

1 AN ACT in relation to criminal law.

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

4 Section 5. The Criminal Code of 1961 is amended by
5 changing Sections 8-4, 9-1.2, 10-2, 12-4.3, 12-11, 12-14,
6 12-14.1, 18-2, 18-4, 33A-1, 33A-2, and 33A-3 as follows:

7 (720 ILCS 5/8-4) (from Ch. 38, par. 8-4)
8 Sec. 8-4. Attempt.

9 (a) Elements of the Offense.

10 A person commits an attempt when, with intent to commit a
11 specific offense, he does any act which constitutes a
12 substantial step toward the commission of that offense.

13 (b) Impossibility.

14 It shall not be a defense to a charge of attempt that
15 because of a misapprehension of the circumstances it would
16 have been impossible for the accused to commit the offense
17 attempted.

18 (c) Sentence.

19 A person convicted of an attempt may be fined or
20 imprisoned or both not to exceed the maximum provided for the
21 offense attempted but, except for an attempt to commit the
22 offense defined in Section 33A-2 of this Act,

23 (1) the sentence for attempt to commit first degree
24 murder is the sentence for a Class X felony, except that
25 ~~(A)~~ an attempt to commit first degree murder
26 when at least one of the aggravating factors
27 specified in paragraphs (1), (2) and (12) of
28 subsection (b) of Section 9-1 is present is a Class
29 X felony for which the sentence shall be a term of
30 imprisonment of not less than 20 years and not more
31 than 80 years;

1 (B)--an-attempt-to-commit-first--degree--murder
 2 while--armed--with-a-firearm-is-a-Class-X-felony-for
 3 which-15--years--shall--be--added--to--the--term--of
 4 imprisonment-imposed-by-the-court;

5 (C)--an--attempt--to-commit-first-degree-murder
 6 during-which--the--person--personally--discharged--a
 7 firearm-is-a-Class-X-felony-for-which-20-years-shall
 8 be--added-to-the-term-of-imprisonment-imposed-by-the
 9 court;

10 (D)--an-attempt-to-commit-first--degree--murder
 11 during--which--the--person--personally--discharged-a
 12 firearm-that-proximately-caused-great--bodily--harm,
 13 permanent--disability,
 14 permanent--disfigurement,
 15 or death-to-another-person,
 16 is-a--Class--X--felony--for
 17 which-25-years-or-up-to-a-term-of-natural-life-shall
 18 be--added-to-the-term-of-imprisonment-imposed-by-the
 19 court.

20 (2) the sentence for attempt to commit a Class X
 21 felony is the sentence for a Class 1 felony;

22 (3) the sentence for attempt to commit a Class 1
 23 felony is the sentence for a Class 2 felony;

24 (4) the sentence for attempt to commit a Class 2
 25 felony is the sentence for a Class 3 felony; and

26 (5) the sentence for attempt to commit any felony
 27 other than those specified in subsections (1), (2), (3)
 28 and (4) hereof is the sentence for a Class A misdemeanor.

29 (Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

30 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)
 31 Sec. 9-1.2. Intentional Homicide of an Unborn Child.

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

35 (1) either intended to cause the death of or do

1 great bodily harm to the pregnant woman or her unborn
2 child or knew that such acts would cause death or great
3 bodily harm to the pregnant woman or her unborn child; or

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

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

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

12 (c) This Section shall not apply to acts which cause the
13 death of an unborn child if those acts were committed during
14 any abortion, as defined in Section 2 of the Illinois
15 Abortion Law of 1975, as amended, to which the pregnant woman
16 has consented. This Section shall not apply to acts which
17 were committed pursuant to usual and customary standards of
18 medical practice during diagnostic testing or therapeutic
19 treatment.

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

23 (1) the death penalty may not be imposed;

24 (2) ~~if the person committed the offense while armed~~
25 ~~with a firearm, 15 years shall be added to the term of~~
26 ~~imprisonment imposed by the court;~~

27 (3) ~~if, during the commission of the offense, the~~
28 ~~person personally discharged a firearm, 20 years shall be~~
29 ~~added to the term of imprisonment imposed by the court;~~

30 (4) ~~if, during the commission of the offense, the~~
31 ~~person personally discharged a firearm that proximately~~
32 ~~caused great bodily harm, permanent disability, permanent~~
33 ~~disfigurement, or death to another person, 25 years or up~~
34 ~~to a term of natural life shall be added to the term of~~

1 ~~imprisonment-imposed-by-the-court.~~

2 (e) The provisions of this Act shall not be construed to
3 prohibit the prosecution of any person under any other
4 provision of law.

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

6 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)
7 Sec. 10-2. Aggravated kidnaping.

8 (a) A kidnaper within the definition of paragraph (a) of
9 Section 10-1 is guilty of the offense of aggravated
10 kidnaping when he:

11 (1) Kidnaps for the purpose of obtaining ransom
12 from the person kidnaped or from any other person, or

13 (2) Takes as his victim a child under the age of 13
14 years, or a severely or profoundly mentally retarded
15 person, or

16 (3) Inflicts great bodily harm, ~~ether-than-by-the~~
17 ~~discharge-of-a-firearm,~~ or commits another felony upon
18 his victim, or

19 (4) Wears a hood, robe or mask or conceals his
20 identity, or

21 (5) Commits the offense of kidnaping while armed
22 with a dangerous weapon, ~~ether-than-a-firearm,~~ as defined
23 in Section 33A-1 of the "Criminal Code of 1961", ~~or~~

24 ~~(6)--Commits--the--offense--of--kidnaping--while--armed~~
25 ~~with--a--firearm--or~~

26 ~~(7)--During--the--commission--of--the--offense--of~~
27 ~~kidnaping--personally--discharged--a--firearm--or~~

28 ~~(8)--During--the--commission--of--the--offense--of~~
29 ~~kidnaping--personally--discharged--a--firearm--that~~
30 ~~proximately--caused--great--bodily--harm--permanent~~
31 ~~disability--permanent--disfigurement--or--death--to--another~~
32 ~~person.~~

33 As used in this Section, "ransom" includes money, benefit

1 or other valuable thing or concession.

2 (b) Sentence. Aggravated kidnaping in violation of
3 paragraph (1), (2), (3), (4), or (5) of subsection (a) is a
4 Class X felony. A violation of subsection (a)(6) is a Class X
5 felony for which 15 years shall be added to the term of
6 imprisonment imposed by the court. A violation of subsection
7 (a)(7) is a Class X felony for which 20 years shall be added
8 to the term of imprisonment imposed by the court. A violation
9 of subsection (a)(8) is a Class X felony for which 25 years
10 or up to a term of natural life shall be added to the term of
11 imprisonment imposed by the court.

12 A person who is convicted of a second or subsequent
13 offense of aggravated kidnaping shall be sentenced to a term
14 of natural life imprisonment; provided, however, that a
15 sentence of natural life imprisonment shall not be imposed
16 under this Section unless the second or subsequent offense
17 was committed after conviction on the first offense.

18 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02.)

19 (720 ILCS 5/12-4.3) (from Ch. 38, par. 12-4.3)

20 Sec. 12-4.3. Aggravated battery of a child.

21 (a) Any person of the age 18 years and upwards who
22 intentionally or knowingly, and without legal justification
23 and by any means, causes great bodily harm or permanent
24 disability or disfigurement to any child under the age of 13
25 years or to any severely or profoundly mentally retarded
26 person, commits the offense of aggravated battery of a child.

27 (b) Aggravated battery of a child is a Class X felony,
28 except that:

29 (1) if the person committed the offense while armed
30 with a firearm, 15 years shall be added to the term of
31 imprisonment imposed by the court;

32 (2) if, during the commission of the offense, the
33 person personally discharged a firearm, 20 years shall be

1 added-to-the-term-of-imprisonment-imposed-by-the-court;

2 (3)--if,during-the-commission-of-the--offense,the
3 person--personally--discharged-a-firearm-that-proximately
4 caused-great-bodily-harm,permanent-disability,permanent
5 disfigurement,-or-death-to-another-person,-25-years-or-up
6 to-a-term-of-natural-life-shall-be-added-to-the--term--of
7 imprisonment-imposed-by-the-court.

8 (Source: P.A. 91-357, eff. 7-29-99; 91-404, eff. 1-1-00;
9 92-434, eff. 1-1-02.)

10 (720 ILCS 5/12-11) (from Ch. 38, par. 12-11)

11 Sec. 12-11. Home Invasion.

12 (a) A person who is not a peace officer acting in the
13 line of duty commits home invasion when without authority he
14 or she knowingly enters the dwelling place of another when he
15 or she knows or has reason to know that one or more persons
16 is present or he or she knowingly enters the dwelling place
17 of another and remains in such dwelling place until he or she
18 knows or has reason to know that one or more persons is
19 present and

20 (1) While armed with a dangerous weapon,-ether-than
21 a--firearm, uses force or threatens the imminent use of
22 force upon any person or persons within such dwelling
23 place whether or not injury occurs, or

24 (2) Intentionally causes any injury,-except--as
25 provided--in--subsection-(a)(5), to any person or persons
26 within such dwelling place, or

27 (3) (Blank) While-armed-with-a-firearm--uses--force
28 or-threatens-the-imminent-use-of-force-upon-any-person-or
29 persons--within-such-dwelling-place-whether-or-not-injury
30 occurs, or

31 (4) (Blank) Uses-force-or--threatens--the--imminent
32 use--of--force--upon--any--person--or-persons-within-such
33 dwelling-place-whether-or-not-injury--occurs--and--during

1 the--commission--of--the--offense--personally--discharges--a
2 firearm, or

3 (5) (Blank) Personally--discharges--a--firearm--that
4 proximately---causes---great---bodily---harm,---permanent
5 disability,---permanent--disfigurement,---or--death--to--another
6 person--within--such--dwelling--place, or

7 (6) Commits, against any person or persons within
8 that dwelling place, a violation of Section 12-13, 12-14,
9 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961.

10 (b) It is an affirmative defense to a charge of home
11 invasion that the accused who knowingly enters the dwelling
12 place of another and remains in such dwelling place until he
13 or she knows or has reason to know that one or more persons
14 is present either immediately leaves such premises or
15 surrenders to the person or persons lawfully present therein
16 without either attempting to cause or causing serious bodily
17 injury to any person present therein.

18 (c) Sentence. Home invasion in-violation-of--subsection
19 (a)(1),--(a)(2)--or--(a)(6) is a Class X felony. A-violation-of
20 subsection-(a)(3)-is-a-Class-X--felony--for--which--15--years
21 shall--be--added--to--the-term-of-imprisonment-imposed-by-the
22 court.-A-violation-of-subsection-(a)(4)-is-a-Class--X--felony
23 for-which-20-years-shall-be-added-to-the-term-of-imprisonment
24 imposed--by--the-court.-A-violation-of-subsection-(a)(5)-is-a
25 Class-X-felony-for-which-25-years-or-up-to-a-term-of--natural
26 life--shall--be--added-to-the-term-of-imprisonment-imposed-by
27 the-court-

28 (d) For purposes of this Section, "dwelling place of
29 another" includes a dwelling place where the defendant
30 maintains a tenancy interest but from which the defendant has
31 been barred by a divorce decree, judgment of dissolution of
32 marriage, order of protection, or other court order.

33 (Source: P.A. 90-787, eff. 8-14-98; 91-404, eff. 1-1-00;
34 91-928, eff. 6-1-01.)

1 (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

2 Sec. 12-14. Aggravated Criminal Sexual Assault.

3 (a) The accused commits aggravated criminal sexual
4 assault if he or she commits criminal sexual assault and any
5 of the following aggravating circumstances existed during, or
6 for the purposes of paragraph (7) of this subsection (a) as
7 part of the same course of conduct as, the commission of the
8 offense:

9 (1) the accused displayed, threatened to use, or
10 used a dangerous weapon, ~~other than a firearm,~~ or any
11 object fashioned or utilized in such a manner as to lead
12 the victim under the circumstances reasonably to believe
13 it to be a dangerous weapon; or

14 (2) the accused caused bodily harm, ~~except as~~
15 ~~provided in subsection (a)(10),~~ to the victim; or

16 (3) the accused acted in such a manner as to
17 threaten or endanger the life of the victim or any other
18 person; or

19 (4) the criminal sexual assault was perpetrated
20 during the course of the commission or attempted
21 commission of any other felony by the accused; or

22 (5) the victim was 60 years of age or over when the
23 offense was committed; or

24 (6) the victim was a physically handicapped person;
25 or

26 (7) the accused delivered (by injection,
27 inhalation, ingestion, transfer of possession, or any
28 other means) to the victim without his or her consent, or
29 by threat or deception, and for other than medical
30 purposes, any controlled substance; ~~or~~

31 ~~(8) the accused was armed with a firearm; or~~

32 ~~(9) the accused personally discharged a firearm~~
33 ~~during the commission of the offense; or~~

34 ~~(10) the accused, during the commission of the~~

1 offense, personally discharged a firearm that proximately
 2 caused great bodily harm, permanent disability, permanent
 3 disfigurement, or death to another person.

4 (b) The accused commits aggravated criminal sexual
 5 assault if the accused was under 17 years of age and (i)
 6 commits an act of sexual penetration with a victim who was
 7 under 9 years of age when the act was committed; or (ii)
 8 commits an act of sexual penetration with a victim who was at
 9 least 9 years of age but under 13 years of age when the act
 10 was committed and the accused used force or threat of force
 11 to commit the act.

12 (c) The accused commits aggravated criminal sexual
 13 assault if he or she commits an act of sexual penetration
 14 with a victim who was a severely or profoundly mentally
 15 retarded person at the time the act was committed.

16 (d) Sentence.

17 (1) Aggravated criminal sexual assault in violation
 18 of paragraph (2), (3), (4), (5), (6), or (7) of
 19 subsection (a) or in violation of subsection (b) or (c)
 20 is a Class X felony. A violation of subsection (a)(1) is
 21 a Class X felony for which 10 years shall be added to the
 22 term of imprisonment imposed by the court. A violation of
 23 subsection (a)(8) is a Class X felony for which 15 years
 24 shall be added to the term of imprisonment imposed by the
 25 court. A violation of subsection (a)(9) is a Class X
 26 felony for which 20 years shall be added to the term of
 27 imprisonment imposed by the court. A violation of
 28 subsection (a)(10) is a Class X felony for which 25 years
 29 or up to a term of natural life imprisonment shall be
 30 added to the term of imprisonment imposed by the court.

31 (2) A person who is convicted of a second or
 32 subsequent offense of aggravated criminal sexual assault,
 33 or who is convicted of the offense of aggravated criminal
 34 sexual assault after having previously been convicted of

1 the offense of criminal sexual assault or the offense of
 2 predatory criminal sexual assault of a child, or who is
 3 convicted of the offense of aggravated criminal sexual
 4 assault after having previously been convicted under the
 5 laws of this or any other state of an offense that is
 6 substantially equivalent to the offense of criminal
 7 sexual assault, the offense of aggravated criminal sexual
 8 assault or the offense of predatory criminal sexual
 9 assault of a child, shall be sentenced to a term of
 10 natural life imprisonment. The commission of the second
 11 or subsequent offense is required to have been after the
 12 initial conviction for this paragraph (2) to apply.

13 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02;
 14 92-502, eff. 12-19-01; 92-721, eff. 1-1-03.)

15 (720 ILCS 5/12-14.1)

16 Sec. 12-14.1. Predatory criminal sexual assault of a
 17 child.

18 (a) The accused commits predatory criminal sexual
 19 assault of a child if:

20 (1) the accused was 17 years of age or over and
 21 commits an act of sexual penetration with a victim who
 22 was under 13 years of age when the act was committed; or
 23 ~~{1.1}--the--accused--was--17--years--of--age--or--over--and,~~
 24 ~~while--armed--with--a--firearm,~~~~--commits--an--act--of--sexual~~
 25 ~~penetration--with--a--victim--who--was--under--13--years--of--age~~
 26 ~~when--the--act--was--committed;~~~~--or~~

27 ~~{1.2}--the--accused--was--17--years--of--age--or--over--and~~
 28 ~~commits--an--act--of--sexual--penetration--with--a--victim--who~~
 29 ~~was--under--13--years--of--age--when--the--act--was--committed--and,~~
 30 ~~during--the--commission--of--the--offense,~~~~--the--accused~~
 31 ~~personally--discharged--a--firearm;~~~~--or~~

32 (2) the accused was 17 years of age or over and
 33 commits an act of sexual penetration with a victim who

1 was under 13 years of age when the act was committed and
2 the accused caused great bodily harm to the victim that:

3 (A) resulted in permanent disability; or

4 (B) was life threatening; or

5 (3) the accused was 17 years of age or over and
6 commits an act of sexual penetration with a victim who
7 was under 13 years of age when the act was committed and
8 the accused delivered (by injection, inhalation,
9 ingestion, transfer of possession, or any other means) to
10 the victim without his or her consent, or by threat or
11 deception, and for other than medical purposes, any
12 controlled substance.

13 (b) Sentence.

14 (1) A person convicted of a violation of subsection
15 (a)(1) commits a Class X felony. ~~A person convicted of a~~
16 ~~violation of subsection (a)(1.1) commits a Class X felony~~
17 ~~for which 15 years shall be added to the term of~~
18 ~~imprisonment imposed by the court. A person convicted of~~
19 ~~a violation of subsection (a)(1.2) commits a Class X~~
20 ~~felony for which 20 years shall be added to the term of~~
21 ~~imprisonment imposed by the court. A person convicted of~~
22 ~~a violation of subsection (a)(2) commits a Class X felony~~
23 ~~for which the person shall be sentenced to a term of~~
24 ~~imprisonment of not less than 50 years or up to a term of~~
25 ~~natural life imprisonment.~~

26 (1.1) A person convicted of a violation of
27 subsection (a)(2) or (a)(3) commits a Class X felony for
28 which the person shall be sentenced to a term of
29 imprisonment of not less than 50 years and not more than
30 60 years.

31 (1.2) A person convicted of predatory criminal
32 sexual assault of a child committed against 2 or more
33 persons regardless of whether the offenses occurred as
34 the result of the same act or of several related or

1 unrelated acts shall be sentenced to a term of natural
2 life imprisonment.

3 (2) A person who is convicted of a second or
4 subsequent offense of predatory criminal sexual assault
5 of a child, or who is convicted of the offense of
6 predatory criminal sexual assault of a child after having
7 previously been convicted of the offense of criminal
8 sexual assault or the offense of aggravated criminal
9 sexual assault, or who is convicted of the offense of
10 predatory criminal sexual assault of a child after having
11 previously been convicted under the laws of this State or
12 any other state of an offense that is substantially
13 equivalent to the offense of predatory criminal sexual
14 assault of a child, the offense of aggravated criminal
15 sexual assault or the offense of criminal sexual assault,
16 shall be sentenced to a term of natural life
17 imprisonment. The commission of the second or subsequent
18 offense is required to have been after the initial
19 conviction for this paragraph (2) to apply.

20 (Source: P.A. 91-238, eff. 1-1-00; 91-404, eff. 1-1-00;
21 92-16, eff. 6-28-01.)

22 (720 ILCS 5/18-2) (from Ch. 38, par. 18-2)
23 Sec. 18-2. Armed robbery.

24 (a) A person commits armed robbery when he or she
25 violates Section 18-1 while;-and

26 (1) he or she carries on or about his or her
27 person, or is otherwise armed with a dangerous weapon
28 ~~other than a firearm; or~~

29 ~~(2) he or she carries on or about his or her person~~
30 ~~or is otherwise armed with a firearm; or~~

31 ~~(3) he or she, during the commission of the~~
32 ~~offense, personally discharges a firearm; or~~

33 ~~(4) he or she, during the commission of the~~

1 offense, personally discharges a firearm that proximately
2 causes great bodily harm, permanent disability, permanent
3 disfigurement, or death to another person.

4 (b) Sentence.

5 Armed robbery in violation of subsection (a)(1) is a
6 Class X felony. A violation of subsection (a)(2) is a Class X
7 felony for which 15 years shall be added to the term of
8 imprisonment imposed by the court. A violation of subsection
9 (a)(3) is a Class X felony for which 20 years shall be added
10 to the term of imprisonment imposed by the court. A violation
11 of subsection (a)(4) is a Class X felony for which 25 years
12 or up to a term of natural life shall be added to the term of
13 imprisonment imposed by the court.

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

15 (720 ILCS 5/18-4)

16 Sec. 18-4. Aggravated vehicular hijacking.

17 (a) A person commits aggravated vehicular hijacking when
18 he or she violates Section 18-3; and

19 (1) the person from whose immediate presence the
20 motor vehicle is taken is a physically handicapped person
21 or a person 60 years of age or over; or

22 (2) a person under 16 years of age is a passenger
23 in the motor vehicle at the time of the offense; or

24 (3) he or she carries on or about his or her
25 person, or is otherwise armed with a dangerous weapon,
26 other than a firearm; or

27 (4) he or she carries on or about his or her person
28 or is otherwise armed with a firearm; or

29 (5) he or she, during the commission of the
30 offense, personally discharges a firearm; or

31 (6) he or she, during the commission of the
32 offense, personally discharges a firearm that proximately
33 causes great bodily harm, permanent disability, permanent

1 disfigurement, or death to another person.

2 (b) Sentence. Aggravated vehicular hijacking in
3 violation of subsections (a)(1) or (a)(2) is a Class X
4 felony. Aggravated vehicular hijacking in violation of
5 subsection (a)(3) is a Class X felony for which a term of
6 imprisonment of not less than 7 years shall be imposed.
7 ~~Aggravated vehicular hijacking in violation of subsection~~
8 ~~(a)(4) is a Class X felony for which 15 years shall be added~~
9 ~~to the term of imprisonment imposed by the court. Aggravated~~
10 ~~vehicular hijacking in violation of subsection (a)(5) is a~~
11 ~~Class X felony for which 20 years shall be added to the term~~
12 ~~of imprisonment imposed by the court. Aggravated vehicular~~
13 ~~hijacking in violation of subsection (a)(6) is a Class X~~
14 ~~felony for which 25 years or up to a term of natural life~~
15 ~~shall be added to the term of imprisonment imposed by the~~
16 ~~court.~~

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

18 (720 ILCS 5/33A-1) (from Ch. 38, par. 33A-1)

19 Sec. 33A-1. Legislative intent and definitions.

20 (a) Legislative findings. The legislature finds and
21 declares the following:

22 (1) The use of a dangerous weapon in the commission
23 of a felony offense poses a much greater threat to the
24 public health, safety, and general welfare, than when a
25 weapon is not used in the commission of the offense.

26 (2) Further, the use of a firearm greatly
27 facilitates the commission of a criminal offense because
28 of the more lethal nature of a firearm and the greater
29 perceived threat produced in those confronted by a person
30 wielding a firearm. Unlike other dangerous weapons such
31 as knives and clubs, the use of a firearm in the
32 commission of a criminal felony offense significantly
33 escalates the threat and the potential for bodily harm,

1 and the greater range of the firearm increases the
2 potential for harm to more persons. Not only are the
3 victims and bystanders at greater risk when a firearm is
4 used, but also the law enforcement officers whose duty
5 is to confront and apprehend the armed suspect.

6 (3) Current law does contain offenses involving the
7 use or discharge of a gun toward or against a person,
8 such as aggravated battery with a firearm, aggravated
9 discharge of a firearm, and reckless discharge of a
10 firearm; however, the General Assembly has legislated
11 greater penalties for the commission of a felony while in
12 possession of a firearm because it deems such acts as
13 more serious.

14 (b) Legislative intent.

15 (1) In order to deter the use of firearms in the
16 commission of a felony offense, the General Assembly
17 deems it appropriate for a greater penalty to be imposed
18 when a firearm is used or discharged in the commission of
19 an offense than the penalty imposed for using other types
20 of weapons and for the penalty to increase on more
21 serious offenses.

22 (2) With the additional elements of the discharge
23 of a firearm and great bodily harm inflicted by a firearm
24 being added to armed violence and other serious felony
25 offenses, it is the intent of the General Assembly to
26 punish those elements more severely during commission of
27 a felony offense than when those elements stand alone as
28 the act of the offender.

29 (3) It is the intent of the 91st General Assembly
30 that should Public Act 88-680 be declared
31 unconstitutional for a violation of Article 4, Section 8
32 of the 1970 Constitution of the State of Illinois, the
33 amendatory changes made by Public Act 88-680 to Article
34 33A of the Criminal Code of 1961 and which are set forth

1 as-law--in--this--amendatory--Act--of--the--91st--General
2 Assembly--are--hereby--reenacted--by--this--amendatory--Act--of
3 the-91st-General-Assembly-

4 (e) Definitions.

5 (a) (1) "Armed with a dangerous weapon". A person
6 is considered armed with a dangerous weapon for purposes
7 of this Article, when he or she carries on or about his
8 or her person or is otherwise armed with a Category I,
9 Category II, or Category III weapon.

10 (b) (2) A Category I weapon is a handgun, sawed-off
11 shotgun, sawed-off rifle, any other firearm small enough
12 to be concealed upon the person, semiautomatic firearm,
13 or machine gun. A Category II weapon is any other rifle,
14 shotgun, spring gun, other firearm, stun gun or taser as
15 defined in paragraph (a) of Section 24-1 of this Code,
16 knife with a blade of at least 3 inches in length,
17 dagger, dirk, switchblade knife, stiletto, axe, hatchet,
18 or other deadly or dangerous weapon or instrument of like
19 character. As used in this subsection (b) "semiautomatic
20 firearm" means a repeating firearm that utilizes a
21 portion of the energy of a firing cartridge to extract
22 the fired cartridge case and chamber the next round and
23 that requires a separate pull of the trigger to fire each
24 cartridge.

25 (c) (3) A Category III weapon is a bludgeon,
26 black-jack, slungshot, sand-bag, sand-club, metal
27 knuckles, billy, or other dangerous weapon of like
28 character.

29 (Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

30 (720 ILCS 5/33A-2) (from Ch. 38, par. 33A-2)

31 Sec. 33A-2. Armed violence-Elements of the offense.

32 (a) A person commits armed violence when, while armed
33 with a dangerous weapon, he commits any felony defined by

1 Illinois Law, except first-degree murder, attempted first
 2 degree murder, intentional homicide of an unborn child,
 3 predatory criminal sexual assault of a child, aggravated
 4 criminal sexual assault, aggravated kidnaping, aggravated
 5 battery of a child, home invasion, armed robbery, or
 6 aggravated vehicular hijacking.

7 (b) A person commits armed violence when he or she
 8 personally discharges a firearm that is a Category I or
 9 Category II weapon while committing any felony defined by
 10 Illinois law, except first-degree murder, attempted first
 11 degree murder, intentional homicide of an unborn child,
 12 predatory criminal sexual assault of a child, aggravated
 13 criminal sexual assault, aggravated kidnaping, aggravated
 14 battery of a child, home invasion, armed robbery, or
 15 aggravated vehicular hijacking.

16 (c) A person commits armed violence when he or she
 17 personally discharges a firearm that is a Category I or
 18 Category II weapon that proximately causes great bodily harm,
 19 permanent disability, or permanent disfigurement or death to
 20 another person while committing any felony defined by
 21 Illinois law, except first-degree murder, attempted first
 22 degree murder, intentional homicide of an unborn child,
 23 predatory criminal sexual assault of a child, aggravated
 24 criminal sexual assault, aggravated kidnaping, aggravated
 25 battery of a child, home invasion, armed robbery, or
 26 aggravated vehicular hijacking.

27 (d) This Section does not apply to violations of the
 28 Fish and Aquatic Life Code or the Wildlife Code.

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

30 (720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)
 31 Sec. 33A-3. Sentence.

32 (a) Violation of Section 33A-2 33A-2(a) with a Category
 33 I weapon is a Class X felony for which the defendant shall be

1 sentenced to a minimum term of imprisonment of 20 15 years.

2 (a-5) Violation of Section 33A-2 33A-2(a) with a
3 Category II weapon is a Class X felony for which the
4 defendant shall be sentenced to a minimum term of
5 imprisonment of 15 10 years.

6 (b) Violation of Section 33A-2 33A-2(a) with a Category
7 III weapon is a Class 2 felony or the felony classification
8 provided for the same act while unarmed, whichever permits
9 the greater penalty. A second or subsequent violation of
10 Section 33A-2 33A-2(a) with a Category III weapon is a Class
11 1 felony or the felony classification provided for the same
12 act while unarmed, whichever permits the greater penalty.

13 ~~(b-5) Violation of Section 33A-2(b) with a firearm that~~
14 ~~is a Category I or Category II weapon is a Class X felony for~~
15 ~~which the defendant shall be sentenced to a minimum term of~~
16 ~~imprisonment of 20 years.~~

17 ~~(b-10) Violation of Section 33A-2(c) with a firearm that~~
18 ~~is a Category I or Category II weapon is a Class X felony for~~
19 ~~which the defendant shall be sentenced to a term of~~
20 ~~imprisonment of not less than 25 years nor more than 40~~
21 ~~years.~~

22 (c) Unless sentencing under Section 33B-1 is applicable,
23 any person who violates subsection (a) or (b) of Section
24 33A-2 with a firearm, when that person has been convicted in
25 any state or federal court of 3 or more of the following
26 offenses: treason, first degree murder, second degree murder,
27 predatory criminal sexual assault of a child, aggravated
28 criminal sexual assault, criminal sexual assault, robbery,
29 burglary, arson, kidnaping, aggravated battery resulting in
30 great bodily harm or permanent disability or disfigurement,
31 or a violation of Section 401(a) of the Illinois Controlled
32 Substances Act, when the third offense was committed after
33 conviction on the second, the second offense was committed
34 after conviction on the first, and the violation of Section

1 33A-2 was committed after conviction on the third, shall be
2 sentenced to a term of imprisonment of not less than 25 years
3 nor more than 50 years.

4 (c-5)--Except--as--otherwise--provided--in--paragraph--(b-10)
5 or--(c)--of--this--Section,--a--person--who--violates--Section
6 33A-2(a)--with--a--firearm--that--is--a--Category-I--weapon--or
7 Section-33A-2(b)--in--any--school,--in--any--conveyance--owned,
8 leased,--or--contracted--by--a--school--to--transport--students--to--or
9 from--school--or--a--school--related--activity,--or--on--the--real
10 property--comprising--any--school--or--public--park,--and--where--the
11 offense--was--related--to--the--activities--of--an--organized--gang,
12 shall--be--sentenced--to--a--term--of--imprisonment--of--not--less--than
13 the--term--set--forth--in--subsection--(a)--or--(b-5)--of--this
14 Section,--whichever--is--applicable,--and--not--more--than--30--years.
15 For--the--purposes--of--this--subsection--(c-5),--"organized--gang"
16 has--the--meaning--ascribed--to--it--in--Section-10--of--the--Illinois
17 Streetgang-Terrorism-Omnibus-Prevention-Act.

18 (d)--For--armed--violence--based--upon--a--predicate--offense
19 listed--in--this--subsection--(d)--the--court--shall--enter--the
20 sentence--for--armed--violence--to--run--consecutively--to--the
21 sentence--imposed--for--the--predicate--offense.--The--offenses
22 covered--by--this--provision--are:

- 23 (i)--solicitation--of--murder,
- 24 (ii)--solicitation--of--murder--for--hire,
- 25 (iii)--heinous--battery,
- 26 (iv)--aggravated--battery--of--a--senior--citizen,
- 27 (v)--criminal--sexual--assault,
- 28 (vi)--a--violation--of--subsection--(g)--of--Section-5--of
29 the-Cannabis-Control-Act,
- 30 (vii)--cannabis--trafficking,
- 31 (viii)--a--violation--of--subsection--(a)--of--Section-401
32 of--the--Illinois--Controlled--Substances--Act,
- 33 (ix)--controlled--substance--trafficking--involving--a
34 Class-X--felony--amount--of--controlled--substance--under

1 ~~Section 401 of the Illinois Controlled Substances Act,~~
2 ~~(x) -- calculated criminal drug conspiracy, or~~
3 ~~(xi) -- streetgang criminal drug conspiracy.~~

4 (Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

5 (720 ILCS 5/2-3.6 rep.)

6 (720 ILCS 5/2-7.5 rep.)

7 (720 ILCS 5/2-15.5 rep.)

8 Section 10. The Criminal Code of 1961 is amended by
9 repealing Sections 2-3.6, 2-7.5, and 2-15.5.

10 Section 15. The Unified Code of Corrections is amended
11 by changing Sections 5-5-3, 5-8-1, and 5-8-4 as follows:

12 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

13 Sec. 5-5-3. Disposition.

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

16 (b) The following options shall be appropriate
17 dispositions, alone or in combination, for all felonies and
18 misdemeanors other than those identified in subsection (c) of
19 this Section:

20 (1) A period of probation.

21 (2) A term of periodic imprisonment.

22 (3) A term of conditional discharge.

23 (4) A term of imprisonment.

24 (5) An order directing the offender to clean up and
25 repair the damage, if the offender was convicted under
26 paragraph (h) of Section 21-1 of the Criminal Code of
27 1961.

28 (6) A fine.

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

1 (8) A sentence of participation in a county impact
2 incarceration program under Section 5-8-1.2 of this Code.
3 Whenever an individual is sentenced for an offense based
4 upon an arrest for a violation of Section 11-501 of the
5 Illinois Vehicle Code, or a similar provision of a local
6 ordinance, and the professional evaluation recommends
7 remedial or rehabilitative treatment or education, neither
8 the treatment nor the education shall be the sole disposition
9 and either or both may be imposed only in conjunction with
10 another disposition. The court shall monitor compliance with
11 any remedial education or treatment recommendations contained
12 in the professional evaluation. Programs conducting alcohol
13 or other drug evaluation or remedial education must be
14 licensed by the Department of Human Services. However, if
15 the individual is not a resident of Illinois, the court may
16 accept an alcohol or other drug evaluation or remedial
17 education program in the state of such individual's
18 residence. Programs providing treatment must be licensed
19 under existing applicable alcoholism and drug treatment
20 licensure standards.

21 In addition to any other fine or penalty required by law,
22 any individual convicted of a violation of Section 11-501 of
23 the Illinois Vehicle Code, Section 5-7 of the Snowmobile
24 Registration and Safety Act, Section 5-16 of the Boat
25 Registration and Safety Act, or a similar provision of local
26 ordinance, whose operation of a motor vehicle while in
27 violation of Section 11-501, Section 5-7, Section 5-16, or
28 such ordinance proximately caused an incident resulting in an
29 appropriate emergency response, shall be required to make
30 restitution to a public agency for the costs of that
31 emergency response. Such restitution shall not exceed \$1,000
32 per public agency for each such emergency response. For the
33 purpose of this paragraph, emergency response shall mean any
34 incident requiring a response by: a police officer as defined

1 under Section 1-162 of the Illinois Vehicle Code; a fireman
2 carried on the rolls of a regularly constituted fire
3 department; and an ambulance as defined under Section 3.85 of
4 the Emergency Medical Services (EMS) Systems Act.

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

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

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

20 (A) First degree murder where the death
21 penalty is not imposed.

22 (B) Attempted first degree murder.

23 (C) A Class X felony.

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

30 (E) A violation of Section 5.1 or 9 of the
31 Cannabis Control Act.

32 (F) A Class 2 or greater felony if the
33 offender had been convicted of a Class 2 or greater
34 felony within 10 years of the date on which the

1 offender committed the offense for which he or she
2 is being sentenced, except as otherwise provided in
3 Section 40-10 of the Alcoholism and Other Drug Abuse
4 and Dependency Act.

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

8 (H) Criminal sexual assault.

9 (I) Aggravated battery of a senior citizen.

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

12 Before July 1, 1994, for the purposes of this
13 paragraph, "organized gang" means an association of
14 5 or more persons, with an established hierarchy,
15 that encourages members of the association to
16 perpetrate crimes or provides support to the members
17 of the association who do commit crimes.

18 Beginning July 1, 1994, for the purposes of
19 this paragraph, "organized gang" has the meaning
20 ascribed to it in Section 10 of the Illinois
21 Streetgang Terrorism Omnibus Prevention Act.

22 (K) Vehicular hijacking.

23 (L) A second or subsequent conviction for the
24 offense of hate crime when the underlying offense
25 upon which the hate crime is based is felony
26 aggravated assault or felony mob action.

27 (M) A second or subsequent conviction for the
28 offense of institutional vandalism if the damage to
29 the property exceeds \$300.

30 (N) A Class 3 felony violation of paragraph
31 (1) of subsection (a) of Section 2 of the Firearm
32 Owners Identification Card Act.

33 (O) A violation of Section 12-6.1 of the
34 Criminal Code of 1961.

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

4 (Q) A violation of Section 20-1.2 or 20-1.3 of
5 the Criminal Code of 1961.

6 (R) A violation of Section 24-3A of the
7 Criminal Code of 1961.

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

10 (T) A second or subsequent violation of
11 paragraph (6.6) of subsection (a), subsection (c-5),
12 or subsection (d-5) of Section 401 of the Illinois
13 Controlled Substances Act.

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

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

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

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

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

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

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

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

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

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

30 (A) a period of conditional discharge;

31 (B) a fine;

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

34 (5.1) In addition to any penalties imposed under

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 (11) Unless sentencing under Section 33B-1 is
10 applicable, a term of imprisonment of not less than 15
11 years nor more than 50 years shall be imposed on a
12 defendant who violates Section 33A-2 of the Criminal Code
13 of 1961 with a firearm, when that person has been
14 convicted in any state or federal court of 3 or more of
15 the following offenses: treason, first degree murder,
16 second degree murder, aggravated criminal sexual assault,
17 criminal sexual assault, robbery, burglary, arson,
18 kidnaping, aggravated battery resulting in great bodily
19 harm or permanent disability or disfigurement, or a
20 violation of Section 401(a) of the Illinois Controlled
21 Substances Act, when the third offense was committed
22 after conviction on the second, the second offense was
23 committed after conviction on the first, and the
24 violation of Section 33A-2 of the Criminal Code of 1961
25 was committed after conviction on the third.

26 (12) A term of imprisonment of not less than 10
27 years and not more than 30 years shall be imposed on a
28 defendant who violates Section 33A-2 with a Category I
29 weapon where the offense was committed in any school, or
30 any conveyance owned, leased, or contracted by a school
31 to transport students to or from school or a school
32 related activity, on the real property comprising any
33 school or public park, and where the offense was related
34 to the activities of an organized gang. For the purposes

1 of this paragraph (12), "organized gang" has the meaning
2 ascribed to it in Section 10 of the Illinois Streetgang
3 Terrorism Omnibus Prevention Act.

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

23 (e) In cases where prosecution for aggravated criminal
24 sexual abuse under Section 12-16 of the Criminal Code of 1961
25 results in conviction of a defendant who was a family member
26 of the victim at the time of the commission of the offense,
27 the court shall consider the safety and welfare of the victim
28 and may impose a sentence of probation only where:

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

31 (A) the defendant is willing to undergo a
32 court approved counseling program for a minimum
33 duration of 2 years; or

34 (B) the defendant is willing to participate in

1 a court approved plan including but not limited to
2 the defendant's:

- 3 (i) removal from the household;
- 4 (ii) restricted contact with the victim;
- 5 (iii) continued financial support of the
6 family;

7 (iv) restitution for harm done to the
8 victim; and

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

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

18 Probation may be revoked or modified pursuant to Section
19 5-6-4; except where the court determines at the hearing that
20 the defendant violated a condition of his or her probation
21 restricting contact with the victim or other family members
22 or commits another offense with the victim or other family
23 members, the court shall revoke the defendant's probation and
24 impose a term of imprisonment.

25 For the purposes of this Section, "family member" and
26 "victim" shall have the meanings ascribed to them in Section
27 12-12 of the Criminal Code of 1961.

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

32 (g) Whenever a defendant is convicted of an offense
33 under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18,
34 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1,

1 12-15 or 12-16 of the Criminal Code of 1961, the defendant
2 shall undergo medical testing to determine whether the
3 defendant has any sexually transmissible disease, including a
4 test for infection with human immunodeficiency virus (HIV) or
5 any other identified causative agent of acquired
6 immunodeficiency syndrome (AIDS). Any such medical test
7 shall be performed only by appropriately licensed medical
8 practitioners and may include an analysis of any bodily
9 fluids as well as an examination of the defendant's person.
10 Except as otherwise provided by law, the results of such test
11 shall be kept strictly confidential by all medical personnel
12 involved in the testing and must be personally delivered in a
13 sealed envelope to the judge of the court in which the
14 conviction was entered for the judge's inspection in camera.
15 Acting in accordance with the best interests of the victim
16 and the public, the judge shall have the discretion to
17 determine to whom, if anyone, the results of the testing may
18 be revealed. The court shall notify the defendant of the test
19 results. The court shall also notify the victim if requested
20 by the victim, and if the victim is under the age of 15 and
21 if requested by the victim's parents or legal guardian, the
22 court shall notify the victim's parents or legal guardian of
23 the test results. The court shall provide information on the
24 availability of HIV testing and counseling at Department of
25 Public Health facilities to all parties to whom the results
26 of the testing are revealed and shall direct the State's
27 Attorney to provide the information to the victim when
28 possible. A State's Attorney may petition the court to obtain
29 the results of any HIV test administered under this Section,
30 and the court shall grant the disclosure if the State's
31 Attorney shows it is relevant in order to prosecute a charge
32 of criminal transmission of HIV under Section 12-16.2 of the
33 Criminal Code of 1961 against the defendant. The court shall
34 order that the cost of any such test shall be paid by the

1 county and may be taxed as costs against the convicted
2 defendant.

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

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

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

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

16 (j) In cases when prosecution for any violation of
17 Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1,
18 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
19 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or
20 12-16 of the Criminal Code of 1961, any violation of the
21 Illinois Controlled Substances Act, or any violation of the
22 Cannabis Control Act results in conviction, a disposition of
23 court supervision, or an order of probation granted under
24 Section 10 of the Cannabis Control Act or Section 410 of the
25 Illinois Controlled Substance Act of a defendant, the court
26 shall determine whether the defendant is employed by a
27 facility or center as defined under the Child Care Act of
28 1969, a public or private elementary or secondary school, or
29 otherwise works with children under 18 years of age on a
30 daily basis. When a defendant is so employed, the court
31 shall order the Clerk of the Court to send a copy of the
32 judgment of conviction or order of supervision or probation
33 to the defendant's employer by certified mail. If the
34 employer of the defendant is a school, the Clerk of the Court

1 shall direct the mailing of a copy of the judgment of
2 conviction or order of supervision or probation to the
3 appropriate regional superintendent of schools. The regional
4 superintendent of schools shall notify the State Board of
5 Education of any notification under this subsection.

6 (j-5) A defendant at least 17 years of age who is
7 convicted of a felony and who has not been previously
8 convicted of a misdemeanor or felony and who is sentenced to
9 a term of imprisonment in the Illinois Department of
10 Corrections shall as a condition of his or her sentence be
11 required by the court to attend educational courses designed
12 to prepare the defendant for a high school diploma and to
13 work toward a high school diploma or to work toward passing
14 the high school level Test of General Educational Development
15 (GED) or to work toward completing a vocational training
16 program offered by the Department of Corrections. If a
17 defendant fails to complete the educational training required
18 by his or her sentence during the term of incarceration, the
19 Prisoner Review Board shall, as a condition of mandatory
20 supervised release, require the defendant, at his or her own
21 expense, to pursue a course of study toward a high school
22 diploma or passage of the GED test. The Prisoner Review
23 Board shall revoke the mandatory supervised release of a
24 defendant who wilfully fails to comply with this subsection
25 (j-5) upon his or her release from confinement in a penal
26 institution while serving a mandatory supervised release
27 term; however, the inability of the defendant after making a
28 good faith effort to obtain financial aid or pay for the
29 educational training shall not be deemed a wilful failure to
30 comply. The Prisoner Review Board shall recommit the
31 defendant whose mandatory supervised release term has been
32 revoked under this subsection (j-5) as provided in Section
33 3-3-9. This subsection (j-5) does not apply to a defendant
34 who has a high school diploma or has successfully passed the

1 GED test. This subsection (j-5) does not apply to a defendant
2 who is determined by the court to be developmentally disabled
3 or otherwise mentally incapable of completing the educational
4 or vocational program.

5 (k) A court may not impose a sentence or disposition for
6 a felony or misdemeanor that requires the defendant to be
7 implanted or injected with or to use any form of birth
8 control.

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

18 (1) a final order of deportation has been
19 issued against the defendant pursuant to proceedings
20 under the Immigration and Nationality Act, and

21 (2) the deportation of the defendant would not
22 deprecate the seriousness of the defendant's conduct
23 and would not be inconsistent with the ends of
24 justice.

25 Otherwise, the defendant shall be sentenced as
26 provided in this Chapter V.

27 (B) If the defendant has already been sentenced for
28 a felony or misdemeanor offense, or has been placed on
29 probation under Section 10 of the Cannabis Control Act or
30 Section 410 of the Illinois Controlled Substances Act,
31 the court may, upon motion of the State's Attorney to
32 suspend the sentence imposed, commit the defendant to the
33 custody of the Attorney General of the United States or
34 his or her designated agent when:

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

4 (2) the deportation of the defendant would not
5 deprecate the seriousness of the defendant's conduct
6 and would not be inconsistent with the ends of
7 justice.

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

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

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

27 (n) The court may sentence a person convicted of a
28 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
29 Code of 1961 (i) to an impact incarceration program if the
30 person is otherwise eligible for that program under Section
31 5-8-1.1, (ii) to community service, or (iii) if the person is
32 an addict or alcoholic, as defined in the Alcoholism and
33 Other Drug Abuse and Dependency Act, to a substance or
34 alcohol abuse program licensed under that Act.

1 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
 2 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
 3 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
 4 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04;
 5 93-169, eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff.
 6 1-1-04; 93-546, eff. 1-1-04; revised 8-27-03.)

7 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)
 8 Sec. 5-8-1. Sentence of Imprisonment for Felony.

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

13 (1) for first degree murder,

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

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

25 (c) the court shall sentence the defendant to
 26 a term of natural life imprisonment when the death
 27 penalty is not imposed if the defendant,

28 (i) has previously been convicted of
 29 first degree murder under any state or federal
 30 law, or

31 (ii) is a person who, at the time of the
 32 commission of the murder, had attained the age
 33 of 17 or more and is found guilty of murdering

1 an individual under 12 years of age; or,
2 irrespective of the defendant's age at the time
3 of the commission of the offense, is found
4 guilty of murdering more than one victim, or

5 (iii) is found guilty of murdering a
6 peace officer or fireman when the peace officer
7 or fireman was killed in the course of
8 performing his official duties, or to prevent
9 the peace officer or fireman from performing
10 his official duties, or in retaliation for the
11 peace officer or fireman performing his
12 official duties, and the defendant knew or
13 should have known that the murdered individual
14 was a peace officer or fireman, or

15 (iv) is found guilty of murdering an
16 employee of an institution or facility of the
17 Department of Corrections, or any similar local
18 correctional agency, when the employee was
19 killed in the course of performing his official
20 duties, or to prevent the employee from
21 performing his official duties, or in
22 retaliation for the employee performing his
23 official duties, or

24 (v) is found guilty of murdering an
25 emergency medical technician - ambulance,
26 emergency medical technician - intermediate,
27 emergency medical technician - paramedic,
28 ambulance driver or other medical assistance or
29 first aid person while employed by a
30 municipality or other governmental unit when
31 the person was killed in the course of
32 performing official duties or to prevent the
33 person from performing official duties or in
34 retaliation for performing official duties and

1 the defendant knew or should have known that
2 the murdered individual was an emergency
3 medical technician - ambulance, emergency
4 medical technician - intermediate, emergency
5 medical technician - paramedic, ambulance
6 driver, or other medical assistant or first aid
7 personnel, or

8 (vi) is a person who, at the time of the
9 commission of the murder, had not attained the
10 age of 17, and is found guilty of murdering a
11 person under 12 years of age and the murder is
12 committed during the course of aggravated
13 criminal sexual assault, criminal sexual
14 assault, or aggravated kidnaping, or

15 (vii) is found guilty of first degree
16 murder and the murder was committed by reason
17 of any person's activity as a community
18 policing volunteer or to prevent any person
19 from engaging in activity as a community
20 policing volunteer. For the purpose of this
21 Section, "community policing volunteer" has the
22 meaning ascribed to it in Section 2-3.5 of the
23 Criminal Code of 1961.

24 For purposes of clause (v), "emergency medical
25 technician - ambulance", "emergency medical
26 technician - intermediate", "emergency medical
27 technician - paramedic", have the meanings ascribed
28 to them in the Emergency Medical Services (EMS)
29 Systems Act.

30 ~~(d)-(i)--if--the--person--committed--the--offense~~
31 ~~while--armed--with--a--firearm,--15--years--shall--be~~
32 ~~added--to--the--term--of--imprisonment--imposed--by~~
33 ~~the--court;~~

34 ~~(ii)--if,--during--the--commission--of--the~~

1 offense, the person personally discharged a
2 firearm, 20 years shall be added to the term of
3 imprisonment imposed by the court;

4 (iii) if, during the commission of the
5 offense, the person personally discharged a
6 firearm that proximately caused great bodily
7 harm, permanent disability, permanent
8 disfigurement, or death to another person, 25
9 years or up to a term of natural life shall be
10 added to the term of imprisonment imposed by
11 the court.

12 (1.5) for second degree murder, a term shall be not
13 less than 4 years and not more than 20 years;

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

17 (2.5) for a person convicted under the
18 circumstances described in paragraph (3) of subsection
19 (b) of Section 12-13, paragraph (2) of subsection (d) of
20 Section 12-14, paragraph (1.2) of subsection (b) of
21 Section 12-14.1, or paragraph (2) of subsection (b) of
22 Section 12-14.1 of the Criminal Code of 1961, the
23 sentence shall be a term of natural life imprisonment;

24 (3) except as otherwise provided in the statute
25 defining the offense, for a Class X felony, the sentence
26 shall be not less than 6 years and not more than 30
27 years;

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

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

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

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

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

12 (c) A motion to reduce a sentence may be made, or the
13 court may reduce a sentence without motion, within 30 days
14 after the sentence is imposed. A defendant's challenge to
15 the correctness of a sentence or to any aspect of the
16 sentencing hearing shall be made by a written motion filed
17 within 30 days following the imposition of sentence.
18 However, the court may not increase a sentence once it is
19 imposed.

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

25 If a motion filed pursuant to this subsection is timely
26 filed within 30 days after the sentence is imposed, then for
27 purposes of perfecting an appeal, a final judgment shall not
28 be considered to have been entered until the motion to reduce
29 a sentence has been decided by order entered by the trial
30 court.

31 A motion filed pursuant to this subsection shall not be
32 considered to have been timely filed unless it is filed with
33 the circuit court clerk within 30 days after the sentence is
34 imposed together with a notice of motion, which notice of

1 motion shall set the motion on the court's calendar on a date
2 certain within a reasonable time after the date of filing.

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

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

14 (2) for a Class 1 felony or a Class 2 felony, 2
15 years;

16 (3) for a Class 3 felony or a Class 4 felony, 1
17 year;

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

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

30 (e) A defendant who has a previous and unexpired
31 sentence of imprisonment imposed by another state or by any
32 district court of the United States and who, after sentence
33 for a crime in Illinois, must return to serve the unexpired
34 prior sentence may have his sentence by the Illinois court

1 ordered to be concurrent with the prior sentence in the other
2 state. The court may order that any time served on the
3 unexpired portion of the sentence in the other state, prior
4 to his return to Illinois, shall be credited on his Illinois
5 sentence. The other state shall be furnished with a copy of
6 the order imposing sentence which shall provide that, when
7 the offender is released from confinement of the other state,
8 whether by parole or by termination of sentence, the offender
9 shall be transferred by the Sheriff of the committing county
10 to the Illinois Department of Corrections. The court shall
11 cause the Department of Corrections to be notified of such
12 sentence at the time of commitment and to be provided with
13 copies of all records regarding the sentence.

14 (f) A defendant who has a previous and unexpired
15 sentence of imprisonment imposed by an Illinois circuit court
16 for a crime in this State and who is subsequently sentenced
17 to a term of imprisonment by another state or by any district
18 court of the United States and who has served a term of
19 imprisonment imposed by the other state or district court of
20 the United States, and must return to serve the unexpired
21 prior sentence imposed by the Illinois Circuit Court may
22 apply to the court which imposed sentence to have his
23 sentence reduced.

24 The circuit court may order that any time served on the
25 sentence imposed by the other state or district court of the
26 United States be credited on his Illinois sentence. Such
27 application for reduction of a sentence under this
28 subsection (f) shall be made within 30 days after the
29 defendant has completed the sentence imposed by the other
30 state or district court of the United States.

31 (Source: P.A. 91-279, eff. 1-1-00; 91-404, eff. 1-1-00;
32 91-953, eff. 2-23-01; 92-16, eff. 6-28-01.)

33 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

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

3 (a) When multiple sentences of imprisonment are imposed
4 on a defendant at the same time, or when a term of
5 imprisonment is imposed on a defendant who is already subject
6 to sentence in this State or in another state, or for a
7 sentence imposed by any district court of the United States,
8 the sentences shall run concurrently or consecutively as
9 determined by the court. When a term of imprisonment is
10 imposed on a defendant by an Illinois circuit court and the
11 defendant is subsequently sentenced to a term of imprisonment
12 by another state or by a district court of the United States,
13 the Illinois circuit court which imposed the sentence may
14 order that the Illinois sentence be made concurrent with the
15 sentence imposed by the other state or district court of the
16 United States. The defendant must apply to the circuit court
17 within 30 days after the defendant's sentence imposed by the
18 other state or district of the United States is finalized.
19 The court shall impose consecutive sentences if:

20 (i) one of the offenses for which defendant was
21 convicted was first degree murder or a Class X or Class 1
22 felony and the defendant inflicted severe bodily injury,
23 or

24 (ii) the defendant was convicted of a violation of
25 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
26 1961, or

27 (iii) (blank) ~~the defendant was convicted of--armed~~
28 ~~violence-based-upon-the-predicate-offense-of-solicitation~~
29 ~~of--murder,--solicitation--of--murder--for--hire,--heinous~~
30 ~~battery,--aggravated-battery-of-a-senior-citizen,--criminal~~
31 ~~sexual-assault,--a-violation-of-subsection-(g)-of--Section~~
32 ~~5-of-the-Cannabis-Control-Act,--cannabis--trafficking,--a~~
33 ~~violation--of--subsection--(a)--of--Section--401--of--the~~
34 ~~Illinois--Controlled-Substances-Act,--controlled-substance~~

1 trafficking--involving--a--Class--X--felony---amount---of
2 controlled--substance--under--Section-401-of-the-Illinois
3 Controlled--Substances--Act,--calculated--criminal--drug
4 conspiracy,--or--streetgang-criminal-drug-conspiracy, or

5 (iv) the defendant was convicted of the offense of
6 leaving the scene of a motor vehicle accident involving
7 death or personal injuries under Section 11-401 and
8 either: (A) aggravated driving under the influence of
9 alcohol, other drug or drugs, or intoxicating compound or
10 compounds, or any combination thereof under Section
11 11-501 of the Illinois Vehicle Code, or (B) reckless
12 homicide under Section 9-3 of the Criminal Code of 1961,
13 or both an offense described in subdivision (A) and an
14 offense described in subdivision (B),

15 in which event the court shall enter sentences to run
16 consecutively. Sentences shall run concurrently unless
17 otherwise specified by the court.

18 (b) Except in cases where consecutive sentences are
19 mandated, the court shall impose concurrent sentences unless,
20 having regard to the nature and circumstances of the offense
21 and the history and character of the defendant, it is of the
22 opinion that consecutive sentences are required to protect
23 the public from further criminal conduct by the defendant,
24 the basis for which the court shall set forth in the record.

25 (c) (1) For sentences imposed under law in effect prior
26 to February 1, 1978 the aggregate maximum of consecutive
27 sentences shall not exceed the maximum term authorized
28 under Section 5-8-1 for the 2 most serious felonies
29 involved. The aggregate minimum period of consecutive
30 sentences shall not exceed the highest minimum term
31 authorized under Section 5-8-1 for the 2 most serious
32 felonies involved. When sentenced only for misdemeanors,
33 a defendant shall not be consecutively sentenced to more
34 than the maximum for one Class A misdemeanor.

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

15 (d) An offender serving a sentence for a misdemeanor who
16 is convicted of a felony and sentenced to imprisonment shall
17 be transferred to the Department of Corrections, and the
18 misdemeanor sentence shall be merged in and run concurrently
19 with the felony sentence.

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

25 (1) the maximum period of a term of imprisonment
26 shall consist of the aggregate of the maximums of the
27 imposed indeterminate terms, if any, plus the aggregate
28 of the imposed determinate sentences for felonies plus
29 the aggregate of the imposed determinate sentences for
30 misdemeanors subject to paragraph (c) of this Section;

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

34 (3) the minimum period of imprisonment shall be the

1 aggregate of the minimum and determinate periods of
2 imprisonment imposed by the court, subject to paragraph
3 (c) of this Section; and

4 (4) the offender shall be awarded credit against
5 the aggregate maximum term and the aggregate minimum term
6 of imprisonment for all time served in an institution
7 since the commission of the offense or offenses and as a
8 consequence thereof at the rate specified in Section
9 3-6-3 of this Code.

10 (f) A sentence of an offender committed to the
11 Department of Corrections at the time of the commission of
12 the offense shall be served consecutive to the sentence under
13 which he is held by the Department of Corrections. However,
14 in case such offender shall be sentenced to punishment by
15 death, the sentence shall be executed at such time as the
16 court may fix without regard to the sentence under which such
17 offender may be held by the Department.

18 (g) A sentence under Section 3-6-4 for escape or
19 attempted escape shall be served consecutive to the terms
20 under which the offender is held by the Department of
21 Corrections.

22 (h) If a person charged with a felony commits a separate
23 felony while on pre-trial release or in pretrial detention in
24 a county jail facility or county detention facility, the
25 sentences imposed upon conviction of these felonies shall be
26 served consecutively regardless of the order in which the
27 judgments of conviction are entered.

28 (i) If a person admitted to bail following conviction of
29 a felony commits a separate felony while free on bond or if a
30 person detained in a county jail facility or county detention
31 facility following conviction of a felony commits a separate
32 felony while in detention, any sentence following conviction
33 of the separate felony shall be consecutive to that of the
34 original sentence for which the defendant was on bond or

1 detained.

2 (Source: P.A. 92-16, eff. 6-28-01; 92-674, eff. 1-1-03;

3 93-160, eff. 7-10-03.)