed acceptable
 6 to the State Appellate Defender.

7 (e) An attorney who is awarded a contract under this
 8 Section shall communicate with each of his or her clients and
 9 shall file each initial brief before the due date established
 10 by Supreme Court Rule or by the Appellate Court. The State
 11 Appellate Defender may rescind the contract for attorney
 12 services and may require the return of the record on appeal
 13 if the contracted attorney fails to make satisfactory
 14 progress, in the opinion of the State Appellate Defender,
 15 toward filing a brief.

16 (f) Gross compensation for completing of a case shall be
 17 \$40 per hour but shall not exceed \$2,000 per case. The
 18 contract shall specify the manner of payment.

19 (g) (Blank).

20 (h) (Blank).

21 (Source: P.A. 89-689, eff. 12-31-96; 90-505, eff. 8-19-97.)

22 (725 ILCS 124/Act rep.)

23 Section 55. The Capital Crimes Litigation Act is
 24 repealed on July 1, 2003.

25 Section 60. The Uniform Criminal Extradition Act is
 26 amended by changing Section 5 as follows:

27 (725 ILCS 235/5) (from Ch. 38, par. 157-5)

28 Sec. 5. Exceptions.

29 This act does not apply to any person in this State
 30 confined as mentally ill ~~or~~ in need of mental treatment ~~or~~
 31 ~~under-sentence-of-death.~~

1 (Source: Laws 1963, p. 2171.)

2 Section 65. The Unified Code of Corrections is amended
3 by changing Sections 3-3-13, 3-8-10, 3-6-3, 5-1-9, 5-4-1,
4 5-5-3, 5-8-1, 5-8-4, and 5-8-5 as follows:

5 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

6 Sec. 3-3-13. Procedure for Executive Clemency.

7 (a) Petitions seeking pardon, commutation, or reprieve
8 shall be addressed to the Governor and filed with the
9 Prisoner Review Board. The petition shall be in writing and
10 signed by the person under conviction or by a person on his
11 behalf. It shall contain a brief history of the case, the
12 reasons for seeking executive clemency, and other relevant
13 information the Board may require.

14 (a-5) After a petition has been denied by the Governor,
15 the Board may not accept a repeat petition for executive
16 clemency for the same person until one full year has elapsed
17 from the date of the denial. The Chairman of the Board may
18 waive the one-year requirement if the petitioner offers in
19 writing new information that was unavailable to the
20 petitioner at the time of the filing of the prior petition
21 and which the Chairman determines to be significant. The
22 Chairman also may waive the one-year waiting period if the
23 petitioner can show that a change in circumstances of a
24 compelling humanitarian nature has arisen since the denial of
25 the prior petition.

26 (b) Notice of the proposed application shall be given by
27 the Board to the committing court and the state's attorney of
28 the county where the conviction was had.

29 (c) The Board shall, if requested and upon due notice,
30 give a hearing to each application, allowing representation
31 by counsel, if desired, after which it shall confidentially
32 advise the Governor by a written report of its

1 recommendations which shall be determined by majority vote.
2 The Board shall meet to consider such petitions no less than
3 4 times each year.

4 ~~Application for executive clemency under this Section may~~
5 ~~not be commenced on behalf of a person who has been sentenced~~
6 ~~to death without the written consent of the defendant, unless~~
7 ~~the defendant, because of a mental or physical condition, is~~
8 ~~incapable of asserting his or her own claim.~~

9 (d) The Governor shall decide each application and
10 communicate his decision to the Board which shall notify the
11 petitioner.

12 In the event a petitioner who has been convicted of a
13 Class X felony is granted a release, after the Governor has
14 communicated such decision to the Board, the Board shall give
15 written notice to the Sheriff of the county from which the
16 offender was sentenced if such sheriff has requested that
17 such notice be given on a continuing basis. In cases where
18 arrest of the offender or the commission of the offense took
19 place in any municipality with a population of more than
20 10,000 persons, the Board shall also give written notice to
21 the proper law enforcement agency for said municipality which
22 has requested notice on a continuing basis.

23 (e) Nothing in this Section shall be construed to limit
24 the power of the Governor under the constitution to grant a
25 reprieve, commutation of sentence, or pardon.

26 (Source: P.A. 89-112, eff. 7-7-95; 89-684, eff. 6-1-97.)

27 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

28 Sec. 3-8-10. Intrastate Detainers. ~~Except for persons~~
29 ~~sentenced to death,~~ Subsection (b), (c) and (e) of Section
30 103-5 of the Code of Criminal Procedure of 1963 shall also
31 apply to persons committed to any institution or facility or
32 program of the Illinois Department of Corrections who have
33 untried complaints, charges or indictments pending in any

1 county of this State, and such person shall include in the
2 demand under subsection (b), a statement of the place of
3 present commitment, the term, and length of the remaining
4 term, the charges pending against him or her to be tried and
5 the county of the charges, and the demand shall be addressed
6 to the state's attorney of the county where he or she is
7 charged with a copy to the clerk of that court and a copy to
8 the chief administrative officer of the Department of
9 Corrections institution or facility to which he or she is
10 committed. The state's attorney shall then procure the
11 presence of the defendant for trial in his county by habeas
12 corpus. Additional time may be granted by the court for the
13 process of bringing and serving an order of habeas corpus ad
14 prosequendum. In the event that the person is not brought to
15 trial within the allotted time, then the charge for which he
16 or she has requested a speedy trial shall be dismissed.

17 (Source: P.A. 83-346.)

18 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

19 Sec. 3-6-3. Rules and Regulations for Early Release.

20 (a) (1) The Department of Corrections shall
21 prescribe rules and regulations for the early release on
22 account of good conduct of persons committed to the
23 Department which shall be subject to review by the
24 Prisoner Review Board.

25 (2) The rules and regulations on early release
26 shall provide, with respect to offenses committed on or
27 after June 19, 1998, the following:

28 (i) that a prisoner who is serving a term of
29 imprisonment for first degree murder or for the
30 offense of terrorism shall receive no good conduct
31 credit and shall serve the entire sentence imposed
32 by the court;

33 (ii) that a prisoner serving a sentence for

1 attempt to commit first degree murder, solicitation
2 of murder, solicitation of murder for hire,
3 intentional homicide of an unborn child, predatory
4 criminal sexual assault of a child, aggravated
5 criminal sexual assault, criminal sexual assault,
6 aggravated kidnapping, aggravated battery with a
7 firearm, heinous battery, aggravated battery of a
8 senior citizen, or aggravated battery of a child
9 shall receive no more than 4.5 days of good conduct
10 credit for each month of his or her sentence of
11 imprisonment; and

12 (iii) that a prisoner serving a sentence for
13 home invasion, armed robbery, aggravated vehicular
14 hijacking, aggravated discharge of a firearm, or
15 armed violence with a category I weapon or category
16 II weapon, when the court has made and entered a
17 finding, pursuant to subsection (c-1) of Section
18 5-4-1 of this Code, that the conduct leading to
19 conviction for the enumerated offense resulted in
20 great bodily harm to a victim, shall receive no more
21 than 4.5 days of good conduct credit for each month
22 of his or her sentence of imprisonment.

23 (2.1) For all offenses, other than those enumerated
24 in subdivision (a)(2) committed on or after June 19,
25 1998, and other than the offense of reckless homicide as
26 defined in subsection (e) of Section 9-3 of the Criminal
27 Code of 1961 committed on or after January 1, 1999, the
28 rules and regulations shall provide that a prisoner who
29 is serving a term of imprisonment shall receive one day
30 of good conduct credit for each day of his or her
31 sentence of imprisonment or recommitment under Section
32 3-3-9. Each day of good conduct credit shall reduce by
33 one day the prisoner's period of imprisonment or
34 recommitment under Section 3-3-9.

1 (2.2) A prisoner serving a term of natural life
2 imprisonment ~~or a prisoner who has been sentenced to~~
3 death shall receive no good conduct credit.

4 (2.3) The rules and regulations on early release
5 shall provide that a prisoner who is serving a sentence
6 for reckless homicide as defined in subsection (e) of
7 Section 9-3 of the Criminal Code of 1961 committed on or
8 after January 1, 1999 shall receive no more than 4.5 days
9 of good conduct credit for each month of his or her
10 sentence of imprisonment.

11 (2.4) The rules and regulations on early release
12 shall provide with respect to the offenses of aggravated
13 battery with a machine gun or a firearm equipped with any
14 device or attachment designed or used for silencing the
15 report of a firearm or aggravated discharge of a machine
16 gun or a firearm equipped with any device or attachment
17 designed or used for silencing the report of a firearm,
18 committed on or after the effective date of this
19 amendatory Act of 1999, that a prisoner serving a
20 sentence for any of these offenses shall receive no more
21 than 4.5 days of good conduct credit for each month of
22 his or her sentence of imprisonment.

23 (2.5) The rules and regulations on early release
24 shall provide that a prisoner who is serving a sentence
25 for aggravated arson committed on or after the effective
26 date of this amendatory Act of the 92nd General Assembly
27 shall receive no more than 4.5 days of good conduct
28 credit for each month of his or her sentence of
29 imprisonment.

30 (3) The rules and regulations shall also provide
31 that the Director may award up to 180 days additional
32 good conduct credit for meritorious service in specific
33 instances as the Director deems proper; except that no
34 more than 90 days of good conduct credit for meritorious

1 service shall be awarded to any prisoner who is serving a
2 sentence for conviction of first degree murder, reckless
3 homicide while under the influence of alcohol or any
4 other drug, aggravated kidnapping, kidnapping, predatory
5 criminal sexual assault of a child, aggravated criminal
6 sexual assault, criminal sexual assault, deviate sexual
7 assault, aggravated criminal sexual abuse, aggravated
8 indecent liberties with a child, indecent liberties with
9 a child, child pornography, heinous battery, aggravated
10 battery of a spouse, aggravated battery of a spouse with
11 a firearm, stalking, aggravated stalking, aggravated
12 battery of a child, endangering the life or health of a
13 child, cruelty to a child, or narcotic racketeering.
14 Notwithstanding the foregoing, good conduct credit for
15 meritorious service shall not be awarded on a sentence of
16 imprisonment imposed for conviction of: (i) one of the
17 offenses enumerated in subdivision (a)(2) when the
18 offense is committed on or after June 19, 1998, (ii)
19 reckless homicide as defined in subsection (e) of Section
20 9-3 of the Criminal Code of 1961 when the offense is
21 committed on or after January 1, 1999, (iii) one of the
22 offenses enumerated in subdivision (a)(2.4) when the
23 offense is committed on or after the effective date of
24 this amendatory Act of 1999, or (iv) aggravated arson
25 when the offense is committed on or after the effective
26 date of this amendatory Act of the 92nd General Assembly.

27 (4) The rules and regulations shall also provide
28 that the good conduct credit accumulated and retained
29 under paragraph (2.1) of subsection (a) of this Section
30 by any inmate during specific periods of time in which
31 such inmate is engaged full-time in substance abuse
32 programs, correctional industry assignments, or
33 educational programs provided by the Department under
34 this paragraph (4) and satisfactorily completes the

1 assigned program as determined by the standards of the
2 Department, shall be multiplied by a factor of 1.25 for
3 program participation before August 11, 1993 and 1.50 for
4 program participation on or after that date. However, no
5 inmate shall be eligible for the additional good conduct
6 credit under this paragraph (4) while assigned to a boot
7 camp, mental health unit, or electronic detention, or if
8 convicted of an offense enumerated in paragraph (a)(2) of
9 this Section that is committed on or after June 19, 1998,
10 or if convicted of reckless homicide as defined in
11 subsection (e) of Section 9-3 of the Criminal Code of
12 1961 if the offense is committed on or after January 1,
13 1999, or if convicted of an offense enumerated in
14 paragraph (a)(2.4) of this Section that is committed on
15 or after the effective date of this amendatory Act of
16 1999, or first degree murder, a Class X felony, criminal
17 sexual assault, felony criminal sexual abuse, aggravated
18 criminal sexual abuse, aggravated battery with a firearm,
19 or any predecessor or successor offenses with the same or
20 substantially the same elements, or any inchoate offenses
21 relating to the foregoing offenses. No inmate shall be
22 eligible for the additional good conduct credit under
23 this paragraph (4) who (i) has previously received
24 increased good conduct credit under this paragraph (4)
25 and has subsequently been convicted of a felony, or (ii)
26 has previously served more than one prior sentence of
27 imprisonment for a felony in an adult correctional
28 facility.

29 Educational, vocational, substance abuse and
30 correctional industry programs under which good conduct
31 credit may be increased under this paragraph (4) shall be
32 evaluated by the Department on the basis of documented
33 standards. The Department shall report the results of
34 these evaluations to the Governor and the General

1 Assembly by September 30th of each year. The reports
2 shall include data relating to the recidivism rate among
3 program participants.

4 Availability of these programs shall be subject to
5 the limits of fiscal resources appropriated by the
6 General Assembly for these purposes. Eligible inmates
7 who are denied immediate admission shall be placed on a
8 waiting list under criteria established by the
9 Department. The inability of any inmate to become engaged
10 in any such programs by reason of insufficient program
11 resources or for any other reason established under the
12 rules and regulations of the Department shall not be
13 deemed a cause of action under which the Department or
14 any employee or agent of the Department shall be liable
15 for damages to the inmate.

16 (5) Whenever the Department is to release any
17 inmate earlier than it otherwise would because of a grant
18 of good conduct credit for meritorious service given at
19 any time during the term, the Department shall give
20 reasonable advance notice of the impending release to the
21 State's Attorney of the county where the prosecution of
22 the inmate took place.

23 (b) Whenever a person is or has been committed under
24 several convictions, with separate sentences, the sentences
25 shall be construed under Section 5-8-4 in granting and
26 forfeiting of good time.

27 (c) The Department shall prescribe rules and regulations
28 for revoking good conduct credit, or suspending or reducing
29 the rate of accumulation of good conduct credit for specific
30 rule violations, during imprisonment. These rules and
31 regulations shall provide that no inmate may be penalized
32 more than one year of good conduct credit for any one
33 infraction.

34 When the Department seeks to revoke, suspend or reduce

1 the rate of accumulation of any good conduct credits for an
2 alleged infraction of its rules, it shall bring charges
3 therefor against the prisoner sought to be so deprived of
4 good conduct credits before the Prisoner Review Board as
5 provided in subparagraph (a)(4) of Section 3-3-2 of this
6 Code, if the amount of credit at issue exceeds 30 days or
7 when during any 12 month period, the cumulative amount of
8 credit revoked exceeds 30 days except where the infraction is
9 committed or discovered within 60 days of scheduled release.
10 In those cases, the Department of Corrections may revoke up
11 to 30 days of good conduct credit. The Board may subsequently
12 approve the revocation of additional good conduct credit, if
13 the Department seeks to revoke good conduct credit in excess
14 of 30 days. However, the Board shall not be empowered to
15 review the Department's decision with respect to the loss of
16 30 days of good conduct credit within any calendar year for
17 any prisoner or to increase any penalty beyond the length
18 requested by the Department.

19 The Director of the Department of Corrections, in
20 appropriate cases, may restore up to 30 days good conduct
21 credits which have been revoked, suspended or reduced. Any
22 restoration of good conduct credits in excess of 30 days
23 shall be subject to review by the Prisoner Review Board.
24 However, the Board may not restore good conduct credit in
25 excess of the amount requested by the Director.

26 Nothing contained in this Section shall prohibit the
27 Prisoner Review Board from ordering, pursuant to Section
28 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of
29 the sentence imposed by the court that was not served due to
30 the accumulation of good conduct credit.

31 (d) If a lawsuit is filed by a prisoner in an Illinois
32 or federal court against the State, the Department of
33 Corrections, or the Prisoner Review Board, or against any of
34 their officers or employees, and the court makes a specific

1 finding that a pleading, motion, or other paper filed by the
2 prisoner is frivolous, the Department of Corrections shall
3 conduct a hearing to revoke up to 180 days of good conduct
4 credit by bringing charges against the prisoner sought to be
5 deprived of the good conduct credits before the Prisoner
6 Review Board as provided in subparagraph (a)(8) of Section
7 3-3-2 of this Code. If the prisoner has not accumulated 180
8 days of good conduct credit at the time of the finding, then
9 the Prisoner Review Board may revoke all good conduct credit
10 accumulated by the prisoner.

11 For purposes of this subsection (d):

12 (1) "Frivolous" means that a pleading, motion, or
13 other filing which purports to be a legal document filed
14 by a prisoner in his or her lawsuit meets any or all of
15 the following criteria:

16 (A) it lacks an arguable basis either in law
17 or in fact;

18 (B) it is being presented for any improper
19 purpose, such as to harass or to cause unnecessary
20 delay or needless increase in the cost of
21 litigation;

22 (C) the claims, defenses, and other legal
23 contentions therein are not warranted by existing
24 law or by a nonfrivolous argument for the extension,
25 modification, or reversal of existing law or the
26 establishment of new law;

27 (D) the allegations and other factual
28 contentions do not have evidentiary support or, if
29 specifically so identified, are not likely to have
30 evidentiary support after a reasonable opportunity
31 for further investigation or discovery; or

32 (E) the denials of factual contentions are not
33 warranted on the evidence, or if specifically so
34 identified, are not reasonably based on a lack of

1 information or belief.

2 (2) "Lawsuit" means a petition for post-conviction
3 relief under Article 122 of the Code of Criminal
4 Procedure of 1963, a motion pursuant to Section 116-3 of
5 the Code of Criminal Procedure of 1963, a habeas corpus
6 action under Article X of the Code of Civil Procedure or
7 under federal law (28 U.S.C. 2254), a petition for claim
8 under the Court of Claims Act or an action under the
9 federal Civil Rights Act (42 U.S.C. 1983).

10 (e) Nothing in this amendatory Act of 1998 affects the
11 validity of Public Act 89-404.

12 (Source: P.A. 91-121, eff. 7-15-99; 91-357, eff. 7-29-99;
13 92-176, eff. 7-27-01; 92-854, eff. 12-5-02.)

14 (730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)
15 Sec. 5-1-9. Felony.

16 "Felony" means an offense for which a sentence to death
17 ~~or--to~~ a term of imprisonment in a penitentiary for one year
18 or more is provided.

19 (Source: P.A. 77-2097.)

20 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)
21 Sec. 5-4-1. Sentencing Hearing.

22 ~~(a) Except--when--the--death--penalty--is--sought--under~~
23 ~~hearing-procedures-otherwise-specified,~~ After a determination
24 of guilt, a hearing shall be held to impose the sentence.
25 However, prior to the imposition of sentence on an individual
26 being sentenced for an offense based upon a charge for a
27 violation of Section 11-501 of the Illinois Vehicle Code or a
28 similar provision of a local ordinance, the individual must
29 undergo a professional evaluation to determine if an alcohol
30 or other drug abuse problem exists and the extent of such a
31 problem. Programs conducting these evaluations shall be
32 licensed by the Department of Human Services. However, if

1 the individual is not a resident of Illinois, the court may,
2 in its discretion, accept an evaluation from a program in the
3 state of such individual's residence. The court may in its
4 sentencing order approve an eligible defendant for placement
5 in a Department of Corrections impact incarceration program
6 as provided in Section 5-8-1.1 or 5-8-1.3. At the hearing
7 the court shall:

8 (1) consider the evidence, if any, received upon
9 the trial;

10 (2) consider any presentence reports;

11 (3) consider the financial impact of incarceration
12 based on the financial impact statement filed with the
13 clerk of the court by the Department of Corrections;

14 (4) consider evidence and information offered by
15 the parties in aggravation and mitigation;

16 (5) hear arguments as to sentencing alternatives;

17 (6) afford the defendant the opportunity to make a
18 statement in his own behalf;

19 (7) afford the victim of a violent crime or a
20 violation of Section 11-501 of the Illinois Vehicle Code,
21 or a similar provision of a local ordinance, or a
22 qualified individual affected by a violation of Section
23 405, 405.1, 405.2, or 407 of the Illinois Controlled
24 Substances Act, committed by the defendant the
25 opportunity to make a statement concerning the impact on
26 the victim and to offer evidence in aggravation or
27 mitigation; provided that the statement and evidence
28 offered in aggravation or mitigation must first be
29 prepared in writing in conjunction with the State's
30 Attorney before it may be presented orally at the
31 hearing. Any sworn testimony offered by the victim is
32 subject to the defendant's right to cross-examine. All
33 statements and evidence offered under this paragraph (7)
34 shall become part of the record of the court. For the

1 purpose of this paragraph (7), "qualified individual"
2 means any person who (i) lived or worked within the
3 territorial jurisdiction where the offense took place
4 when the offense took place; and (ii) is familiar with
5 various public places within the territorial jurisdiction
6 where the offense took place when the offense took place.
7 For the purposes of this paragraph (7), "qualified
8 individual" includes any peace officer, or any member of
9 any duly organized State, county, or municipal peace unit
10 assigned to the territorial jurisdiction where the
11 offense took place when the offense took place; and

12 (8) in cases of reckless homicide afford the
13 victim's spouse, guardians, parents or other immediate
14 family members an opportunity to make oral statements.

15 (b) All sentences shall be imposed by the judge based
16 upon his independent assessment of the elements specified
17 above and any agreement as to sentence reached by the
18 parties. The judge who presided at the trial or the judge
19 who accepted the plea of guilty shall impose the sentence
20 unless he is no longer sitting as a judge in that court.
21 Where the judge does not impose sentence at the same time on
22 all defendants who are convicted as a result of being
23 involved in the same offense, the defendant or the State's
24 Attorney may advise the sentencing court of the disposition
25 of any other defendants who have been sentenced.

26 (c) In imposing a sentence for a violent crime or for an
27 offense of operating or being in physical control of a
28 vehicle while under the influence of alcohol, any other drug
29 or any combination thereof, or a similar provision of a local
30 ordinance, when such offense resulted in the personal injury
31 to someone other than the defendant, the trial judge shall
32 specify on the record the particular evidence, information,
33 factors in mitigation and aggravation or other reasons that
34 led to his sentencing determination. The full verbatim record

1 of the sentencing hearing shall be filed with the clerk of
2 the court and shall be a public record.

3 (c-1) In imposing a sentence for the offense of
4 aggravated kidnapping for ransom, home invasion, armed
5 robbery, aggravated vehicular hijacking, aggravated discharge
6 of a firearm, or armed violence with a category I weapon or
7 category II weapon, the trial judge shall make a finding as
8 to whether the conduct leading to conviction for the offense
9 resulted in great bodily harm to a victim, and shall enter
10 that finding and the basis for that finding in the record.

11 (c-2) If the defendant is sentenced to prison, other
12 than when a sentence of natural life imprisonment or a
13 sentence of death is imposed, at the time the sentence is
14 imposed the judge shall state on the record in open court the
15 approximate period of time the defendant will serve in
16 custody according to the then current statutory rules and
17 regulations for early release found in Section 3-6-3 and
18 other related provisions of this Code. This statement is
19 intended solely to inform the public, has no legal effect on
20 the defendant's actual release, and may not be relied on by
21 the defendant on appeal.

22 The judge's statement, to be given after pronouncing the
23 sentence, other than when the sentence is imposed for one of
24 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
25 shall include the following:

26 "The purpose of this statement is to inform the public of
27 the actual period of time this defendant is likely to spend
28 in prison as a result of this sentence. The actual period of
29 prison time served is determined by the statutes of Illinois
30 as applied to this sentence by the Illinois Department of
31 Corrections and the Illinois Prisoner Review Board. In this
32 case, assuming the defendant receives all of his or her good
33 conduct credit, the period of estimated actual custody is ...
34 years and ... months, less up to 180 days additional good

1 conduct credit for meritorious service. If the defendant,
2 because of his or her own misconduct or failure to comply
3 with the institutional regulations, does not receive those
4 credits, the actual time served in prison will be longer.
5 The defendant may also receive an additional one-half day
6 good conduct credit for each day of participation in
7 vocational, industry, substance abuse, and educational
8 programs as provided for by Illinois statute."

9 When the sentence is imposed for one of the offenses
10 enumerated in paragraph (a)(3) of Section 3-6-3, other than
11 when the sentence is imposed for one of the offenses
12 enumerated in paragraph (a)(2) of Section 3-6-3 committed on
13 or after June 19, 1998, and other than when the sentence is
14 imposed for reckless homicide as defined in subsection (e) of
15 Section 9-3 of the Criminal Code of 1961 if the offense was
16 committed on or after January 1, 1999, and other than when
17 the sentence is imposed for aggravated arson if the offense
18 was committed on or after the effective date of this
19 amendatory Act of the 92nd General Assembly, the judge's
20 statement, to be given after pronouncing the sentence, shall
21 include the following:

22 "The purpose of this statement is to inform the public of
23 the actual period of time this defendant is likely to spend
24 in prison as a result of this sentence. The actual period of
25 prison time served is determined by the statutes of Illinois
26 as applied to this sentence by the Illinois Department of
27 Corrections and the Illinois Prisoner Review Board. In this
28 case, assuming the defendant receives all of his or her good
29 conduct credit, the period of estimated actual custody is ...
30 years and ... months, less up to 90 days additional good
31 conduct credit for meritorious service. If the defendant,
32 because of his or her own misconduct or failure to comply
33 with the institutional regulations, does not receive those
34 credits, the actual time served in prison will be longer.

1 The defendant may also receive an additional one-half day
2 good conduct credit for each day of participation in
3 vocational, industry, substance abuse, and educational
4 programs as provided for by Illinois statute."

5 When the sentence is imposed for one of the offenses
6 enumerated in paragraph (a)(2) of Section 3-6-3, other than
7 first degree murder, and the offense was committed on or
8 after June 19, 1998, and when the sentence is imposed for
9 reckless homicide as defined in subsection (e) of Section 9-3
10 of the Criminal Code of 1961 if the offense was committed on
11 or after January 1, 1999, and when the sentence is imposed
12 for aggravated arson if the offense was committed on or after
13 the effective date of this amendatory Act of the 92nd General
14 Assembly, the judge's statement, to be given after
15 pronouncing the sentence, shall include the following:

16 "The purpose of this statement is to inform the public of
17 the actual period of time this defendant is likely to spend
18 in prison as a result of this sentence. The actual period of
19 prison time served is determined by the statutes of Illinois
20 as applied to this sentence by the Illinois Department of
21 Corrections and the Illinois Prisoner Review Board. In this
22 case, the defendant is entitled to no more than 4 1/2 days of
23 good conduct credit for each month of his or her sentence of
24 imprisonment. Therefore, this defendant will serve at least
25 85% of his or her sentence. Assuming the defendant receives
26 4 1/2 days credit for each month of his or her sentence, the
27 period of estimated actual custody is ... years and ...
28 months. If the defendant, because of his or her own
29 misconduct or failure to comply with the institutional
30 regulations receives lesser credit, the actual time served in
31 prison will be longer."

32 When a sentence of imprisonment is imposed for first
33 degree murder and the offense was committed on or after June
34 19, 1998, the judge's statement, to be given after

1 pronouncing the sentence, shall include the following:

2 "The purpose of this statement is to inform the public of
3 the actual period of time this defendant is likely to spend
4 in prison as a result of this sentence. The actual period of
5 prison time served is determined by the statutes of Illinois
6 as applied to this sentence by the Illinois Department of
7 Corrections and the Illinois Prisoner Review Board. In this
8 case, the defendant is not entitled to good conduct credit.
9 Therefore, this defendant will serve 100% of his or her
10 sentence."

11 (d) When the defendant is committed to the Department of
12 Corrections, the State's Attorney shall and counsel for the
13 defendant may file a statement with the clerk of the court to
14 be transmitted to the department, agency or institution to
15 which the defendant is committed to furnish such department,
16 agency or institution with the facts and circumstances of the
17 offense for which the person was committed together with all
18 other factual information accessible to them in regard to the
19 person prior to his commitment relative to his habits,
20 associates, disposition and reputation and any other facts
21 and circumstances which may aid such department, agency or
22 institution during its custody of such person. The clerk
23 shall within 10 days after receiving any such statements
24 transmit a copy to such department, agency or institution and
25 a copy to the other party, provided, however, that this shall
26 not be cause for delay in conveying the person to the
27 department, agency or institution to which he has been
28 committed.

29 (e) The clerk of the court shall transmit to the
30 department, agency or institution, if any, to which the
31 defendant is committed, the following:

- 32 (1) the sentence imposed;
33 (2) any statement by the court of the basis for
34 imposing the sentence;

- 1 (3) any presentence reports;
- 2 (4) the number of days, if any, which the defendant
- 3 has been in custody and for which he is entitled to
- 4 credit against the sentence, which information shall be
- 5 provided to the clerk by the sheriff;
- 6 (4.1) any finding of great bodily harm made by the
- 7 court with respect to an offense enumerated in subsection
- 8 (c-1);
- 9 (5) all statements filed under subsection (d) of
- 10 this Section;
- 11 (6) any medical or mental health records or
- 12 summaries of the defendant;
- 13 (7) the municipality where the arrest of the
- 14 offender or the commission of the offense has occurred,
- 15 where such municipality has a population of more than
- 16 25,000 persons;
- 17 (8) all statements made and evidence offered under
- 18 paragraph (7) of subsection (a) of this Section; and
- 19 (9) all additional matters which the court directs
- 20 the clerk to transmit.

21 (Source: P.A. 91-357, eff. 7-29-99; 91-899, eff. 1-1-01;
 22 92-176, eff. 7-27-01; 92-806, eff. 1-1-03; revised 9-18-02.)

23 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)
 24 Sec. 5-5-3. Disposition.

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

27 (b) The following options shall be appropriate
 28 dispositions, alone or in combination, for all felonies and
 29 misdemeanors other than those identified in subsection (c) of
 30 this Section:

- 31 (1) A period of probation.
- 32 (2) A term of periodic imprisonment.
- 33 (3) A term of conditional discharge.

1 (4) A term of imprisonment.

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

6 (6) A fine.

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

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

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

30 In addition to any other fine or penalty required by law,
31 any individual convicted of a violation of Section 11-501 of
32 the Illinois Vehicle Code or a similar provision of local
33 ordinance, whose operation of a motor vehicle while in
34 violation of Section 11-501 or such ordinance proximately

1 caused an incident resulting in an appropriate emergency
2 response, shall be required to make restitution to a public
3 agency for the costs of that emergency response. Such
4 restitution shall not exceed \$500 per public agency for each
5 such emergency response. For the purpose of this paragraph,
6 emergency response shall mean any incident requiring a
7 response by: a police officer as defined under Section 1-162
8 of the Illinois Vehicle Code; a fireman carried on the rolls
9 of a regularly constituted fire department; and an ambulance
10 as defined under Section 4.05 of the Emergency Medical
11 Services (EMS) Systems Act.

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

15 (c) (1) When a defendant is found guilty of first degree
16 murder the defendant shall be sentenced to a term of
17 ~~State-may-either-see-a-sentence--of~~ imprisonment under
18 ~~Section 5-8-1 of this Code,--or-where-appropriate-see-a~~
19 ~~sentence-of-death-under-Section-9-1-of-the-Criminal--Code~~
20 ~~of-1961.~~

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

28 (A) First degree murder ~~where--the--death~~
29 ~~penalty-is-not-imposed.~~

30 (B) Attempted first degree murder.

31 (C) A Class X felony.

32 (D) A violation of Section 401.1 or 407 of the
33 Illinois Controlled Substances Act, or a violation
34 of subdivision (c)(1) or (c)(2) of Section 401 of

1 that Act which relates to more than 5 grams of a
2 substance containing heroin or cocaine or an analog
3 thereof.

4 (E) A violation of Section 5.1 or 9 of the
5 Cannabis Control Act.

6 (F) A Class 2 or greater felony if the
7 offender had been convicted of a Class 2 or greater
8 felony within 10 years of the date on which the
9 offender committed the offense for which he or she
10 is being sentenced, except as otherwise provided in
11 Section 40-10 of the Alcoholism and Other Drug Abuse
12 and Dependency Act.

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

16 (H) Criminal sexual assault, except as
17 otherwise provided in subsection (e) of this
18 Section.

19 (I) Aggravated battery of a senior citizen.

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

22 Before July 1, 1994, for the purposes of this
23 paragraph, "organized gang" means an association of
24 5 or more persons, with an established hierarchy,
25 that encourages members of the association to
26 perpetrate crimes or provides support to the members
27 of the association who do commit crimes.

28 Beginning July 1, 1994, for the purposes of
29 this paragraph, "organized gang" has the meaning
30 ascribed to it in Section 10 of the Illinois
31 Streetgang Terrorism Omnibus Prevention Act.

32 (K) Vehicular hijacking.

33 (L) A second or subsequent conviction for the
34 offense of hate crime when the underlying offense

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

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

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

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

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

14 (Q) A violation of Section 20-1.2 of the
15 Criminal Code of 1961.

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

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

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

32 (4) A minimum term of imprisonment of not less than
33 10 consecutive days or 30 days of community service shall
34 be imposed for a violation of paragraph (c) of Section

1 6-303 of the Illinois Vehicle Code.

2 (4.1) A minimum term of 30 consecutive days of
3 imprisonment, 40 days of 24 hour periodic imprisonment or
4 720 hours of community service, as may be determined by
5 the court, shall be imposed for a violation of Section
6 11-501 of the Illinois Vehicle Code during a period in
7 which the defendant's driving privileges are revoked or
8 suspended, where the revocation or suspension was for a
9 violation of Section 11-501 or Section 11-501.1 of that
10 Code.

11 (4.2) Except as provided in paragraph (4.3) of this
12 subsection (c), a minimum of 100 hours of community
13 service shall be imposed for a second violation of
14 Section 6-303 of the Illinois Vehicle Code.

15 (4.3) A minimum term of imprisonment of 30 days or
16 300 hours of community service, as determined by the
17 court, shall be imposed for a second violation of
18 subsection (c) of Section 6-303 of the Illinois Vehicle
19 Code.

20 (4.4) Except as provided in paragraph (4.5) and
21 paragraph (4.6) of this subsection (c), a minimum term of
22 imprisonment of 30 days or 300 hours of community
23 service, as determined by the court, shall be imposed for
24 a third or subsequent violation of Section 6-303 of the
25 Illinois Vehicle Code.

26 (4.5) A minimum term of imprisonment of 30 days
27 shall be imposed for a third violation of subsection (c)
28 of Section 6-303 of the Illinois Vehicle Code.

29 (4.6) A minimum term of imprisonment of 180 days
30 shall be imposed for a fourth or subsequent violation of
31 subsection (c) of Section 6-303 of the Illinois Vehicle
32 Code.

33 (5) The court may sentence an offender convicted of
34 a business offense or a petty offense or a corporation or

1 unincorporated association convicted of any offense to:

2 (A) a period of conditional discharge;

3 (B) a fine;

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

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

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

22 (5.3) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), a person convicted
24 of violating subsection (c) of Section 11-907 of the
25 Illinois Vehicle Code shall have his or her driver's
26 license, permit, or privileges suspended for 2 years, if
27 the violation resulted in the death of another person.

28 (6) In no case shall an offender be eligible for a
29 disposition of probation or conditional discharge for a
30 Class 1 felony committed while he was serving a term of
31 probation or conditional discharge for a felony.

32 (7) When a defendant is adjudged a habitual
33 criminal under Article 33B of the Criminal Code of 1961,
34 the court shall sentence the defendant to a term of

1 natural life imprisonment.

2 (8) When a defendant, over the age of 21 years, is
3 convicted of a Class 1 or Class 2 felony, after having
4 twice been convicted in any state or federal court of an
5 offense that contains the same elements as an offense now
6 classified in Illinois as a Class 2 or greater Class
7 felony and such charges are separately brought and tried
8 and arise out of different series of acts, such defendant
9 shall be sentenced as a Class X offender. This paragraph
10 shall not apply unless (1) the first felony was committed
11 after the effective date of this amendatory Act of 1977;
12 and (2) the second felony was committed after conviction
13 on the first; and (3) the third felony was committed
14 after conviction on the second. A person sentenced as a
15 Class X offender under this paragraph is not eligible to
16 apply for treatment as a condition of probation as
17 provided by Section 40-10 of the Alcoholism and Other
18 Drug Abuse and Dependency Act.

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

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

30 (A) For a first violation of subsection (a) of
31 Section 11-501, in addition to any other penalty
32 that may be imposed under subsection (c) of Section
33 11-501: a mandatory minimum of 100 hours of
34 community service and a minimum fine of \$500.

1 (B) For a second violation of subsection (a)
2 of Section 11-501, in addition to any other penalty
3 that may be imposed under subsection (c) of Section
4 11-501 within 10 years: a mandatory minimum of 2
5 days of imprisonment and a minimum fine of \$1,250.

6 (C) For a third violation of subsection (a) of
7 Section 11-501, in addition to any other penalty
8 that may be imposed under subsection (c) of Section
9 11-501 within 20 years: a mandatory minimum of 90
10 days of imprisonment and a minimum fine of \$2,500.

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

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

34 (e) In cases where prosecution for criminal sexual

1 assault or aggravated criminal sexual abuse under Section
 2 12-13 or 12-16 of the Criminal Code of 1961 results in
 3 conviction of a defendant who was a family member of the
 4 victim at the time of the commission of the offense, the
 5 court shall consider the safety and welfare of the victim and
 6 may impose a sentence of probation only where:

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

9 (A) the defendant is willing to undergo a
 10 court approved counseling program for a minimum
 11 duration of 2 years; or

12 (B) the defendant is willing to participate in
 13 a court approved plan including but not limited to
 14 the defendant's:

15 (i) removal from the household;

16 (ii) restricted contact with the victim;

17 (iii) continued financial support of the
 18 family;

19 (iv) restitution for harm done to the
 20 victim; and

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

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

30 Probation may be revoked or modified pursuant to Section
 31 5-6-4; except where the court determines at the hearing that
 32 the defendant violated a condition of his or her probation
 33 restricting contact with the victim or other family members
 34 or commits another offense with the victim or other family

1 members, the court shall revoke the defendant's probation and
2 impose a term of imprisonment.

3 For the purposes of this Section, "family member" and
4 "victim" shall have the meanings ascribed to them in Section
5 12-12 of the Criminal Code of 1961.

6 (f) This Article shall not deprive a court in other
7 proceedings to order a forfeiture of property, to suspend or
8 cancel a license, to remove a person from office, or to
9 impose any other civil penalty.

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

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

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

26 (h) Whenever a defendant is convicted of an offense
27 under Section 1 or 2 of the Hypodermic Syringes and Needles
28 Act, the defendant shall undergo medical testing to determine
29 whether the defendant has been exposed to human
30 immunodeficiency virus (HIV) or any other identified
31 causative agent of acquired immunodeficiency syndrome (AIDS).
32 Except as otherwise provided by law, the results of such test
33 shall be kept strictly confidential by all medical personnel
34 involved in the testing and must be personally delivered in a

1 sealed envelope to the judge of the court in which the
2 conviction was entered for the judge's inspection in camera.
3 Acting in accordance with the best interests of the public,
4 the judge shall have the discretion to determine to whom, if
5 anyone, the results of the testing may be revealed. The court
6 shall notify the defendant of a positive test showing an
7 infection with the human immunodeficiency virus (HIV). The
8 court shall provide information on the availability of HIV
9 testing and counseling at Department of Public Health
10 facilities to all parties to whom the results of the testing
11 are revealed and shall direct the State's Attorney to provide
12 the information to the victim when possible. A State's
13 Attorney may petition the court to obtain the results of any
14 HIV test administered under this Section, and the court
15 shall grant the disclosure if the State's Attorney shows it
16 is relevant in order to prosecute a charge of criminal
17 transmission of HIV under Section 12-16.2 of the Criminal
18 Code of 1961 against the defendant. The court shall order
19 that the cost of any such test shall be paid by the county
20 and may be taxed as costs against the convicted defendant.

21 (i) All fines and penalties imposed under this Section
22 for any violation of Chapters 3, 4, 6, and 11 of the Illinois
23 Vehicle Code, or a similar provision of a local ordinance,
24 and any violation of the Child Passenger Protection Act, or a
25 similar provision of a local ordinance, shall be collected
26 and disbursed by the circuit clerk as provided under Section
27 27.5 of the Clerks of Courts Act.

28 (j) In cases when prosecution for any violation of
29 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
30 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
31 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
32 12-16 of the Criminal Code of 1961, any violation of the
33 Illinois Controlled Substances Act, or any violation of the
34 Cannabis Control Act results in conviction, a disposition of

1 court supervision, or an order of probation granted under
2 Section 10 of the Cannabis Control Act or Section 410 of the
3 Illinois Controlled Substance Act of a defendant, the court
4 shall determine whether the defendant is employed by a
5 facility or center as defined under the Child Care Act of
6 1969, a public or private elementary or secondary school, or
7 otherwise works with children under 18 years of age on a
8 daily basis. When a defendant is so employed, the court
9 shall order the Clerk of the Court to send a copy of the
10 judgment of conviction or order of supervision or probation
11 to the defendant's employer by certified mail. If the
12 employer of the defendant is a school, the Clerk of the Court
13 shall direct the mailing of a copy of the judgment of
14 conviction or order of supervision or probation to the
15 appropriate regional superintendent of schools. The regional
16 superintendent of schools shall notify the State Board of
17 Education of any notification under this subsection.

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

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

17 (k) A court may not impose a sentence or disposition for
18 a felony or misdemeanor that requires the defendant to be
19 implanted or injected with or to use any form of birth
20 control.

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

30 (1) a final order of deportation has been
31 issued against the defendant pursuant to proceedings
32 under the Immigration and Nationality Act, and

33 (2) the deportation of the defendant would not
34 deprecate the seriousness of the defendant's conduct

1 and would not be inconsistent with the ends of
2 justice.

3 Otherwise, the defendant shall be sentenced as
4 provided in this Chapter V.

5 (B) If the defendant has already been sentenced for
6 a felony or misdemeanor offense, or has been placed on
7 probation under Section 10 of the Cannabis Control Act or
8 Section 410 of the Illinois Controlled Substances Act,
9 the court may, upon motion of the State's Attorney to
10 suspend the sentence imposed, commit the defendant to the
11 custody of the Attorney General of the United States or
12 his or her designated agent when:

13 (1) a final order of deportation has been
14 issued against the defendant pursuant to proceedings
15 under the Immigration and Nationality Act, and

16 (2) the deportation of the defendant would not
17 deprecate the seriousness of the defendant's conduct
18 and would not be inconsistent with the ends of
19 justice.

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

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

33 (m) A person convicted of criminal defacement of
34 property under Section 21-1.3 of the Criminal Code of 1961,

1 in which the property damage exceeds \$300 and the property
2 damaged is a school building, shall be ordered to perform
3 community service that may include cleanup, removal, or
4 painting over the defacement.

5 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
6 91-663, eff. 12-22-99; 91-695, eff. 4-13-00; 91-953, eff.
7 2-23-01; 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283,
8 eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01;
9 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff.
10 7-19-02.)

11 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)
12 Sec. 5-8-1. Sentence of Imprisonment for Felony.

13 (a) Except as otherwise provided in the statute defining
14 the offense, a sentence of imprisonment for a felony shall be
15 a determinate sentence set by the court under this Section,
16 according to the following limitations:

17 (1) for first degree murder,

18 (a) a term shall be not less than 20 years and
19 not more than 60 years, or

20 (b) if a trier of fact finds beyond a
21 reasonable doubt that the murder was accompanied by
22 exceptionally brutal or heinous behavior indicative
23 of wanton cruelty or, except as set forth in
24 subsection (a)(1)(c) of this Section, ~~that any of~~
25 ~~the aggravating factors listed in subsection (b) of~~
26 ~~Section 9-1 of the Criminal Code of 1961 are~~
27 present, the court may sentence the defendant to a
28 term of natural life imprisonment, or

29 (b-5) a defendant who has been sentenced to
30 death before the effective date of this amendatory
31 Act of the 93rd General Assembly shall be sentenced
32 as provided in this Chapter V, or

33 (c) the court shall sentence the defendant to

1 a term of natural life imprisonment ~~when--the--death~~
2 ~~penalty-is-not-imposed~~ if the defendant,

3 (i) has previously been convicted of
4 first degree murder under any state or federal
5 law, or

6 (ii) is a person who, at the time of the
7 commission of the murder, had attained the age
8 of 17 or more and is found guilty of murdering
9 an individual under 12 years of age; or,
10 irrespective of the defendant's age at the time
11 of the commission of the offense, is found
12 guilty of murdering more than one victim, or

13 (iii) is found guilty of murdering a
14 peace officer or fireman when the peace officer
15 or fireman was killed in the course of
16 performing his official duties, or to prevent
17 the peace officer or fireman from performing
18 his official duties, or in retaliation for the
19 peace officer or fireman performing his
20 official duties, and the defendant knew or
21 should have known that the murdered individual
22 was a peace officer or fireman, or

23 (iv) is found guilty of murdering an
24 employee of an institution or facility of the
25 Department of Corrections, or any similar local
26 correctional agency, when the employee was
27 killed in the course of performing his official
28 duties, or to prevent the employee from
29 performing his official duties, or in
30 retaliation for the employee performing his
31 official duties, or

32 (v) is found guilty of murdering an
33 emergency medical technician - ambulance,
34 emergency medical technician - intermediate,

1 emergency medical technician - paramedic,
 2 ambulance driver or other medical assistance or
 3 first aid person while employed by a
 4 municipality or other governmental unit when
 5 the person was killed in the course of
 6 performing official duties or to prevent the
 7 person from performing official duties or in
 8 retaliation for performing official duties and
 9 the defendant knew or should have known that
 10 the murdered individual was an emergency
 11 medical technician - ambulance, emergency
 12 medical technician - intermediate, emergency
 13 medical technician - paramedic, ambulance
 14 driver, or other medical assistant or first aid
 15 personnel, or

16 (vi) is a person who, at the time of the
 17 commission of the murder, had not attained the
 18 age of 17, and is found guilty of murdering a
 19 person under 12 years of age and the murder is
 20 committed during the course of aggravated
 21 criminal sexual assault, criminal sexual
 22 assault, or aggravated kidnaping, or

23 (vii) is found guilty of first degree
 24 murder and the murder was committed by reason
 25 of any person's activity as a community
 26 policing volunteer or to prevent any person
 27 from engaging in activity as a community
 28 policing volunteer. For the purpose of this
 29 Section, "community policing volunteer" has the
 30 meaning ascribed to it in Section 2-3.5 of the
 31 Criminal Code of 1961.

32 For purposes of clause (v), "emergency medical
 33 technician - ambulance", "emergency medical
 34 technician - intermediate", "emergency medical

1 technician - paramedic", have the meanings ascribed
2 to them in the Emergency Medical Services (EMS)
3 Systems Act.

4 (d) (i) if the person committed the offense
5 while armed with a firearm, 15 years shall be
6 added to the term of imprisonment imposed by
7 the court;

8 (ii) if, during the commission of the
9 offense, the person personally discharged a
10 firearm, 20 years shall be added to the term of
11 imprisonment imposed by the court;

12 (iii) if, during the commission of the
13 offense, the person personally discharged a
14 firearm that proximately caused great bodily
15 harm, permanent disability, permanent
16 disfigurement, or death to another person, 25
17 years or up to a term of natural life shall be
18 added to the term of imprisonment imposed by
19 the court.

20 (1.5) for second degree murder, a term shall be not
21 less than 4 years and not more than 20 years;

22 (2) for a person adjudged a habitual criminal under
23 Article 33B of the Criminal Code of 1961, as amended, the
24 sentence shall be a term of natural life imprisonment;

25 (2.5) for a person convicted under the
26 circumstances described in paragraph (3) of subsection
27 (b) of Section 12-13, paragraph (2) of subsection (d) of
28 Section 12-14, paragraph (1.2) of subsection (b) of
29 Section 12-14.1, or paragraph (2) of subsection (b) of
30 Section 12-14.1 of the Criminal Code of 1961, the
31 sentence shall be a term of natural life imprisonment;

32 (3) except as otherwise provided in the statute
33 defining the offense, for a Class X felony, the sentence
34 shall be not less than 6 years and not more than 30

1 years;

2 (4) for a Class 1 felony, other than second degree
3 murder, the sentence shall be not less than 4 years and
4 not more than 15 years;

5 (5) for a Class 2 felony, the sentence shall be not
6 less than 3 years and not more than 7 years;

7 (6) for a Class 3 felony, the sentence shall be not
8 less than 2 years and not more than 5 years;

9 (7) for a Class 4 felony, the sentence shall be not
10 less than 1 year and not more than 3 years.

11 (b) The sentencing judge in each felony conviction shall
12 set forth his reasons for imposing the particular sentence he
13 enters in the case, as provided in Section 5-4-1 of this
14 Code. Those reasons may include any mitigating or
15 aggravating factors specified in this Code, or the lack of
16 any such circumstances, as well as any other such factors as
17 the judge shall set forth on the record that are consistent
18 with the purposes and principles of sentencing set out in
19 this Code.

20 (c) A motion to reduce a sentence may be made, or the
21 court may reduce a sentence without motion, within 30 days
22 after the sentence is imposed. A defendant's challenge to
23 the correctness of a sentence or to any aspect of the
24 sentencing hearing shall be made by a written motion filed
25 within 30 days following the imposition of sentence.
26 However, the court may not increase a sentence once it is
27 imposed.

28 If a motion filed pursuant to this subsection is timely
29 filed within 30 days after the sentence is imposed, the
30 proponent of the motion shall exercise due diligence in
31 seeking a determination on the motion and the court shall
32 thereafter decide such motion within a reasonable time.

33 If a motion filed pursuant to this subsection is timely
34 filed within 30 days after the sentence is imposed, then for

1 purposes of perfecting an appeal, a final judgment shall not
2 be considered to have been entered until the motion to reduce
3 a sentence has been decided by order entered by the trial
4 court.

5 A motion filed pursuant to this subsection shall not be
6 considered to have been timely filed unless it is filed with
7 the circuit court clerk within 30 days after the sentence is
8 imposed together with a notice of motion, which notice of
9 motion shall set the motion on the court's calendar on a date
10 certain within a reasonable time after the date of filing.

11 (d) Except where a term of natural life is imposed,
12 every sentence shall include as though written therein a term
13 in addition to the term of imprisonment. For those sentenced
14 under the law in effect prior to February 1, 1978, such term
15 shall be identified as a parole term. For those sentenced on
16 or after February 1, 1978, such term shall be identified as a
17 mandatory supervised release term. Subject to earlier
18 termination under Section 3-3-8, the parole or mandatory
19 supervised release term shall be as follows:

20 (1) for first degree murder or a Class X felony, 3
21 years;

22 (2) for a Class 1 felony or a Class 2 felony, 2
23 years;

24 (3) for a Class 3 felony or a Class 4 felony, 1
25 year;

26 (4) if the victim is under 18 years of age, for a
27 second or subsequent offense of criminal sexual assault
28 or aggravated criminal sexual assault, 5 years, at least
29 the first 2 years of which the defendant shall serve in
30 an electronic home detention program under Article 8A of
31 Chapter V of this Code;

32 (5) if the victim is under 18 years of age, for a
33 second or subsequent offense of aggravated criminal
34 sexual abuse or felony criminal sexual abuse, 4 years, at

1 least the first 2 years of which the defendant shall
2 serve in an electronic home detention program under
3 Article 8A of Chapter V of this Code.

4 (e) A defendant who has a previous and unexpired
5 sentence of imprisonment imposed by another state or by any
6 district court of the United States and who, after sentence
7 for a crime in Illinois, must return to serve the unexpired
8 prior sentence may have his sentence by the Illinois court
9 ordered to be concurrent with the prior sentence in the other
10 state. The court may order that any time served on the
11 unexpired portion of the sentence in the other state, prior
12 to his return to Illinois, shall be credited on his Illinois
13 sentence. The other state shall be furnished with a copy of
14 the order imposing sentence which shall provide that, when
15 the offender is released from confinement of the other state,
16 whether by parole or by termination of sentence, the offender
17 shall be transferred by the Sheriff of the committing county
18 to the Illinois Department of Corrections. The court shall
19 cause the Department of Corrections to be notified of such
20 sentence at the time of commitment and to be provided with
21 copies of all records regarding the sentence.

22 (f) A defendant who has a previous and unexpired
23 sentence of imprisonment imposed by an Illinois circuit court
24 for a crime in this State and who is subsequently sentenced
25 to a term of imprisonment by another state or by any district
26 court of the United States and who has served a term of
27 imprisonment imposed by the other state or district court of
28 the United States, and must return to serve the unexpired
29 prior sentence imposed by the Illinois Circuit Court may
30 apply to the court which imposed sentence to have his
31 sentence reduced.

32 The circuit court may order that any time served on the
33 sentence imposed by the other state or district court of the
34 United States be credited on his Illinois sentence. Such

1 application for reduction of a sentence under this
2 subsection (f) shall be made within 30 days after the
3 defendant has completed the sentence imposed by the other
4 state or district court of the United States.

5 (Source: P.A. 91-279, eff. 1-1-00; 91-404, eff. 1-1-00;
6 91-953, eff. 2-23-01; 92-16, eff. 6-28-01.)

7 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

8 Sec. 5-8-4. Concurrent and Consecutive Terms of
9 Imprisonment.

10 (a) When multiple sentences of imprisonment are imposed
11 on a defendant at the same time, or when a term of
12 imprisonment is imposed on a defendant who is already subject
13 to sentence in this State or in another state, or for a
14 sentence imposed by any district court of the United States,
15 the sentences shall run concurrently or consecutively as
16 determined by the court. When a term of imprisonment is
17 imposed on a defendant by an Illinois circuit court and the
18 defendant is subsequently sentenced to a term of imprisonment
19 by another state or by a district court of the United States,
20 the Illinois circuit court which imposed the sentence may
21 order that the Illinois sentence be made concurrent with the
22 sentence imposed by the other state or district court of the
23 United States. The defendant must apply to the circuit court
24 within 30 days after the defendant's sentence imposed by the
25 other state or district of the United States is finalized.
26 The court shall not impose consecutive sentences for offenses
27 which were committed as part of a single course of conduct
28 during which there was no substantial change in the nature of
29 the criminal objective, unless:

30 (i) one of the offenses for which defendant was
31 convicted was first degree murder or a Class X or Class 1
32 felony and the defendant inflicted severe bodily injury,
33 or

1 (ii) the defendant was convicted of a violation of
2 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
3 1961, or

4 (iii) the defendant was convicted of armed violence
5 based upon the predicate offense of solicitation of
6 murder, solicitation of murder for hire, heinous battery,
7 aggravated battery of a senior citizen, criminal sexual
8 assault, a violation of subsection (g) of Section 5 of
9 the Cannabis Control Act, cannabis trafficking, a
10 violation of subsection (a) of Section 401 of the
11 Illinois Controlled Substances Act, controlled substance
12 trafficking involving a Class X felony amount of
13 controlled substance under Section 401 of the Illinois
14 Controlled Substances Act, calculated criminal drug
15 conspiracy, or streetgang criminal drug conspiracy, or

16 (iv) the defendant was convicted of the offense of
17 leaving the scene of a motor vehicle accident involving
18 death or personal injuries under Section 11-401 and
19 either: (A) aggravated driving under the influence of
20 alcohol, other drug or drugs, or intoxicating compound or
21 compounds, or any combination thereof under Section
22 11-501 of the Illinois Vehicle Code, or (B) reckless
23 homicide under Section 9-3 of the Criminal Code of 1961,
24 or both an offense described in subdivision (A) and an
25 offense described in subdivision (B),

26 in which event the court shall enter sentences to run
27 consecutively. Sentences shall run concurrently unless
28 otherwise specified by the court.

29 (b) The court shall not impose a consecutive sentence
30 except as provided for in subsection (a) unless, having
31 regard to the nature and circumstances of the offense and the
32 history and character of the defendant, it is of the opinion
33 that such a term is required to protect the public from
34 further criminal conduct by the defendant, the basis for

1 which the court shall set forth in the record; except that no
2 such finding or opinion is required when multiple sentences
3 of imprisonment are imposed on a defendant for offenses that
4 were not committed as part of a single course of conduct
5 during which there was no substantial change in the nature of
6 the criminal objective, and one of the offenses for which the
7 defendant was convicted was first degree murder or a Class X
8 or Class 1 felony and the defendant inflicted severe bodily
9 injury, or when the defendant was convicted of a violation of
10 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
11 1961, or where the defendant was convicted of armed violence
12 based upon the predicate offense of solicitation of murder,
13 solicitation of murder for hire, heinous battery, aggravated
14 battery of a senior citizen, criminal sexual assault, a
15 violation of subsection (g) of Section 5 of the Cannabis
16 Control Act, cannabis trafficking, a violation of subsection
17 (a) of Section 401 of the Illinois Controlled Substances Act,
18 controlled substance trafficking involving a Class X felony
19 amount of controlled substance under Section 401 of the
20 Illinois Controlled Substances Act, calculated criminal drug
21 conspiracy, or streetgang criminal drug conspiracy, or the
22 defendant was convicted of the offense of leaving the scene
23 of a motor vehicle accident involving death or personal
24 injuries under Section 11-401 and either: (A) aggravated
25 driving under the influence of alcohol, other drug or drugs,
26 or intoxicating compound or compounds, or any combination
27 thereof under Section 11-501 of the Illinois Vehicle Code, or
28 (B) reckless homicide under Section 9-3 of the Criminal Code
29 of 1961, or both an offense described in subdivision (A) and
30 an offense described in subdivision (B), in which event the
31 Court shall enter sentences to run consecutively.

32 (c) (1) For sentences imposed under law in effect prior
33 to February 1, 1978 the aggregate maximum of consecutive
34 sentences shall not exceed the maximum term authorized

1 under Section 5-8-1 for the 2 most serious felonies
2 involved. The aggregate minimum period of consecutive
3 sentences shall not exceed the highest minimum term
4 authorized under Section 5-8-1 for the 2 most serious
5 felonies involved. When sentenced only for misdemeanors,
6 a defendant shall not be consecutively sentenced to more
7 than the maximum for one Class A misdemeanor.

8 (2) For sentences imposed under the law in effect
9 on or after February 1, 1978, the aggregate of
10 consecutive sentences for offenses that were committed as
11 part of a single course of conduct during which there was
12 no substantial change in the nature of the criminal
13 objective shall not exceed the sum of the maximum terms
14 authorized under Section 5-8-2 for the 2 most serious
15 felonies involved, but no such limitation shall apply for
16 offenses that were not committed as part of a single
17 course of conduct during which there was no substantial
18 change in the nature of the criminal objective. When
19 sentenced only for misdemeanors, a defendant shall not be
20 consecutively sentenced to more than the maximum for one
21 Class A misdemeanor.

22 (d) An offender serving a sentence for a misdemeanor who
23 is convicted of a felony and sentenced to imprisonment shall
24 be transferred to the Department of Corrections, and the
25 misdemeanor sentence shall be merged in and run concurrently
26 with the felony sentence.

27 (e) In determining the manner in which consecutive
28 sentences of imprisonment, one or more of which is for a
29 felony, will be served, the Department of Corrections shall
30 treat the offender as though he had been committed for a
31 single term with the following incidents:

32 (1) the maximum period of a term of imprisonment
33 shall consist of the aggregate of the maximums of the
34 imposed indeterminate terms, if any, plus the aggregate

1 of the imposed determinate sentences for felonies plus
2 the aggregate of the imposed determinate sentences for
3 misdemeanors subject to paragraph (c) of this Section;

4 (2) the parole or mandatory supervised release term
5 shall be as provided in paragraph (e) of Section 5-8-1 of
6 this Code for the most serious of the offenses involved;

7 (3) the minimum period of imprisonment shall be the
8 aggregate of the minimum and determinate periods of
9 imprisonment imposed by the court, subject to paragraph
10 (c) of this Section; and

11 (4) the offender shall be awarded credit against
12 the aggregate maximum term and the aggregate minimum term
13 of imprisonment for all time served in an institution
14 since the commission of the offense or offenses and as a
15 consequence thereof at the rate specified in Section
16 3-6-3 of this Code.

17 (f) A sentence of an offender committed to the
18 Department of Corrections at the time of the commission of
19 the offense shall be served consecutive to the sentence under
20 which he is held by the Department of Corrections. However,
21 ~~in case such offender shall be sentenced to punishment by~~
22 ~~death, the sentence shall be executed at such time as the~~
23 ~~court may fix without regard to the sentence under which such~~
24 ~~offender may be held by the Department.~~

25 (g) A sentence under Section 3-6-4 for escape or
26 attempted escape shall be served consecutive to the terms
27 under which the offender is held by the Department of
28 Corrections.

29 (h) If a person charged with a felony commits a separate
30 felony while on pre-trial release or in pretrial detention in
31 a county jail facility or county detention facility, the
32 sentences imposed upon conviction of these felonies shall be
33 served consecutively regardless of the order in which the
34 judgments of conviction are entered.

1 (i) If a person admitted to bail following conviction of
 2 a felony commits a separate felony while free on bond or if a
 3 person detained in a county jail facility or county detention
 4 facility following conviction of a felony commits a separate
 5 felony while in detention, any sentence following conviction
 6 of the separate felony shall be consecutive to that of the
 7 original sentence for which the defendant was on bond or
 8 detained.

9 (Source: P.A. 91-144, eff. 1-1-00; 91-404, eff. 1-1-00;
 10 92-16, eff. 6-28-01; 92-674, eff. 1-1-03.)

11 (730 ILCS 5/5-8-5) (from Ch. 38, par. 1005-8-5)

12 Sec. 5-8-5. Commitment of the Offender. Upon rendition
 13 of judgment after pronouncement of a sentence of periodic
 14 imprisonment or, imprisonment, ~~or~~ death, the court shall
 15 commit the offender to the custody of the sheriff or to the
 16 Department of Corrections. A sheriff in executing an order
 17 for commitment to the Department of Corrections shall convey
 18 such offender to the nearest receiving station designated by
 19 the Department of Corrections. The court may commit the
 20 offender to the custody of the Attorney General of the United
 21 States under Section 5-8-6 when a sentence for a State
 22 offense provides that such sentence is to run concurrently
 23 with a previous and unexpired federal sentence. The expense
 24 of conveying a person committed by the juvenile court or an
 25 offender convicted of a felony shall be paid by the State.
 26 The expenses in all other cases shall be paid by the county
 27 of the committing court.

28 (Source: P.A. 84-551.)

29 Section 70. The Code of Civil Procedure is amended by
 30 changing Sections 10-103 and 10-136 as follows:

31 (735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

1 Sec. 10-103. Application. Application for the relief
2 shall be made to the Supreme Court or to the circuit court of
3 the county in which the person in whose behalf the
4 application is made, is imprisoned or restrained, or to the
5 circuit court of the county from which such person was
6 sentenced or committed. Application shall be made by
7 complaint signed by the person for whose relief it is
8 intended, or by some person in his or her behalf, and
9 verified by affidavit. ~~Application--for-relief-under-this~~
10 ~~Article-may-not-be-commenced-on-behalf-of-a--person--who--has~~
11 ~~been--sentenced--to-death-without-the-written-consent-of-that~~
12 ~~person, unless the person, because of a--mental--or--physical~~
13 ~~condition, is incapable of asserting his or her own claim.~~
14 (Source: P.A. 89-684, eff. 6-1-97.)

15 (735 ILCS 5/10-136) (from Ch. 110, par. 10-136)
16 Sec. 10-136. Prisoner remanded or punished. After a
17 prisoner has given his or her testimony, or been surrendered,
18 or his or her bail discharged, or he or she has been tried
19 for the crime with which he or she is charged, he or she
20 shall be returned to the jail or other place of confinement
21 from which he or she was taken for that purpose. If such
22 prisoner is convicted of a crime punishable with death--or
23 imprisonment in the penitentiary, he or she may be punished
24 accordingly; but in any case where the prisoner has been
25 taken from the penitentiary, and his or her punishment is by
26 imprisonment, the time of such imprisonment shall not
27 commence to run until the expiration of the time of service
28 under any former sentence.
29 (Source: P.A. 82-280.)

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

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INDEX

Statutes amended in order of appearance

20 ILCS 2605/2605-40	was 20 ILCS 2605/55a-4
20 ILCS 2630/2.1	from Ch. 38, par. 206-2.1
30 ILCS 105/5.518 rep.	
55 ILCS 5/3-9005	from Ch. 34, par. 3-9005
55 ILCS 5/3-4011	from Ch. 34, par. 3-4011
55 ILCS 5/3-4006.1 rep.	
105 ILCS 5/21-23b	from Ch. 122, par. 21-23b
305 ILCS 5/1-8	
720 ILCS 5/2-7	from Ch. 38, par. 2-7
720 ILCS 5/7-10	from Ch. 38, par. 7-10
720 ILCS 5/9-1	from Ch. 38, par. 9-1
720 ILCS 5/9-1.2	from Ch. 38, par. 9-1.2
720 ILCS 5/30-1	from Ch. 38, par. 30-1
720 ILCS 5/33B-1	from Ch. 38, par. 33B-1
720 ILCS 550/9	from Ch. 56 1/2, par. 709
725 ILCS 5/104-26	from Ch. 38, par. 104-26
725 ILCS 5/113-3	from Ch. 38, par. 113-3
725 ILCS 5/114-5	from Ch. 38, par. 114-5
725 ILCS 5/115-4	from Ch. 38, par. 115-4
725 ILCS 5/115-4.1	from Ch. 38, par. 115-4.1
725 ILCS 5/119-5	from Ch. 38, par. 119-5
725 ILCS 5/121-13	from Ch. 38, par. 121-13
725 ILCS 5/122-1	from Ch. 38, par. 122-1
725 ILCS 5/122-2.1	from Ch. 38, par. 122-2.1
725 ILCS 5/122-4	from Ch. 38, par. 122-4
725 ILCS 105/10	from Ch. 38, par. 208-10
725 ILCS 105/10.5	
725 ILCS 124/Act rep.	
725 ILCS 235/5	from Ch. 38, par. 157-5
730 ILCS 5/3-3-13	from Ch. 38, par. 1003-3-13
730 ILCS 5/3-8-10	from Ch. 38, par. 1003-8-10
730 ILCS 5/3-6-3	from Ch. 38, par. 1003-6-3

- 1 730 ILCS 5/5-1-9 from Ch. 38, par. 1005-1-9
- 2 730 ILCS 5/5-4-1 from Ch. 38, par. 1005-4-1
- 3 730 ILCS 5/5-5-3 from Ch. 38, par. 1005-5-3
- 4 730 ILCS 5/5-8-1 from Ch. 38, par. 1005-8-1
- 5 730 ILCS 5/5-8-4 from Ch. 38, par. 1005-8-4
- 6 730 ILCS 5/5-8-5 from Ch. 38, par. 1005-8-5
- 7 735 ILCS 5/10-103 from Ch. 110, par. 10-103
- 8 735 ILCS 5/10-136 from Ch. 110, par. 10-136