

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 Unified Code of Corrections is amended by  
5 changing Section 5-4-1 as follows:

6 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

7 Sec. 5-4-1. Sentencing Hearing.

8 (a) Except when the death penalty is sought under  
9 hearing procedures otherwise specified, after a determination  
10 of guilt, a hearing shall be held to impose the sentence.  
11 However, prior to the imposition of sentence on an individual  
12 being sentenced for an offense based upon a charge for a  
13 violation of Section 11-501 of the Illinois Vehicle Code or a  
14 similar provision of a local ordinance, the individual must  
15 undergo a professional evaluation to determine if an alcohol  
16 or other drug abuse problem exists and the extent of such a  
17 problem. Programs conducting these evaluations shall be  
18 licensed by the Department of Human Services. However, if  
19 the individual is not a resident of Illinois, the court may,  
20 in its discretion, accept an evaluation from a program in the  
21 state of such individual's residence. The court may in its  
22 sentencing order approve an eligible defendant for placement  
23 in a Department of Corrections impact incarceration program  
24 as provided in Section 5-8-1.1 or 5-8-1.3. At the hearing  
25 the court shall:

26 (1) consider the evidence, if any, received upon  
27 the trial;

28 (2) consider any presentence reports;

29 (3) consider the financial impact of incarceration  
30 based on the financial impact statement filed with the  
31 clerk of the court by the Department of Corrections;

1           (4) consider evidence and information offered by  
2 the parties in aggravation and mitigation;  
3           (5) hear arguments as to sentencing alternatives;  
4           (6) afford the defendant the opportunity to make a  
5 statement in his own behalf;  
6           (7) afford the victim of a violent crime or a  
7 violation of Section 11-501 of the Illinois Vehicle Code,  
8 or a similar provision of a local ordinance, or a  
9 qualified individual affected by: (i) a violation of  
10 Section 405, 405.1, 405.2, or 407 of the Illinois  
11 Controlled Substances Act, or (ii) a Class 4 felony  
12 violation of Section 11-14, 11-15, 11-17, 11-18, 11-18.1,  
13 or 11-19 of the Criminal Code of 1961, committed by the  
14 defendant the opportunity to make a statement concerning  
15 the impact on the victim and to offer evidence in  
16 aggravation or mitigation; provided that the statement  
17 and evidence offered in aggravation or mitigation must  
18 first be prepared in writing in conjunction with the  
19 State's Attorney before it may be presented orally at the  
20 hearing. Any sworn testimony offered by the victim is  
21 subject to the defendant's right to cross-examine. All  
22 statements and evidence offered under this paragraph (7)  
23 shall become part of the record of the court. For the  
24 purpose of this paragraph (7), "qualified individual"  
25 means any person who (i) lived or worked within the  
26 territorial jurisdiction where the offense took place  
27 when the offense took place; and (ii) is familiar with  
28 various public places within the territorial jurisdiction  
29 where the offense took place when the offense took place.  
30 For the purposes of this paragraph (7), "qualified  
31 individual" includes any peace officer, or any member of  
32 any duly organized State, county, or municipal peace unit  
33 assigned to the territorial jurisdiction where the  
34 offense took place when the offense took place; and

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

4           (b) All sentences shall be imposed by the judge based  
5           upon his independent assessment of the elements specified  
6           above and any agreement as to sentence reached by the  
7           parties. The judge who presided at the trial or the judge  
8           who accepted the plea of guilty shall impose the sentence  
9           unless he is no longer sitting as a judge in that court.  
10          Where the judge does not impose sentence at the same time on  
11          all defendants who are convicted as a result of being  
12          involved in the same offense, the defendant or the State's  
13          Attorney may advise the sentencing court of the disposition  
14          of any other defendants who have been sentenced.

15          (c) In imposing a sentence for a violent crime or for an  
16          offense of operating or being in physical control of a  
17          vehicle while under the influence of alcohol, any other drug  
18          or any combination thereof, or a similar provision of a local  
19          ordinance, when such offense resulted in the personal injury  
20          to someone other than the defendant, the trial judge shall  
21          specify on the record the particular evidence, information,  
22          factors in mitigation and aggravation or other reasons that  
23          led to his sentencing determination. The full verbatim record  
24          of the sentencing hearing shall be filed with the clerk of  
25          the court and shall be a public record.

26          (c-1) In imposing a sentence for the offense of  
27          aggravated kidnapping for ransom, home invasion, armed  
28          robbery, aggravated vehicular hijacking, aggravated discharge  
29          of a firearm, or armed violence with a category I weapon or  
30          category II weapon, the trial judge shall make a finding as  
31          to whether the conduct leading to conviction for the offense  
32          resulted in great bodily harm to a victim, and shall enter  
33          that finding and the basis for that finding in the record.

34          (c-2) If the defendant is sentenced to prison, other

1 than when a sentence of natural life imprisonment or a  
2 sentence of death is imposed, at the time the sentence is  
3 imposed the judge shall state on the record in open court the  
4 approximate period of time the defendant will serve in  
5 custody according to the then current statutory rules and  
6 regulations for early release found in Section 3-6-3 and  
7 other related provisions of this Code. This statement is  
8 intended solely to inform the public, has no legal effect on  
9 the defendant's actual release, and may not be relied on by  
10 the defendant on appeal.

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

15 "The purpose of this statement is to inform the public of  
16 the actual period of time this defendant is likely to spend  
17 in prison as a result of this sentence. The actual period of  
18 prison time served is determined by the statutes of Illinois  
19 as applied to this sentence by the Illinois Department of  
20 Corrections and the Illinois Prisoner Review Board. In this  
21 case, assuming the defendant receives all of his or her good  
22 conduct credit, the period of estimated actual custody is ...  
23 years and ... months, less up to 180 days additional good  
24 conduct credit for meritorious service. If the defendant,  
25 because of his or her own misconduct or failure to comply  
26 with the institutional regulations, does not receive those  
27 credits, the actual time served in prison will be longer.  
28 The defendant may also receive an additional one-half day  
29 good conduct credit for each day of participation in  
30 vocational, industry, substance abuse, and educational  
31 programs as provided for by Illinois statute."

32 When the sentence is imposed for one of the offenses  
33 enumerated in paragraph (a)(3) of Section 3-6-3, other than  
34 when the sentence is imposed for one of the offenses

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

11 "The purpose of this statement is to inform the public of  
12 the actual period of time this defendant is likely to spend  
13 in prison as a result of this sentence. The actual period of  
14 prison time served is determined by the statutes of Illinois  
15 as applied to this sentence by the Illinois Department of  
16 Corrections and the Illinois Prisoner Review Board. In this  
17 case, assuming the defendant receives all of his or her good  
18 conduct credit, the period of estimated actual custody is ...  
19 years and ... months, less up to 90 days additional good  
20 conduct credit for meritorious service. If the defendant,  
21 because of his or her own misconduct or failure to comply  
22 with the institutional regulations, does not receive those  
23 credits, the actual time served in prison will be longer.  
24 The defendant may also receive an additional one-half day  
25 good conduct credit for each day of participation in  
26 vocational, industry, substance abuse, and educational  
27 programs as provided for by Illinois statute."

28 When the sentence is imposed for one of the offenses  
29 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
30 first degree murder, and the offense was committed on or  
31 after June 19, 1998, and when the sentence is imposed for  
32 reckless homicide as defined in subsection (e) of Section 9-3  
33 of the Criminal Code of 1961 if the offense was committed on  
34 or after January 1, 1999, and when the sentence is imposed

1 for aggravated arson if the offense was committed on or after  
2 the effective date of this amendatory Act of the 92nd General  
3 Assembly, the judge's statement, to be given after  
4 pronouncing the sentence, shall include the following:

5 "The purpose of this statement is to inform the public of  
6 the actual period of time this defendant is likely to spend  
7 in prison as a result of this sentence. The actual period of  
8 prison time served is determined by the statutes of Illinois  
9 as applied to this sentence by the Illinois Department of  
10 Corrections and the Illinois Prisoner Review Board. In this  
11 case, the defendant is entitled to no more than 4 1/2 days of  
12 good conduct credit for each month of his or her sentence of  
13 imprisonment. Therefore, this defendant will serve at least  
14 85% of his or her sentence. Assuming the defendant receives  
15 4 1/2 days credit for each month of his or her sentence, the  
16 period of estimated actual custody is ... years and ...  
17 months. If the defendant, because of his or her own  
18 misconduct or failure to comply with the institutional  
19 regulations receives lesser credit, the actual time served in  
20 prison will be longer."

21 When a sentence of imprisonment is imposed for first  
22 degree murder and the offense was committed on or after June  
23 19, 1998, the judge's statement, to be given after  
24 pronouncing the sentence, shall include the following:

25 "The purpose of this statement is to inform the public of  
26 the actual period of time this defendant is likely to spend  
27 in prison as a result of this sentence. The actual period of  
28 prison time served is determined by the statutes of Illinois  
29 as applied to this sentence by the Illinois Department of  
30 Corrections and the Illinois Prisoner Review Board. In this  
31 case, the defendant is not entitled to good conduct credit.  
32 Therefore, this defendant will serve 100% of his or her  
33 sentence."

34 (d) When the defendant is committed to the Department of

1 Corrections, the State's Attorney shall and counsel for the  
2 defendant may file a statement with the clerk of the court to  
3 be transmitted to the department, agency or institution to  
4 which the defendant is committed to furnish such department,  
5 agency or institution with the facts and circumstances of the  
6 offense for which the person was committed together with all  
7 other factual information accessible to them in regard to the  
8 person prior to his commitment relative to his habits,  
9 associates, disposition and reputation and any other facts  
10 and circumstances which may aid such department, agency or  
11 institution during its custody of such person. The clerk  
12 shall within 10 days after receiving any such statements  
13 transmit a copy to such department, agency or institution and  
14 a copy to the other party, provided, however, that this shall  
15 not be cause for delay in conveying the person to the  
16 department, agency or institution to which he has been  
17 committed.

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

- 21 (1) the sentence imposed;
- 22 (2) any statement by the court of the basis for  
23 imposing the sentence;
- 24 (3) any presentence reports;
- 25 (4) the number of days, if any, which the defendant  
26 has been in custody and for which he is entitled to  
27 credit against the sentence, which information shall be  
28 provided to the clerk by the sheriff;
- 29 (4.1) any finding of great bodily harm made by the  
30 court with respect to an offense enumerated in subsection  
31 (c-1);
- 32 (5) all statements filed under subsection (d) of  
33 this Section;
- 34 (6) any medical or mental health records or

1 summaries of the defendant;

2 (7) the municipality where the arrest of the  
3 offender or the commission of the offense has occurred,  
4 where such municipality has a population of more than  
5 25,000 persons;

6 (8) all statements made and evidence offered under  
7 paragraph (7) of subsection (a) of this Section; and

8 (9) all additional matters which the court directs  
9 the clerk to transmit.

10 (Source: P.A. 91-357, eff. 7-29-99; 91-899, eff. 1-1-01;  
11 92-176, eff. 7-27-01; 92-806, eff. 1-1-03; revised 9-18-02.)