

1 AN ACT concerning methamphetamine.

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

4 Section 1. Short title. This Act may be cited as the  
5 Methamphetamine Control and Community Protection Act.

6 Section 5. Purpose. The purpose of this Act is to reduce  
7 the damage that the manufacture, distribution, and use of  
8 methamphetamine are inflicting on children, families,  
9 communities, businesses, the economy, and the environment in  
10 Illinois. The General Assembly recognizes that methamphetamine  
11 is fundamentally different from other drugs regulated by the  
12 Illinois Controlled Substances Act because the harms relating  
13 to methamphetamine stem not only from the distribution and use  
14 of the drug, but also from the manufacture of the drug in this  
15 State. Because methamphetamine is not only distributed and used  
16 but also manufactured here, and because the manufacture of  
17 methamphetamine is extremely and uniquely harmful, the General  
18 Assembly finds that a separate Act is needed to address the  
19 manufacture, distribution, and use of methamphetamine in  
20 Illinois.

21 Section 10. Definitions. As used in this Act:

22 "Anhydrous ammonia" has the meaning provided in subsection  
23 (d) of Section 3 of the Illinois Fertilizer Act of 1961.

24 "Anhydrous ammonia equipment" means all items used to  
25 store, hold, contain, handle, transfer, transport, or apply  
26 anhydrous ammonia for lawful purposes.

27 "Booby trap" means any device designed to cause physical  
28 injury when triggered by an act of a person approaching,  
29 entering, or moving through a structure, a vehicle, or any  
30 location where methamphetamine has been manufactured, is being  
31 manufactured, or is intended to be manufactured.

1 "Deliver" or "delivery" has the meaning provided in  
2 subsection (h) of Section 102 of the Illinois Controlled  
3 Substances Act.

4 "Director" means the Director of State Police or the  
5 Director's designated agents.

6 "Dispose" or "disposal" means to abandon, discharge,  
7 release, deposit, inject, dump, spill, leak, or place  
8 methamphetamine waste onto or into any land, water, or well of  
9 any type so that the waste has the potential to enter the  
10 environment, be emitted into the air, or be discharged into the  
11 soil or any waters, including groundwater.

12 "Emergency response" means the act of collecting evidence,  
13 securing a methamphetamine laboratory site, methamphetamine  
14 waste site or other methamphetamine-related site and cleaning  
15 up the site, whether these actions are performed by public  
16 entities or private contractors paid by public entities.

17 "Emergency service provider" means a local, State, or  
18 federal peace officer, firefighter, emergency medical  
19 technician-ambulance, emergency medical  
20 technician-intermediate, emergency medical  
21 technician-paramedic, ambulance driver, or other medical or  
22 first aid personnel rendering aid, or any agent or designee of  
23 the foregoing.

24 "Finished methamphetamine" means methamphetamine in a form  
25 commonly used for personal consumption.

26 "Firearm" has the meaning provided in Section 1.1 of the  
27 Firearm Owners Identification Card Act.

28 "Manufacture" means to produce, prepare, compound,  
29 convert, process, synthesize, concentrate, purify, separate,  
30 extract, or package any methamphetamine, methamphetamine  
31 precursor, methamphetamine manufacturing catalyst,  
32 methamphetamine manufacturing reagent, methamphetamine  
33 manufacturing solvent, or any substance containing any of the  
34 foregoing.

35 "Methamphetamine" means the chemical methamphetamine (a  
36 Schedule II controlled substance under the Illinois Controlled

1 Substances Act) or any salt, optical isomer, salt of optical  
2 isomer, or analog thereof, with the exception of  
3 3,4-Methylenedioxymethamphetamine (MDMA) or any other  
4 scheduled substance with a separate listing under the Illinois  
5 Controlled Substances Act.

6 "Methamphetamine manufacturing catalyst" means any  
7 substance that has been used, is being used, or is intended to  
8 be used to activate, accelerate, extend, or improve a chemical  
9 reaction involved in the manufacture of methamphetamine.

10 "Methamphetamine manufacturing environment" means a  
11 structure or vehicle in which:

- 12 (1) methamphetamine is being or has been manufactured;
- 13 (2) chemicals that are being used, have been used, or  
14 are intended to be used to manufacture methamphetamine are  
15 stored;
- 16 (3) methamphetamine manufacturing materials that have  
17 been used to manufacture methamphetamine are stored; or
- 18 (4) methamphetamine manufacturing waste is stored.

19 "Methamphetamine manufacturing material" means any  
20 methamphetamine precursor, substance containing any  
21 methamphetamine precursor, methamphetamine manufacturing  
22 catalyst, substance containing any methamphetamine  
23 manufacturing catalyst, methamphetamine manufacturing reagent,  
24 substance containing any methamphetamine manufacturing  
25 reagent, methamphetamine manufacturing solvent, substance  
26 containing any methamphetamine manufacturing solvent, or any  
27 other chemical, substance, ingredient, equipment, apparatus,  
28 or item that is being used, has been used, or is intended to be  
29 used in the manufacture of methamphetamine.

30 "Methamphetamine manufacturing reagent" means any  
31 substance other than a methamphetamine manufacturing catalyst  
32 that has been used, is being used, or is intended to be used to  
33 react with and chemically alter any methamphetamine precursor.

34 "Methamphetamine manufacturing solvent" means any  
35 substance that has been used, is being used, or is intended to  
36 be used as a medium in which any methamphetamine precursor,

1 methamphetamine manufacturing catalyst, methamphetamine  
2 manufacturing reagent, or any substance containing any of the  
3 foregoing is dissolved, diluted, or washed during any part of  
4 the methamphetamine manufacturing process.

5 "Methamphetamine manufacturing waste" means any chemical,  
6 substance, ingredient, equipment, apparatus, or item that is  
7 left over from, results from, or is produced by the process of  
8 manufacturing methamphetamine, other than finished  
9 methamphetamine.

10 "Methamphetamine precursor" means ephedrine,  
11 pseudoephedrine, benzyl methyl ketone, methyl benzyl ketone,  
12 phenylacetone, phenyl-2-propanone, P2P, or any salt, optical  
13 isomer, or salt of an optical isomer of any of these chemicals.

14 "Multi-unit dwelling" means a unified structure used or  
15 intended for use as a habitation, home, or residence that  
16 contains 2 or more condominiums, apartments, hotel rooms, motel  
17 rooms, or other living units.

18 "Package" means an item marked for retail sale that is not  
19 designed to be further broken down or subdivided for the  
20 purpose of retail sale.

21 "Participate" or "participation" in the manufacture of  
22 methamphetamine means to produce, prepare, compound, convert,  
23 process, synthesize, concentrate, purify, separate, extract,  
24 or package any methamphetamine, methamphetamine precursor,  
25 methamphetamine manufacturing catalyst, methamphetamine  
26 manufacturing reagent, methamphetamine manufacturing solvent,  
27 or any substance containing any of the foregoing, or to assist  
28 in any of these actions, or to attempt to take any of these  
29 actions, regardless of whether this action or these actions  
30 result in the production of finished methamphetamine.

31 "Person with a disability" means a person who suffers from  
32 a permanent physical or mental impairment resulting from  
33 disease, injury, functional disorder, or congenital condition  
34 which renders the person incapable of adequately providing for  
35 his or her own health and personal care.

36 "Procure" means to purchase, steal, gather, or otherwise

1 obtain, by legal or illegal means, or to cause another to take  
2 such action.

3 "Second or subsequent offense" means an offense under this  
4 Act committed by an offender who previously committed an  
5 offense under this Act, the Illinois Controlled Substances Act,  
6 the Cannabis Control Act, or another Act of this State, another  
7 state, or the United States relating to methamphetamine,  
8 cannabis, or any other controlled substance.

9 "Standard dosage form", as used in relation to any  
10 methamphetamine precursor, means that the methamphetamine  
11 precursor is contained in a pill, tablet, capsule, caplet, gel  
12 cap, or liquid cap that has been manufactured by a lawful  
13 entity and contains a standard quantity of methamphetamine  
14 precursor.

15 "Unauthorized container", as used in relation to anhydrous  
16 ammonia, means any container that is not designed for the  
17 specific and sole purpose of holding, storing, transporting, or  
18 applying anhydrous ammonia. "Unauthorized container" includes,  
19 but is not limited to, any propane tank, fire extinguisher,  
20 oxygen cylinder, gasoline can, food or beverage cooler, or  
21 compressed gas cylinder used in dispensing fountain drinks.  
22 "Unauthorized container" does not encompass anhydrous ammonia  
23 manufacturing plants, refrigeration systems where anhydrous  
24 ammonia is used solely as a refrigerant, anhydrous ammonia  
25 transportation pipelines, anhydrous ammonia tankers, or  
26 anhydrous ammonia barges.

27 Section 15. Participation in methamphetamine  
28 manufacturing.

29 (a) Participation in methamphetamine manufacturing.

30 (1) It is unlawful to participate in the manufacture of  
31 methamphetamine with the intent that methamphetamine or a  
32 substance containing methamphetamine be produced.

33 (2) A person who violates paragraph (1) of this  
34 subsection (a) is subject to the following penalties:

35 (A) A person who participates in the manufacture of

1 less than 15 grams of methamphetamine or a substance  
2 containing methamphetamine is guilty of a Class 1  
3 felony.

4 (B) A person who participates in the manufacture of  
5 15 or more grams but less than 100 grams of  
6 methamphetamine or a substance containing  
7 methamphetamine is guilty of a Class X felony, subject  
8 to a term of imprisonment of not less than 6 years and  
9 not more than 30 years, and subject to a fine not to  
10 exceed \$100,000 or the street value of the  
11 methamphetamine manufactured, whichever is greater.

12 (C) A person who participates in the manufacture of  
13 100 or more grams but less than 400 grams of  
14 methamphetamine or a substance containing  
15 methamphetamine is guilty of a Class X felony, subject  
16 to a term of imprisonment of not less than 9 years and  
17 not more than 40 years, and subject to a fine not to  
18 exceed \$200,000 or the street value of the  
19 methamphetamine manufactured, whichever is greater.

20 (D) A person who participates in the manufacture of  
21 400 or more grams but less than 900 grams of  
22 methamphetamine or a substance containing  
23 methamphetamine is guilty of a Class X felony, subject  
24 to a term of imprisonment of not less than 12 years and  
25 not more than 50 years, and subject to a fine not to  
26 exceed \$300,000 or the street value of the  
27 methamphetamine manufactured, whichever is greater.

28 (E) A person who participates in the manufacture of  
29 900 grams or more of methamphetamine or a substance  
30 containing methamphetamine is guilty of a Class X  
31 felony, subject to a term of imprisonment of not less  
32 than 15 years and not more than 60 years, and subject  
33 to a fine not to exceed \$400,000 or the street value of  
34 the methamphetamine, whichever is greater.

35 (b) Aggravated participation in methamphetamine  
36 manufacturing.

1           (1) It is unlawful to engage in aggravated  
2 participation in the manufacture of methamphetamine. A  
3 person engages in aggravated participation in the  
4 manufacture of methamphetamine when the person violates  
5 paragraph (1) of subsection (a) and:

6           (A) the person knowingly does so in a multi-unit  
7 dwelling;

8           (B) the person knowingly does so in a structure or  
9 vehicle where a child under the age of 18, a person  
10 with a disability, or a person 60 years of age or older  
11 who is incapable of adequately providing for his or her  
12 own health and personal care resides, is present, or is  
13 endangered by the manufacture of methamphetamine;

14           (C) the person does so in a structure or vehicle  
15 where a woman the person knows to be pregnant  
16 (including but not limited to the person herself)  
17 resides, is present, or is endangered by the  
18 methamphetamine manufacture;

19           (D) the person knowingly does so in a structure or  
20 vehicle protected by one or more firearms, explosive  
21 devices, booby traps, alarm systems, surveillance  
22 systems, guard dogs, or dangerous animals;

23           (E) the methamphetamine manufacturing in which the  
24 person participates is a contributing cause of the  
25 death, serious bodily injury, disability, or  
26 disfigurement of another person, including but not  
27 limited to an emergency service provider;

28           (F) the methamphetamine manufacturing in which the  
29 person participates is a contributing cause of a fire  
30 or explosion that damages property belonging to  
31 another person; or

32           (G) the person knowingly organizes, directs, or  
33 finances the methamphetamine manufacturing or  
34 activities carried out in support of the  
35 methamphetamine manufacturing.

36           (2) A person who violates paragraph (1) of this

1 subsection (b) is subject to the following penalties:

2 (A) A person who participates in the manufacture of  
3 less than 15 grams of methamphetamine or a substance  
4 containing methamphetamine is guilty of a Class X  
5 felony, subject to a term of imprisonment of not less  
6 than 6 years and not more than 30 years, and subject to  
7 a fine not to exceed \$100,000 or the street value of  
8 the methamphetamine, whichever is greater.

9 (B) A person who participates in the manufacture of  
10 15 or more grams but less than 100 grams of  
11 methamphetamine or a substance containing  
12 methamphetamine is guilty of a Class X felony, subject  
13 to a term of imprisonment of not less than 9 years and  
14 not more than 40 years, and subject to a fine not to  
15 exceed \$200,000 or the street value of the  
16 methamphetamine, whichever is greater.

17 (C) A person who participates in the manufacture of  
18 100 or more grams but less than 400 grams of  
19 methamphetamine or a substance containing  
20 methamphetamine is guilty of a Class X felony, subject  
21 to a term of imprisonment of not less than 12 years and  
22 not more than 50 years, and subject to a fine not to  
23 exceed \$300,000 or the street value of the  
24 methamphetamine, whichever is greater.

25 (D) A person who participates in the manufacture of  
26 400 grams or more of methamphetamine or a substance  
27 containing methamphetamine is guilty of a Class X  
28 felony, subject to a term of imprisonment of not less  
29 than 15 years and not more than 60 years, and subject  
30 to a fine not to exceed \$400,000 or the street value of  
31 the methamphetamine, whichever is greater.

32 Section 20. Methamphetamine precursor.

33 (a) Methamphetamine precursor or substance containing any  
34 methamphetamine precursor in standard dosage form.

35 (1) It is unlawful to possess, procure, transport,

1 store, or deliver any methamphetamine precursor or  
2 substance containing any methamphetamine precursor in  
3 standard dosage form with the intent that it be used to  
4 manufacture methamphetamine or a substance containing  
5 methamphetamine.

6 (2) A person who violates paragraph (1) of this  
7 subsection (a) is subject to the following penalties:

8 (A) A person who possesses, procures, transports,  
9 stores, or delivers less than 15 grams of  
10 methamphetamine precursor or substance containing any  
11 methamphetamine precursor is guilty of a Class 2  
12 felony.

13 (B) A person who possesses, procures, transports,  
14 stores, or delivers 15 or more grams but less than 30  
15 grams of methamphetamine precursor or substance  
16 containing any methamphetamine precursor is guilty of  
17 a Class 1 felony.

18 (C) A person who possesses, procures, transports,  
19 stores, or delivers 30 or more grams but less than 150  
20 grams of methamphetamine precursor or substance  
21 containing any methamphetamine precursor is guilty of  
22 a Class X felony, subject to a term of imprisonment of  
23 not less than 6 years and not more than 30 years, and  
24 subject to a fine not to exceed \$100,000.

25 (D) A person who possesses, procures, transports,  
26 stores, or delivers 150 or more grams but less than 500  
27 grams of methamphetamine precursor or substance  
28 containing any methamphetamine precursor is guilty of  
29 a Class X felony, subject to a term of imprisonment of  
30 not less than 8 years and not more than 40 years, and  
31 subject to a fine not to exceed \$200,000.

32 (E) A person who possesses, procures, transports,  
33 stores, or delivers 500 or more grams of  
34 methamphetamine precursor or substance containing any  
35 methamphetamine precursor is guilty of a Class X  
36 felony, subject to a term of imprisonment of not less

1           than 10 years and not more than 50 years, and subject  
2           to a fine not to exceed \$300,000.

3           (b) Methamphetamine precursor or substance containing any  
4 methamphetamine precursor in any form other than a standard  
5 dosage form.

6           (1) It is unlawful to possess, procure, transport,  
7 store, or deliver any methamphetamine precursor or  
8 substance containing any methamphetamine precursor in any  
9 form other than a standard dosage form with the intent that  
10 it be used to manufacture methamphetamine or a substance  
11 containing methamphetamine.

12           (2) A person who violates paragraph (1) of this  
13 subsection (b) is subject to the following penalties:

14           (A) A person who violates paragraph (1) of this  
15 subsection (b) with the intent that less than 10 grams  
16 of methamphetamine or a substance containing  
17 methamphetamine be manufactured is guilty of a Class 2  
18 felony.

19           (B) A person who violates paragraph (1) of this  
20 subsection (b) with the intent that 10 or more grams  
21 but less than 20 grams of methamphetamine or a  
22 substance containing methamphetamine be manufactured  
23 is guilty of a Class 1 felony.

24           (C) A person who violates paragraph (1) of this  
25 subsection (b) with the intent that 20 or more grams  
26 but less than 100 grams of methamphetamine or a  
27 substance containing methamphetamine be manufactured  
28 is guilty of a Class X felony, subject to a term of  
29 imprisonment of not less than 6 years and not more than  
30 30 years, and subject to a fine not to exceed \$100,000.

31           (D) A person who violates paragraph (1) of this  
32 subsection (b) with the intent that 100 or more grams  
33 but less than 350 grams of methamphetamine or a  
34 substance containing methamphetamine be manufactured  
35 is guilty of a Class X felony, subject to a term of  
36 imprisonment of not less than 8 years and not more than

1 40 years, and subject to a fine not to exceed \$200,000.

2 (E) A person who violates paragraph (1) of this  
3 subsection (b) with the intent that 350 or more grams  
4 of methamphetamine or a substance containing  
5 methamphetamine be manufactured is guilty of a Class X  
6 felony, subject to a term of imprisonment of not less  
7 than 10 years and not more than 50 years, and subject  
8 to a fine not to exceed \$300,000.

9 (c) Rule of evidence. The presence of any methamphetamine  
10 precursor in a sealed, factory imprinted container, including,  
11 but not limited to, a bottle, box, package, or blister pack, at  
12 the time of seizure by law enforcement, is prima facie evidence  
13 that the methamphetamine precursor located within the  
14 container is in fact the material so described and in the  
15 amount listed on the container. The factory imprinted container  
16 is admissible for a violation of this Act for purposes of  
17 proving the contents of the container.

18 Section 25. Anhydrous ammonia.

19 (a) Possession, procurement, transportation, storage, or  
20 delivery of anhydrous ammonia with the intent that it be used  
21 to manufacture methamphetamine.

22 (1) It is unlawful to engage in the possession,  
23 procurement, transportation, storage, or delivery of  
24 anhydrous ammonia or to attempt to engage in any of these  
25 activities or to assist another in engaging in any of these  
26 activities with the intent that the anhydrous ammonia be  
27 used to manufacture methamphetamine.

28 (2) A person who violates paragraph (1) of this  
29 subsection (a) is guilty of a Class 1 felony.

30 (b) Aggravated possession, procurement, transportation,  
31 storage, or delivery of anhydrous ammonia with the intent that  
32 it be used to manufacture methamphetamine.

33 (1) It is unlawful to engage in the aggravated  
34 possession, procurement, transportation, storage, or  
35 delivery of anhydrous ammonia with the intent that it be

1 used to manufacture methamphetamine. A person commits this  
2 offense when the person engages in the possession,  
3 procurement, transportation, storage, or delivery of  
4 anhydrous ammonia or attempts to engage in any of these  
5 activities or assists another in engaging in any of these  
6 activities with the intent that the anhydrous ammonia be  
7 used to manufacture methamphetamine and:

8 (A) the person knowingly does so in a multi-unit  
9 dwelling;

10 (B) the person knowingly does so in a structure or  
11 vehicle where a child under the age of 18, or a person  
12 with a disability, or a person who is 60 years of age  
13 or older who is incapable of adequately providing for  
14 his or her own health and personal care resides, is  
15 present, or is endangered by the anhydrous ammonia;

16 (C) the person's possession, procurement,  
17 transportation, storage, or delivery of anhydrous  
18 ammonia is a contributing cause of the death, serious  
19 bodily injury, disability, or disfigurement of another  
20 person; or

21 (D) the person's possession, procurement,  
22 transportation, storage, or delivery of anhydrous  
23 ammonia is a contributing cause of a fire or explosion  
24 that damages property belonging to another person.

25 (2) A person who violates paragraph (1) of this  
26 subsection (b) is guilty of a Class X felony, subject to a  
27 term of imprisonment of not less than 6 years and not more  
28 than 30 years, and subject to a fine not to exceed  
29 \$100,000.

30 (c) Possession, procurement, transportation, storage, or  
31 delivery of anhydrous ammonia in an unauthorized container.

32 (1) It is unlawful to possess, procure, transport,  
33 store, or deliver anhydrous ammonia in an unauthorized  
34 container.

35 (2) A person who violates paragraph (1) of this  
36 subsection (c) is guilty of a Class 3 felony.

1           (3) Affirmative defense. It is an affirmative defense  
2 that the person charged possessed, procured, transported,  
3 stored, or delivered anhydrous ammonia in a manner that  
4 substantially complied with the rules governing anhydrous  
5 ammonia equipment found in 8 Illinois Administrative Code  
6 Section 215, in 92 Illinois Administrative Code Sections  
7 171 through 180, or in any provision of the Code of Federal  
8 Regulations incorporated by reference into these Sections  
9 of the Illinois Administrative Code.

10          (d) Tampering with anhydrous ammonia equipment.

11           (1) It is unlawful to tamper with anhydrous ammonia  
12 equipment. A person tampers with anhydrous ammonia  
13 equipment when, without authorization from the lawful  
14 owner, the person:

15           (A) removes or attempts to remove anhydrous  
16 ammonia from the anhydrous ammonia equipment used by  
17 the lawful owner;

18           (B) damages or attempts to damage the anhydrous  
19 ammonia equipment used by the lawful owner; or

20           (C) vents or attempts to vent anhydrous ammonia  
21 into the environment.

22           (2) A person who violates paragraph (1) of this  
23 subsection (d) is guilty of a Class 3 felony.

24          Section 30. Methamphetamine manufacturing material.

25           (a) It is unlawful to engage in the possession,  
26 procurement, transportation, storage, or delivery of any  
27 methamphetamine manufacturing material, other than a  
28 methamphetamine precursor, substance containing a  
29 methamphetamine precursor, or anhydrous ammonia, with the  
30 intent that it be used to manufacture methamphetamine.

31           (b) A person who violates subsection (a) of this Section is  
32 guilty of a Class 2 felony.

33          Section 35. Use of property.

34           (a) It is unlawful for a person knowingly to use or allow

1 the use of a vehicle, a structure, real property, or personal  
2 property within the person's control to help bring about a  
3 violation of this Act.

4 (b) A person who violates subsection (a) of this Section is  
5 guilty of a Class 2 felony.

6 Section 40. Protection of methamphetamine manufacturing.

7 (a) It is unlawful to engage in the protection of  
8 methamphetamine manufacturing. A person engages in the  
9 protection of methamphetamine manufacturing when:

10 (1) the person knows that others have been  
11 participating, are participating, or will be participating  
12 in the manufacture of methamphetamine; and

13 (2) with the intent to help prevent detection of or  
14 interference with the methamphetamine manufacturing, the  
15 person serves as a lookout for or guard of the  
16 methamphetamine manufacturing.

17 (b) A person who violates subsection (a) of this Section is  
18 guilty of a Class 2 felony.

19 Section 45. Methamphetamine manufacturing waste.

20 (a) It is unlawful to knowingly burn, place in a trash  
21 receptacle, or dispose of methamphetamine manufacturing waste.

22 (b) A person who violates subsection (a) of this Section is  
23 guilty of a Class 2 felony.

24 Section 50. Methamphetamine-related child endangerment.

25 (a) Methamphetamine-related child endangerment.

26 (1) It is unlawful to engage in  
27 methamphetamine-related child endangerment. A person  
28 engages in methamphetamine-related child endangerment when  
29 the person knowingly endangers the life and health of a  
30 child by exposing or allowing exposure of the child to a  
31 methamphetamine manufacturing environment.

32 (2) A person who violates paragraph (1) of this  
33 subsection (a) is guilty of a Class 2 felony.

1 (b) Aggravated methamphetamine-related child endangerment.

2 (1) It is unlawful to engage in aggravated  
3 methamphetamine-related child endangerment. A person  
4 engages in aggravated methamphetamine-related child  
5 endangerment when the person violates paragraph (1) of this  
6 subsection (a) of this Section and the child experiences  
7 death, great bodily harm, disability, or disfigurement as a  
8 result of the methamphetamine-related child endangerment.

9 (2) A person who violates paragraph (1) of this  
10 subsection (b) is guilty of a Class X felony, subject to a  
11 term of imprisonment of not less than 6 years and not more  
12 than 30 years, and subject to a fine not to exceed  
13 \$100,000.

14 Section 55. Methamphetamine delivery.

15 (a) Delivery or possession with intent to deliver  
16 methamphetamine or a substance containing methamphetamine.

17 (1) It is unlawful knowingly to engage in the delivery  
18 or possession with intent to deliver methamphetamine or a  
19 substance containing methamphetamine.

20 (2) A person who violates paragraph (1) of this  
21 subsection (a) is subject to the following penalties:

22 (A) A person who delivers or possesses with intent  
23 to deliver less than 5 grams of methamphetamine or a  
24 substance containing methamphetamine is guilty of a  
25 Class 2 felony.

26 (B) A person who delivers or possesses with intent  
27 to deliver 5 or more grams but less than 15 grams of  
28 methamphetamine or a substance containing  
29 methamphetamine is guilty of a Class 1 felony.

30 (C) A person who delivers or possesses with intent  
31 to deliver 15 or more grams but less than 100 grams of  
32 methamphetamine or a substance containing  
33 methamphetamine is guilty of a Class X felony, subject  
34 to a term of imprisonment of not less than 6 years and  
35 not more than 30 years, and subject to a fine not to

1 exceed \$100,000 or the street value of the  
2 methamphetamine, whichever is greater.

3 (D) A person who delivers or possesses with intent  
4 to deliver 100 or more grams but less than 400 grams of  
5 methamphetamine or a substance containing  
6 methamphetamine is guilty of a Class X felony, subject  
7 to a term of imprisonment of not less than 9 years and  
8 not more than 40 years, and subject to a fine not to  
9 exceed \$200,000 or the street value of the  
10 methamphetamine, whichever is greater.

11 (E) A person who delivers or possesses with intent  
12 to deliver 400 or more grams but less than 900 grams of  
13 methamphetamine or a substance containing  
14 methamphetamine is guilty of a Class X felony, subject  
15 to a term of imprisonment of not less than 12 years and  
16 not more than 50 years, and subject to a fine not to  
17 exceed \$300,000 or the street value of the  
18 methamphetamine, whichever is greater.

19 (F) A person who delivers or possesses with intent  
20 to deliver 900 or more grams of methamphetamine or a  
21 substance containing methamphetamine is guilty of a  
22 Class X felony, subject to a term of imprisonment of  
23 not less than 15 years and not more than 60 years, and  
24 subject to a fine not to exceed \$400,000 or the street  
25 value of the methamphetamine, whichever is greater.

26 (b) Aggravated delivery or possession with intent to  
27 deliver methamphetamine or a substance containing  
28 methamphetamine.

29 (1) It is unlawful to engage in the aggravated delivery  
30 or possession with intent to deliver methamphetamine or a  
31 substance containing methamphetamine. A person engages in  
32 the aggravated delivery or possession with intent to  
33 deliver methamphetamine or a substance containing  
34 methamphetamine when the person violates paragraph (1) of  
35 subsection (a) of this Section and:

36 (A) the person is at least 18 years of age and

1 knowingly delivers or possesses with intent to deliver  
2 the methamphetamine or substance containing  
3 methamphetamine to a person under 18 years of age;

4 (B) the person is at least 18 years of age and  
5 knowingly uses, engages, employs, or causes another  
6 person to use, engage, or employ a person under 18  
7 years of age to deliver the methamphetamine or  
8 substance containing methamphetamine;

9 (C) the person knowingly delivers or possesses  
10 with intent to deliver the methamphetamine or  
11 substance containing methamphetamine in any structure  
12 or vehicle protected by one or more firearms, explosive  
13 devices, booby traps, alarm systems, surveillance  
14 systems, guard dogs, or dangerous animals;

15 (D) the person knowingly delivers or possesses  
16 with intent to deliver the methamphetamine or  
17 substance containing methamphetamine in any school, on  
18 any real property comprising any school, or in any  
19 conveyance owned, leased, or contracted by a school to  
20 transport students to or from school or a  
21 school-related activity;

22 (E) the person delivers or causes another person to  
23 deliver the methamphetamine or substance containing  
24 methamphetamine to a woman that the person knows to be  
25 pregnant; or

26 (F) the person knowingly brings or causes another  
27 to bring the methamphetamine or substance containing  
28 methamphetamine into Illinois from a location outside  
29 of Illinois.

30 (2) A person who violates paragraph (1) of this  
31 subsection (b) is subject to the following penalties:

32 (A) A person who delivers or possesses with intent  
33 to deliver less than 5 grams of methamphetamine or a  
34 substance containing methamphetamine is guilty of a  
35 Class 1 felony.

36 (B) A person who delivers or possesses with intent

1 to deliver 5 or more grams but less than 15 grams of  
2 methamphetamine or a substance containing  
3 methamphetamine is guilty of a Class X felony, subject  
4 to a term of imprisonment of not less than 6 years and  
5 not more than 30 years, and subject to a fine not to  
6 exceed \$100,000 or the street value of the  
7 methamphetamine, whichever is greater.

8 (C) A person who delivers or possesses with intent  
9 to deliver 15 or more grams but less than 100 grams of  
10 methamphetamine or a substance containing  
11 methamphetamine is guilty of a Class X felony, subject  
12 to a term of imprisonment of not less than 8 years and  
13 not more than 40 years, and subject to a fine not to  
14 exceed \$200,000 or the street value of the  
15 methamphetamine, whichever is greater.

16 (D) A person who delivers or possesses with intent  
17 to deliver 100 or more grams of methamphetamine or a  
18 substance containing methamphetamine is guilty of a  
19 Class X felony, subject to a term of imprisonment of  
20 not less than 10 years and not more than 50 years, and  
21 subject to a fine not to exceed \$300,000 or the street  
22 value of the methamphetamine, whichever is greater.

23 Section 60. Methamphetamine possession.

24 (a) It is unlawful knowingly to possess methamphetamine or  
25 a substance containing methamphetamine.

26 (b) A person who violates subsection (a) is subject to the  
27 following penalties:

28 (1) A person who possesses less than 5 grams of  
29 methamphetamine or a substance containing methamphetamine  
30 is guilty of a Class 3 felony.

31 (2) A person who possesses 5 or more grams but less  
32 than 15 grams of methamphetamine or a substance containing  
33 methamphetamine is guilty of a Class 2 felony.

34 (3) A person who possesses 15 or more grams but less  
35 than 100 grams of methamphetamine or a substance containing

1 methamphetamine is guilty of a Class 1 felony.

2 (4) A person who possesses 100 or more grams but less  
3 than 400 grams of methamphetamine or a substance containing  
4 methamphetamine is guilty of a Class X felony, subject to a  
5 term of imprisonment of not less than 6 years and not more  
6 than 30 years, and subject to a fine not to exceed  
7 \$100,000.

8 (5) A person who possesses 400 or more grams but less  
9 than 900 grams of methamphetamine or a substance containing  
10 methamphetamine is guilty of a Class X felony, subject to a  
11 term of imprisonment of not less than 8 years and not more  
12 than 40 years, and subject to a fine not to exceed  
13 \$200,000.

14 (6) A person who possesses 900 or more grams of  
15 methamphetamine or a substance containing methamphetamine  
16 is guilty of a Class X felony, subject to a term of  
17 imprisonment of not less than 10 years and not more than 50  
18 years, and subject to a fine not to exceed \$300,000.

19 Section 65. Methamphetamine conspiracy.

20 (a) It is unlawful to engage in a methamphetamine  
21 conspiracy. A person engages in a methamphetamine conspiracy  
22 when:

23 (1) the person intends to violate one or more  
24 provisions of this Act;

25 (2) the person agrees with one or more persons to  
26 violate one or more provisions of this Act; and

27 (3) the person or any party to the agreement commits an  
28 act in furtherance of the agreement.

29 (b) A person convicted of engaging in a methamphetamine  
30 conspiracy shall face the penalty for the offense that is the  
31 object of the conspiracy and may be held accountable for the  
32 cumulative weight of any methamphetamine, substance containing  
33 methamphetamine, methamphetamine precursor, or substance  
34 containing methamphetamine precursor attributable to the  
35 conspiracy for the duration of the conspiracy.

1 (c) It is not a defense to a methamphetamine conspiracy  
2 charge that the person or persons with whom the person charged  
3 is alleged to have conspired have not been prosecuted or  
4 convicted, have been acquitted, have been convicted of a  
5 different offense, are not amenable to justice, or lacked the  
6 capacity to commit the offense.

7 (d) When any person is convicted under this Section of  
8 engaging in a methamphetamine conspiracy, the following shall  
9 be subject to forfeiture to the State of Illinois: the receipts  
10 the person obtained in the conspiracy and any of the person's  
11 interests in, claims against, receipts from, or property or  
12 rights of any kind affording a source of influence over, the  
13 conspiracy. The circuit court may enter such injunctions,  
14 restraining orders, directions, or prohibitions, or take such  
15 other actions, including the acceptance of satisfactory  
16 performance bonds, in connection with any property, claim,  
17 receipt, right, or other interest subject to forfeiture under  
18 this Section, as it deems proper.

19 Section 70. Probation.

20 (a) Whenever any person who has not previously been  
21 convicted of, or placed on probation or court supervision for  
22 any offense under this Act, the Illinois Controlled Substances  
23 Act, the Cannabis Control Act, or any law of the United States  
24 or of any state relating to cannabis or controlled substances,  
25 pleads guilty to or is found guilty of possession of less than  
26 15 grams of methamphetamine under paragraph (1) or (2) of  
27 subsection (b) of Section 60 of this Act, the court, without  
28 entering a judgment and with the consent of the person, may  
29 sentence him or her to probation.

30 (b) When a person is placed on probation, the court shall  
31 enter an order specifying a period of probation of 24 months  
32 and shall defer further proceedings in the case until the  
33 conclusion of the period or until the filing of a petition  
34 alleging violation of a term or condition of probation.

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

1           (1) not violate any criminal statute of any  
2 jurisdiction;

3           (2) refrain from possessing a firearm or other  
4 dangerous weapon;

5           (3) submit to periodic drug testing at a time and in a  
6 manner as ordered by the court, but no less than 3 times  
7 during the period of the probation, with the cost of the  
8 testing to be paid by the probationer; and

9           (4) perform no less than 30 hours of community service,  
10 if community service is available in the jurisdiction and  
11 is funded and approved by the county board.

12           (d) The court may, in addition to other conditions, require  
13 that the person take one or more of the following actions:

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

18           (2) pay a fine and costs;

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

21           (4) undergo medical or psychiatric treatment; or  
22 treatment or rehabilitation approved by the Illinois  
23 Department of Human Services;

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

26           (6) support his or her dependents;

27           (7) refrain from having in his or her body the presence  
28 of any illicit drug prohibited by this Act, the Cannabis  
29 Control Act, or the Illinois Controlled Substances Act,  
30 unless prescribed by a physician, and submit samples of his  
31 or her blood or urine or both for tests to determine the  
32 presence of any illicit drug; or

33           (8) if a minor:

34           (i) reside with his or her parents or in a foster  
35 home;

36           (ii) attend school;

1 (iii) attend a non-residential program for youth;  
2 or  
3 (iv) contribute to his or her own support at home  
4 or in a foster home.

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

8 (f) Upon fulfillment of the terms and conditions of  
9 probation, the court shall discharge the person and dismiss the  
10 proceedings against the person.

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

17 (h) There may be only one discharge and dismissal under  
18 this Section, Section 410 of the Illinois Controlled Substances  
19 Act, or Section 10 of the Cannabis Control Act with respect to  
20 any person.

21 (i) If a person is convicted of an offense under this Act,  
22 the Cannabis Control Act, or the Illinois Controlled Substances  
23 Act within 5 years subsequent to a discharge and dismissal  
24 under this Section, the discharge and dismissal under this  
25 Section are admissible in the sentencing proceeding for that  
26 conviction as evidence in aggravation.

27 Section 75. Fines.

28 (a) Whenever any person pleads guilty to, is found guilty  
29 of, or is placed on supervision for an offense under this Act,  
30 a fine may be levied in addition to any other penalty imposed  
31 by the court.

32 (b) In determining whether to impose a fine under this  
33 Section and the amount, time for payment, and method of payment  
34 of any fine so imposed, the court shall:

35 (1) consider the defendant's income, regardless of

1 source, the defendant's earning capacity and the  
2 defendant's financial resources, as well as the nature of  
3 the burden the fine will impose on the defendant and any  
4 person legally or financially dependent upon the  
5 defendant;

6 (2) consider the proof received at trial, or as a  
7 result of a plea of guilty, concerning the full street  
8 value of the controlled substances seized and any profits  
9 or other proceeds derived by the defendant from the  
10 violation of this Act;

11 (3) take into account any other pertinent equitable  
12 considerations; and

13 (4) give primary consideration to the need to deprive  
14 the defendant of illegally obtained profits or other  
15 proceeds from the offense.

16 For the purpose of paragraph (2) of this subsection (b),  
17 "street value" shall be determined by the court on the basis of  
18 testimony of law enforcement personnel and the defendant as to  
19 the amount seized and such testimony as may be required by the  
20 court as to the current street value of the controlled  
21 substances.

22 (c) As a condition of a fine, the court may require that  
23 payment be made in specified installments or within a specified  
24 period of time, but the period shall not be greater than the  
25 maximum applicable term of probation or imprisonment,  
26 whichever is greater. Unless otherwise specified, payment of a  
27 fine shall be due immediately.

28 (d) If a fine for a violation of this Act is imposed on an  
29 organization, it is the duty of each individual authorized to  
30 make disbursements of the assets of the organization to pay the  
31 fine from the assets of the organization.

32 (e) A defendant who has been sentenced to pay a fine, and  
33 who has paid part but not all of the fine, may petition the  
34 court for an extension of the time for payment or modification  
35 of the method of payment. The court may grant the petition if  
36 it finds that:

1           (1) the circumstances that warranted payment by the  
2 time or method specified no longer exist; or

3           (2) it is otherwise unjust to require payment of the  
4 fine by the time or method specified.

5           Section 80. Assessment.

6           (a) Every person convicted of a violation of this Act, and  
7 every person placed on probation, conditional discharge,  
8 supervision, or probation under this Act, shall be assessed for  
9 each offense a sum fixed at:

10           (1) \$3,000 for a Class X felony;

11           (2) \$2,000 for a Class 1 felony;

12           (3) \$1,000 for a Class 2 felony;

13           (4) \$500 for a Class 3 or Class 4 felony.

14           (b) The assessment under this Section is in addition to and  
15 not in lieu of any fines, restitution, costs, forfeitures, or  
16 other assessments authorized or required by law.

17           (c) As a condition of the assessment, the court may require  
18 that payment be made in specified installments or within a  
19 specified period of time. If the assessment is not paid within  
20 the period of probation, conditional discharge, or supervision  
21 to which the defendant was originally sentenced, the court may  
22 extend the period of probation, conditional discharge, or  
23 supervision pursuant to Section 5-6-2 or 5-6-3.1 of the Unified  
24 Code of Corrections, as applicable, until the assessment is  
25 paid or until successful completion of public or community  
26 service set forth in subsection (e) or the successful  
27 completion of the substance abuse intervention or treatment  
28 program set forth in subsection (f). If a term of probation,  
29 conditional discharge, or supervision is not imposed, the  
30 assessment shall be payable upon judgment or as directed by the  
31 court.

32           (d) If an assessment for a violation of this Act is imposed  
33 on an organization, it is the duty of each individual  
34 authorized to make disbursements of the assets of the  
35 organization to pay the assessment from assets of the

1 organization.

2 (e) A defendant who has been ordered to pay an assessment  
3 may petition the court to convert all or part of the assessment  
4 into court-approved public or community service. One hour of  
5 public or community service shall be equivalent to \$4 of  
6 assessment. The performance of this public or community service  
7 shall be a condition of the probation, conditional discharge,  
8 or supervision and shall be in addition to the performance of  
9 any other period of public or community service ordered by the  
10 court or required by law.

11 (f) The court may suspend the collection of the assessment  
12 imposed under this Section if the defendant agrees to enter a  
13 substance abuse intervention or treatment program approved by  
14 the court and the defendant agrees to pay for all or some  
15 portion of the costs associated with the intervention or  
16 treatment program. In this case, the collection of the  
17 assessment imposed under this Section shall be suspended during  
18 the defendant's participation in the approved intervention or  
19 treatment program. Upon successful completion of the program,  
20 the defendant may apply to the court to reduce the assessment  
21 imposed under this Section by any amount actually paid by the  
22 defendant for his or her participation in the program. The  
23 court shall not reduce the penalty under this subsection unless  
24 the defendant establishes to the satisfaction of the court that  
25 he or she has successfully completed the intervention or  
26 treatment program. If the defendant's participation is for any  
27 reason terminated before his or her successful completion of  
28 the intervention or treatment program, collection of the entire  
29 assessment imposed under this Section shall be enforced.  
30 Nothing in this Section shall be deemed to affect or suspend  
31 any other fines, restitution costs, forfeitures, or  
32 assessments imposed under this or any other Act.

33 (g) The court shall not impose more than one assessment per  
34 complaint, indictment, or information. If the person is  
35 convicted of more than one offense in a complaint, indictment,  
36 or information, the assessment shall be based on the highest

1 class offense for which the person is convicted.

2 (h) In counties with a population under 3,000,000, all  
3 moneys collected under this Section shall be forwarded by the  
4 clerk of the circuit court to the State Treasurer for deposit  
5 in the Drug Treatment Fund. The Department of Human Services  
6 may make grants to persons licensed under Section 15-10 of the  
7 Alcoholism and Other Drug Abuse and Dependency Act or to  
8 municipalities or counties from funds appropriated to the  
9 Department from the Drug Treatment Fund for the treatment of  
10 pregnant women who are addicted to alcohol, cannabis or  
11 controlled substances and for the needed care of minor,  
12 unemancipated children of women undergoing residential drug  
13 treatment. If the Department of Human Services grants funds to  
14 a municipality or a county that the Department determines is  
15 not experiencing a problem with pregnant women addicted to  
16 alcohol, cannabis or controlled substances, or with care for  
17 minor, unemancipated children of women undergoing residential  
18 drug treatment, or intervention, the funds shall be used for  
19 the treatment of any person addicted to alcohol, cannabis, or  
20 controlled substances. The Department may adopt such rules as  
21 it deems appropriate for the administration of such grants.

22 (i) In counties with a population of 3,000,000 or more, all  
23 moneys collected under this Section shall be forwarded to the  
24 County Treasurer for deposit into the County Health Fund. The  
25 County Treasurer shall, no later than the 15th day of each  
26 month, forward to the State Treasurer 30 percent of all moneys  
27 collected under this Act and received into the County Health  
28 Fund since the prior remittance to the State Treasurer. Funds  
29 retained by the County shall be used for community-based  
30 treatment of pregnant women who are addicted to alcohol,  
31 cannabis, or controlled substances or for the needed care of  
32 minor, unemancipated children of these women. Funds forwarded  
33 to the State Treasurer shall be deposited into the State Drug  
34 Treatment Fund maintained by the State Treasurer from which the  
35 Department of Human Services may make grants to persons  
36 licensed under Section 15-10 of the Alcoholism and Other Drug

1 Abuse and Dependency Act or to municipalities or counties from  
2 funds appropriated to the Department from the Drug Treatment  
3 Fund, provided that the moneys collected from each county be  
4 returned proportionately to the counties through grants to  
5 licensees located within the county from which the assessment  
6 was received and moneys in the State Drug Treatment Fund shall  
7 not supplant other local, State or federal funds. If the  
8 Department of Human Services grants funds to a municipality or  
9 county that the Department determines is not experiencing a  
10 problem with pregnant women addicted to alcohol, cannabis or  
11 controlled substances, or with care for minor, unemancipated  
12 children or women undergoing residential drug treatment, the  
13 funds shall be used for the treatment of any person addicted to  
14 alcohol, cannabis or controlled substances. The Department may  
15 adopt such rules as it deems appropriate for the administration  
16 of such grants.

17 Section 85. Forfeiture.

18 (a) The following are subject to forfeiture:

19 (1) all substances containing methamphetamine which  
20 have been produced, manufactured, delivered, or possessed  
21 in violation of this Act;

22 (2) all methamphetamine manufacturing materials which  
23 have been produced, delivered, or possessed in connection  
24 with any substance containing methamphetamine in violation  
25 of this Act;

26 (3) all conveyances, including aircraft, vehicles or  
27 vessels, which are used, or intended for use, to transport,  
28 or in any manner to facilitate the transportation, sale,  
29 receipt, possession, or concealment of property described  
30 in paragraph (1) or (2) that constitutes a felony violation  
31 of the Act, but:

32 (i) no conveyance used by any person as a common  
33 carrier in the transaction of business as a common  
34 carrier is subject to forfeiture under this Section  
35 unless it appears that the owner or other person in

1 charge of the conveyance is a consenting party or privy  
2 to a violation of this Act;

3 (ii) no conveyance is subject to forfeiture under  
4 this Section by reason of any act or omission which the  
5 owner proves to have been committed or omitted without  
6 his or her knowledge or consent;

7 (iii) a forfeiture of a conveyance encumbered by a  
8 bona fide security interest is subject to the interest  
9 of the secured party if he or she neither had knowledge  
10 of nor consented to the act or omission;

11 (4) all money, things of value, books, records, and  
12 research products and materials including formulas,  
13 microfilm, tapes, and data which are used, or intended for  
14 use in a felony violation of this Act;

15 (5) everything of value furnished or intended to be  
16 furnished by any person in exchange for a substance in  
17 violation of this Act, all proceeds traceable to such an  
18 exchange, and all moneys, negotiable instruments, and  
19 securities used, or intended to be used, to commit or in  
20 any manner to facilitate any felony violation of this Act.

21 (6) all real property, including any right, title, and  
22 interest (including, but not limited to, any leasehold  
23 interest or the beneficial interest in a land trust) in the  
24 whole of any lot or tract of land and any appurtenances or  
25 improvements, which is used, or intended to be used, in any  
26 manner or part, to commit, or in any manner to facilitate  
27 the commission of, any violation or act that constitutes a  
28 violation of this Act or that is the proceeds of any  
29 violation or act that constitutes a violation of this Act.

30 (b) Property subject to forfeiture under this Act may be  
31 seized by the Director or any peace officer upon process or  
32 seizure warrant issued by any court having jurisdiction over  
33 the property. Seizure by the Director or any peace officer  
34 without process may be made:

35 (1) if the property subject to seizure has been the  
36 subject of a prior judgment in favor of the State in a

1 criminal proceeding or in an injunction or forfeiture  
2 proceeding based upon this Act or the Drug Asset Forfeiture  
3 Procedure Act;

4 (2) if there is probable cause to believe that the  
5 property is directly or indirectly dangerous to health or  
6 safety;

7 (3) if there is probable cause to believe that the  
8 property is subject to forfeiture under this Act and the  
9 property is seized under circumstances in which a  
10 warrantless seizure or arrest would be reasonable; or

11 (4) in accordance with the Code of Criminal Procedure  
12 of 1963.

13 (c) In the event of seizure pursuant to subsection (b),  
14 forfeiture proceedings shall be instituted in accordance with  
15 the Drug Asset Forfeiture Procedure Act.

16 (d) Property taken or detained under this Section is not  
17 subject to replevin, but is deemed to be in the custody of the  
18 Director subject only to the order and judgments of the circuit  
19 court having jurisdiction over the forfeiture proceedings and  
20 the decisions of the State's Attorney under the Drug Asset  
21 Forfeiture Procedure Act. When property is seized under this  
22 Act, the seizing agency shall promptly conduct an inventory of  
23 the seized property, estimate the property's value, and forward  
24 a copy of the inventory of seized property and the estimate of  
25 the property's value to the Director. Upon receiving notice of  
26 seizure, the Director may:

27 (1) place the property under seal;

28 (2) remove the property to a place designated by him or  
29 her;

30 (3) keep the property in the possession of the seizing  
31 agency;

32 (4) remove the property to a storage area for  
33 safekeeping or, if the property is a negotiable instrument  
34 or money and is not needed for evidentiary purposes,  
35 deposit it in an interest bearing account;

36 (5) place the property under constructive seizure by

1 posting notice of pending forfeiture on it, by giving  
2 notice of pending forfeiture to its owners and interest  
3 holders, or by filing notice of pending forfeiture in any  
4 appropriate public record relating to the property; or

5 (6) provide for another agency or custodian, including  
6 an owner, secured party, or lienholder, to take custody of  
7 the property upon the terms and conditions set by the  
8 Director.

9 (e) No disposition may be made of property under seal until  
10 the time for taking an appeal has elapsed or until all appeals  
11 have been concluded unless a court, upon application therefor,  
12 orders the sale of perishable substances and the deposit of the  
13 proceeds of the sale with the court.

14 (f) When property is forfeited under this Act, the Director  
15 shall sell the property unless the property is required by law  
16 to be destroyed or is harmful to the public, and shall  
17 distribute the proceeds of the sale, together with any moneys  
18 forfeited or seized, in accordance with subsection (g).  
19 However, upon the application of the seizing agency or  
20 prosecutor who was responsible for the investigation, arrest or  
21 arrests and prosecution which lead to the forfeiture, the  
22 Director may return any item of forfeited property to the  
23 seizing agency or prosecutor for official use in the  
24 enforcement of laws relating to methamphetamine, cannabis, or  
25 controlled substances, if the agency or prosecutor  
26 demonstrates that the item requested would be useful to the  
27 agency or prosecutor in their enforcement efforts. When any  
28 real property returned to the seizing agency is sold by the  
29 agency or its unit of government, the proceeds of the sale  
30 shall be delivered to the Director and distributed in  
31 accordance with subsection (g).

32 (g) All moneys and the sale proceeds of all other property  
33 forfeited and seized under this Act shall be distributed as  
34 follows:

35 (1) 65% shall be distributed to the metropolitan  
36 enforcement group, local, municipal, county, or State law

1 enforcement agency or agencies which conducted or  
2 participated in the investigation resulting in the  
3 forfeiture. The distribution shall bear a reasonable  
4 relationship to the degree of direct participation of the  
5 law enforcement agency in the effort resulting in the  
6 forfeiture, taking into account the total value of the  
7 property forfeited and the total law enforcement effort  
8 with respect to the violation of the law upon which the  
9 forfeiture is based. Amounts distributed to the agency or  
10 agencies shall be used for the enforcement of laws  
11 governing methamphetamine, cannabis, and controlled  
12 substances, except that amounts distributed to the  
13 Secretary of State shall be deposited into the Secretary of  
14 State Evidence Fund to be used as provided in Section 2-115  
15 of the Illinois Vehicle Code.

16 (2) (i) 12.5% shall be distributed to the Office of the  
17 State's Attorney of the county in which the prosecution  
18 resulting in the forfeiture was instituted, deposited in a  
19 special fund in the county treasury and appropriated to the  
20 State's Attorney for use in the enforcement of laws  
21 governing methamphetamine, cannabis, and controlled  
22 substances. In counties with a population over 3,000,000,  
23 25% shall be distributed to the Office of the State's  
24 Attorney for use in the enforcement of laws governing  
25 methamphetamine, cannabis, and controlled substances. If  
26 the prosecution is undertaken solely by the Attorney  
27 General, the portion provided hereunder shall be  
28 distributed to the Attorney General for use in the  
29 enforcement of laws governing methamphetamine, cannabis,  
30 and controlled substances.

31 (ii) 12.5% shall be distributed to the Office of the  
32 State's Attorneys Appellate Prosecutor and deposited in  
33 the Narcotics Profit Forfeiture Fund of that Office to be  
34 used for additional expenses incurred in the  
35 investigation, prosecution and appeal of cases arising  
36 under laws governing methamphetamine, cannabis, and

1 controlled substances. The Office of the State's Attorneys  
2 Appellate Prosecutor shall not receive distribution from  
3 cases brought in counties with a population over 3,000,000.

4 (3) 10% shall be retained by the Department of State  
5 Police for expenses related to the administration and sale  
6 of seized and forfeited property.

7 Section 90. Methamphetamine restitution.

8 (a) If a person commits a violation of this Act in a manner  
9 that requires an emergency response, the person shall be  
10 required to make restitution to all public entities involved in  
11 the emergency response, to cover the reasonable cost of their  
12 participation in the emergency response, including but not  
13 limited to regular and overtime costs incurred by local law  
14 enforcement agencies and private contractors paid by the public  
15 agencies in securing the site. The convicted person shall make  
16 this restitution in addition to any other fine or penalty  
17 required by law.

18 (b) Any restitution payments made under this Section shall  
19 be disbursed equitably by the circuit clerk in the following  
20 order:

21 (1) first, to the local agencies involved in the  
22 emergency response;

23 (2) second, to the State agencies involved in the  
24 emergency response; and

25 (3) third, to the federal agencies involved in the  
26 emergency response.

27 Section 95. Youth Drug Abuse Prevention Fund.

28 (a) Twelve and one-half percent of all amounts collected as  
29 fines pursuant to the provisions of this Article shall be paid  
30 into the Youth Drug Abuse Prevention Fund created by the  
31 Controlled Substances Act in the State treasury, to be used by  
32 the Department for the funding of programs and services for  
33 drug-abuse treatment, and prevention and education services,  
34 for juveniles.

1 (b) Eighty-seven and one-half percent of the proceeds of  
2 all fines received under the provisions of this Act shall be  
3 transmitted to and deposited into the State treasury and  
4 distributed as follows:

5 (1) If such seizure was made by a combination of law  
6 enforcement personnel representing differing units of  
7 local government, the court levying the fine shall  
8 equitably allocate 50% of the fine among these units of  
9 local government and shall allocate 37.5% to the county  
10 general corporate fund. If the seizure was made by law  
11 enforcement personnel representing a unit of local  
12 government from a municipality where the number of  
13 inhabitants exceeds 2 million in population, the court  
14 levying the fine shall allocate 87.5% of the fine to that  
15 unit of local government. If the seizure was made by a  
16 combination of law enforcement personnel representing  
17 differing units of local government and if at least one of  
18 those units represents a municipality where the number of  
19 inhabitants exceeds 2 million in population, the court  
20 shall equitably allocate 87.5% of the proceeds of the fines  
21 received among the differing units of local government.

22 (2) If such seizure was made by State law enforcement  
23 personnel, then the court shall allocate 37.5% to the State  
24 treasury and 50% to the county general corporate fund.

25 (3) If a State law enforcement agency in combination  
26 with any law enforcement agency or agencies of a unit or  
27 units of local government conducted the seizure, the court  
28 shall equitably allocate 37.5% of the fines to or among the  
29 law enforcement agency or agencies of the unit or units of  
30 local government that conducted the seizure and shall  
31 allocate 50% to the county general corporate fund.

32 (c) The proceeds of all fines allocated to the law  
33 enforcement agency or agencies of the unit or units of local  
34 government pursuant to subsection (b) shall be made available  
35 to that law enforcement agency as expendable receipts for use  
36 in the enforcement of laws regulating controlled substances and

1 cannabis. The proceeds of fines awarded to the State treasury  
2 shall be deposited in a special fund known as the Drug Traffic  
3 Prevention Fund, except that amounts distributed to the  
4 Secretary of State shall be deposited into the Secretary of  
5 State Evidence Fund to be used as provided in Section 2-115 of  
6 the Illinois Vehicle Code. Moneys from this Fund may be used by  
7 the Department of State Police for use in the enforcement of  
8 laws regulating controlled substances and cannabis; to satisfy  
9 funding provisions of the Intergovernmental Drug Laws  
10 Enforcement Act; to defray costs and expenses associated with  
11 returning violators of the Cannabis Control Act and this Act  
12 only, as provided in those Acts, when punishment of the crime  
13 shall be confinement of the criminal in the penitentiary; and  
14 all other moneys shall be paid into the General Revenue Fund in  
15 the State treasury.

16 Section 100. Second or subsequent offenses.

17 (a) Any person convicted of a second or subsequent offense  
18 under this Act may be sentenced to imprisonment for a term up  
19 to twice the maximum term otherwise authorized, fined an amount  
20 up to twice that otherwise authorized, or both.

21 (b) Any penalty imposed for any violation of this Act is in  
22 addition to, and not in lieu of, any civil or administrative  
23 penalty or sanction otherwise authorized by this Act or any  
24 other law.

25 Section 105. Applicability. A prosecution for any  
26 violation of law occurring prior to the effective date of this  
27 Act is not affected or abated by this Act. If the offense being  
28 prosecuted would be a violation of this Act, and has not  
29 reached the sentencing stage or final adjudication, then for  
30 purposes of penalty the penalties under this Act apply if they  
31 are less than under the prior law upon which the prosecution  
32 was commenced.

33 Section 110. Scope of Act. Nothing in this Act limits any

1 authority or activity authorized by the Illinois Controlled  
2 Substances Act, the Medical Practice Act of 1987, the Nursing  
3 and Advanced Practice Nursing Act, the Pharmacy Practice Act of  
4 1987, the Illinois Dental Practice Act, the Podiatric Medical  
5 Practice Act of 1987, or the Veterinary Medicine and Surgery  
6 Practice Act of 2004. Nothing in this Act limits the authority  
7 or activity of any law enforcement officer acting within the  
8 scope of his or her employment.

9 Section 901. The Alcoholism and Other Drug Abuse and  
10 Dependency Act is amended by changing Sections 5-10, 40-5, and  
11 50-35 as follows:

12 (20 ILCS 301/5-10)

13 Sec. 5-10. Functions of the Department.

14 (a) In addition to the powers, duties and functions vested  
15 in the Department by this Act, or by other laws of this State,  
16 the Department shall carry out the following activities:

17 (1) Design, coordinate and fund a comprehensive and  
18 coordinated community-based and culturally and  
19 gender-appropriate array of services throughout the State  
20 for the prevention, intervention, treatment and  
21 rehabilitation of alcohol and other drug abuse and  
22 dependency that is accessible and addresses the needs of  
23 at-risk or addicted individuals and their families.

24 (2) Act as the exclusive State agency to accept,  
25 receive and expend, pursuant to appropriation, any public  
26 or private monies, grants or services, including those  
27 received from the federal government or from other State  
28 agencies, for the purpose of providing an array of services  
29 for the prevention, intervention, treatment and  
30 rehabilitation of alcoholism or other drug abuse or  
31 dependency. Monies received by the Department shall be  
32 deposited into appropriate funds as may be created by State  
33 law or administrative action.

34 (3) Coordinate a statewide strategy among State

1 agencies for the prevention, intervention, treatment and  
2 rehabilitation of alcohol and other drug abuse and  
3 dependency. This strategy shall include the development of  
4 an annual comprehensive State plan for the provision of an  
5 array of services for education, prevention, intervention,  
6 treatment, relapse prevention and other services and  
7 activities to alleviate alcoholism and other drug abuse and  
8 dependency. The plan shall be based on local  
9 community-based needs and upon data including, but not  
10 limited to, that which defines the prevalence of and costs  
11 associated with the abuse of and dependency upon alcohol  
12 and other drugs. This comprehensive State plan shall  
13 include identification of problems, needs, priorities,  
14 services and other pertinent information, including the  
15 needs of minorities and other specific populations in the  
16 State, and shall describe how the identified problems and  
17 needs will be addressed. For purposes of this paragraph,  
18 the term "minorities and other specific populations" may  
19 include, but shall not be limited to, groups such as women,  
20 children, intravenous drug users, persons with AIDS or who  
21 are HIV infected, African-Americans, Puerto Ricans,  
22 Hispanics, Asian Americans, the elderly, persons in the  
23 criminal justice system, persons who are clients of  
24 services provided by other State agencies, persons with  
25 disabilities and such other specific populations as the  
26 Department may from time to time identify. In developing  
27 the plan, the Department shall seek input from providers,  
28 parent groups, associations and interested citizens.

29 Beginning with State fiscal year 1996, the annual  
30 comprehensive State plan developed under this Section  
31 shall include an explanation of the rationale to be used in  
32 ensuring that funding shall be based upon local community  
33 needs, including, but not limited to, the incidence and  
34 prevalence of, and costs associated with, the abuse of and  
35 dependency upon alcohol and other drugs, as well as upon  
36 demonstrated program performance.

1           The annual comprehensive State plan developed under  
2 this Section shall contain a report detailing the  
3 activities of and progress made by the programs for the  
4 care and treatment of addicted pregnant women, addicted  
5 mothers and their children established under subsection  
6 (j) of Section 35-5 of this Act.

7           Each State agency which provides or funds alcohol or  
8 drug prevention, intervention and treatment services shall  
9 annually prepare an agency plan for providing such  
10 services, and these shall be used by the Department in  
11 preparing the annual comprehensive statewide plan. Each  
12 agency's annual plan for alcohol and drug abuse services  
13 shall contain a report on the activities and progress of  
14 such services in the prior year. The Department may provide  
15 technical assistance to other State agencies, as required,  
16 in the development of their agency plans.

17           (4) Lead, foster and develop cooperation, coordination  
18 and agreements among federal and State governmental  
19 agencies and local providers that provide assistance,  
20 services, funding or other functions, peripheral or  
21 direct, in the prevention, intervention, treatment or  
22 rehabilitation of alcoholism and other drug abuse and  
23 dependency. This shall include, but shall not be limited  
24 to, the following:

25           (A) Cooperate with and assist the Department of  
26 Corrections and the Department on Aging in  
27 establishing and conducting programs relating to  
28 alcoholism and other drug abuse and dependency among  
29 those populations which they respectively serve.

30           (B) Cooperate with and assist the Illinois  
31 Department of Public Health in the establishment,  
32 funding and support of programs and services for the  
33 promotion of maternal and child health and the  
34 prevention and treatment of infectious diseases,  
35 including but not limited to HIV infection, especially  
36 with respect to those persons who may abuse drugs by

1 intravenous injection, or may have been sexual  
2 partners of drug abusers, or may have abused substances  
3 so that their immune systems are impaired, causing them  
4 to be at high risk.

5 (C) Supply to the Department of Public Health and  
6 prenatal care providers a list of all alcohol and other  
7 drug abuse service providers for addicted pregnant  
8 women in this State.

9 (D) Assist in the placement of child abuse or  
10 neglect perpetrators (identified by the Illinois  
11 Department of Children and Family Services) who have  
12 been determined to be in need of alcohol or other drug  
13 abuse services pursuant to Section 8.2 of the Abused  
14 and Neglected Child Reporting Act.

15 (E) Cooperate with and assist the Illinois  
16 Department of Children and Family Services in carrying  
17 out its mandates to:

18 (i) identify alcohol and other drug abuse  
19 issues among its clients and their families; and

20 (ii) develop programs and services to deal  
21 with such problems.

22 These programs and services may include, but shall not  
23 be limited to, programs to prevent the abuse of alcohol  
24 or other drugs by DCFS clients and their families,  
25 rehabilitation services, identifying child care needs  
26 within the array of alcohol and other drug abuse  
27 services, and assistance with other issues as  
28 required.

29 (F) Cooperate with and assist the Illinois  
30 Criminal Justice Information Authority with respect to  
31 statistical and other information concerning drug  
32 abuse incidence and prevalence.

33 (G) Cooperate with and assist the State  
34 Superintendent of Education, boards of education,  
35 schools, police departments, the Illinois Department  
36 of State Police, courts and other public and private

1 agencies and individuals in establishing prevention  
2 programs statewide and preparing curriculum materials  
3 for use at all levels of education. An agreement shall  
4 be entered into with the State Superintendent of  
5 Education to assist in the establishment of such  
6 programs.

7 (H) Cooperate with and assist the Illinois  
8 Department of Public Aid in the development and  
9 provision of services offered to recipients of public  
10 assistance for the treatment and prevention of  
11 alcoholism and other drug abuse and dependency.

12 (I) Provide training recommendations to other  
13 State agencies funding alcohol or other drug abuse  
14 prevention, intervention, treatment or rehabilitation  
15 services.

16 (5) From monies appropriated to the Department from the  
17 Drunk and Drugged Driving Prevention Fund, make grants to  
18 reimburse DUI evaluation and remedial education programs  
19 licensed by the Department for the costs of providing  
20 indigent persons with free or reduced-cost services  
21 relating to a charge of driving under the influence of  
22 alcohol or other drugs.

23 (6) Promulgate regulations to provide appropriate  
24 standards for publicly and privately funded programs as  
25 well as for levels of payment to government funded programs  
26 which provide an array of services for prevention,  
27 intervention, treatment and rehabilitation for alcoholism  
28 and other drug abuse or dependency.

29 (7) In consultation with local service providers,  
30 specify a uniform statistical methodology for use by  
31 agencies, organizations, individuals and the Department  
32 for collection and dissemination of statistical  
33 information regarding services related to alcoholism and  
34 other drug use and abuse. This shall include prevention  
35 services delivered, the number of persons treated,  
36 frequency of admission and readmission, and duration of

1 treatment.

2 (8) Receive data and assistance from federal, State and  
3 local governmental agencies, and obtain copies of  
4 identification and arrest data from all federal, State and  
5 local law enforcement agencies for use in carrying out the  
6 purposes and functions of the Department.

7 (9) Designate and license providers to conduct  
8 screening, assessment, referral and tracking of clients  
9 identified by the criminal justice system as having  
10 indications of alcoholism or other drug abuse or dependency  
11 and being eligible to make an election for treatment under  
12 Section 40-5 of this Act, and assist in the placement of  
13 individuals who are under court order to participate in  
14 treatment.

15 (10) Designate medical examination and other programs  
16 for determining alcoholism and other drug abuse and  
17 dependency.

18 (11) Encourage service providers who receive financial  
19 assistance in any form from the State to assess and collect  
20 fees for services rendered.

21 (12) Make grants with funds appropriated from the Drug  
22 Treatment Fund in accordance with Section 7 of the  
23 Controlled Substance and Cannabis Nuisance Act, or in  
24 accordance with Section 80 of the Methamphetamine Control  
25 and Community Protection Act, or in accordance with  
26 subsections (h) and (i) of Section 411.2 of the Illinois  
27 Controlled Substances Act.

28 (13) Encourage all health and disability insurance  
29 programs to include alcoholism and other drug abuse and  
30 dependency as a covered illness.

31 (14) Make such agreements, grants-in-aid and  
32 purchase-care arrangements with any other department,  
33 authority or commission of this State, or any other state  
34 or the federal government or with any public or private  
35 agency, including the disbursement of funds and furnishing  
36 of staff, to effectuate the purposes of this Act.

1           (15) Conduct a public information campaign to inform  
2           the State's Hispanic residents regarding the prevention  
3           and treatment of alcoholism.

4           (b) In addition to the powers, duties and functions vested  
5           in it by this Act, or by other laws of this State, the  
6           Department may undertake, but shall not be limited to, the  
7           following activities:

8           (1) Require all programs funded by the Department to  
9           include an education component to inform participants  
10          regarding the causes and means of transmission and methods  
11          of reducing the risk of acquiring or transmitting HIV  
12          infection, and to include funding for such education  
13          component in its support of the program.

14          (2) Review all State agency applications for federal  
15          funds which include provisions relating to the prevention,  
16          early intervention and treatment of alcoholism and other  
17          drug abuse and dependency in order to ensure consistency  
18          with the comprehensive statewide plan developed pursuant  
19          to this Act.

20          (3) Prepare, publish, evaluate, disseminate and serve  
21          as a central repository for educational materials dealing  
22          with the nature and effects of alcoholism and other drug  
23          abuse and dependency. Such materials may deal with the  
24          educational needs of the citizens of Illinois, and may  
25          include at least pamphlets which describe the causes and  
26          effects of fetal alcohol syndrome, which the Department may  
27          distribute free of charge to each county clerk in  
28          sufficient quantities that the county clerk may provide a  
29          pamphlet to the recipients of all marriage licenses issued  
30          in the county.

31          (4) Develop and coordinate, with regional and local  
32          agencies, education and training programs for persons  
33          engaged in providing the array of services for persons  
34          having alcoholism or other drug abuse and dependency  
35          problems, which programs may include specific HIV  
36          education and training for program personnel.

1           (5) Cooperate with and assist in the development of  
2 education, prevention and treatment programs for employees  
3 of State and local governments and businesses in the State.

4           (6) Utilize the support and assistance of interested  
5 persons in the community, including recovering addicts and  
6 alcoholics, to assist individuals and communities in  
7 understanding the dynamics of addiction, and to encourage  
8 individuals with alcohol or other drug abuse or dependency  
9 problems to voluntarily undergo treatment.

10          (7) Promote, conduct, assist or sponsor basic  
11 clinical, epidemiological and statistical research into  
12 alcoholism and other drug abuse and dependency, and  
13 research into the prevention of those problems either  
14 solely or in conjunction with any public or private agency.

15          (8) Cooperate with public and private agencies,  
16 organizations and individuals in the development of  
17 programs, and to provide technical assistance and  
18 consultation services for this purpose.

19          (9) Publish or provide for the publishing of a manual  
20 to assist medical and social service providers in  
21 identifying alcoholism and other drug abuse and dependency  
22 and coordinating the multidisciplinary delivery of  
23 services to addicted pregnant women, addicted mothers and  
24 their children. The manual may be used only to provide  
25 information and may not be used by the Department to  
26 establish practice standards. The Department may not  
27 require recipients to use specific providers nor may they  
28 require providers to refer recipients to specific  
29 providers. The manual may include, but need not be limited  
30 to, the following:

31               (A) Information concerning risk assessments of  
32 women seeking prenatal, natal, and postnatal medical  
33 care.

34               (B) Information concerning risk assessments of  
35 infants who may be substance-affected.

36               (C) Protocols that have been adopted by the

1 Illinois Department of Children and Family Services  
2 for the reporting and investigation of allegations of  
3 child abuse or neglect under the Abused and Neglected  
4 Child Reporting Act.

5 (D) Summary of procedures utilized in juvenile  
6 court in cases of children alleged or found to be  
7 abused or neglected as a result of being born to  
8 addicted women.

9 (E) Information concerning referral of addicted  
10 pregnant women, addicted mothers and their children by  
11 medical, social service, and substance abuse treatment  
12 providers, by the Departments of Children and Family  
13 Services, Public Aid, Public Health, and Human  
14 Services.

15 (F) Effects of substance abuse on infants and  
16 guidelines on the symptoms, care, and comfort of  
17 drug-withdrawing infants.

18 (G) Responsibilities of the Illinois Department of  
19 Public Health to maintain statistics on the number of  
20 children in Illinois addicted at birth.

21 (10) To the extent permitted by federal law or  
22 regulation, establish and maintain a clearinghouse and  
23 central repository for the development and maintenance of a  
24 centralized data collection and dissemination system and a  
25 management information system for all alcoholism and other  
26 drug abuse prevention, early intervention and treatment  
27 services.

28 (11) Fund, promote or assist programs, services,  
29 demonstrations or research dealing with addictive or  
30 habituating behaviors detrimental to the health of  
31 Illinois citizens.

32 (12) With monies appropriated from the Group Home Loan  
33 Revolving Fund, make loans, directly or through  
34 subcontract, to assist in underwriting the costs of housing  
35 in which individuals recovering from alcohol or other drug  
36 abuse or dependency may reside in groups of not less than 6

1 persons, pursuant to Section 50-40 of this Act.

2 (13) Promulgate such regulations as may be necessary  
3 for the administration of grants or to otherwise carry out  
4 the purposes and enforce the provisions of this Act.

5 (14) Fund programs to help parents be effective in  
6 preventing substance abuse by building an awareness of  
7 drugs and alcohol and the family's role in preventing abuse  
8 through adjusting expectations, developing new skills, and  
9 setting positive family goals. The programs shall include,  
10 but not be limited to, the following subjects: healthy  
11 family communication; establishing rules and limits; how  
12 to reduce family conflict; how to build self-esteem,  
13 competency, and responsibility in children; how to improve  
14 motivation and achievement; effective discipline; problem  
15 solving techniques; and how to talk about drugs and  
16 alcohol. The programs shall be open to all parents.

17 (Source: P.A. 88-80; incorporates 88-171; 88-670, eff.  
18 12-2-94; 89-363, eff. 1-1-96; 89-507, eff. 7-1-97.)

19 (20 ILCS 301/40-5)

20 Sec. 40-5. Election of treatment. An addict or alcoholic  
21 who is charged with or convicted of a crime may elect treatment  
22 under the supervision of a licensed program designated by the  
23 Department, referred to in this Article as "designated  
24 program", unless:

25 (1) the crime is a crime of violence;

26 (2) the crime is a violation of Section 401(a), 401(b),  
27 401(c) where the person electing treatment has been  
28 previously convicted of a non-probationable felony or the  
29 violation is non-probationable, 401(d) where the violation  
30 is non-probationable, 401.1, 402(a), 405 or 407 of the  
31 Illinois Controlled Substances Act, or Section 4(d), 4(e),  
32 4(f), 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the  
33 Cannabis Control Act or Section 15, 20, 55, 60, or 65 of  
34 the Methamphetamine Control and Community Protection Act;

35 (3) the person has a record of 2 or more convictions of

1 a crime of violence;

2 (4) other criminal proceedings alleging commission of  
3 a felony are pending against the person;

4 (5) the person is on probation or parole and the  
5 appropriate parole or probation authority does not consent  
6 to that election;

7 (6) the person elected and was admitted to a designated  
8 program on 2 prior occasions within any consecutive 2-year  
9 period;

10 (7) the person has been convicted of residential  
11 burglary and has a record of one or more felony  
12 convictions;

13 (8) the crime is a violation of Section 11-501 of the  
14 Illinois Vehicle Code or a similar provision of a local  
15 ordinance; or

16 (9) the crime is a reckless homicide or a reckless  
17 homicide of an unborn child, as defined in Section 9-3 or  
18 9-3.2 of the Criminal Code of 1961, in which the cause of  
19 death consists of the driving of a motor vehicle by a  
20 person under the influence of alcohol or any other drug or  
21 drugs at the time of the violation.

22 (Source: P.A. 90-397, eff. 8-15-97.)

23 (20 ILCS 301/50-35)

24 Sec. 50-35. Drug Treatment Fund.

25 (a) There is hereby established the Drug Treatment Fund, to  
26 be held as a separate fund in the State treasury. There shall  
27 be deposited into this fund such amounts as may be received  
28 under subsections (h) and (i) of Section 411.2 of the Illinois  
29 Controlled Substances Act, under Section 80 of the  
30 Methamphetamine Control and Community Protection Act, and  
31 under Section 7 of the Controlled Substance and Cannabis  
32 Nuisance Act.

33 (b) Monies in this fund shall be appropriated to the  
34 Department for the purposes and activities set forth in  
35 subsections (h) and (i) of Section 411.2 of the Illinois

1 Controlled Substances Act, or in Section 7 of the Controlled  
2 Substance and Cannabis Nuisance Act.

3 (Source: P.A. 88-80.)

4 Section 902. The Department of Human Services (Alcoholism  
5 and Substance Abuse) Law of the Civil Administrative Code of  
6 Illinois is amended by changing Section 310-5 as follows:

7 (20 ILCS 310/310-5) (was 20 ILCS 5/9.29)

8 Sec. 310-5. Powers under certain Acts. The Department of  
9 Human Services, as successor to the Department of Alcoholism  
10 and Substance Abuse, shall exercise, administer, and enforce  
11 all rights, powers, and duties formerly vested in the  
12 Department of Mental Health and Developmental Disabilities by  
13 the following named Acts or Sections of those Acts as they  
14 pertain to the provision of alcoholism services and the  
15 Dangerous Drugs Commission:

16 (1) The Cannabis Control Act.

17 (2) The Illinois Controlled Substances Act.

18 (3) The Community Mental Health Act.

19 (4) The Community Services Act.

20 (5) The Methamphetamine Control and Community  
21 Protection Act.

22 (Source: P.A. 91-239, eff. 1-1-00.)

23 Section 905. The Department of State Police Law of the  
24 Civil Administrative Code of Illinois is amended by changing  
25 Section 2605-555 as follows:

26 (20 ILCS 2605/2605-555)

27 Sec. 2605-555. Pilot program; Project Exile.

28 (a) The Department shall establish a Project Exile pilot  
29 program to combat gun violence.

30 (b) Through the pilot program, the Department, in  
31 coordination with local law enforcement agencies, State's  
32 Attorneys, and United States Attorneys, shall, to the extent

1 possible, encourage the prosecution in federal court of all  
2 persons who illegally use, attempt to use, or threaten to use  
3 firearms against the person or property of another, of all  
4 persons who use or possess a firearm in connection with a  
5 violation of the Cannabis Control Act, ~~or~~ the Illinois  
6 Controlled Substances Act, or the Methamphetamine Control and  
7 Community Protection Act, all persons who have been convicted  
8 of a felony under the laws of this State or any other  
9 jurisdiction who possess any weapon prohibited under Section  
10 24-1 of the Criminal Code of 1961 or any firearm or any firearm  
11 ammunition, and of all persons who use or possess a firearm in  
12 connection with a violation of an order of protection issued  
13 under the Illinois Domestic Violence Act of 1986 or Article  
14 112A of the Code of Criminal Procedure of 1963 or in connection  
15 with the offense of domestic battery. The program shall also  
16 encourage public outreach by law enforcement agencies.

17 (c) There is created the Project Exile Fund, a special fund  
18 in the State treasury. Moneys appropriated for the purposes of  
19 Project Exile and moneys from any other private or public  
20 source, including without limitation grants from the  
21 Department of Commerce and Economic Opportunity ~~Community~~  
22 ~~Affairs~~, shall be deposited into the Fund. Moneys in the Fund,  
23 subject to appropriation, may be used by the Department of  
24 State Police to develop and administer the Project Exile pilot  
25 program.

26 (d) The Department shall report to the General Assembly by  
27 March 1, 2003 regarding the implementation and effects of the  
28 Project Exile pilot program and shall by that date make  
29 recommendations to the General Assembly for changes in the  
30 program that the Department deems appropriate.

31 The requirement for reporting to the General Assembly shall  
32 be satisfied by filing copies of the report with the Speaker,  
33 the Minority Leader, and the Clerk of the House of  
34 Representatives, with the President, the Minority Leader, and  
35 the Secretary of the Senate, and with the Legislative Research  
36 Unit, as required by Section 3.1 of the General Assembly

1 Organization Act, and filing such additional copies with the  
2 State Government Report Distribution Center for the General  
3 Assembly as is required under paragraph (t) of Section 7 of the  
4 State Library Act.

5 (Source: P.A. 92-332, eff. 8-10-01; 92-342, eff. 8-10-01;  
6 92-651, eff. 7-11-02; revised 12-6-03.)

7 Section 910. The State Police Act is amended by changing  
8 Section 12.5 as follows:

9 (20 ILCS 2610/12.5)

10 Sec. 12.5. Zero tolerance drug policy. Any person employed  
11 by the Department of State Police who tests positive in  
12 accordance with established Departmental drug testing  
13 procedures for any substance prohibited by the Cannabis Control  
14 Act, ~~or~~ the Illinois Controlled Substances Act, or the  
15 Methamphetamine Control and Community Protection Act shall be  
16 discharged from employment. Refusal to submit to a drug test,  
17 ordered in accordance with Departmental procedures, by any  
18 person employed by the Department shall be construed as a  
19 positive test, and the person shall be discharged from  
20 employment.

21 (Source: P.A. 92-80, eff. 1-1-02.)

22 Section 915. The Narcotic Control Division Abolition Act is  
23 amended by changing Sections 7 and 8 as follows:

24 (20 ILCS 2620/7) (from Ch. 127, par. 55j)

25 Sec. 7. Expenditures; evidence; forfeited property.

26 (a) The Director and the inspectors appointed by him, when  
27 authorized by the Director, may expend such sums as the  
28 Director deems necessary in the purchase of controlled  
29 substances and cannabis for evidence and in the employment of  
30 persons to obtain evidence.

31 Such sums to be expended shall be advanced to the officer  
32 who is to make such purchase or employment from funds

1 appropriated or made available by law for the support or use of  
2 the Department on vouchers therefor signed by the Director. The  
3 Director and such officers are authorized to maintain one or  
4 more commercial checking accounts with any State banking  
5 corporation or corporations organized under or subject to the  
6 Illinois Banking Act for the deposit and withdrawal of moneys  
7 to be used for the purchase of evidence and for the employment  
8 of persons to obtain evidence; provided that no check may be  
9 written on nor any withdrawal made from any such account except  
10 on the written signatures of 2 persons designated by the  
11 Director to write such checks and make such withdrawals.

12 (b) The Director is authorized to maintain one or more  
13 commercial bank accounts with any State banking corporation or  
14 corporations organized under or subject to the Illinois Banking  
15 Act, as now or hereafter amended, for the deposit or withdrawal  
16 of (i) moneys forfeited to the Department, including the  
17 proceeds of the sale of forfeited property, as provided in  
18 Section 2 of the State Officers and Employees Money Disposition  
19 Act, as now or hereafter amended, pending disbursement to  
20 participating agencies and deposit of the Department's share as  
21 provided in subsection (c), and (ii) all moneys being held as  
22 evidence by the Department, pending final court disposition;  
23 provided that no check may be written on or any withdrawal made  
24 from any such account except on the written signatures of 2  
25 persons designated by the Director to write such checks and  
26 make such withdrawals.

27 (c) All moneys received by the Illinois State Police as  
28 their share of forfeited funds (including the proceeds of the  
29 sale of forfeited property) received pursuant to the Drug Asset  
30 Forfeiture Procedure Act, the Cannabis Control Act, the  
31 Illinois Controlled Substances Act, the Methamphetamine  
32 Control and Community Protection Act, the Environmental  
33 Protection Act, or any other Illinois law shall be deposited  
34 into the State Asset Forfeiture Fund, which is hereby created  
35 as an interest-bearing special fund in the State treasury.

36 All moneys received by the Illinois State Police as their

1 share of forfeited funds (including the proceeds of the sale of  
2 forfeited property) received pursuant to federal equitable  
3 sharing transfers shall be deposited into the Federal Asset  
4 Forfeiture Fund, which is hereby created as an interest-bearing  
5 special fund in the State treasury.

6 The moneys deposited into the State Asset Forfeiture Fund  
7 and the Federal Asset Forfeiture Fund shall be appropriated to  
8 the Department of State Police and may be used by the Illinois  
9 State Police in accordance with law.

10 (Source: P.A. 90-9, eff. 7-1-97.)

11 (20 ILCS 2620/8) (from Ch. 127, par. 55k)

12 Sec. 8. The Attorney General, upon the request of the  
13 Department, shall prosecute any violation of this Act, and of  
14 the "Illinois Controlled Substances Act", ~~and~~ the "Cannabis  
15 Control Act" ~~enacted by the 77th General Assembly, and the~~  
16 Methamphetamine Control and Community Protection Act ~~as now or~~  
17 ~~hereafter amended.~~

18 (Source: P.A. 77-770.)

19 Section 920. The Criminal Identification Act is amended by  
20 changing Sections 2.1 and 5 as follows:

21 (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

22 Sec. 2.1. For the purpose of maintaining complete and  
23 accurate criminal records of the Department of State Police, it  
24 is necessary for all policing bodies of this State, the clerk  
25 of the circuit court, the Illinois Department of Corrections,  
26 the sheriff of each county, and State's Attorney of each county  
27 to submit certain criminal arrest, charge, and disposition  
28 information to the Department for filing at the earliest time  
29 possible. Unless otherwise noted herein, it shall be the duty  
30 of all policing bodies of this State, the clerk of the circuit  
31 court, the Illinois Department of Corrections, the sheriff of  
32 each county, and the State's Attorney of each county to report  
33 such information as provided in this Section, both in the form

1 and manner required by the Department and within 30 days of the  
2 criminal history event. Specifically:

3 (a) Arrest Information. All agencies making arrests for  
4 offenses which are required by statute to be collected,  
5 maintained or disseminated by the Department of State Police  
6 shall be responsible for furnishing daily to the Department  
7 fingerprints, charges and descriptions of all persons who are  
8 arrested for such offenses. All such agencies shall also notify  
9 the Department of all decisions by the arresting agency not to  
10 refer such arrests for prosecution. With approval of the  
11 Department, an agency making such arrests may enter into  
12 arrangements with other agencies for the purpose of furnishing  
13 daily such fingerprints, charges and descriptions to the  
14 Department upon its behalf.

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

26 (c) Disposition Information. The clerk of the circuit court  
27 of each county shall furnish the Department, in the form and  
28 manner required by the Supreme Court, with all final  
29 dispositions of cases for which the Department has received  
30 information required to be reported pursuant to paragraph (a)  
31 or (d) of this Section. Such information shall include, for  
32 each charge, all (1) judgments of not guilty, judgments of  
33 guilty including the sentence pronounced by the court, findings  
34 that a minor is delinquent and any sentence made based on those  
35 findings, discharges and dismissals in the court; (2) reviewing  
36 court orders filed with the clerk of the circuit court which

1 reverse or remand a reported conviction or findings that a  
2 minor is delinquent or that vacate or modify a sentence or  
3 sentence made following a trial that a minor is delinquent; (3)  
4 continuances to a date certain in furtherance of an order of  
5 supervision granted under Section 5-6-1 of the Unified Code of  
6 Corrections or an order of probation granted under Section 10  
7 of the Cannabis Control Act, Section 410 of the Illinois  
8 Controlled Substances Act, Section 70 of the Methamphetamine  
9 Control and Community Protection Act, Section 12-4.3 of the  
10 Criminal Code of 1961, Section 10-102 of the Illinois  
11 Alcoholism and Other Drug Dependency Act, Section 40-10 of the  
12 Alcoholism and Other Drug Abuse and Dependency Act, Section 10  
13 of the Steroid Control Act, or Section 5-615 of the Juvenile  
14 Court Act of 1987; and (4) judgments or court orders  
15 terminating or revoking a sentence to or juvenile disposition  
16 of probation, supervision or conditional discharge and any  
17 resentencing or new court orders entered by a juvenile court  
18 relating to the disposition of a minor's case involving  
19 delinquency after such revocation.

20 (d) Fingerprints After Sentencing.

21 (1) After the court pronounces sentence, sentences a  
22 minor following a trial in which a minor was found to be  
23 delinquent or issues an order of supervision or an order of  
24 probation granted under Section 10 of the Cannabis Control  
25 Act, Section 410 of the Illinois Controlled Substances Act,  
26 Section 70 of the Methamphetamine Control and Community  
27 Protection Act, Section 12-4.3 of the Criminal Code of  
28 1961, Section 10-102 of the Illinois Alcoholism and Other  
29 Drug Dependency Act, Section 40-10 of the Alcoholism and  
30 Other Drug Abuse and Dependency Act, Section 10 of the  
31 Steroid Control Act, or Section 5-615 of the Juvenile Court  
32 Act of 1987 for any offense which is required by statute to  
33 be collected, maintained, or disseminated by the  
34 Department of State Police, the State's Attorney of each  
35 county shall ask the court to order a law enforcement  
36 agency to fingerprint immediately all persons appearing

1 before the court who have not previously been fingerprinted  
2 for the same case. The court shall so order the requested  
3 fingerprinting, if it determines that any such person has  
4 not previously been fingerprinted for the same case. The  
5 law enforcement agency shall submit such fingerprints to  
6 the Department daily.

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

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

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

33 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

34 (This Section may contain text from a Public Act with a  
35 delayed effective date)

1           Sec. 5. Arrest reports; expungement.

2           (a) All policing bodies of this State shall furnish to the  
3 Department, daily, in the form and detail the Department  
4 requires, fingerprints and descriptions of all persons who are  
5 arrested on charges of violating any penal statute of this  
6 State for offenses that are classified as felonies and Class A  
7 or B misdemeanors and of all minors of the age of 10 and over  
8 who have been arrested for an offense which would be a felony  
9 if committed by an adult, and may forward such fingerprints and  
10 descriptions for minors arrested for Class A or B misdemeanors.  
11 Moving or nonmoving traffic violations under the Illinois  
12 Vehicle Code shall not be reported except for violations of  
13 Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In  
14 addition, conservation offenses, as defined in the Supreme  
15 Court Rule 501(c), that are classified as Class B misdemeanors  
16 shall not be reported.

17           Whenever an adult or minor prosecuted as an adult, not  
18 having previously been convicted of any criminal offense or  
19 municipal ordinance violation, charged with a violation of a  
20 municipal ordinance or a felony or misdemeanor, is acquitted or  
21 released without being convicted, whether the acquittal or  
22 release occurred before, on, or after the effective date of  
23 this amendatory Act of 1991, the Chief Judge of the circuit  
24 wherein the charge was brought, any judge of that circuit  
25 designated by the Chief Judge, or in counties of less than  
26 3,000,000 inhabitants, the presiding trial judge at the  
27 defendant's trial may upon verified petition of the defendant  
28 order the record of arrest expunged from the official records  
29 of the arresting authority and the Department and order that  
30 the records of the clerk of the circuit court be sealed until  
31 further order of the court upon good cause shown and the name  
32 of the defendant obliterated on the official index required to  
33 be kept by the circuit court clerk under Section 16 of the  
34 Clerks of Courts Act, but the order shall not affect any index  
35 issued by the circuit court clerk before the entry of the  
36 order. The Department may charge the petitioner a fee

1 equivalent to the cost of processing any order to expunge or  
2 seal the records, and the fee shall be deposited into the State  
3 Police Services Fund. The records of those arrests, however,  
4 that result in a disposition of supervision for any offense  
5 shall not be expunged from the records of the arresting  
6 authority or the Department nor impounded by the court until 2  
7 years after discharge and dismissal of supervision. Those  
8 records that result from a supervision for a violation of  
9 Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois  
10 Vehicle Code or a similar provision of a local ordinance, or  
11 for a violation of Section 12-3.2, 12-15 or 16A-3 of the  
12 Criminal Code of 1961, or probation under Section 10 of the  
13 Cannabis Control Act, Section 410 of the Illinois Controlled  
14 Substances Act, Section 70 of the Methamphetamine Control and  
15 Community Protection Act, Section 12-4.3(b)(1) and (2) of the  
16 Criminal Code of 1961 (as those provisions existed before their  
17 deletion by Public Act 89-313), Section 10-102 of the Illinois  
18 Alcoholism and Other Drug Dependency Act when the judgment of  
19 conviction has been vacated, Section 40-10 of the Alcoholism  
20 and Other Drug Abuse and Dependency Act when the judgment of  
21 conviction has been vacated, or Section 10 of the Steroid  
22 Control Act shall not be expunged from the records of the  
23 arresting authority nor impounded by the court until 5 years  
24 after termination of probation or supervision. Those records  
25 that result from a supervision for a violation of Section  
26 11-501 of the Illinois Vehicle Code or a similar provision of a  
27 local ordinance, shall not be expunged. All records set out  
28 above may be ordered by the court to be expunged from the  
29 records of the arresting authority and impounded by the court  
30 after 5 years, but shall not be expunged by the Department, but  
31 shall, on court order be sealed by the Department and may be  
32 disseminated by the Department only as required by law or to  
33 the arresting authority, the State's Attorney, and the court  
34 upon a later arrest for the same or a similar offense or for  
35 the purpose of sentencing for any subsequent felony. Upon  
36 conviction for any offense, the Department of Corrections shall

1 have access to all sealed records of the Department pertaining  
2 to that individual.

3 (a-5) Those records maintained by the Department for  
4 persons arrested prior to their 17th birthday shall be expunged  
5 as provided in Section 5-915 of the Juvenile Court Act of 1987.

6 (b) Whenever a person has been convicted of a crime or of  
7 the violation of a municipal ordinance, in the name of a person  
8 whose identity he has stolen or otherwise come into possession  
9 of, the aggrieved person from whom the identity was stolen or  
10 otherwise obtained without authorization, upon learning of the  
11 person having been arrested using his identity, may, upon  
12 verified petition to the chief judge of the circuit wherein the  
13 arrest was made, have a court order entered nunc pro tunc by  
14 the chief judge to correct the arrest record, conviction  
15 record, if any, and all official records of the arresting  
16 authority, the Department, other criminal justice agencies,  
17 the prosecutor, and the trial court concerning such arrest, if  
18 any, by removing his name from all such records in connection  
19 with the arrest and conviction, if any, and by inserting in the  
20 records the name of the offender, if known or ascertainable, in  
21 lieu of the aggrieved's name. The records of the clerk of the  
22 circuit court clerk shall be sealed until further order of the  
23 court upon good cause shown and the name of the aggrieved  
24 person obliterated on the official index required to be kept by  
25 the circuit court clerk under Section 16 of the Clerks of  
26 Courts Act, but the order shall not affect any index issued by  
27 the circuit court clerk before the entry of the order. Nothing  
28 in this Section shall limit the Department of State Police or  
29 other criminal justice agencies or prosecutors from listing  
30 under an offender's name the false names he or she has used.  
31 For purposes of this Section, convictions for moving and  
32 nonmoving traffic violations other than convictions for  
33 violations of Chapter 4, Section 11-204.1 or Section 11-501 of  
34 the Illinois Vehicle Code shall not be a bar to expunging the  
35 record of arrest and court records for violation of a  
36 misdemeanor or municipal ordinance.

1 (c) Whenever a person who has been convicted of an offense  
2 is granted a pardon by the Governor which specifically  
3 authorizes expungement, he may, upon verified petition to the  
4 chief judge of the circuit where the person had been convicted,  
5 any judge of the circuit designated by the Chief Judge, or in  
6 counties of less than 3,000,000 inhabitants, the presiding  
7 trial judge at the defendant's trial, may have a court order  
8 entered expunging the record of arrest from the official  
9 records of the arresting authority and order that the records  
10 of the clerk of the circuit court and the Department be sealed  
11 until further order of the court upon good cause shown or as  
12 otherwise provided herein, and the name of the defendant  
13 obliterated from the official index requested to be kept by the  
14 circuit court clerk under Section 16 of the Clerks of Courts  
15 Act in connection with the arrest and conviction for the  
16 offense for which he had been pardoned but the order shall not  
17 affect any index issued by the circuit court clerk before the  
18 entry of the order. All records sealed by the Department may be  
19 disseminated by the Department only as required by law or to  
20 the arresting authority, the State's Attorney, and the court  
21 upon a later arrest for the same or similar offense or for the  
22 purpose of sentencing for any subsequent felony. Upon  
23 conviction for any subsequent offense, the Department of  
24 Corrections shall have access to all sealed records of the  
25 Department pertaining to that individual. Upon entry of the  
26 order of expungement, the clerk of the circuit court shall  
27 promptly mail a copy of the order to the person who was  
28 pardoned.

29 (c-5) Whenever a person has been convicted of criminal  
30 sexual assault, aggravated criminal sexual assault, predatory  
31 criminal sexual assault of a child, criminal sexual abuse, or  
32 aggravated criminal sexual abuse, the victim of that offense  
33 may request that the State's Attorney of the county in which  
34 the conviction occurred file a verified petition with the  
35 presiding trial judge at the defendant's trial to have a court  
36 order entered to seal the records of the clerk of the circuit

1 court in connection with the proceedings of the trial court  
2 concerning that offense. However, the records of the arresting  
3 authority and the Department of State Police concerning the  
4 offense shall not be sealed. The court, upon good cause shown,  
5 shall make the records of the clerk of the circuit court in  
6 connection with the proceedings of the trial court concerning  
7 the offense available for public inspection.

8 (c-6) If a conviction has been set aside on direct review  
9 or on collateral attack and the court determines by clear and  
10 convincing evidence that the defendant was factually innocent  
11 of the charge, the court shall enter an expungement order as  
12 provided in subsection (b) of Section 5-5-4 of the Unified Code  
13 of Corrections.

14 (d) Notice of the petition for subsections (a), (b), and  
15 (c) shall be served upon the State's Attorney or prosecutor  
16 charged with the duty of prosecuting the offense, the  
17 Department of State Police, the arresting agency and the chief  
18 legal officer of the unit of local government affecting the  
19 arrest. Unless the State's Attorney or prosecutor, the  
20 Department of State Police, the arresting agency or such chief  
21 legal officer objects to the petition within 30 days from the  
22 date of the notice, the court shall enter an order granting or  
23 denying the petition. The clerk of the court shall promptly  
24 mail a copy of the order to the person, the arresting agency,  
25 the prosecutor, the Department of State Police and such other  
26 criminal justice agencies as may be ordered by the judge.

27 (e) Nothing herein shall prevent the Department of State  
28 Police from maintaining all records of any person who is  
29 admitted to probation upon terms and conditions and who  
30 fulfills those terms and conditions pursuant to Section 10 of  
31 the Cannabis Control Act, Section 410 of the Illinois  
32 Controlled Substances Act, Section 70 of the Methamphetamine  
33 Control and Community Protection Act, Section 12-4.3 of the  
34 Criminal Code of 1961, Section 10-102 of the Illinois  
35 Alcoholism and Other Drug Dependency Act, Section 40-10 of the  
36 Alcoholism and Other Drug Abuse and Dependency Act, or Section

1 10 of the Steroid Control Act.

2 (f) No court order issued under the expungement provisions  
3 of this Section shall become final for purposes of appeal until  
4 30 days after notice is received by the Department. Any court  
5 order contrary to the provisions of this Section is void.

6 (g) Except as otherwise provided in subsection (c-5) of  
7 this Section, the court shall not order the sealing or  
8 expungement of the arrest records and records of the circuit  
9 court clerk of any person granted supervision for or convicted  
10 of any sexual offense committed against a minor under 18 years  
11 of age. For the purposes of this Section, "sexual offense  
12 committed against a minor" includes but is not limited to the  
13 offenses of indecent solicitation of a child or criminal sexual  
14 abuse when the victim of such offense is under 18 years of age.

15 (h) (1) Applicability. Notwithstanding any other provision  
16 of this Act to the contrary and cumulative with any rights to  
17 expungement of criminal records, this subsection authorizes  
18 the sealing of criminal records of adults and of minors  
19 prosecuted as adults.

20 (2) Sealable offenses. The following offenses may be  
21 sealed:

22 (A) All municipal ordinance violations and  
23 misdemeanors, with the exception of the following:

24 (i) violations of Section 11-501 of the Illinois  
25 Vehicle Code or a similar provision of a local  
26 ordinance;

27 (ii) violations of Article 11 of the Criminal Code  
28 of 1961 or a similar provision of a local ordinance,  
29 except Section 11-14 of the Criminal Code of 1961 as  
30 provided in clause B(i) of this subsection (h);

31 (iii) violations of Section 12-15, 12-30, or 26-5  
32 of the Criminal Code of 1961 or a similar provision of  
33 a local ordinance;

34 (iv) violations that are a crime of violence as  
35 defined in Section 2 of the Crime Victims Compensation  
36 Act or a similar provision of a local ordinance;

1 (v) Class A misdemeanor violations of the Humane  
2 Care for Animals Act; and

3 (vi) any offense or attempted offense that would  
4 subject a person to registration under the Sex Offender  
5 Registration Act.

6 (B) Misdemeanor and Class 4 felony violations of:

7 (i) Section 11-14 of the Criminal Code of 1961;

8 (ii) Section 4 of the Cannabis Control Act;

9 (iii) Section 402 of the Illinois Controlled  
10 Substances Act; and

11 (iv) Section 60 of the Methamphetamine Control and  
12 Community Protection Act.

13 ~~(iv)~~ However, for purposes of this subsection (h), a  
14 sentence of first offender probation under Section 10 of  
15 the Cannabis Control Act, ~~and~~ Section 410 of the Illinois  
16 Controlled Substances Act, or Section 70 of the  
17 Methamphetamine Control and Community Protection Act shall  
18 be treated as a Class 4 felony conviction.

19 (3) Requirements for sealing. Records identified as  
20 sealable under clause (h) (2) may be sealed when the individual  
21 was:

22 (A) Acquitted of the offense or offenses or released  
23 without being convicted.

24 (B) Convicted of the offense or offenses and the  
25 conviction or convictions were reversed.

26 (C) Placed on misdemeanor supervision for an offense or  
27 offenses; and

28 (i) at least 3 years have elapsed since the  
29 completion of the term of supervision, or terms of  
30 supervision, if more than one term has been ordered;  
31 and

32 (ii) the individual has not been convicted of a  
33 felony or misdemeanor or placed on supervision for a  
34 misdemeanor or felony during the period specified in  
35 clause (i).

36 (D) Convicted of an offense or offenses; and

1 (i) at least 4 years have elapsed since the last  
2 such conviction or term of any sentence, probation,  
3 parole, or supervision, if any, whichever is last in  
4 time; and

5 (ii) the individual has not been convicted of a  
6 felony or misdemeanor or placed on supervision for a  
7 misdemeanor or felony during the period specified in  
8 clause (i).

9 (4) Requirements for sealing of records when more than one  
10 charge and disposition have been filed. When multiple offenses  
11 are petitioned to be sealed under this subsection (h), the  
12 requirements of the relevant provisions of clauses (h) (3) (A)  
13 through (D) each apply. In instances in which more than one  
14 waiting period is applicable under clauses (h) (C) (i) and (ii)  
15 and (h) (D) (i) and (ii), the longer applicable period applies,  
16 and the requirements of clause (h) (3) shall be considered met  
17 when the petition is filed after the passage of the longer  
18 applicable waiting period. That period commences on the date of  
19 the completion of the last sentence or the end of supervision,  
20 probation, or parole, whichever is last in time.

21 (5) Subsequent convictions. A person may not have  
22 subsequent felony conviction records sealed as provided in this  
23 subsection (h) if he or she is convicted of any felony offense  
24 after the date of the sealing of prior felony records as  
25 provided in this subsection (h).

26 (6) Notice of eligibility for sealing. Upon acquittal,  
27 release without conviction, or being placed on supervision for  
28 a sealable offense, or upon conviction of a sealable offense,  
29 the person shall be informed by the court of the right to have  
30 the records sealed and the procedures for the sealing of the  
31 records.

32 (7) Procedure. Upon becoming eligible for the sealing of  
33 records under this subsection (h), the person who seeks the  
34 sealing of his or her records shall file a petition requesting  
35 the sealing of records with the clerk of the court where the  
36 charge or charges were brought. The records may be sealed by

1 the Chief Judge of the circuit wherein the charge was brought,  
2 any judge of that circuit designated by the Chief Judge, or in  
3 counties of less than 3,000,000 inhabitants, the presiding  
4 trial judge at the defendant's trial, if any. If charges were  
5 brought in multiple jurisdictions, a petition must be filed in  
6 each such jurisdiction. The petitioner shall pay the applicable  
7 fee, if not waived.

8 (A) Contents of petition. The petition shall contain  
9 the petitioner's name, date of birth, current address, each  
10 charge, each case number, the date of each charge, the  
11 identity of the arresting authority, and such other  
12 information as the court may require. During the pendency  
13 of the proceeding, the petitioner shall promptly notify the  
14 clerk of the court of any change of address.

15 (B) Drug test. A person filing a petition to have his  
16 or her records sealed for a Class 4 felony violation of  
17 Section 4 of the Cannabis Control Act or for a Class 4  
18 felony violation of Section 402 of the Illinois Controlled  
19 Substances Act must attach to the petition proof that the  
20 petitioner has passed a test taken within the previous 30  
21 days before the filing of the petition showing the absence  
22 within his or her body of all illegal substances in  
23 violation of either the Illinois Controlled Substances Act  
24 or the Cannabis Control Act.

25 (C) Service of petition. The clerk shall promptly serve  
26 a copy of the petition on the State's Attorney or  
27 prosecutor charged with the duty of prosecuting the  
28 offense, the Department of State Police, the arresting  
29 agency and the chief legal officer of the unit of local  
30 government effecting the arrest.

31 (D) Entry of order. Unless the State's Attorney or  
32 prosecutor, the Department of State Police, the arresting  
33 agency or such chief legal officer objects to sealing of  
34 the records within 90 days of notice the court shall enter  
35 an order sealing the defendant's records.

36 (E) Hearing upon objection. If an objection is filed,

1 the court shall set a date for a hearing and notify the  
2 petitioner and the parties on whom the petition had been  
3 served, and shall hear evidence on whether the sealing of  
4 the records should or should not be granted, and shall make  
5 a determination on whether to issue an order to seal the  
6 records based on the evidence presented at the hearing.

7 (F) Service of order. After entering the order to seal  
8 records, the court must provide copies of the order to the  
9 Department, in a form and manner prescribed by the  
10 Department, to the petitioner, to the State's Attorney or  
11 prosecutor charged with the duty of prosecuting the  
12 offense, to the arresting agency, to the chief legal  
13 officer of the unit of local government effecting the  
14 arrest, and to such other criminal justice agencies as may  
15 be ordered by the court.

16 (8) Fees. Notwithstanding any provision of the Clerk of the  
17 Courts Act to the contrary, and subject to the approval of the  
18 county board, the clerk may charge a fee equivalent to the cost  
19 associated with the sealing of records by the clerk and the  
20 Department of State Police. The clerk shall forward the  
21 Department of State Police portion of the fee to the Department  
22 and it shall be deposited into the State Police Services Fund.

23 (i) Subject to available funding, the Illinois Department  
24 of Corrections shall conduct a study of the impact of sealing,  
25 especially on employment and recidivism rates, utilizing a  
26 random sample of those who apply for the sealing of their  
27 criminal records under Public Act 93-211, in accordance to  
28 rules adopted by the Department. At the request of the Illinois  
29 Department of Corrections, records of the Illinois Department  
30 of Employment Security shall be utilized as appropriate to  
31 assist in the study. The study shall not disclose any data in a  
32 manner that would allow the identification of any particular  
33 individual or employing unit. The study shall be made available  
34 to the General Assembly no later than September 1, 2006.

35 (Source: P.A. 92-651, eff. 7-11-02; 93-210, eff. 7-18-03;  
36 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)

1 Section 925. The Illinois Uniform Conviction Information  
2 Act is amended by changing Section 3 as follows:

3 (20 ILCS 2635/3) (from Ch. 38, par. 1603)

4 Sec. 3. Definitions. Whenever used in this Act, and for the  
5 purposes of this Act, unless the context clearly indicates  
6 otherwise:

7 (A) "Accurate" means factually correct, containing no  
8 mistake or error of a material nature.

9 (B) The phrase "administer the criminal laws" includes any  
10 of the following activities: intelligence gathering,  
11 surveillance, criminal investigation, crime detection and  
12 prevention (including research), apprehension, detention,  
13 pretrial or post-trial release, prosecution, the correctional  
14 supervision or rehabilitation of accused persons or criminal  
15 offenders, criminal identification activities, or the  
16 collection, maintenance or dissemination of criminal history  
17 record information.

18 (C) "The Authority" means the Illinois Criminal Justice  
19 Information Authority.

20 (D) "Automated" means the utilization of computers,  
21 telecommunication lines, or other automatic data processing  
22 equipment for data collection or storage, analysis,  
23 processing, preservation, maintenance, dissemination, or  
24 display and is distinguished from a system in which such  
25 activities are performed manually.

26 (E) "Complete" means accurately reflecting all the  
27 criminal history record information about an individual that is  
28 required to be reported to the Department pursuant to Section  
29 2.1 of the Criminal Identification Act.

30 (F) "Conviction information" means data reflecting a  
31 judgment of guilt or nolo contendere. The term includes all  
32 prior and subsequent criminal history events directly relating  
33 to such judgments, such as, but not limited to: (1) the  
34 notation of arrest; (2) the notation of charges filed; (3) the

1 sentence imposed; (4) the fine imposed; and (5) all related  
2 probation, parole, and release information. Information ceases  
3 to be "conviction information" when a judgment of guilt is  
4 reversed or vacated.

5 For purposes of this Act, continuances to a date certain in  
6 furtherance of an order of supervision granted under Section  
7 5-6-1 of the Unified Code of Corrections or an order of  
8 probation granted under either Section 10 of the Cannabis  
9 Control Act, Section 410 of the Illinois Controlled Substances  
10 Act, Section 70 of the Methamphetamine Control and Community  
11 Protection Act, Section 12-4.3 of the Criminal Code of 1961,  
12 Section 10-102 of the Illinois Alcoholism and Other Drug  
13 Dependency Act, Section 40-10 of the Alcoholism and Other Drug  
14 Abuse and Dependency Act, or Section 10 of the Steroid Control  
15 Act shall not be deemed "conviction information".

16 (G) "Criminal history record information" means data  
17 identifiable to an individual and consisting of descriptions or  
18 notations of arrests, detentions, indictments, informations,  
19 pretrial proceedings, trials, or other formal events in the  
20 criminal justice system or descriptions or notations of  
21 criminal charges (including criminal violations of local  
22 municipal ordinances) and the nature of any disposition arising  
23 therefrom, including sentencing, court or correctional  
24 supervision, rehabilitation and release. The term does not  
25 apply to statistical records and reports in which individual  
26 are not identified and from which their identities are not  
27 ascertainable, or to information that is for criminal  
28 investigative or intelligence purposes.

29 (H) "Criminal justice agency" means (1) a government agency  
30 or any subunit thereof which is authorized to administer the  
31 criminal laws and which allocates a substantial part of its  
32 annual budget for that purpose, or (2) an agency supported by  
33 public funds which is authorized as its principal function to  
34 administer the criminal laws and which is officially designated  
35 by the Department as a criminal justice agency for purposes of  
36 this Act.

1 (I) "The Department" means the Illinois Department of State  
2 Police.

3 (J) "Director" means the Director of the Illinois  
4 Department of State Police.

5 (K) "Disseminate" means to disclose or transmit conviction  
6 information in any form, oral, written, or otherwise.

7 (L) "Exigency" means pending danger or the threat of  
8 pending danger to an individual or property.

9 (M) "Non-criminal justice agency" means a State agency,  
10 Federal agency, or unit of local government that is not a  
11 criminal justice agency. The term does not refer to private  
12 individuals, corporations, or non-governmental agencies or  
13 organizations.

14 (M-5) "Request" means the submission to the Department, in  
15 the form and manner required, the necessary data elements or  
16 fingerprints, or both, to allow the Department to initiate a  
17 search of its criminal history record information files.

18 (N) "Requester" means any private individual, corporation,  
19 organization, employer, employment agency, labor organization,  
20 or non-criminal justice agency that has made a request pursuant  
21 to this Act to obtain conviction information maintained in the  
22 files of the Department of State Police regarding a particular  
23 individual.

24 (O) "Statistical information" means data from which the  
25 identity of an individual cannot be ascertained,  
26 reconstructed, or verified and to which the identity of an  
27 individual cannot be linked by the recipient of the  
28 information.

29 (Source: P.A. 88-368; 88-670, eff. 12-2-94.)

30 Section 926. The State Officers and Employees Money  
31 Disposition Act is amended by changing Section 2 as follows:

32 (30 ILCS 230/2) (from Ch. 127, par. 171)

33 Sec. 2. Accounts of money received; payment into State  
34 treasury.

1 (a) Every officer, board, commission, commissioner,  
2 department, institution, arm or agency brought within the  
3 provisions of this Act by Section 1 shall keep in proper books  
4 a detailed itemized account of all moneys received for or on  
5 behalf of the State of Illinois, showing the date of receipt,  
6 the payor, and purpose and amount, and the date and manner of  
7 disbursement as hereinafter provided, and, unless a different  
8 time of payment is expressly provided by law or by rules or  
9 regulations promulgated under subsection (b) of this Section,  
10 shall pay into the State treasury the gross amount of money so  
11 received on the day of actual physical receipt with respect to  
12 any single item of receipt exceeding \$10,000, within 24 hours  
13 of actual physical receipt with respect to an accumulation of  
14 receipts of \$10,000 or more, or within 48 hours of actual  
15 physical receipt with respect to an accumulation of receipts  
16 exceeding \$500 but less than \$10,000, disregarding holidays,  
17 Saturdays and Sundays, after the receipt of same, without any  
18 deduction on account of salaries, fees, costs, charges,  
19 expenses or claims of any description whatever; provided that:

20 (1) the provisions of (i) Section 2505-475 of the  
21 Department of Revenue Law (20 ILCS 2505/2505-475), (ii) any  
22 specific taxing statute authorizing a claim for credit  
23 procedure instead of the actual making of refunds, (iii)  
24 Section 505 of the Illinois Controlled Substances Act, (iv)  
25 Section 85 of the Methamphetamine Control and Community  
26 Protection Act, authorizing the Director of State Police to  
27 dispose of forfeited property, which includes the sale and  
28 disposition of the proceeds of the sale of forfeited  
29 property, and the Department of Central Management  
30 Services to be reimbursed for costs incurred with the sales  
31 of forfeited vehicles, boats or aircraft and to pay to bona  
32 fide or innocent purchasers, conditional sales vendors or  
33 mortgagees of such vehicles, boats or aircraft their  
34 interest in such vehicles, boats or aircraft, and (v) ~~(iv)~~  
35 Section 6b-2 of the State Finance Act, establishing  
36 procedures for handling cash receipts from the sale of

1 pari-mutuel wagering tickets, shall not be deemed to be in  
2 conflict with the requirements of this Section;

3 (2) any fees received by the State Registrar of Vital  
4 Records pursuant to the Vital Records Act which are  
5 insufficient in amount may be returned by the Registrar as  
6 provided in that Act;

7 (3) any fees received by the Department of Public  
8 Health under the Food Handling Regulation Enforcement Act  
9 that are submitted for renewal of an expired food service  
10 sanitation manager certificate may be returned by the  
11 Director as provided in that Act;

12 (3.5) the State Treasurer may permit the deduction of  
13 fees by third-party unclaimed property examiners from the  
14 property recovered by the examiners for the State of  
15 Illinois during examinations of holders located outside  
16 the State under which the Office of the Treasurer has  
17 agreed to pay for the examinations based upon a percentage,  
18 set by rule by the State Treasurer in accordance with the  
19 Illinois Administrative Procedure Act, of the property  
20 recovered during the examination; and

21 (4) if the amount of money received does not exceed  
22 \$500, such money may be retained and need not be paid into  
23 the State treasury until the total amount of money so  
24 received exceeds \$500, or until the next succeeding 1st or  
25 15th day of each month (or until the next business day if  
26 these days fall on Sunday or a holiday), whichever is  
27 earlier, at which earlier time such money shall be paid  
28 into the State treasury, except that if a local bank or  
29 savings and loan association account has been authorized by  
30 law, any balances shall be paid into the State treasury on  
31 Monday of each week if more than \$500 is to be deposited in  
32 any fund.

33 Single items of receipt exceeding \$10,000 received after 2 p.m.  
34 on a working day may be deemed to have been received on the  
35 next working day for purposes of fulfilling the requirement  
36 that the item be deposited on the day of actual physical

1 receipt.

2 No money belonging to or left for the use of the State  
3 shall be expended or applied except in consequence of an  
4 appropriation made by law and upon the warrant of the State  
5 Comptroller. However, payments made by the Comptroller to  
6 persons by direct deposit need not be made upon the warrant of  
7 the Comptroller, but if not made upon a warrant, shall be made  
8 in accordance with Section 9.02 of the State Comptroller Act.  
9 All moneys so paid into the State treasury shall, unless  
10 required by some statute to be held in the State treasury in a  
11 separate or special fund, be covered into the General Revenue  
12 Fund in the State treasury. Moneys received in the form of  
13 checks, drafts or similar instruments shall be properly  
14 endorsed, if necessary, and delivered to the State Treasurer  
15 for collection. The State Treasurer shall remit such collected  
16 funds to the depositing officer, board, commission,  
17 commissioner, department, institution, arm or agency by  
18 Treasurers Draft or through electronic funds transfer. The  
19 draft or notification of the electronic funds transfer shall be  
20 provided to the State Comptroller to allow deposit into the  
21 appropriate fund.

22 (b) Different time periods for the payment of public funds  
23 into the State treasury or to the State Treasurer, in excess of  
24 the periods established in subsection (a) of this Section, but  
25 not in excess of 30 days after receipt of such funds, may be  
26 established and revised from time to time by rules or  
27 regulations promulgated jointly by the State Treasurer and the  
28 State Comptroller in accordance with the Illinois  
29 Administrative Procedure Act. The different time periods  
30 established by rule or regulation under this subsection may  
31 vary according to the nature and amounts of the funds received,  
32 the locations at which the funds are received, whether  
33 compliance with the deposit requirements specified in  
34 subsection (a) of this Section would be cost effective, and  
35 such other circumstances and conditions as the promulgating  
36 authorities consider to be appropriate. The Treasurer and the

1 Comptroller shall review all such different time periods  
2 established pursuant to this subsection every 2 years from the  
3 establishment thereof and upon such review, unless it is  
4 determined that it is economically unfeasible for the agency to  
5 comply with the provisions of subsection (a), shall repeal such  
6 different time period.

7 (Source: P.A. 90-37, eff. 6-27-97; 90-655, eff. 7-30-98;  
8 91-239, eff. 1-1-00; 91-862, eff. 1-1-01.)

9 Section 930. The Counties Code is amended by changing  
10 Section 5-1103 as follows:

11 (55 ILCS 5/5-1103) (from Ch. 34, par. 5-1103)

12 Sec. 5-1103. Court services fee. A county board may enact  
13 by ordinance or resolution a court services fee dedicated to  
14 defraying court security expenses incurred by the sheriff in  
15 providing court services or for any other court services deemed  
16 necessary by the sheriff to provide for court security,  
17 including without limitation court services provided pursuant  
18 to Section 3-6023, as now or hereafter amended. Such fee shall  
19 be paid in civil cases by each party at the time of filing the  
20 first pleading, paper or other appearance; provided that no  
21 additional fee shall be required if more than one party is  
22 represented in a single pleading, paper or other appearance. In  
23 criminal, local ordinance, county ordinance, traffic and  
24 conservation cases, such fee shall be assessed against the  
25 defendant upon a plea of guilty, stipulation of facts or  
26 findings of guilty, resulting in a judgment of conviction, or  
27 order of supervision, or sentence of probation without entry of  
28 judgment pursuant to Section 10 of the Cannabis Control Act,  
29 Section 410 of the Illinois Controlled Substances Act, Section  
30 70 of the Methamphetamine Control and Community Protection Act,  
31 Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of  
32 the Illinois Alcoholism and Other Drug Dependency Act, Section  
33 40-10 of the Alcoholism and Other Drug Abuse and Dependency  
34 Act, or Section 10 of the Steroid Control Act. In setting such

1 fee, the county board may impose, with the concurrence of the  
2 Chief Judge of the judicial circuit in which the county is  
3 located by administrative order entered by the Chief Judge,  
4 differential rates for the various types or categories of  
5 criminal and civil cases, but the maximum rate shall not exceed  
6 \$25. All proceeds from this fee must be used to defray court  
7 security expenses incurred by the sheriff in providing court  
8 services. No fee shall be imposed or collected, however, in  
9 traffic, conservation, and ordinance cases in which fines are  
10 paid without a court appearance. The fees shall be collected in  
11 the manner in which all other court fees or costs are collected  
12 and shall be deposited into the county general fund for payment  
13 solely of costs incurred by the sheriff in providing court  
14 security or for any other court services deemed necessary by  
15 the sheriff to provide for court security.

16 (Source: P.A. 93-558, eff. 12-1-03.)

17 Section 935. The Park District Code is amended by changing  
18 Section 8-23 as follows:

19 (70 ILCS 1205/8-23)

20 Sec. 8-23. Criminal background investigations.

21 (a) An applicant for employment with a park district is  
22 required as a condition of employment to authorize an  
23 investigation to determine if the applicant has been convicted  
24 of any of the enumerated criminal or drug offenses in  
25 subsection (c) of this Section or has been convicted, within 7  
26 years of the application for employment with the park district,  
27 of any other felony under the laws of this State or of any  
28 offense committed or attempted in any other state or against  
29 the laws of the United States that, if committed or attempted  
30 in this State, would have been punishable as a felony under the  
31 laws of this State. Authorization for the investigation shall  
32 be furnished by the applicant to the park district. Upon  
33 receipt of this authorization, the park district shall submit  
34 the applicant's name, sex, race, date of birth, and social

1 security number to the Department of State Police on forms  
2 prescribed by the Department of State Police. The Department of  
3 State Police shall conduct a search of the Illinois criminal  
4 history records database to ascertain if the applicant being  
5 considered for employment has been convicted of committing or  
6 attempting to commit any of the enumerated criminal or drug  
7 offenses in subsection (c) of this Section or has been  
8 convicted of committing or attempting to commit, within 7 years  
9 of the application for employment with the park district, any  
10 other felony under the laws of this State. The Department of  
11 State Police shall charge the park district a fee for  
12 conducting the investigation, which fee shall be deposited in  
13 the State Police Services Fund and shall not exceed the cost of  
14 the inquiry. The applicant shall not be charged a fee by the  
15 park district for the investigation.

16 (b) If the search of the Illinois criminal history record  
17 database indicates that the applicant has been convicted of  
18 committing or attempting to commit any of the enumerated  
19 criminal or drug offenses in subsection (c) or has been  
20 convicted of committing or attempting to commit, within 7 years  
21 of the application for employment with the park district, any  
22 other felony under the laws of this State, the Department of  
23 State Police and the Federal Bureau of Investigation shall  
24 furnish, pursuant to a fingerprint based background check,  
25 records of convictions, until expunged, to the president of the  
26 park district. Any information concerning the record of  
27 convictions obtained by the president shall be confidential and  
28 may only be transmitted to those persons who are necessary to  
29 the decision on whether to hire the applicant for employment. A  
30 copy of the record of convictions obtained from the Department  
31 of State Police shall be provided to the applicant for  
32 employment. Any person who releases any confidential  
33 information concerning any criminal convictions of an  
34 applicant for employment shall be guilty of a Class A  
35 misdemeanor, unless the release of such information is  
36 authorized by this Section.

1 (c) No park district shall knowingly employ a person who  
2 has been convicted for committing attempted first degree murder  
3 or for committing or attempting to commit first degree murder,  
4 a Class X felony, or any one or more of the following offenses:  
5 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,  
6 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,  
7 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the  
8 Criminal Code of 1961; (ii) those defined in the Cannabis  
9 Control Act, except those defined in Sections 4(a), 4(b), and  
10 5(a) of that Act; (iii) those defined in the Illinois  
11 Controlled Substances Act; (iv) those defined in the  
12 Methamphetamine Control and Community Protection Act; and (v)  
13 ~~(iv)~~ any offense committed or attempted in any other state or  
14 against the laws of the United States, which, if committed or  
15 attempted in this State, would have been punishable as one or  
16 more of the foregoing offenses. Further, no park district shall  
17 knowingly employ a person who has been found to be the  
18 perpetrator of sexual or physical abuse of any minor under 18  
19 years of age pursuant to proceedings under Article II of the  
20 Juvenile Court Act of 1987. No park district shall knowingly  
21 employ a person for whom a criminal background investigation  
22 has not been initiated.

23 (Source: P.A. 93-418, eff. 1-1-04.)

24 Section 940. The Chicago Park District Act is amended by  
25 changing Section 16a-5 as follows:

26 (70 ILCS 1505/16a-5)

27 Sec. 16a-5. Criminal background investigations.

28 (a) An applicant for employment with the Chicago Park  
29 District is required as a condition of employment to authorize  
30 an investigation to determine if the applicant has been  
31 convicted of any of the enumerated criminal or drug offenses in  
32 subsection (c) of this Section or has been convicted, within 7  
33 years of the application for employment with the Chicago Park  
34 District, of any other felony under the laws of this State or

1 of any offense committed or attempted in any other state or  
2 against the laws of the United States that, if committed or  
3 attempted in this State, would have been punishable as a felony  
4 under the laws of this State. Authorization for the  
5 investigation shall be furnished by the applicant to the  
6 Chicago Park District. Upon receipt of this authorization, the  
7 Chicago Park District shall submit the applicant's name, sex,  
8 race, date of birth, and social security number to the  
9 Department of State Police on forms prescribed by the  
10 Department of State Police. The Department of State Police  
11 shall conduct a search of the Illinois criminal history record  
12 information database to ascertain if the applicant being  
13 considered for employment has been convicted of committing or  
14 attempting to commit any of the enumerated criminal or drug  
15 offenses in subsection (c) of this Section or has been  
16 convicted, of committing or attempting to commit within 7 years  
17 of the application for employment with the Chicago Park  
18 District, any other felony under the laws of this State. The  
19 Department of State Police shall charge the Chicago Park  
20 District a fee for conducting the investigation, which fee  
21 shall be deposited in the State Police Services Fund and shall  
22 not exceed the cost of the inquiry. The applicant shall not be  
23 charged a fee by the Chicago Park District for the  
24 investigation.

25 (b) If the search of the Illinois criminal history record  
26 database indicates that the applicant has been convicted of  
27 committing or attempting to commit any of the enumerated  
28 criminal or drug offenses in subsection (c) or has been  
29 convicted of committing or attempting to commit, within 7 years  
30 of the application for employment with the Chicago Park  
31 District, any other felony under the laws of this State, the  
32 Department of State Police and the Federal Bureau of  
33 Investigation shall furnish, pursuant to a fingerprint based  
34 background check, records of convictions, until expunged, to  
35 the General Superintendent and Chief Executive Officer of the  
36 Chicago Park District. Any information concerning the record of

1 convictions obtained by the General Superintendent and Chief  
2 Executive Officer shall be confidential and may only be  
3 transmitted to those persons who are necessary to the decision  
4 on whether to hire the applicant for employment. A copy of the  
5 record of convictions obtained from the Department of State  
6 Police shall be provided to the applicant for employment. Any  
7 person who releases any confidential information concerning  
8 any criminal convictions of an applicant for employment shall  
9 be guilty of a Class A misdemeanor, unless the release of such  
10 information is authorized by this Section.

11 (c) The Chicago Park District may not knowingly employ a  
12 person who has been convicted for committing attempted first  
13 degree murder or for committing or attempting to commit first  
14 degree murder, a Class X felony, or any one or more of the  
15 following offenses: (i) those defined in Sections 11-6, 11-9,  
16 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1,  
17 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15,  
18 and 12-16 of the Criminal Code of 1961; (ii) those defined in  
19 the Cannabis Control Act, except those defined in Sections  
20 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the  
21 Illinois Controlled Substances Act; (iv) those defined in the  
22 Methamphetamine Control and Community Protection Act; and (v)  
23 ~~(iv)~~ any offense committed or attempted in any other state or  
24 against the laws of the United States, which, if committed or  
25 attempted in this State, would have been punishable as one or  
26 more of the foregoing offenses. Further, the Chicago Park  
27 District may not knowingly employ a person who has been found  
28 to be the perpetrator of sexual or physical abuse of any minor  
29 under 18 years of age pursuant to proceedings under Article II  
30 of the Juvenile Court Act of 1987. The Chicago Park District  
31 may not knowingly employ a person for whom a criminal  
32 background investigation has not been initiated.

33 (Source: P.A. 93-418, eff. 1-1-04.)

34 Section 945. The Metropolitan Transit Authority Act is  
35 amended by changing Section 28b as follows:

1 (70 ILCS 3605/28b) (from Ch. 111 2/3, par. 328b)

2 Sec. 28b. Any person applying for a position as a driver of  
3 a vehicle owned by a private carrier company which provides  
4 public transportation pursuant to an agreement with the  
5 Authority shall be required to authorize an investigation by  
6 the private carrier company to determine if the applicant has  
7 been convicted of any of the following offenses: (i) those  
8 offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1,  
9 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-14, 11-15, 11-15.1,  
10 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1,  
11 11-21, 11-22, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-7.1, 12-11,  
12 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.1, 18-1, 18-2, 20-1,  
13 20-1.1, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and  
14 subsection (b), clause (1), of Section 12-4 of the Criminal  
15 Code of 1961; (ii) those offenses defined in the Cannabis  
16 Control Act except those offenses defined in subsections (a)  
17 and (b) of Section 4, and subsection (a) of Section 5 of the  
18 Cannabis Control Act (iii) those offenses defined in the  
19 Illinois Controlled Substances Act; (iv) those offenses  
20 defined in the Methamphetamine Control and Community  
21 Protection Act; and (v) ~~(iv)~~ any offense committed or attempted  
22 in any other state or against the laws of the United States,  
23 which if committed or attempted in this State would be  
24 punishable as one or more of the foregoing offenses. Upon  
25 receipt of this authorization, the private carrier company  
26 shall submit the applicant's name, sex, race, date of birth,  
27 fingerprints and social security number to the Department of  
28 State Police on forms prescribed by the Department. The  
29 Department of State Police shall conduct an investigation to  
30 ascertain if the applicant has been convicted of any of the  
31 above enumerated offenses. The Department shall charge the  
32 private carrier company a fee for conducting the investigation,  
33 which fee shall be deposited in the State Police Services Fund  
34 and shall not exceed the cost of the inquiry; and the applicant  
35 shall not be charged a fee for such investigation by the

1 private carrier company. The Department of State Police shall  
2 furnish, pursuant to positive identification, records of  
3 convictions, until expunged, to the private carrier company  
4 which requested the investigation. A copy of the record of  
5 convictions obtained from the Department shall be provided to  
6 the applicant. Any record of conviction received by the private  
7 carrier company shall be confidential. Any person who releases  
8 any confidential information concerning any criminal  
9 convictions of an applicant shall be guilty of a Class A  
10 misdemeanor, unless authorized by this Section.

11 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

12 Section 950. The School Code is amended by changing  
13 Sections 10-21.9, 10-27.1B, 21-23a, 34-18.5, and 34-84b as  
14 follows:

15 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

16 Sec. 10-21.9. Criminal history records checks.

17 (a) Certified and noncertified applicants for employment  
18 with a school district, except school bus driver applicants,  
19 are required as a condition of employment to authorize a  
20 fingerprint-based criminal history records check to determine  
21 if such applicants have been convicted of any of the enumerated  
22 criminal or drug offenses in subsection (c) of this Section or  
23 have been convicted, within 7 years of the application for  
24 employment with the school district, of any other felony under  
25 the laws of this State or of any offense committed or attempted  
26 in any other state or against the laws of the United States  
27 that, if committed or attempted in this State, would have been  
28 punishable as a felony under the laws of this State.  
29 Authorization for the check shall be furnished by the applicant  
30 to the school district, except that if the applicant is a  
31 substitute teacher seeking employment in more than one school  
32 district, a teacher seeking concurrent part-time employment  
33 positions with more than one school district (as a reading  
34 specialist, special education teacher or otherwise), or an

1 educational support personnel employee seeking employment  
2 positions with more than one district, any such district may  
3 require the applicant to furnish authorization for the check to  
4 the regional superintendent of the educational service region  
5 in which are located the school districts in which the  
6 applicant is seeking employment as a substitute or concurrent  
7 part-time teacher or concurrent educational support personnel  
8 employee. Upon receipt of this authorization, the school  
9 district or the appropriate regional superintendent, as the  
10 case may be, shall submit the applicant's name, sex, race, date  
11 of birth, social security number, fingerprint images, and other  
12 identifiers, as prescribed by the Department of State Police,  
13 to the Department. The regional superintendent submitting the  
14 requisite information to the Department of State Police shall  
15 promptly notify the school districts in which the applicant is  
16 seeking employment as a substitute or concurrent part-time  
17 teacher or concurrent educational support personnel employee  
18 that the check of the applicant has been requested. The  
19 Department of State Police and the Federal Bureau of  
20 Investigation shall furnish, pursuant to a fingerprint-based  
21 criminal history records check, records of convictions, until  
22 expunged, to the president of the school board for the school  
23 district that requested the check, or to the regional  
24 superintendent who requested the check. The Department shall  
25 charge the school district or the appropriate regional  
26 superintendent a fee for conducting such check, which fee shall  
27 be deposited in the State Police Services Fund and shall not  
28 exceed the cost of the inquiry; and the applicant shall not be  
29 charged a fee for such check by the school district or by the  
30 regional superintendent. Subject to appropriations for these  
31 purposes, the State Superintendent of Education shall  
32 reimburse school districts and regional superintendents for  
33 fees paid to obtain criminal history records checks under this  
34 Section.

35 (b) Any information concerning the record of convictions  
36 obtained by the president of the school board or the regional

1 superintendent shall be confidential and may only be  
2 transmitted to the superintendent of the school district or his  
3 designee, the appropriate regional superintendent if the check  
4 was requested by the school district, the presidents of the  
5 appropriate school boards if the check was requested from the  
6 Department of State Police by the regional superintendent, the  
7 State Superintendent of Education, the State Teacher  
8 Certification Board or any other person necessary to the  
9 decision of hiring the applicant for employment. A copy of the  
10 record of convictions obtained from the Department of State  
11 Police shall be provided to the applicant for employment. If a  
12 check of an applicant for employment as a substitute or  
13 concurrent part-time teacher or concurrent educational support  
14 personnel employee in more than one school district was  
15 requested by the regional superintendent, and the Department of  
16 State Police upon a check ascertains that the applicant has not  
17 been convicted of any of the enumerated criminal or drug  
18 offenses in subsection (c) or has not been convicted, within 7  
19 years of the application for employment with the school  
20 district, of any other felony under the laws of this State or  
21 of any offense committed or attempted in any other state or  
22 against the laws of the United States that, if committed or  
23 attempted in this State, would have been punishable as a felony  
24 under the laws of this State and so notifies the regional  
25 superintendent, then the regional superintendent shall issue  
26 to the applicant a certificate evidencing that as of the date  
27 specified by the Department of State Police the applicant has  
28 not been convicted of any of the enumerated criminal or drug  
29 offenses in subsection (c) or has not been convicted, within 7  
30 years of the application for employment with the school  
31 district, of any other felony under the laws of this State or  
32 of any offense committed or attempted in any other state or  
33 against the laws of the United States that, if committed or  
34 attempted in this State, would have been punishable as a felony  
35 under the laws of this State. The school board of any school  
36 district located in the educational service region served by

1 the regional superintendent who issues such a certificate to an  
2 applicant for employment as a substitute teacher in more than  
3 one such district may rely on the certificate issued by the  
4 regional superintendent to that applicant, or may initiate its  
5 own criminal history records check of the applicant through the  
6 Department of State Police as provided in subsection (a). Any  
7 person who releases any confidential information concerning  
8 any criminal convictions of an applicant for employment shall  
9 be guilty of a Class A misdemeanor, unless the release of such  
10 information is authorized by this Section.

11 (c) No school board shall knowingly employ a person who has  
12 been convicted for committing attempted first degree murder or  
13 for committing or attempting to commit first degree murder or a  
14 Class X felony or any one or more of the following offenses:  
15 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,  
16 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,  
17 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the  
18 "Criminal Code of 1961"; (ii) those defined in the "Cannabis  
19 Control Act" except those defined in Sections 4(a), 4(b) and  
20 5(a) of that Act; (iii) those defined in the "Illinois  
21 Controlled Substances Act"; (iv) those defined in the  
22 Methamphetamine Control and Community Protection Act; and (v)  
23 ~~(iv)~~ any offense committed or attempted in any other state or  
24 against the laws of the United States, which if committed or  
25 attempted in this State, would have been punishable as one or  
26 more of the foregoing offenses. Further, no school board shall  
27 knowingly employ a person who has been found to be the  
28 perpetrator of sexual or physical abuse of any minor under 18  
29 years of age pursuant to proceedings under Article II of the  
30 Juvenile Court Act of 1987.

31 (d) No school board shall knowingly employ a person for  
32 whom a criminal history records check has not been initiated.

33 (e) Upon receipt of the record of a conviction of or a  
34 finding of child abuse by a holder of any certificate issued  
35 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School  
36 Code, the appropriate regional superintendent of schools or the

1 State Superintendent of Education shall initiate the  
2 certificate suspension and revocation proceedings authorized  
3 by law.

4 (f) After January 1, 1990 the provisions of this Section  
5 shall apply to all employees of persons or firms holding  
6 contracts with any school district including, but not limited  
7 to, food service workers, school bus drivers and other  
8 transportation employees, who have direct, daily contact with  
9 the pupils of any school in such district. For purposes of  
10 criminal history records checks on employees of persons or  
11 firms holding contracts with more than one school district and  
12 assigned to more than one school district, the regional  
13 superintendent of the educational service region in which the  
14 contracting school districts are located may, at the request of  
15 any such school district, be responsible for receiving the  
16 authorization for a check prepared by each such employee and  
17 submitting the same to the Department of State Police. Any  
18 information concerning the record of conviction of any such  
19 employee obtained by the regional superintendent shall be  
20 promptly reported to the president of the appropriate school  
21 board or school boards.

22 (Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04.)

23 (105 ILCS 5/10-27.1B)

24 Sec. 10-27.1B. Reporting drug-related incidents in  
25 schools.

26 (a) In this Section:

27 "Drug" means "cannabis" as defined under subsection (a) of  
28 Section 3 of the Cannabis Control Act, ~~or~~ "narcotic drug" as  
29 defined under subsection (aa) of Section 102 of the Illinois  
30 Controlled Substances Act, or "methamphetamine" as defined  
31 under Section 10 of the Methamphetamine Control and Community  
32 Protection Act.

33 "School" means any public or private elementary or  
34 secondary school.

35 (b) Upon receipt of any written, electronic, or verbal

1 report from any school personnel regarding a verified incident  
2 involving drugs in a school or on school owned or leased  
3 property, including any conveyance owned, leased, or used by  
4 the school for the transport of students or school personnel,  
5 the superintendent or his or her designee, or other appropriate  
6 administrative officer for a private school, shall report all  
7 such drug-related incidents occurring in a school or on school  
8 property to the local law enforcement authorities immediately  
9 and to the Department of State Police in a form, manner, and  
10 frequency as prescribed by the Department of State Police.

11 (c) The State Board of Education shall receive an annual  
12 statistical compilation and related data associated with  
13 drug-related incidents in schools from the Department of State  
14 Police. The State Board of Education shall compile this  
15 information by school district and make it available to the  
16 public.

17 (Source: P.A. 91-491, eff. 8-13-99.)

18 (105 ILCS 5/21-23a) (from Ch. 122, par. 21-23a)

19 Sec. 21-23a. Conviction of sex or narcotics offense, first  
20 degree murder, attempted first degree murder, or Class X felony  
21 as grounds for revocation of certificate.

22 (a) Whenever the holder of any certificate issued pursuant  
23 to this Article has been convicted of any sex offense or  
24 narcotics offense as defined in this Section, the regional  
25 superintendent or the State Superintendent of Education shall  
26 forthwith suspend the certificate. If the conviction is  
27 reversed and the holder is acquitted of the offense in a new  
28 trial or the charges against him are dismissed, the suspending  
29 authority shall forthwith terminate the suspension of the  
30 certificate. When the conviction becomes final, the State  
31 Superintendent of Education shall forthwith revoke the  
32 certificate. "Sex offense" as used in this Section means any  
33 one or more of the following offenses: (1) any offense defined  
34 in Sections 11-6 and 11-9 and Sections 11-14 through 11-21,  
35 inclusive, and Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16

1 of the "Criminal Code of 1961"; (2) any attempt to commit any  
2 of the foregoing offenses, and (3) any offense committed or  
3 attempted in any other state which, if committed or attempted  
4 in this State, would have been punishable as one or more of the  
5 foregoing offenses. "Narcotics offense" as used in this Section  
6 means any one or more of the following offenses: (1) any  
7 offense defined in the "Cannabis Control Act" except those  
8 defined in Sections 4(a), 4(b) and 5(a) of that Act and any  
9 offense for which the holder of any certificate is placed on  
10 probation under the provisions of Section 10 of that Act and  
11 fulfills the terms and conditions of probation as may be  
12 required by the court; (2) any offense defined in the "Illinois  
13 Controlled Substances Act" except any offense for which the  
14 holder of any certificate is placed on probation under the  
15 provisions of Section 410 of that Act and fulfills the terms  
16 and conditions of probation as may be required by the court;  
17 (3) any offense defined in the Methamphetamine Control and  
18 Community Protection Act except any offense for which the  
19 holder of any certificate is placed on probation under the  
20 provision of Section 70 of that Act and fulfills the terms and  
21 conditions of probation as may be required by the court; (4)  
22 ~~(3)~~ any attempt to commit any of the foregoing offenses; and  
23 (5) ~~(4)~~ any offense committed or attempted in any other state  
24 or against the laws of the United States which, if committed or  
25 attempted in this State, would have been punishable as one or  
26 more of the foregoing offenses.

27 (b) Whenever the holder of a certificate issued pursuant to  
28 this Article has been convicted of first degree murder,  
29 attempted first degree murder, or a Class X felony, the  
30 regional superintendent or the State Superintendent of  
31 Education shall forthwith suspend the certificate. If the  
32 conviction is reversed and the holder is acquitted of that  
33 offense in a new trial or the charges that he or she committed  
34 that offense are dismissed, the suspending authority shall  
35 forthwith terminate the suspension of the certificate. When the  
36 conviction becomes final, the State Superintendent of

1 Education shall forthwith revoke the certificate. The stated  
2 offenses of "first degree murder", "attempted first degree  
3 murder", and "Class X felony" referred to in this Section  
4 include any offense committed in another state that, if  
5 committed in this State, would have been punishable as any one  
6 of the stated offenses.

7 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;  
8 89-610, eff. 8-6-96.)

9 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

10 Sec. 34-18.5. Criminal history records checks.

11 (a) Certified and noncertified applicants for employment  
12 with the school district are required as a condition of  
13 employment to authorize a fingerprint-based criminal history  
14 records check to determine if such applicants have been  
15 convicted of any of the enumerated criminal or drug offenses in  
16 subsection (c) of this Section or have been convicted, within 7  
17 years of the application for employment with the school  
18 district, of any other felony under the laws of this State or  
19 of any offense committed or attempted in any other state or  
20 against the laws of the United States that, if committed or  
21 attempted in this State, would have been punishable as a felony  
22 under the laws of this State. Authorization for the check shall  
23 be furnished by the applicant to the school district, except  
24 that if the applicant is a substitute teacher seeking  
25 employment in more than one school district, or a teacher  
26 seeking concurrent part-time employment positions with more  
27 than one school district (as a reading specialist, special  
28 education teacher or otherwise), or an educational support  
29 personnel employee seeking employment positions with more than  
30 one district, any such district may require the applicant to  
31 furnish authorization for the check to the regional  
32 superintendent of the educational service region in which are  
33 located the school districts in which the applicant is seeking  
34 employment as a substitute or concurrent part-time teacher or  
35 concurrent educational support personnel employee. Upon

1 receipt of this authorization, the school district or the  
2 appropriate regional superintendent, as the case may be, shall  
3 submit the applicant's name, sex, race, date of birth, social  
4 security number, fingerprint images, and other identifiers, as  
5 prescribed by the Department of State Police, to the  
6 Department. The regional superintendent submitting the  
7 requisite information to the Department of State Police shall  
8 promptly notify the school districts in which the applicant is  
9 seeking employment as a substitute or concurrent part-time  
10 teacher or concurrent educational support personnel employee  
11 that the check of the applicant has been requested. The  
12 Department of State Police and the Federal Bureau of  
13 Investigation shall furnish, pursuant to a fingerprint-based  
14 criminal history records check, records of convictions, until  
15 expunged, to the president of the school board for the school  
16 district that requested the check, or to the regional  
17 superintendent who requested the check. The Department shall  
18 charge the school district or the appropriate regional  
19 superintendent a fee for conducting such check, which fee shall  
20 be deposited in the State Police Services Fund and shall not  
21 exceed the cost of the inquiry; and the applicant shall not be  
22 charged a fee for such check by the school district or by the  
23 regional superintendent. Subject to appropriations for these  
24 purposes, the State Superintendent of Education shall  
25 reimburse the school district and regional superintendent for  
26 fees paid to obtain criminal history records checks under this  
27 Section.

28 (b) Any information concerning the record of convictions  
29 obtained by the president of the board of education or the  
30 regional superintendent shall be confidential and may only be  
31 transmitted to the general superintendent of the school  
32 district or his designee, the appropriate regional  
33 superintendent if the check was requested by the board of  
34 education for the school district, the presidents of the  
35 appropriate board of education or school boards if the check  
36 was requested from the Department of State Police by the

1 regional superintendent, the State Superintendent of  
2 Education, the State Teacher Certification Board or any other  
3 person necessary to the decision of hiring the applicant for  
4 employment. A copy of the record of convictions obtained from  
5 the Department of State Police shall be provided to the  
6 applicant for employment. If a check of an applicant for  
7 employment as a substitute or concurrent part-time teacher or  
8 concurrent educational support personnel employee in more than  
9 one school district was requested by the regional  
10 superintendent, and the Department of State Police upon a check  
11 ascertains that the applicant has not been convicted of any of  
12 the enumerated criminal or drug offenses in subsection (c) or  
13 has not been convicted, within 7 years of the application for  
14 employment with the school district, of any other felony under  
15 the laws of this State or of any offense committed or attempted  
16 in any other state or against the laws of the United States  
17 that, if committed or attempted in this State, would have been  
18 punishable as a felony under the laws of this State and so  
19 notifies the regional superintendent, then the regional  
20 superintendent shall issue to the applicant a certificate  
21 evidencing that as of the date specified by the Department of  
22 State Police the applicant has not been convicted of any of the  
23 enumerated criminal or drug offenses in subsection (c) or has  
24 not been convicted, within 7 years of the application for  
25 employment with the school district, of any other felony under  
26 the laws of this State or of any offense committed or attempted  
27 in any other state or against the laws of the United States  
28 that, if committed or attempted in this State, would have been  
29 punishable as a felony under the laws of this State. The school  
30 board of any school district located in the educational service  
31 region served by the regional superintendent who issues such a  
32 certificate to an applicant for employment as a substitute or  
33 concurrent part-time teacher or concurrent educational support  
34 personnel employee in more than one such district may rely on  
35 the certificate issued by the regional superintendent to that  
36 applicant, or may initiate its own criminal history records

1 check of the applicant through the Department of State Police  
2 as provided in subsection (a). Any person who releases any  
3 confidential information concerning any criminal convictions  
4 of an applicant for employment shall be guilty of a Class A  
5 misdemeanor, unless the release of such information is  
6 authorized by this Section.

7 (c) The board of education shall not knowingly employ a  
8 person who has been convicted for committing attempted first  
9 degree murder or for committing or attempting to commit first  
10 degree murder or a Class X felony or any one or more of the  
11 following offenses: (i) those defined in Sections 11-6, 11-9,  
12 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1,  
13 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15  
14 and 12-16 of the Criminal Code of 1961; (ii) those defined in  
15 the Cannabis Control Act, except those defined in Sections  
16 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the  
17 Illinois Controlled Substances Act; (iv) those defined in the  
18 Methamphetamine Control and Community Protection Act; and (v)  
19 ~~(iv)~~ any offense committed or attempted in any other state or  
20 against the laws of the United States, which if committed or  
21 attempted in this State, would have been punishable as one or  
22 more of the foregoing offenses. Further, the board of education  
23 shall not knowingly employ a person who has been found to be  
24 the perpetrator of sexual or physical abuse of any minor under  
25 18 years of age pursuant to proceedings under Article II of the  
26 Juvenile Court Act of 1987.

27 (d) The board of education shall not knowingly employ a  
28 person for whom a criminal history records check has not been  
29 initiated.

30 (e) Upon receipt of the record of a conviction of or a  
31 finding of child abuse by a holder of any certificate issued  
32 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School  
33 Code, the board of education or the State Superintendent of  
34 Education shall initiate the certificate suspension and  
35 revocation proceedings authorized by law.

36 (f) After March 19, 1990, the provisions of this Section

1 shall apply to all employees of persons or firms holding  
2 contracts with any school district including, but not limited  
3 to, food service workers, school bus drivers and other  
4 transportation employees, who have direct, daily contact with  
5 the pupils of any school in such district. For purposes of  
6 criminal history records checks on employees of persons or  
7 firms holding contracts with more than one school district and  
8 assigned to more than one school district, the regional  
9 superintendent of the educational service region in which the  
10 contracting school districts are located may, at the request of  
11 any such school district, be responsible for receiving the  
12 authorization for a check prepared by each such employee and  
13 submitting the same to the Department of State Police. Any  
14 information concerning the record of conviction of any such  
15 employee obtained by the regional superintendent shall be  
16 promptly reported to the president of the appropriate school  
17 board or school boards.

18 (Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04.)

19 (105 ILCS 5/34-84b) (from Ch. 122, par. 34-84b)

20 Sec. 34-84b. Conviction of sex or narcotics offense, first  
21 degree murder, attempted first degree murder, or Class X felony  
22 as grounds for revocation of certificate.

23 (a) Whenever the holder of any certificate issued by the  
24 board of education has been convicted of any sex offense or  
25 narcotics offense as defined in this Section, the board of  
26 education shall forthwith suspend the certificate. If the  
27 conviction is reversed and the holder is acquitted of the  
28 offense in a new trial or the charges against him are  
29 dismissed, the board shall forthwith terminate the suspension  
30 of the certificate. When the conviction becomes final, the  
31 board shall forthwith revoke the certificate. "Sex offense" as  
32 used in this Section means any one or more of the following  
33 offenses: (1) any offense defined in Sections 11-6 and 11-9 and  
34 Sections 11-14 through 11-21, inclusive, and Sections 12-13,  
35 12-14, 12-14.1, 12-15 and 12-16 of the "Criminal Code of 1961";

1 (2) any attempt to commit any of the foregoing offenses, and  
2 (3) any offense committed or attempted in any other state  
3 which, if committed or attempted in this State, would have been  
4 punishable as one or more of the foregoing offenses. "Narcotics  
5 offense" as used in this Section means any one or more of the  
6 following offenses: (1) any offense defined in the "Cannabis  
7 Control Act" except those defined in Sections 4(a), 4(b) and  
8 5(a) of that Act and any offense for which the holder of any  
9 certificate is placed on probation under the provisions of  
10 Section 10 of that Act and fulfills the terms and conditions of  
11 probation as may be required by the court; (2) any offense  
12 defined in the "Illinois Controlled Substances Act" except any  
13 offense for which the holder of any certificate is placed on  
14 probation under the provisions of Section 410 of that Act and  
15 fulfills the terms and conditions of probation as may be  
16 required by the court; (3) any offense defined in the  
17 Methamphetamine Control and Community Protection Act except  
18 any offense for which the holder of any certificate is placed  
19 on probation under the provision of Section 70 of that Act and  
20 fulfills the terms and conditions of probation as may be  
21 required by the court; (4) ~~(3)~~ any attempt to commit any of the  
22 foregoing offenses; and (5) ~~(4)~~ any offense committed or  
23 attempted in any other state or against the laws of the United  
24 States which, if committed or attempted in this State, would  
25 have been punishable as one or more of the foregoing offenses.

26 (b) Whenever the holder of any certificate issued by the  
27 board of education or pursuant to Article 21 or any other  
28 provisions of the School Code has been convicted of first  
29 degree murder, attempted first degree murder, or a Class X  
30 felony, the board of education or the State Superintendent of  
31 Education shall forthwith suspend the certificate. If the  
32 conviction is reversed and the holder is acquitted of that  
33 offense in a new trial or the charges that he or she committed  
34 that offense are dismissed, the suspending authority shall  
35 forthwith terminate the suspension of the certificate. When the  
36 conviction becomes final, the State Superintendent of

1 Education shall forthwith revoke the certificate. The stated  
2 offenses of "first degree murder", "attempted first degree  
3 murder", and "Class X felony" referred to in this Section  
4 include any offense committed in another state that, if  
5 committed in this State, would have been punishable as any one  
6 of the stated offenses.

7 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;  
8 89-610, eff. 8-6-96.)

9 Section 955. The School Reporting of Drug Violations Act is  
10 amended by changing Section 2 as follows:

11 (105 ILCS 127/2)

12 Sec. 2. Duty of school administrators. It is the duty of  
13 the principal of a public elementary or secondary school, or  
14 his or her designee, and the chief administrative officer of a  
15 private elementary or secondary school or a public or private  
16 community college, college, or university, or his or her  
17 designee, to report to the municipal police department or  
18 office of the county sheriff of the municipality or county  
19 where the school is located violations of Section 5.2 of the  
20 Cannabis Control Act, ~~and~~ violations of Section 401 and  
21 subsection (b) of Section 407 of the Illinois Controlled  
22 Substances Act, and violations of the Methamphetamine Control  
23 and Community Protection Act occurring in a school, on the real  
24 property comprising any school, on a public way within 1,000  
25 feet of a school, or in any conveyance owned, leased, or  
26 contracted by a school to transport students to or from school  
27 or a school related activity within 48 hours of becoming aware  
28 of the incident.

29 (Source: P.A. 90-395, eff. 8-15-97.)

30 Section 960. The Acupuncture Practice Act is amended by  
31 changing Section 135 as follows:

32 (225 ILCS 2/135)

1 (Section scheduled to be repealed on January 1, 2008)

2 Sec. 135. Criminal violations. Whoever knowingly practices  
3 or offers to practice acupuncture in this State without being  
4 licensed for that purpose shall be guilty of a Class A  
5 misdemeanor and for each subsequent conviction shall be guilty  
6 of a Class 4 felony. Notwithstanding any other provision of  
7 this Act, all criminal fines, moneys, or other property  
8 collected or received by the Department under this Section or  
9 any other State or federal statute, including but not limited  
10 to property forfeited to the Department under Section 505 of  
11 the Illinois Controlled Substances Act or Section 85 of the  
12 Methamphetamine Control and Community Protection Act, shall be  
13 deposited into the Professional Regulation Evidence Fund.

14 (Source: P.A. 90-61, eff. 7-3-97.)

15 Section 965. The Child Care Act of 1969 is amended by  
16 changing Section 4.2 as follows:

17 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

18 Sec. 4.2. (a) No applicant may receive a license from the  
19 Department and no person may be employed by a licensed child  
20 care facility who refuses to authorize an investigation as  
21 required by Section 4.1.

22 (b) In addition to the other provisions of this Section, no  
23 applicant may receive a license from the Department and no  
24 person may be employed by a child care facility licensed by the  
25 Department who has been declared a sexually dangerous person  
26 under "An Act in relation to sexually dangerous persons, and  
27 providing for their commitment, detention and supervision",  
28 approved July 6, 1938, as amended, or convicted of committing  
29 or attempting to commit any of the following offenses  
30 stipulated under the Criminal Code of 1961:

31 (1) murder;

32 (1.1) solicitation of murder;

33 (1.2) solicitation of murder for hire;

34 (1.3) intentional homicide of an unborn child;

- 1 (1.4) voluntary manslaughter of an unborn child;
- 2 (1.5) involuntary manslaughter;
- 3 (1.6) reckless homicide;
- 4 (1.7) concealment of a homicidal death;
- 5 (1.8) involuntary manslaughter of an unborn child;
- 6 (1.9) reckless homicide of an unborn child;
- 7 (1.10) drug-induced homicide;
- 8 (2) a sex offense under Article 11, except offenses
- 9 described in Sections 11-7, 11-8, 11-12, and 11-13;
- 10 (3) kidnapping;
- 11 (3.1) aggravated unlawful restraint;
- 12 (3.2) forcible detention;
- 13 (3.3) harboring a runaway;
- 14 (3.4) aiding and abetting child abduction;
- 15 (4) aggravated kidnapping;
- 16 (5) child abduction;
- 17 (6) aggravated battery of a child;
- 18 (7) criminal sexual assault;
- 19 (8) aggravated criminal sexual assault;
- 20 (8.1) predatory criminal sexual assault of a child;
- 21 (9) criminal sexual abuse;
- 22 (10) aggravated sexual abuse;
- 23 (11) heinous battery;
- 24 (12) aggravated battery with a firearm;
- 25 (13) tampering with food, drugs, or cosmetics;
- 26 (14) drug induced infliction of great bodily harm;
- 27 (15) hate crime;
- 28 (16) stalking;
- 29 (17) aggravated stalking;
- 30 (18) threatening public officials;
- 31 (19) home invasion;
- 32 (20) vehicular invasion;
- 33 (21) criminal transmission of HIV;
- 34 (22) criminal abuse or neglect of an elderly or
- 35 disabled person;
- 36 (23) child abandonment;

- 1 (24) endangering the life or health of a child;  
2 (25) ritual mutilation;  
3 (26) ritualized abuse of a child;  
4 (27) an offense in any other jurisdiction the elements  
5 of which are similar and bear a substantial relationship to  
6 any of the foregoing offenses.

7 (b-1) In addition to the other provisions of this Section,  
8 beginning January 1, 2004, no new applicant and, on the date of  
9 licensure renewal, no current licensee may operate or receive a  
10 license from the Department to operate, no person may be  
11 employed by, and no adult person may reside in a child care  
12 facility licensed by the Department who has been convicted of  
13 committing or attempting to commit any of the following  
14 offenses or an offense in any other jurisdiction the elements  
15 of which are similar and bear a substantial relationship to any  
16 of the following offenses:

17 (I) BODILY HARM

- 18 (1) Felony aggravated assault.  
19 (2) Vehicular endangerment.  
20 (3) Felony domestic battery.  
21 (4) Aggravated battery.  
22 (5) Heinous battery.  
23 (6) Aggravated battery with a firearm.  
24 (7) Aggravated battery of an unborn child.  
25 (8) Aggravated battery of a senior citizen.  
26 (9) Intimidation.  
27 (10) Compelling organization membership of persons.  
28 (11) Abuse and gross neglect of a long term care  
29 facility resident.  
30 (12) Felony violation of an order of protection.

31 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- 32 (1) Felony unlawful use of weapons.

1 (2) Aggravated discharge of a firearm.

2 (3) Reckless discharge of a firearm.

3 (4) Unlawful use of metal piercing bullets.

4 (5) Unlawful sale or delivery of firearms on the  
5 premises of any school.

6 (6) Disarming a police officer.

7 (7) Obstructing justice.

8 (8) Concealing or aiding a fugitive.

9 (9) Armed violence.

10 (10) Felony contributing to the criminal delinquency  
11 of a juvenile.

12 (III) DRUG OFFENSES

13 (1) Possession of more than 30 grams of cannabis.

14 (2) Manufacture of more than 10 grams of cannabis.

15 (3) Cannabis trafficking.

16 (4) Delivery of cannabis on school grounds.

17 (5) Unauthorized production of more than 5 cannabis  
18 sativa plants.

19 (6) Calculated criminal cannabis conspiracy.

20 (7) Unauthorized manufacture or delivery of controlled  
21 substances.

22 (8) Controlled substance trafficking.

23 (9) Manufacture, distribution, or advertisement of  
24 look-alike substances.

25 (10) Calculated criminal drug conspiracy.

26 (11) Street gang criminal drug conspiracy.

27 (12) Permitting unlawful use of a building.

28 (13) Delivery of controlled, counterfeit, or  
29 look-alike substances to persons under age 18, or at truck  
30 stops, rest stops, or safety rest areas, or on school  
31 property.

32 (14) Using, engaging, or employing persons under 18 to  
33 deliver controlled, counterfeit, or look-alike substances.

34 (15) Delivery of controlled substances.

1 (16) Sale or delivery of drug paraphernalia.

2 (17) Felony possession, sale, or exchange of  
3 instruments adapted for use of a controlled substance,  
4 methamphetamine, or cannabis by subcutaneous injection.

5 (18) Felony possession of a controlled substance.

6 (19) Any violation of the Methamphetamine Control and  
7 Community Protection Act.

8 (b-2) For child care facilities other than foster family  
9 homes, the Department may issue a new child care facility  
10 license to or renew the existing child care facility license of  
11 an applicant, a person employed by a child care facility, or an  
12 applicant who has an adult residing in a home child care  
13 facility who was convicted of an offense described in  
14 subsection (b-1), provided that all of the following  
15 requirements are met:

16 (1) The relevant criminal offense occurred more than 5  
17 years prior to the date of application or renewal, except  
18 for drug offenses. The relevant drug offense must have  
19 occurred more than 10 years prior to the date of  
20 application or renewal, unless the applicant passed a drug  
21 test, arranged and paid for by the child care facility, no  
22 less than 5 years after the offense.

23 (2) The Department must conduct a background check and  
24 assess all convictions and recommendations of the child  
25 care facility to determine if waiver shall apply in  
26 accordance with Department administrative rules and  
27 procedures.

28 (3) The applicant meets all other requirements and  
29 qualifications to be licensed as the pertinent type of  
30 child care facility under this Act and the Department's  
31 administrative rules.

32 (c) In addition to the other provisions of this Section, no  
33 applicant may receive a license from the Department to operate  
34 a foster family home, and no adult person may reside in a  
35 foster family home licensed by the Department, who has been  
36 convicted of committing or attempting to commit any of the

1 following offenses stipulated under the Criminal Code of 1961,  
2 the Cannabis Control Act, the Methamphetamine Control and  
3 Community Protection Act, and the Illinois Controlled  
4 Substances Act:

5 (I) OFFENSES DIRECTED AGAINST THE PERSON

6 (A) KIDNAPPING AND RELATED OFFENSES

7 (1) Unlawful restraint.

8 (B) BODILY HARM

9 (2) Felony aggravated assault.

10 (3) Vehicular endangerment.

11 (4) Felony domestic battery.

12 (5) Aggravated battery.

13 (6) Heinous battery.

14 (7) Aggravated battery with a firearm.

15 (8) Aggravated battery of an unborn child.

16 (9) Aggravated battery of a senior citizen.

17 (10) Intimidation.

18 (11) Compelling organization membership of persons.

19 (12) Abuse and gross neglect of a long term care  
20 facility resident.

21 (13) Felony violation of an order of protection.

22 (II) OFFENSES DIRECTED AGAINST PROPERTY

23 (14) Felony theft.

24 (15) Robbery.

25 (16) Armed robbery.

26 (17) Aggravated robbery.

27 (18) Vehicular hijacking.

28 (19) Aggravated vehicular hijacking.

29 (20) Burglary.

30 (21) Possession of burglary tools.

31 (22) Residential burglary.



1 (46) Calculated criminal drug conspiracy.

2 (46.5) Streetgang criminal drug conspiracy.

3 (47) Permitting unlawful use of a building.

4 (48) Delivery of controlled, counterfeit, or  
5 look-alike substances to persons under age 18, or at truck  
6 stops, rest stops, or safety rest areas, or on school  
7 property.

8 (49) Using, engaging, or employing persons under 18 to  
9 deliver controlled, counterfeit, or look-alike substances.

10 (50) Delivery of controlled substances.

11 (51) Sale or delivery of drug paraphernalia.

12 (52) Felony possession, sale, or exchange of  
13 instruments adapted for use of a controlled substance, methamphetamine,  
14 methamphetamine, or cannabis by subcutaneous injection.

15 (53) Any violation of the Methamphetamine Control and  
16 Community Protection Act.

17 (d) Notwithstanding subsection (c), the Department may  
18 issue a new foster family home license or may renew an existing  
19 foster family home license of an applicant who was convicted of  
20 an offense described in subsection (c), provided all of the  
21 following requirements are met:

22 (1) The relevant criminal offense or offenses occurred  
23 more than 10 years prior to the date of application or  
24 renewal.

25 (2) The applicant had previously disclosed the  
26 conviction or convictions to the Department for purposes of  
27 a background check.

28 (3) After the disclosure, the Department either placed  
29 a child in the home or the foster family home license was  
30 issued.

31 (4) During the background check, the Department had  
32 assessed and waived the conviction in compliance with the  
33 existing statutes and rules in effect at the time of the  
34 waiver.

35 (5) The applicant meets all other requirements and  
36 qualifications to be licensed as a foster family home under

1 this Act and the Department's administrative rules.

2 (6) The applicant has a history of providing a safe,  
3 stable home environment and appears able to continue to  
4 provide a safe, stable home environment.

5 (Source: P.A. 92-328, eff. 1-1-02; 93-151, eff. 7-10-03.)

6 Section 970. The Health Care Worker Background Check Act is  
7 amended by changing Section 25 as follows:

8 (225 ILCS 46/25)

9 Sec. 25. Persons ineligible to be hired by health care  
10 employers.

11 (a) After January 1, 1996, or January 1, 1997, as  
12 applicable, no health care employer shall knowingly hire,  
13 employ, or retain any individual in a position with duties  
14 involving direct care for clients, patients, or residents, who  
15 has been convicted of committing or attempting to commit one or  
16 more of the offenses defined in Sections 8-1.1, 8-1.2, 9-1,  
17 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 10-1, 10-2, 10-3,  
18 10-3.1, 10-4, 10-5, 10-7, 11-6, 11-9.1, 11-19.2, 11-20.1, 12-1,  
19 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
20 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14,  
21 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33,  
22 16-1, 16-1.3, 16A-3, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1,  
23 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2 of the  
24 Criminal Code of 1961; those provided in Section 4 of the  
25 Wrongs to Children Act; those provided in Section 53 of the  
26 Criminal Jurisprudence Act; those defined in Section 5, 5.1,  
27 5.2, 7, or 9 of the Cannabis Control Act; those defined in the  
28 Methamphetamine Control and Community Protection Act; or those  
29 defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1  
30 of the Illinois Controlled Substances Act, unless the applicant  
31 or employee obtains a waiver pursuant to Section 40.

32 (a-1) After January 1, 2004, no health care employer shall  
33 knowingly hire any individual in a position with duties  
34 involving direct care for clients, patients, or residents who

1 has (i) been convicted of committing or attempting to commit  
2 one or more of the offenses defined in Section 12-3.3,  
3 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1,  
4 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of  
5 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card  
6 and Debit Card Act; or Section 5.1 of the Wrongs to Children  
7 Act; or (ii) violated Section 10-5 of the Nursing and Advanced  
8 Practice Nursing Act.

9 A UCIA criminal history record check need not be redone for  
10 health care employees who have been continuously employed by a  
11 health care employer since January 1, 2004, but nothing in this  
12 Section prohibits a health care employer from initiating a  
13 criminal history check for these employees.

14 A health care employer is not required to retain an  
15 individual in a position with duties involving direct care for  
16 clients, patients, or residents who has been convicted of  
17 committing or attempting to commit one or more of the offenses  
18 enumerated in this subsection.

19 (b) A health care employer shall not hire, employ, or  
20 retain any individual in a position with duties involving  
21 direct care of clients, patients, or residents if the health  
22 care employer becomes aware that the individual has been  
23 convicted in another state of committing or attempting to  
24 commit an offense that has the same or similar elements as an  
25 offense listed in subsection (a) or (a-1), as verified by court  
26 records, records from a state agency, or an FBI criminal  
27 history record check. This shall not be construed to mean that  
28 a health care employer has an obligation to conduct a criminal  
29 history records check in other states in which an employee has  
30 resided.

31 (Source: P.A. 93-224, eff. 7-18-03.)

32 Section 975. The Medical Practice Act of 1987 is amended by  
33 changing Section 22 as follows:

34 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

1 (Section scheduled to be repealed on January 1, 2007)

2 Sec. 22. Disciplinary action.

3 (A) The Department may revoke, suspend, place on  
4 probationary status, or take any other disciplinary action as  
5 the Department may deem proper with regard to the license or  
6 visiting professor permit of any person issued under this Act  
7 to practice medicine, or to treat human ailments without the  
8 use of drugs and without operative surgery upon any of the  
9 following grounds:

10 (1) Performance of an elective abortion in any place,  
11 locale, facility, or institution other than:

12 (a) a facility licensed pursuant to the Ambulatory  
13 Surgical Treatment Center Act;

14 (b) an institution licensed under the Hospital  
15 Licensing Act; or

16 (c) an ambulatory surgical treatment center or  
17 hospitalization or care facility maintained by the  
18 State or any agency thereof, where such department or  
19 agency has authority under law to establish and enforce  
20 standards for the ambulatory surgical treatment  
21 centers, hospitalization, or care facilities under its  
22 management and control; or

23 (d) ambulatory surgical treatment centers,  
24 hospitalization or care facilities maintained by the  
25 Federal Government; or

26 (e) ambulatory surgical treatment centers,  
27 hospitalization or care facilities maintained by any  
28 university or college established under the laws of  
29 this State and supported principally by public funds  
30 raised by taxation.

31 (2) Performance of an abortion procedure in a wilful  
32 and wanton manner on a woman who was not pregnant at the  
33 time the abortion procedure was performed.

34 (3) The conviction of a felony in this or any other  
35 jurisdiction, except as otherwise provided in subsection B  
36 of this Section, whether or not related to practice under

1 this Act, or the entry of a guilty or nolo contendere plea  
2 to a felony charge.

3 (4) Gross negligence in practice under this Act.

4 (5) Engaging in dishonorable, unethical or  
5 unprofessional conduct of a character likely to deceive,  
6 defraud or harm the public.

7 (6) Obtaining any fee by fraud, deceit, or  
8 misrepresentation.

9 (7) Habitual or excessive use or abuse of drugs defined  
10 in law as controlled substances, of alcohol, or of any  
11 other substances which results in the inability to practice  
12 with reasonable judgment, skill or safety.

13 (8) Practicing under a false or, except as provided by  
14 law, an assumed name.

15 (9) Fraud or misrepresentation in applying for, or  
16 procuring, a license under this Act or in connection with  
17 applying for renewal of a license under this Act.

18 (10) Making a false or misleading statement regarding  
19 their skill or the efficacy or value of the medicine,  
20 treatment, or remedy prescribed by them at their direction  
21 in the treatment of any disease or other condition of the  
22 body or mind.

23 (11) Allowing another person or organization to use  
24 their license, procured under this Act, to practice.

25 (12) Disciplinary action of another state or  
26 jurisdiction against a license or other authorization to  
27 practice as a medical doctor, doctor of osteopathy, doctor  
28 of osteopathic medicine or doctor of chiropractic, a  
29 certified copy of the record of the action taken by the  
30 other state or jurisdiction being prima facie evidence  
31 thereof.

32 (13) Violation of any provision of this Act or of the  
33 Medical Practice Act prior to the repeal of that Act, or  
34 violation of the rules, or a final administrative action of  
35 the Director, after consideration of the recommendation of  
36 the Disciplinary Board.

1           (14) Dividing with anyone other than physicians with  
2           whom the licensee practices in a partnership, Professional  
3           Association, limited liability company, or Medical or  
4           Professional Corporation any fee, commission, rebate or  
5           other form of compensation for any professional services  
6           not actually and personally rendered. Nothing contained in  
7           this subsection prohibits persons holding valid and  
8           current licenses under this Act from practicing medicine in  
9           partnership under a partnership agreement, including a  
10          limited liability partnership, in a limited liability  
11          company under the Limited Liability Company Act, in a  
12          corporation authorized by the Medical Corporation Act, as  
13          an association authorized by the Professional Association  
14          Act, or in a corporation under the Professional Corporation  
15          Act or from pooling, sharing, dividing or apportioning the  
16          fees and monies received by them or by the partnership,  
17          corporation or association in accordance with the  
18          partnership agreement or the policies of the Board of  
19          Directors of the corporation or association. Nothing  
20          contained in this subsection prohibits 2 or more  
21          corporations authorized by the Medical Corporation Act,  
22          from forming a partnership or joint venture of such  
23          corporations, and providing medical, surgical and  
24          scientific research and knowledge by employees of these  
25          corporations if such employees are licensed under this Act,  
26          or from pooling, sharing, dividing, or apportioning the  
27          fees and monies received by the partnership or joint  
28          venture in accordance with the partnership or joint venture  
29          agreement. Nothing contained in this subsection shall  
30          abrogate the right of 2 or more persons, holding valid and  
31          current licenses under this Act, to each receive adequate  
32          compensation for concurrently rendering professional  
33          services to a patient and divide a fee; provided, the  
34          patient has full knowledge of the division, and, provided,  
35          that the division is made in proportion to the services  
36          performed and responsibility assumed by each.

1           (15) A finding by the Medical Disciplinary Board that  
2           the registrant after having his or her license placed on  
3           probationary status or subjected to conditions or  
4           restrictions violated the terms of the probation or failed  
5           to comply with such terms or conditions.

6           (16) Abandonment of a patient.

7           (17)        Prescribing,        selling,        administering,  
8           distributing,   giving or self-administering any drug  
9           classified as a controlled substance (designated product)  
10          or narcotic for other than medically accepted therapeutic  
11          purposes.

12          (18) Promotion of the sale of drugs, devices,  
13          appliances or goods provided for a patient in such manner  
14          as to exploit the patient for financial gain of the  
15          physician.

16          (19) Offering, undertaking or agreeing to cure or treat  
17          disease by a secret method, procedure, treatment or  
18          medicine, or the treating, operating or prescribing for any  
19          human condition by a method, means or procedure which the  
20          licensee refuses to divulge upon demand of the Department.

21          (20) Immoral conduct in the commission of any act  
22          including, but not limited to, commission of an act of  
23          sexual misconduct related to the licensee's practice.

24          (21) Wilfully making or filing false records or reports  
25          in his or her practice as a physician, including, but not  
26          limited to, false records to support claims against the  
27          medical assistance program of the Department of Public Aid  
28          under the Illinois Public Aid Code.

29          (22) Wilful omission to file or record, or wilfully  
30          impeding the filing or recording, or inducing another  
31          person to omit to file or record, medical reports as  
32          required by law, or wilfully failing to report an instance  
33          of suspected abuse or neglect as required by law.

34          (23) Being named as a perpetrator in an indicated  
35          report by the Department of Children and Family Services  
36          under the Abused and Neglected Child Reporting Act, and

1 upon proof by clear and convincing evidence that the  
2 licensee has caused a child to be an abused child or  
3 neglected child as defined in the Abused and Neglected  
4 Child Reporting Act.

5 (24) Solicitation of professional patronage by any  
6 corporation, agents or persons, or profiting from those  
7 representing themselves to be agents of the licensee.

8 (25) Gross and wilful and continued overcharging for  
9 professional services, including filing false statements  
10 for collection of fees for which services are not rendered,  
11 including, but not limited to, filing such false statements  
12 for collection of monies for services not rendered from the  
13 medical assistance program of the Department of Public Aid  
14 under the Illinois Public Aid Code.

15 (26) A pattern of practice or other behavior which  
16 demonstrates incapacity or incompetence to practice under  
17 this Act.

18 (27) Mental illness or disability which results in the  
19 inability to practice under this Act with reasonable  
20 judgment, skill or safety.

21 (28) Physical illness, including, but not limited to,  
22 deterioration through the aging process, or loss of motor  
23 skill which results in a physician's inability to practice  
24 under this Act with reasonable judgment, skill or safety.

25 (29) Cheating on or attempt to subvert the licensing  
26 examinations administered under this Act.

27 (30) Wilfully or negligently violating the  
28 confidentiality between physician and patient except as  
29 required by law.

30 (31) The use of any false, fraudulent, or deceptive  
31 statement in any document connected with practice under  
32 this Act.

33 (32) Aiding and abetting an individual not licensed  
34 under this Act in the practice of a profession licensed  
35 under this Act.

36 (33) Violating state or federal laws or regulations

1 relating to controlled substances.

2 (34) Failure to report to the Department any adverse  
3 final action taken against them by another licensing  
4 jurisdiction (any other state or any territory of the  
5 United States or any foreign state or country), by any peer  
6 review body, by any health care institution, by any  
7 professional society or association related to practice  
8 under this Act, by any governmental agency, by any law  
9 enforcement agency, or by any court for acts or conduct  
10 similar to acts or conduct which would constitute grounds  
11 for action as defined in this Section.

12 (35) Failure to report to the Department surrender of a  
13 license or authorization to practice as a medical doctor, a  
14 doctor of osteopathy, a doctor of osteopathic medicine, or  
15 doctor of chiropractic in another state or jurisdiction, or  
16 surrender of membership on any medical staff or in any  
17 medical or professional association or society, while  
18 under disciplinary investigation by any of those  
19 authorities or bodies, for acts or conduct similar to acts  
20 or conduct which would constitute grounds for action as  
21 defined in this Section.

22 (36) Failure to report to the Department any adverse  
23 judgment, settlement, or award arising from a liability  
24 claim related to acts or conduct similar to acts or conduct  
25 which would constitute grounds for action as defined in  
26 this Section.

27 (37) Failure to transfer copies of medical records as  
28 required by law.

29 (38) Failure to furnish the Department, its  
30 investigators or representatives, relevant information,  
31 legally requested by the Department after consultation  
32 with the Chief Medical Coordinator or the Deputy Medical  
33 Coordinator.

34 (39) Violating the Health Care Worker Self-Referral  
35 Act.

36 (40) Willful failure to provide notice when notice is

1 required under the Parental Notice of Abortion Act of 1995.

2 (41) Failure to establish and maintain records of  
3 patient care and treatment as required by this law.

4 (42) Entering into an excessive number of written  
5 collaborative agreements with licensed advanced practice  
6 nurses resulting in an inability to adequately collaborate  
7 and provide medical direction.

8 (43) Repeated failure to adequately collaborate with  
9 or provide medical direction to a licensed advanced  
10 practice nurse.

11 All proceedings to suspend, revoke, place on probationary  
12 status, or take any other disciplinary action as the Department  
13 may deem proper, with regard to a license on any of the  
14 foregoing grounds, must be commenced within 3 years next after  
15 receipt by the Department of a complaint alleging the  
16 commission of or notice of the conviction order for any of the  
17 acts described herein. Except for the grounds numbered (8), (9)  
18 and (29), no action shall be commenced more than 5 years after  
19 the date of the incident or act alleged to have violated this  
20 Section. In the event of the settlement of any claim or cause  
21 of action in favor of the claimant or the reduction to final  
22 judgment of any civil action in favor of the plaintiff, such  
23 claim, cause of action or civil action being grounded on the  
24 allegation that a person licensed under this Act was negligent  
25 in providing care, the Department shall have an additional  
26 period of one year from the date of notification to the  
27 Department under Section 23 of this Act of such settlement or  
28 final judgment in which to investigate and commence formal  
29 disciplinary proceedings under Section 36 of this Act, except  
30 as otherwise provided by law. The time during which the holder  
31 of the license was outside the State of Illinois shall not be  
32 included within any period of time limiting the commencement of  
33 disciplinary action by the Department.

34 The entry of an order or judgment by any circuit court  
35 establishing that any person holding a license under this Act  
36 is a person in need of mental treatment operates as a

1 suspension of that license. That person may resume their  
2 practice only upon the entry of a Departmental order based upon  
3 a finding by the Medical Disciplinary Board that they have been  
4 determined to be recovered from mental illness by the court and  
5 upon the Disciplinary Board's recommendation that they be  
6 permitted to resume their practice.

7 The Department may refuse to issue or take disciplinary  
8 action concerning the license of any person who fails to file a  
9 return, or to pay the tax, penalty or interest shown in a filed  
10 return, or to pay any final assessment of tax, penalty or  
11 interest, as required by any tax Act administered by the  
12 Illinois Department of Revenue, until such time as the  
13 requirements of any such tax Act are satisfied as determined by  
14 the Illinois Department of Revenue.

15 The Department, upon the recommendation of the  
16 Disciplinary Board, shall adopt rules which set forth standards  
17 to be used in determining:

18 (a) when a person will be deemed sufficiently  
19 rehabilitated to warrant the public trust;

20 (b) what constitutes dishonorable, unethical or  
21 unprofessional conduct of a character likely to deceive,  
22 defraud, or harm the public;

23 (c) what constitutes immoral conduct in the commission  
24 of any act, including, but not limited to, commission of an  
25 act of sexual misconduct related to the licensee's  
26 practice; and

27 (d) what constitutes gross negligence in the practice  
28 of medicine.

29 However, no such rule shall be admissible into evidence in  
30 any civil action except for review of a licensing or other  
31 disciplinary action under this Act.

32 In enforcing this Section, the Medical Disciplinary Board,  
33 upon a showing of a possible violation, may compel any  
34 individual licensed to practice under this Act, or who has  
35 applied for licensure or a permit pursuant to this Act, to  
36 submit to a mental or physical examination, or both, as

1 required by and at the expense of the Department. The examining  
2 physician or physicians shall be those specifically designated  
3 by the Disciplinary Board. The Medical Disciplinary Board or  
4 the Department may order the examining physician to present  
5 testimony concerning this mental or physical examination of the  
6 licensee or applicant. No information shall be excluded by  
7 reason of any common law or statutory privilege relating to  
8 communication between the licensee or applicant and the  
9 examining physician. The individual to be examined may have, at  
10 his or her own expense, another physician of his or her choice  
11 present during all aspects of the examination. Failure of any  
12 individual to submit to mental or physical examination, when  
13 directed, shall be grounds for suspension of his or her license  
14 until such time as the individual submits to the examination if  
15 the Disciplinary Board finds, after notice and hearing, that  
16 the refusal to submit to the examination was without reasonable  
17 cause. If the Disciplinary Board finds a physician unable to  
18 practice because of the reasons set forth in this Section, the  
19 Disciplinary Board shall require such physician to submit to  
20 care, counseling, or treatment by physicians approved or  
21 designated by the Disciplinary Board, as a condition for  
22 continued, reinstated, or renewed licensure to practice. Any  
23 physician, whose license was granted pursuant to Sections 9,  
24 17, or 19 of this Act, or, continued, reinstated, renewed,  
25 disciplined or supervised, subject to such terms, conditions or  
26 restrictions who shall fail to comply with such terms,  
27 conditions or restrictions, or to complete a required program  
28 of care, counseling, or treatment, as determined by the Chief  
29 Medical Coordinator or Deputy Medical Coordinators, shall be  
30 referred to the Director for a determination as to whether the  
31 licensee shall have their license suspended immediately,  
32 pending a hearing by the Disciplinary Board. In instances in  
33 which the Director immediately suspends a license under this  
34 Section, a hearing upon such person's license must be convened  
35 by the Disciplinary Board within 15 days after such suspension  
36 and completed without appreciable delay. The Disciplinary

1 Board shall have the authority to review the subject  
2 physician's record of treatment and counseling regarding the  
3 impairment, to the extent permitted by applicable federal  
4 statutes and regulations safeguarding the confidentiality of  
5 medical records.

6 An individual licensed under this Act, affected under this  
7 Section, shall be afforded an opportunity to demonstrate to the  
8 Disciplinary Board that they can resume practice in compliance  
9 with acceptable and prevailing standards under the provisions  
10 of their license.

11 The Department may promulgate rules for the imposition of  
12 fines in disciplinary cases, not to exceed \$5,000 for each  
13 violation of this Act. Fines may be imposed in conjunction with  
14 other forms of disciplinary action, but shall not be the  
15 exclusive disposition of any disciplinary action arising out of  
16 conduct resulting in death or injury to a patient. Any funds  
17 collected from such fines shall be deposited in the Medical  
18 Disciplinary Fund.

19 (B) The Department shall revoke the license or visiting  
20 permit of any person issued under this Act to practice medicine  
21 or to treat human ailments without the use of drugs and without  
22 operative surgery, who has been convicted a second time of  
23 committing any felony under the Illinois Controlled Substances  
24 Act or the Methamphetamine Control and Community Protection  
25 Act, or who has been convicted a second time of committing a  
26 Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois  
27 Public Aid Code. A person whose license or visiting permit is  
28 revoked under this subsection B of Section 22 of this Act shall  
29 be prohibited from practicing medicine or treating human  
30 ailments without the use of drugs and without operative  
31 surgery.

32 (C) The Medical Disciplinary Board shall recommend to the  
33 Department civil penalties and any other appropriate  
34 discipline in disciplinary cases when the Board finds that a  
35 physician willfully performed an abortion with actual  
36 knowledge that the person upon whom the abortion has been

1 performed is a minor or an incompetent person without notice as  
2 required under the Parental Notice of Abortion Act of 1995.  
3 Upon the Board's recommendation, the Department shall impose,  
4 for the first violation, a civil penalty of \$1,000 and for a  
5 second or subsequent violation, a civil penalty of \$5,000.  
6 (Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626,  
7 eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

8 Section 980. The Naprapathic Practice Act is amended by  
9 changing Section 123 as follows:

10 (225 ILCS 63/123)

11 (Section scheduled to be repealed on January 1, 2013)

12 Sec. 123. Violation; penalty. Whoever knowingly practices  
13 or offers to practice naprapathy in this State without being  
14 licensed for that purpose shall be guilty of a Class A  
15 misdemeanor and for each subsequent conviction shall be guilty  
16 of a Class 4 felony. Notwithstanding any other provision of  
17 this Act, all criminal fines, moneys, or other property  
18 collected or received by the Department under this Section or  
19 any other State or federal statute, including, but not limited  
20 to, property forfeited to the Department under Section 505 of  
21 the Illinois Controlled Substances Act or Section 85 of the  
22 Methamphetamine Control and Community Protection Act, shall be  
23 deposited into the Professional Regulation Evidence Fund.

24 (Source: P.A. 89-61, eff. 6-30-95.)

25 Section 985. The Nursing and Advanced Practice Nursing Act  
26 is amended by changing Section 20-75 as follows:

27 (225 ILCS 65/20-75)

28 (Section scheduled to be repealed on January 1, 2008)

29 Sec. 20-75. Injunctive remedies.

30 (a) If any person violates the provision of this Act, the  
31 Director may, in the name of the People of the State of  
32 Illinois, through the Attorney General of the State of

1 Illinois, or the State's Attorney of any county in which the  
2 action is brought, petition for an order enjoining such  
3 violation or for an order enforcing compliance with this Act.  
4 Upon the filing of a verified petition in court, the court may  
5 issue a temporary restraining order, without notice or bond,  
6 and may preliminarily and permanently enjoin such violation,  
7 and if it is established that such person has violated or is  
8 violating the injunction, the court may punish the offender for  
9 contempt of court. Proceedings under this Section shall be in  
10 addition to, and not in lieu of, all other remedies and  
11 penalties provided by this Act.

12 (b) If any person shall practice as a nurse or hold herself  
13 or himself out as a nurse without being licensed under the  
14 provisions of this Act, then any licensed nurse, any interested  
15 party, or any person injured thereby may, in addition to the  
16 Director, petition for relief as provided in subsection (a) of  
17 this Section.

18 Whoever knowingly practices or offers to practice nursing  
19 in this State without a license for that purpose shall be  
20 guilty of a Class A misdemeanor and for each subsequent  
21 conviction, shall be guilty of a Class 4 felony. All criminal  
22 fines, monies, or other property collected or received by the  
23 Department under this Section or any other State or federal  
24 statute, including, but not limited to, property forfeited to  
25 the Department under Section 505 of the Illinois Controlled  
26 Substances Act or Section 85 of the Methamphetamine Control and  
27 Community Protection Act, shall be deposited into the  
28 Professional Regulation Evidence Fund.

29 (c) Whenever in the opinion of the Department any person  
30 violates any provision of this Act, the Department may issue a  
31 rule to show cause why an order to cease and desist should not  
32 be entered against him. The rule shall clearly set forth the  
33 grounds relied upon by the Department and shall provide a  
34 period of 7 days from the date of the rule to file an answer to  
35 the satisfaction of the Department. Failure to answer to the  
36 satisfaction of the Department shall cause an order to cease

1 and desist to be issued forthwith.

2 (Source: P.A. 90-742, eff. 8-13-98.)

3 Section 990. The Illinois Optometric Practice Act of 1987  
4 is amended by changing Section 26.1 as follows:

5 (225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

6 (Section scheduled to be repealed on January 1, 2007)

7 Sec. 26.1. Injunctions; criminal offenses; cease and  
8 desist orders.

9 (a) If any person violates the provision of this Act, the  
10 Director may, in the name of the People of the State of  
11 Illinois, through the Attorney General of the State of  
12 Illinois, or the State's Attorney of any county in which the  
13 action is brought, petition for an order enjoining such  
14 violation or for an order enforcing compliance with this Act.  
15 Upon the filing of a verified petition in court, the court may  
16 issue a temporary restraining order, without notice or bond,  
17 and may preliminarily and permanently enjoin such violation,  
18 and if it is established that such person has violated or is  
19 violating the injunction, the Court may punish the offender for  
20 contempt of court. Proceedings under this Section shall be in  
21 addition to, and not in lieu of, all other remedies and  
22 penalties provided by this Act.

23 (b) If any person shall practice as an optometrist or hold  
24 himself or herself out as an optometrist without being licensed  
25 under the provisions of this Act then any licensed optometrist,  
26 any interested party or any person injured thereby may, in  
27 addition to the Director, petition for relief as provided in  
28 subsection (a) of this Section.

29 Whoever knowingly practices or offers to practice  
30 optometry in this State without being licensed for that purpose  
31 shall be guilty of a Class A misdemeanor and for each  
32 subsequent conviction, shall be guilty of a Class 4 felony.  
33 Notwithstanding any other provision of this Act, all criminal  
34 fines, monies, or other property collected or received by the

1 Department under this Section or any other State or federal  
2 statute, including, but not limited to, property forfeited to  
3 the Department under Section 505 of the Illinois Controlled  
4 Substances Act or Section 85 of the Methamphetamine Control and  
5 Community Protection Act, shall be deposited into the  
6 Professional Regulation Evidence Fund.

7 (c) Whenever in the opinion of the Department any person  
8 violates any provision of this Act, the Department may issue a  
9 rule to show cause why an order to cease and desist should not  
10 be entered against him. The rule shall clearly set forth the  
11 grounds relied upon by the Department and shall provide a  
12 period of 7 days from the date of the rule to file an answer to  
13 the satisfaction of the Department. Failure to answer to the  
14 satisfaction of the Department shall cause an order to cease  
15 and desist to be issued forthwith.

16 (Source: P.A. 89-702, eff. 7-1-97.)

17 Section 995. The Podiatric Medical Practice Act of 1987 is  
18 amended by changing Section 41 as follows:

19 (225 ILCS 100/41) (from Ch. 111, par. 4841)

20 (Section scheduled to be repealed on January 1, 2008)

21 Sec. 41. Violations. Any person who is found to have  
22 violated any provisions of this Act is guilty of a Class A  
23 misdemeanor. All criminal fines, monies, or other property  
24 collected or received by the Department under this Section or  
25 any other State or federal statute, including, but not limited  
26 to, property forfeited to the Department under Section 505 of  
27 The Illinois Controlled Substances Act or Section 85 of the  
28 Methamphetamine Control and Community Protection Act, shall be  
29 deposited into the Professional Regulation Evidence Fund.

30 The Board, with the advice of the Director and attorneys  
31 for the Department, may establish by rule a schedule of fines  
32 payable by those who have violated any provisions of this Act.

33 Fines assessed and collected for violations of this Act  
34 shall be deposited in the Illinois State Podiatric Medical

1 Disciplinary Fund.

2 (Source: P.A. 86-685.)

3 Section 1000. The Veterinary Medicine and Surgery Practice  
4 Act of 2004 is amended by changing Section 25.16 as follows:

5 (225 ILCS 115/25.16) (from Ch. 111, par. 7025.16)

6 (Section scheduled to be repealed on January 1, 2014)

7 Sec. 25.16. Any person who is found to have violated any  
8 provision of this Act is guilty of a Class A misdemeanor. On  
9 conviction of a second or subsequent offense, the violator  
10 shall be guilty of a Class 4 felony. All criminal fines,  
11 monies, or other property collected or received by the  
12 Department under this Section or any other State or federal  
13 statute, including, but not limited to, property forfeited to  
14 the Department under Section 505 of The Illinois Controlled  
15 Substances Act or Section 85 of the Methamphetamine Control and  
16 Community Protection Act, shall be deposited into the  
17 Professional Regulation Evidence Fund.

18 (Source: P.A. 86-685.)

19 Section 1005. The Wholesale Drug Distribution Licensing  
20 Act is amended by changing Sections 55 and 170 as follows:

21 (225 ILCS 120/55) (from Ch. 111, par. 8301-55)

22 (Section scheduled to be repealed on January 1, 2013)

23 Sec. 55. Discipline; grounds.

24 (a) The Department may refuse to issue, restore, or renew,  
25 or may revoke, suspend, place on probation, reprimand or take  
26 other disciplinary action as the Department may deem proper for  
27 any of the following reasons:

28 (1) Violation of this Act or its rules.

29 (2) Aiding or assisting another person in violating any  
30 provision of this Act or its rules.

31 (3) Failing, within 60 days, to respond to a written  
32 requirement made by the Department for information.

1           (4) Engaging in dishonorable, unethical, or  
2 unprofessional conduct of a character likely to deceive,  
3 defraud, or harm the public. This includes violations of  
4 "good faith" as defined by the Illinois Controlled  
5 Substances Act and applies to all prescription drugs.

6           (5) Discipline by another U.S. jurisdiction or foreign  
7 nation, if at least one of the grounds for the discipline  
8 is the same or substantially equivalent to those set forth  
9 in this Act.

10          (6) Selling or engaging in the sale of drug samples  
11 provided at no cost by drug manufacturers.

12          (7) Conviction of the applicant or licensee, or any  
13 officer, director, manager or shareholder who owns more  
14 than 5% of stock, in State or federal court of any crime  
15 that is a felony.

16          (8) Habitual or excessive use or addiction to alcohol,  
17 narcotics, stimulants, or any other chemical agent or drug  
18 that results in the inability to function with reasonable  
19 judgment, skill, or safety.

20          (b) The Department may refuse to issue, restore, or renew,  
21 or may revoke, suspend, place on probation, reprimand or take  
22 other disciplinary action as the Department may deem property  
23 including fines not to exceed \$1000 for any of the following  
24 reasons:

25           (1) Material misstatement in furnishing information to  
26 the Department.

27           (2) Making any misrepresentation for the purpose of  
28 obtaining a license.

29           (3) A finding by the Department that the licensee,  
30 after having his or her license placed on probationary  
31 status, has violated the terms of probation.

32           (4) A finding that licensure or registration has been  
33 applied for or obtained by fraudulent means.

34           (5) Willfully making or filing false records or  
35 reports.

36           (6) A finding of a substantial discrepancy in a

1 Department audit of a prescription drug, including a  
2 controlled substance as that term is defined in this Act or  
3 in the Illinois Controlled Substances Act.

4 (c) The Department may refuse to issue or may suspend the  
5 license or registration of any person who fails to file a  
6 return, or to pay the tax, penalty or interest shown in a filed  
7 return, or to pay any final assessment of tax, penalty or  
8 interest, as required by any tax Act administered by the  
9 Illinois Department of Revenue, until the time the requirements  
10 of the tax Act are satisfied.

11 (d) The Department shall revoke the license or certificate  
12 of registration issued under this Act or any prior Act of this  
13 State of any person who has been convicted a second time of  
14 committing any felony under the Illinois Controlled Substances  
15 Act or the Methamphetamine Control and Community Protection Act  
16 or who has been convicted a second time of committing a Class 1  
17 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid  
18 Code. A person whose license or certificate of registration  
19 issued under this Act or any prior Act of this State is revoked  
20 under this subsection (c) shall be prohibited from engaging in  
21 the practice of pharmacy in this State.

22 (Source: P.A. 87-594.)

23 (225 ILCS 120/170) (from Ch. 111, par. 8301-170)

24 (Section scheduled to be repealed on January 1, 2013)

25 Sec. 170. Penalties. Any person who is found to have  
26 violated any provision of this Act is guilty of a Class A  
27 misdemeanor. On conviction of a second or subsequent offense,  
28 the violator shall be guilty of a Class 4 felony. All criminal  
29 fines, monies, or property collected or received by the  
30 Department under this Section or any other State or federal  
31 statute, including, but not limited to, property forfeited to  
32 the Department under Section 505 of the Illinois Controlled  
33 Substances Act or Section 85 of the Methamphetamine Control and  
34 Community Protection Act, shall be deposited into the  
35 Professional Regulation Evidence Fund.

1 (Source: P.A. 87-594.)

2 Section 1010. The Illinois Public Aid Code is amended by  
3 changing Section 1-10 as follows:

4 (305 ILCS 5/1-10)

5 Sec. 1-10. Drug convictions.

6 (a) Persons convicted of an offense under the Illinois  
7 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the  
8 Methamphetamine Control and Community Protection Act which is a  
9 Class X felony, or a Class 1 felony, or comparable federal  
10 criminal law which has as an element the possession, use, or  
11 distribution of a controlled substance, as defined in Section  
12 102(6) of the federal Controlled Substances Act (21 U.S.C.  
13 802(c)), shall not be eligible for cash assistance provided  
14 under this Code.

15 (b) Persons convicted of any other felony under the  
16 Illinois Controlled Substances Act, ~~or~~ the Cannabis Control  
17 Act, or the Methamphetamine Control and Community Protection  
18 Act which is not a Class X or Class 1 felony, or comparable  
19 federal criminal law which has as an element the possession,  
20 use, or distribution of a controlled substance, as defined in  
21 Section 102(6) of the federal Controlled Substances Act (21  
22 U.S.C. 802(c)), shall not be eligible for cash assistance  
23 provided under this Code for 2 years from the date of  
24 conviction. This prohibition shall not apply if the person is  
25 in a drug treatment program, aftercare program, or similar  
26 program as defined by rule.

27 (c) Persons shall not be determined ineligible for food  
28 stamps provided under this Code based upon a conviction of any  
29 felony or comparable federal or State criminal law which has an  
30 element the possession, use or distribution of a controlled  
31 substance, as defined in Section 102(6) of the federal  
32 Controlled Substance Act (21 U.S.C. 802(c)).

33 (Source: P.A. 90-17, eff. 7-1-97.)

1 Section 1015. The Housing Authorities Act is amended by  
2 changing Section 8.1a as follows:

3 (310 ILCS 10/8.1a) (from Ch. 67 1/2, par. 8.1a)

4 Sec. 8.1a. Police powers.

5 (a) A Housing Authority in any municipality having over  
6 500,000 inhabitants has power to police its property and to  
7 exercise police powers for the protection of the persons and  
8 property of its residents, employees and visitors, for the  
9 enforcement of any rule or regulation adopted by the Authority,  
10 and in furtherance of the purposes for which such Authority was  
11 organized. In particular, and subject to amounts appropriated  
12 for that purpose, the Housing Authority in exercising its  
13 police powers shall strive to eliminate or reduce the following  
14 activities within the property or facilities of the Authority:  
15 streetgang-related activities (as defined in the Illinois  
16 Streetgang Terrorism Omnibus Prevention Act), illegal  
17 activities involving controlled substances (as defined in the  
18 Illinois Controlled Substances Act), illegal activities  
19 involving cannabis (as defined in the Cannabis Control Act),  
20 illegal activities involving methamphetamine (as defined in  
21 the Methamphetamine Control and Community Protection Act), and  
22 illegal activities involving firearms. Such Authority has  
23 power to establish, appoint and support a police force for such  
24 purposes.

25 (b) A Housing Authority in a municipality having 500,000 or  
26 fewer inhabitants may establish, appoint, and support a police  
27 force to police the Authority's property, to protect the  
28 persons and property of the Authority's residents, employees,  
29 and visitors, to enforce the Authority's adopted rules and  
30 regulations, and to otherwise further the purposes for which  
31 the Authority was organized. A police force may be established  
32 under this subsection only with the approval of the mayor or  
33 president of the municipality and only if, in the opinion of  
34 the Authority and the mayor or president, the severity of  
35 streetgang-related activities (as defined in the Illinois

1 Streetgang Terrorism Omnibus Prevention Act), illegal  
2 activities involving controlled substances (as defined in the  
3 Illinois Controlled Substances Act), illegal activities  
4 involving cannabis (as defined in the Cannabis Control Act),  
5 illegal activities involving methamphetamine (as defined in  
6 the Methamphetamine Control and Community Protection Act), or  
7 illegal activities involving firearms makes the establishment  
8 of a police force desirable.

9 (c) Members of a Housing Authority police force shall be  
10 conservators of the peace and shall have all powers possessed  
11 by the police of cities, and sheriffs, including the power to  
12 make arrests for violations of federal and state statutes, city  
13 and county ordinances, and rules and regulations of the  
14 Authority and governing federal agencies; provided, that they  
15 may exercise such powers only within the property or facilities  
16 of such Authority, and only (i) when such exercise is  
17 appropriate for the protection of Authority properties and  
18 interests, or its residents, employees and visitors, or (ii)  
19 otherwise, within the municipality in which the Authority  
20 operates, when specifically requested by appropriate federal,  
21 state and local law enforcement officials. Unless expressly  
22 limited by the Authority, when outside the property or  
23 facilities of the Authority, the members of the police force  
24 shall have the same powers as those conferred on the police of  
25 organized cities and villages when acting outside of the  
26 territorial limits of their city or village. "Property or  
27 facilities of the Authority" means property owned or leased by  
28 the Authority and property over which the Authority has  
29 easement rights. The Authority shall establish minimum  
30 standards for selection and training of members of such police  
31 force, provided that the members of such police force shall be  
32 certified and trained under the provisions of the Illinois  
33 Police Training Act, as now or hereafter amended. The members  
34 of such police force may serve and execute civil process. The  
35 establishment of such a police force shall not affect the power  
36 of the Authority to use or employ other security personnel as

1 permitted by law. Neither the Authority, the members of its  
2 Board nor its officers or employees shall be held liable for  
3 failure to provide a security or police force or, if a security  
4 or police force is provided, for failure to provide adequate  
5 police protection or security, failure to prevent the  
6 commission of crimes or failure to apprehend criminals.

7 (Source: P.A. 89-351, eff. 1-1-96.)

8 Section 1020. The Abandoned Housing Rehabilitation Act is  
9 amended by changing Section 2 as follows:

10 (310 ILCS 50/2) (from Ch. 67 1/2, par. 852)

11 Sec. 2. Definitions. As used in this Act:

12 (a) "Property" means any residential real estate which has  
13 been continuously unoccupied by persons legally in possession  
14 for the preceding 1 year.

15 (b) "Nuisance" means any property which because of its  
16 physical condition or use is a public nuisance, or any property  
17 which constitutes a blight on the surrounding area, or any  
18 property which is not fit for human habitation under the  
19 applicable fire, building and housing codes. "Nuisance" also  
20 means any property on which any illegal activity involving  
21 controlled substances (as defined in the Illinois Controlled  
22 Substances Act), methamphetamine (as defined in the  
23 Methamphetamine Control and Community Protection Act), or  
24 cannabis (as defined in the Cannabis Control Act) takes place  
25 or any property on which any streetgang-related activity (as  
26 defined in the Illinois Streetgang Terrorism Omnibus  
27 Prevention Act) takes place.

28 (c) "Organization" means any Illinois corporation, agency,  
29 partnership, association, firm or other entity consisting of 2  
30 or more persons organized and conducted on a not-for-profit  
31 basis with no personal profit inuring to anyone as a result of  
32 its operation which has among its purposes the improvement of  
33 housing.

34 (d) "Parties in interest" means any owner or owners of

1 record, judgment creditor, tax purchaser or other party having  
2 any legal or equitable title or interest in the property.

3 (e) "Last known address" includes the address where the  
4 property is located, or the address as listed in the tax  
5 records or as listed pursuant to any owner's registration  
6 ordinance duly adopted by a home rule unit of government.

7 (f) "Low or moderate income housing" means housing for  
8 persons and families with low or moderate incomes, provided  
9 that the income limits for such persons and families shall be  
10 the same as those established by rule by the Illinois Housing  
11 Development Authority in accordance with subsection (g) of  
12 Section 2 of the Illinois Housing Development Act, as amended.

13 (g) "Rehabilitation" means the process of improving the  
14 property, including but not limited to bringing property into  
15 compliance with applicable fire, housing and building codes.

16 (Source: P.A. 91-357, eff. 7-29-99; 91-807, eff. 1-1-01.)

17 Section 1025. The Abused and Neglected Child Reporting Act  
18 is amended by changing Section 3 as follows:

19 (325 ILCS 5/3) (from Ch. 23, par. 2053)

20 Sec. 3. As used in this Act unless the context otherwise  
21 requires:

22 "Child" means any person under the age of 18 years, unless  
23 legally emancipated by reason of marriage or entry into a  
24 branch of the United States armed services.

25 "Department" means Department of Children and Family  
26 Services.

27 "Local law enforcement agency" means the police of a city,  
28 town, village or other incorporated area or the sheriff of an  
29 unincorporated area or any sworn officer of the Illinois  
30 Department of State Police.

31 "Abused child" means a child whose parent or immediate  
32 family member, or any person responsible for the child's  
33 welfare, or any individual residing in the same home as the  
34 child, or a paramour of the child's parent:

1 (a) inflicts, causes to be inflicted, or allows to be  
2 inflicted upon such child physical injury, by other than  
3 accidental means, which causes death, disfigurement,  
4 impairment of physical or emotional health, or loss or  
5 impairment of any bodily function;

6 (b) creates a substantial risk of physical injury to  
7 such child by other than accidental means which would be  
8 likely to cause death, disfigurement, impairment of  
9 physical or emotional health, or loss or impairment of any  
10 bodily function;

11 (c) commits or allows to be committed any sex offense  
12 against such child, as such sex offenses are defined in the  
13 Criminal Code of 1961, as amended, and extending those  
14 definitions of sex offenses to include children under 18  
15 years of age;

16 (d) commits or allows to be committed an act or acts of  
17 torture upon such child;

18 (e) inflicts excessive corporal punishment;

19 (f) commits or allows to be committed the offense of  
20 female genital mutilation, as defined in Section 12-34 of  
21 the Criminal Code of 1961, against the child; or

22 (g) causes to be sold, transferred, distributed, or  
23 given to such child under 18 years of age, a controlled  
24 substance as defined in Section 102 of the Illinois  
25 Controlled Substances Act in violation of Article IV of the  
26 Illinois Controlled Substances Act or in violation of the  
27 Methamphetamine Control and Community Protection Act,  
28 except for controlled substances that are prescribed in  
29 accordance with Article III of the Illinois Controlled  
30 Substances Act and are dispensed to such child in a manner  
31 that substantially complies with the prescription.

32 A child shall not be considered abused for the sole reason  
33 that the child has been relinquished in accordance with the  
34 Abandoned Newborn Infant Protection Act.

35 "Neglected child" means any child who is not receiving the  
36 proper or necessary nourishment or medically indicated

1 treatment including food or care not provided solely on the  
2 basis of the present or anticipated mental or physical  
3 impairment as determined by a physician acting alone or in  
4 consultation with other physicians or otherwise is not  
5 receiving the proper or necessary support or medical or other  
6 remedial care recognized under State law as necessary for a  
7 child's well-being, or other care necessary for his or her  
8 well-being, including adequate food, clothing and shelter; or  
9 who is abandoned by his or her parents or other person  
10 responsible for the child's welfare without a proper plan of  
11 care; or who is a newborn infant whose blood, urine, or  
12 meconium contains any amount of a controlled substance as  
13 defined in subsection (f) of Section 102 of the Illinois  
14 Controlled Substances Act or a metabolite thereof, with the  
15 exception of a controlled substance or metabolite thereof whose  
16 presence in the newborn infant is the result of medical  
17 treatment administered to the mother or the newborn infant. A  
18 child shall not be considered neglected for the sole reason  
19 that the child's parent or other person responsible for his or  
20 her welfare has left the child in the care of an adult relative  
21 for any period of time. A child shall not be considered  
22 neglected for the sole reason that the child has been  
23 relinquished in accordance with the Abandoned Newborn Infant  
24 Protection Act. A child shall not be considered neglected or  
25 abused for the sole reason that such child's parent or other  
26 person responsible for his or her welfare depends upon  
27 spiritual means through prayer alone for the treatment or cure  
28 of disease or remedial care as provided under Section 4 of this  
29 Act. A child shall not be considered neglected or abused solely  
30 because the child is not attending school in accordance with  
31 the requirements of Article 26 of The School Code, as amended.

32 "Child Protective Service Unit" means certain specialized  
33 State employees of the Department assigned by the Director to  
34 perform the duties and responsibilities as provided under  
35 Section 7.2 of this Act.

36 "Person responsible for the child's welfare" means the

1 child's parent; guardian; foster parent; relative caregiver;  
2 any person responsible for the child's welfare in a public or  
3 private residential agency or institution; any person  
4 responsible for the child's welfare within a public or private  
5 profit or not for profit child care facility; or any other  
6 person responsible for the child's welfare at the time of the  
7 alleged abuse or neglect, or any person who came to know the  
8 child through an official capacity or position of trust,  
9 including but not limited to health care professionals,  
10 educational personnel, recreational supervisors, members of  
11 the clergy, and volunteers or support personnel in any setting  
12 where children may be subject to abuse or neglect.

13 "Temporary protective custody" means custody within a  
14 hospital or other medical facility or a place previously  
15 designated for such custody by the Department, subject to  
16 review by the Court, including a licensed foster home, group  
17 home, or other institution; but such place shall not be a jail  
18 or other place for the detention of criminal or juvenile  
19 offenders.

20 "An unfounded report" means any report made under this Act  
21 for which it is determined after an investigation that no  
22 credible evidence of abuse or neglect exists.

23 "An indicated report" means a report made under this Act if  
24 an investigation determines that credible evidence of the  
25 alleged abuse or neglect exists.

26 "An undetermined report" means any report made under this  
27 Act in which it was not possible to initiate or complete an  
28 investigation on the basis of information provided to the  
29 Department.

30 "Subject of report" means any child reported to the central  
31 register of child abuse and neglect established under Section  
32 7.7 of this Act and his or her parent, guardian or other person  
33 responsible who is also named in the report.

34 "Perpetrator" means a person who, as a result of  
35 investigation, has been determined by the Department to have  
36 caused child abuse or neglect.

1 "Member of the clergy" means a clergyman or practitioner of  
2 any religious denomination accredited by the religious body to  
3 which he or she belongs.

4 (Source: P.A. 91-802, eff. 1-1-01; 92-408, eff. 8-17-01;  
5 92-432, eff. 8-17-01; 92-801, eff. 8-16-02.)

6 Section 1030. The Illinois Food, Drug and Cosmetic Act is  
7 amended by changing Section 24 as follows:

8 (410 ILCS 620/24) (from Ch. 56 1/2, par. 524)

9 Sec. 24.

10 Nothing in this Act shall be construed to limit or repeal  
11 any provisions of the Illinois Controlled Substances Act or the  
12 Methamphetamine Control and Community Protection Act.

13 (Source: P.A. 77-765.)

14 Section 1035. The Firearm Owners Identification Card Act is  
15 amended by changing Section 10 as follows:

16 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

17 Sec. 10. (a) Whenever an application for a Firearm Owner's  
18 Identification Card is denied, whenever the Department fails to  
19 act on an application within 30 days of its receipt, or  
20 whenever such a Card is revoked or seized as provided for in  
21 Section 8 of this Act, the aggrieved party may appeal to the  
22 Director of the Department of State Police for a hearing upon  
23 such denial, revocation or seizure, unless the denial,  
24 revocation, or seizure was based upon a forcible felony,  
25 stalking, aggravated stalking, domestic battery, any violation  
26 of ~~either~~ the Illinois Controlled Substances Act, the  
27 Methamphetamine Control and Community Protection Act, or the  
28 Cannabis Control Act that is classified as a Class 2 or greater  
29 felony, any felony violation of Article 24 of the Criminal Code  
30 of 1961, or any adjudication as a delinquent minor for the  
31 commission of an offense that if committed by an adult would be  
32 a felony, in which case the aggrieved party may petition the

1 circuit court in writing in the county of his or her residence  
2 for a hearing upon such denial, revocation, or seizure.

3 (b) At least 30 days before any hearing in the circuit  
4 court, the petitioner shall serve the relevant State's Attorney  
5 with a copy of the petition. The State's Attorney may object to  
6 the petition and present evidence. At the hearing the court  
7 shall determine whether substantial justice has been done.  
8 Should the court determine that substantial justice has not  
9 been done, the court shall issue an order directing the  
10 Department of State Police to issue a Card.

11 (c) Any person prohibited from possessing a firearm under  
12 Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or  
13 acquiring a Firearm Owner's Identification Card under Section 8  
14 of this Act may apply to the Director of the Department of  
15 State Police or petition the circuit court in the county where  
16 the petitioner resides, whichever is applicable in accordance  
17 with subsection (a) of this Section, requesting relief from  
18 such prohibition and the Director or court may grant such  
19 relief if it is established by the applicant to the court's or  
20 Director's satisfaction that:

21 (0.05) when in the circuit court, the State's Attorney  
22 has been served with a written copy of the petition at  
23 least 30 days before any such hearing in the circuit court  
24 and at the hearing the State's Attorney was afforded an  
25 opportunity to present evidence and object to the petition;

26 (1) the applicant has not been convicted of a forcible  
27 felony under the laws of this State or any other  
28 jurisdiction within 20 years of the applicant's  
29 application for a Firearm Owner's Identification Card, or  
30 at least 20 years have passed since the end of any period  
31 of imprisonment imposed in relation to that conviction;

32 (2) the circumstances regarding a criminal conviction,  
33 where applicable, the applicant's criminal history and his  
34 reputation are such that the applicant will not be likely  
35 to act in a manner dangerous to public safety; and

36 (3) granting relief would not be contrary to the public

1 interest.

2 (d) When a minor is adjudicated delinquent for an offense  
3 which if committed by an adult would be a felony, the court  
4 shall notify the Department of State Police.

5 (e) The court shall review the denial of an application or  
6 the revocation of a Firearm Owner's Identification Card of a  
7 person who has been adjudicated delinquent for an offense that  
8 if committed by an adult would be a felony if an application  
9 for relief has been filed at least 10 years after the  
10 adjudication of delinquency and the court determines that the  
11 applicant should be granted relief from disability to obtain a  
12 Firearm Owner's Identification Card. If the court grants  
13 relief, the court shall notify the Department of State Police  
14 that the disability has been removed and that the applicant is  
15 eligible to obtain a Firearm Owner's Identification Card.

16 (Source: P.A. 92-442, eff. 8-17-01; 93-367, eff. 1-1-04.)

17 Section 1040. The Illinois Vehicle Code is amended by  
18 changing Sections 2-115, 6-103, 6-106.1, 6-107, 6-108, 6-201,  
19 6-206, and 6-508 as follows:

20 (625 ILCS 5/2-115) (from Ch. 95 1/2, par. 2-115)

21 Sec. 2-115. Investigators.

22 (a) The Secretary of State, for the purpose of more  
23 effectively carrying out the provisions of the laws in relation  
24 to motor vehicles, shall have power to appoint such number of  
25 investigators as he may deem necessary. It shall be the duty of  
26 such investigators to investigate and enforce violations of the  
27 provisions of this Act administered by the Secretary of State  
28 and provisions of Chapters 11, 12, 13, 14 and 15 and to  
29 investigate and report any violation by any person who operates  
30 as a motor carrier of property as defined in Section 18-100 of  
31 this Act and does not hold a valid certificate or permit. Such  
32 investigators shall have and may exercise throughout the State  
33 all of the powers of peace officers.

34 No person may be retained in service as an investigator

1 under this Section after he has reached 60 years of age.

2 The Secretary of State must authorize to each investigator  
3 employed under this Section and to any other employee of the  
4 Office of the Secretary of State exercising the powers of a  
5 peace officer a distinct badge that, on its face, (i) clearly  
6 states that the badge is authorized by the Office of the  
7 Secretary of State and (ii) contains a unique identifying  
8 number. No other badge shall be authorized by the Office of the  
9 Secretary of State.

10 (b) The Secretary may expend such sums as he deems  
11 necessary from Contractual Services appropriations for the  
12 Department of Police for the purchase of evidence, for the  
13 employment of persons to obtain evidence, and for the payment  
14 for any goods or services related to obtaining evidence. Such  
15 sums shall be advanced to investigators authorized by the  
16 Secretary to expend funds, on vouchers signed by the Secretary.  
17 In addition, the Secretary of State is authorized to maintain  
18 one or more commercial checking accounts with any State banking  
19 corporation or corporations organized under or subject to the  
20 Illinois Banking Act for the deposit and withdrawal of moneys  
21 to be used solely for the purchase of evidence and for the  
22 employment of persons to obtain evidence, or for the payment  
23 for any goods or services related to obtaining evidence;  
24 provided that no check may be written on nor any withdrawal  
25 made from any such account except on the written signatures of  
26 2 persons designated by the Secretary to write such checks and  
27 make such withdrawals, and provided further that the balance of  
28 moneys on deposit in any such account shall not exceed \$5,000  
29 at any time, nor shall any one check written on or single  
30 withdrawal made from any such account exceed \$5,000.

31 All fines or moneys collected or received by the Department  
32 of Police under any State or federal forfeiture statute;  
33 including, but not limited to moneys forfeited under Section 12  
34 of the Cannabis Control Act, moneys forfeited under Section 85  
35 of the Methamphetamine Control and Community Protection Act,  
36 and moneys distributed under Section 413 of the Illinois

1 Controlled Substances Act, shall be deposited into the  
2 Secretary of State Evidence Fund.

3 In all convictions for offenses in violation of this Act,  
4 the Court may order restitution to the Secretary of any or all  
5 sums expended for the purchase of evidence, for the employment  
6 of persons to obtain evidence, and for the payment for any  
7 goods or services related to obtaining evidence. All such  
8 restitution received by the Secretary shall be deposited into  
9 the Secretary of State Evidence Fund. Moneys deposited into the  
10 fund shall, subject to appropriation, be used by the Secretary  
11 of State for the purposes provided for under the provisions of  
12 this Section.

13 (Source: P.A. 91-883, eff. 1-1-01.)

14 (625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

15 Sec. 6-103. What persons shall not be licensed as drivers  
16 or granted permits. The Secretary of State shall not issue,  
17 renew, or allow the retention of any driver's license nor issue  
18 any permit under this Code:

19 1. To any person, as a driver, who is under the age of  
20 18 years except as provided in Section 6-107, and except  
21 that an instruction permit may be issued under Section  
22 6-107.1 to a child who is not less than 15 years of age if  
23 the child is enrolled in an approved driver education  
24 course as defined in Section 1-103 of this Code and  
25 requires an instruction permit to participate therein,  
26 except that an instruction permit may be issued under the  
27 provisions of Section 6-107.1 to a child who is 17 years  
28 and 9 months of age without the child having enrolled in an  
29 approved driver education course and except that an  
30 instruction permit may be issued to a child who is at least  
31 15 years and 6 months of age, is enrolled in school, meets  
32 the educational requirements of the Driver Education Act,  
33 and has passed examinations the Secretary of State in his  
34 or her discretion may prescribe;

35 2. To any person who is under the age of 18 as an

1 operator of a motorcycle other than a motor driven cycle  
2 unless the person has, in addition to meeting the  
3 provisions of Section 6-107 of this Code, successfully  
4 completed a motorcycle training course approved by the  
5 Illinois Department of Transportation and successfully  
6 completes the required Secretary of State's motorcycle  
7 driver's examination;

8 3. To any person, as a driver, whose driver's license  
9 or permit has been suspended, during the suspension, nor to  
10 any person whose driver's license or permit has been  
11 revoked, except as provided in Sections 6-205, 6-206, and  
12 6-208;

13 4. To any person, as a driver, who is a user of alcohol  
14 or any other drug to a degree that renders the person  
15 incapable of safely driving a motor vehicle;

16 5. To any person, as a driver, who has previously been  
17 adjudged to be afflicted with or suffering from any mental  
18 or physical disability or disease and who has not at the  
19 time of application been restored to competency by the  
20 methods provided by law;

21 6. To any person, as a driver, who is required by the  
22 Secretary of State to submit an alcohol and drug evaluation  
23 or take an examination provided for in this Code unless the  
24 person has successfully passed the examination and  
25 submitted any required evaluation;

26 7. To any person who is required under the provisions  
27 of the laws of this State to deposit security or proof of  
28 financial responsibility and who has not deposited the  
29 security or proof;

30 8. To any person when the Secretary of State has good  
31 cause to believe that the person by reason of physical or  
32 mental disability would not be able to safely operate a  
33 motor vehicle upon the highways, unless the person shall  
34 furnish to the Secretary of State a verified written  
35 statement, acceptable to the Secretary of State, from a  
36 competent medical specialist to the effect that the

1 operation of a motor vehicle by the person would not be  
2 inimical to the public safety;

3 9. To any person, as a driver, who is 69 years of age  
4 or older, unless the person has successfully complied with  
5 the provisions of Section 6-109;

6 10. To any person convicted, within 12 months of  
7 application for a license, of any of the sexual offenses  
8 enumerated in paragraph 2 of subsection (b) of Section  
9 6-205;

10 11. To any person who is under the age of 21 years with  
11 a classification prohibited in paragraph (b) of Section  
12 6-104 and to any person who is under the age of 18 years  
13 with a classification prohibited in paragraph (c) of  
14 Section 6-104;

15 12. To any person who has been either convicted of or  
16 adjudicated under the Juvenile Court Act of 1987 based upon  
17 a violation of the Cannabis Control Act, ~~or~~ the Illinois  
18 Controlled Substances Act, or the Methamphetamine Control  
19 and Community Protection Act while that person was in  
20 actual physical control of a motor vehicle. For purposes of  
21 this Section, any person placed on probation under Section  
22 10 of the Cannabis Control Act, ~~or~~ Section 410 of the  
23 Illinois Controlled Substances Act, or Section 70 of the  
24 Methamphetamine Control and Community Protection Act shall  
25 not be considered convicted. Any person found guilty of  
26 this offense, while in actual physical control of a motor  
27 vehicle, shall have an entry made in the court record by  
28 the judge that this offense did occur while the person was  
29 in actual physical control of a motor vehicle and order the  
30 clerk of the court to report the violation to the Secretary  
31 of State as such. The Secretary of State shall not issue a  
32 new license or permit for a period of one year;

33 13. To any person who is under the age of 18 years and  
34 who has committed the offense of operating a motor vehicle  
35 without a valid license or permit in violation of Section  
36 6-101;

1           14. To any person who is 90 days or more delinquent in  
2 court ordered child support payments or has been  
3 adjudicated in arrears in an amount equal to 90 days'  
4 obligation or more and who has been found in contempt of  
5 court for failure to pay the support, subject to the  
6 requirements and procedures of Article VII of Chapter 7 of  
7 the Illinois Vehicle Code;

8           15. To any person released from a term of imprisonment  
9 for violating Section 9-3 of the Criminal Code of 1961 or a  
10 similar provision of a law of another state relating to  
11 reckless homicide or for violating subparagraph (F) of  
12 paragraph (1) of subsection (d) of Section 11-501 of this  
13 Code relating to aggravated driving under the influence of  
14 alcohol, other drug or drugs, intoxicating compound or  
15 compounds, or any combination thereof, if the violation was  
16 the proximate cause of a death, within 24 months of release  
17 from a term of imprisonment; ~~or~~

18           16. To any person who, with intent to influence any act  
19 related to the issuance of any driver's license or permit,  
20 by an employee of the Secretary of State's Office, or the  
21 owner or employee of any commercial driver training school  
22 licensed by the Secretary of State, or any other individual  
23 authorized by the laws of this State to give driving  
24 instructions or administer all or part of a driver's  
25 license examination, promises or tenders to that person any  
26 property or personal advantage which that person is not  
27 authorized by law to accept. Any persons promising or  
28 tendering such property or personal advantage shall be  
29 disqualified from holding any class of driver's license or  
30 permit for 120 consecutive days. The Secretary of State  
31 shall establish by rule the procedures for implementing  
32 this period of disqualification and the procedures by which  
33 persons so disqualified may obtain administrative review  
34 of the decision to disqualify; or

35           17. ~~16.~~ To any person for whom the Secretary of State  
36 cannot verify the accuracy of any information or

1 documentation submitted in application for a driver's  
2 license.

3 The Secretary of State shall retain all conviction  
4 information, if the information is required to be held  
5 confidential under the Juvenile Court Act of 1987.

6 (Source: P.A. 92-343, eff. 1-1-02; 93-174, eff. 1-1-04; 93-712,  
7 eff. 1-1-05; 93-783, eff. 1-1-05; 93-788, eff. 1-1-05; 93-895,  
8 eff. 1-1-05; revised 10-22-04.)

9 (625 ILCS 5/6-106.1) (from Ch. 95 1/2, par. 6-106.1)

10 Sec. 6-106.1. School bus driver permit.

11 (a) The Secretary of State shall issue a school bus driver  
12 permit to those applicants who have met all the requirements of  
13 the application and screening process under this Section to  
14 insure the welfare and safety of children who are transported  
15 on school buses throughout the State of Illinois. Applicants  
16 shall obtain the proper application required by the Secretary  
17 of State from their prospective or current employer and submit  
18 the completed application to the prospective or current  
19 employer along with the necessary fingerprint submission as  
20 required by the Department of State Police to conduct  
21 fingerprint based criminal background checks on current and  
22 future information available in the state system and current  
23 information available through the Federal Bureau of  
24 Investigation's system. Applicants who have completed the  
25 fingerprinting requirements shall not be subjected to the  
26 fingerprinting process when applying for subsequent permits or  
27 submitting proof of successful completion of the annual  
28 refresher course. Individuals who on the effective date of this  
29 Act possess a valid school bus driver permit that has been  
30 previously issued by the appropriate Regional School  
31 Superintendent are not subject to the fingerprinting  
32 provisions of this Section as long as the permit remains valid  
33 and does not lapse. The applicant shall be required to pay all  
34 related application and fingerprinting fees as established by  
35 rule including, but not limited to, the amounts established by

1 the Department of State Police and the Federal Bureau of  
2 Investigation to process fingerprint based criminal background  
3 investigations. All fees paid for fingerprint processing  
4 services under this Section shall be deposited into the State  
5 Police Services Fund for the cost incurred in processing the  
6 fingerprint based criminal background investigations. All  
7 other fees paid under this Section shall be deposited into the  
8 Road Fund for the purpose of defraying the costs of the  
9 Secretary of State in administering this Section. All  
10 applicants must:

11 1. be 21 years of age or older;

12 2. possess a valid and properly classified driver's  
13 license issued by the Secretary of State;

14 3. possess a valid driver's license, which has not been  
15 revoked, suspended, or canceled for 3 years immediately  
16 prior to the date of application, or have not had his or  
17 her commercial motor vehicle driving privileges  
18 disqualified within the 3 years immediately prior to the  
19 date of application;

20 4. successfully pass a written test, administered by  
21 the Secretary of State, on school bus operation, school bus  
22 safety, and special traffic laws relating to school buses  
23 and submit to a review of the applicant's driving habits by  
24 the Secretary of State at the time the written test is  
25 given;

26 5. demonstrate ability to exercise reasonable care in  
27 the operation of school buses in accordance with rules  
28 promulgated by the Secretary of State;

29 6. demonstrate physical fitness to operate school  
30 buses by submitting the results of a medical examination,  
31 including tests for drug use for each applicant not subject  
32 to such testing pursuant to federal law, conducted by a  
33 licensed physician, an advanced practice nurse who has a  
34 written collaborative agreement with a collaborating  
35 physician which authorizes him or her to perform medical  
36 examinations, or a physician assistant who has been

1 delegated the performance of medical examinations by his or  
2 her supervising physician within 90 days of the date of  
3 application according to standards promulgated by the  
4 Secretary of State;

5 7. affirm under penalties of perjury that he or she has  
6 not made a false statement or knowingly concealed a  
7 material fact in any application for permit;

8 8. have completed an initial classroom course,  
9 including first aid procedures, in school bus driver safety  
10 as promulgated by the Secretary of State; and after  
11 satisfactory completion of said initial course an annual  
12 refresher course; such courses and the agency or  
13 organization conducting such courses shall be approved by  
14 the Secretary of State; failure to complete the annual  
15 refresher course, shall result in cancellation of the  
16 permit until such course is completed;

17 9. not have been convicted of 2 or more serious traffic  
18 offenses, as defined by rule, within one year prior to the  
19 date of application that may endanger the life or safety of  
20 any of the driver's passengers within the duration of the  
21 permit period;

22 10. not have been convicted of reckless driving,  
23 driving while intoxicated, or reckless homicide resulting  
24 from the operation of a motor vehicle within 3 years of the  
25 date of application;

26 11. not have been convicted of committing or attempting  
27 to commit any one or more of the following offenses: (i)  
28 those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1,  
29 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6,  
30 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16,  
31 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1,  
32 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4,  
33 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11,  
34 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5,  
35 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1,  
36 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and

1 33A-2, and in subsection (a) and subsection (b), clause  
2 (1), of Section 12-4 of the Criminal Code of 1961; (ii)  
3 those offenses defined in the Cannabis Control Act except  
4 those offenses defined in subsections (a) and (b) of  
5 Section 4, and subsection (a) of Section 5 of the Cannabis  
6 Control Act; (iii) those offenses defined in the Illinois  
7 Controlled Substances Act; (iv) those offenses defined in  
8 the Methamphetamine Control and Community Protection Act;  
9 (v) ~~(iv)~~ any offense committed or attempted in any other  
10 state or against the laws of the United States, which if  
11 committed or attempted in this State would be punishable as  
12 one or more of the foregoing offenses; (vi) ~~(v)~~ the  
13 offenses defined in Section 4.1 and 5.1 of the Wrongs to  
14 Children Act and (vii) ~~(vi)~~ those offenses defined in  
15 Section 6-16 of the Liquor Control Act of 1934;

16 12. not have been repeatedly involved as a driver in  
17 motor vehicle collisions or been repeatedly convicted of  
18 offenses against laws and ordinances regulating the  
19 movement of traffic, to a degree which indicates lack of  
20 ability to exercise ordinary and reasonable care in the  
21 safe operation of a motor vehicle or disrespect for the  
22 traffic laws and the safety of other persons upon the  
23 highway;

24 13. not have, through the unlawful operation of a motor  
25 vehicle, caused an accident resulting in the death of any  
26 person; and

27 14. not have, within the last 5 years, been adjudged to  
28 be afflicted with or suffering from any mental disability  
29 or disease.

30 (b) A school bus driver permit shall be valid for a period  
31 specified by the Secretary of State as set forth by rule. It  
32 shall be renewable upon compliance with subsection (a) of this  
33 Section.

34 (c) A school bus driver permit shall contain the holder's  
35 driver's license number, legal name, residence address, zip  
36 code, social security number and date of birth, a brief

1 description of the holder and a space for signature. The  
2 Secretary of State may require a suitable photograph of the  
3 holder.

4 (d) The employer shall be responsible for conducting a  
5 pre-employment interview with prospective school bus driver  
6 candidates, distributing school bus driver applications and  
7 medical forms to be completed by the applicant, and submitting  
8 the applicant's fingerprint cards to the Department of State  
9 Police that are required for the criminal background  
10 investigations. The employer shall certify in writing to the  
11 Secretary of State that all pre-employment conditions have been  
12 successfully completed including the successful completion of  
13 an Illinois specific criminal background investigation through  
14 the Department of State Police and the submission of necessary  
15 fingerprints to the Federal Bureau of Investigation for  
16 criminal history information available through the Federal  
17 Bureau of Investigation system. The applicant shall present the  
18 certification to the Secretary of State at the time of  
19 submitting the school bus driver permit application.

20 (e) Permits shall initially be provisional upon receiving  
21 certification from the employer that all pre-employment  
22 conditions have been successfully completed, and upon  
23 successful completion of all training and examination  
24 requirements for the classification of the vehicle to be  
25 operated, the Secretary of State shall provisionally issue a  
26 School Bus Driver Permit. The permit shall remain in a  
27 provisional status pending the completion of the Federal Bureau  
28 of Investigation's criminal background investigation based  
29 upon fingerprinting specimens submitted to the Federal Bureau  
30 of Investigation by the Department of State Police. The Federal  
31 Bureau of Investigation shall report the findings directly to  
32 the Secretary of State. The Secretary of State shall remove the  
33 bus driver permit from provisional status upon the applicant's  
34 successful completion of the Federal Bureau of Investigation's  
35 criminal background investigation.

36 (f) A school bus driver permit holder shall notify the

1 employer and the Secretary of State if he or she is convicted  
2 in another state of an offense that would make him or her  
3 ineligible for a permit under subsection (a) of this Section.  
4 The written notification shall be made within 5 days of the  
5 entry of the conviction. Failure of the permit holder to  
6 provide the notification is punishable as a petty offense for a  
7 first violation and a Class B misdemeanor for a second or  
8 subsequent violation.

9 (g) Cancellation; suspension; notice and procedure.

10 (1) The Secretary of State shall cancel a school bus  
11 driver permit of an applicant whose criminal background  
12 investigation discloses that he or she is not in compliance  
13 with the provisions of subsection (a) of this Section.

14 (2) The Secretary of State shall cancel a school bus  
15 driver permit when he or she receives notice that the  
16 permit holder fails to comply with any provision of this  
17 Section or any rule promulgated for the administration of  
18 this Section.

19 (3) The Secretary of State shall cancel a school bus  
20 driver permit if the permit holder's restricted commercial  
21 or commercial driving privileges are withdrawn or  
22 otherwise invalidated.

23 (4) The Secretary of State may not issue a school bus  
24 driver permit for a period of 3 years to an applicant who  
25 fails to obtain a negative result on a drug test as  
26 required in item 6 of subsection (a) of this Section or  
27 under federal law.

28 (5) The Secretary of State shall forthwith suspend a  
29 school bus driver permit for a period of 3 years upon  
30 receiving notice that the holder has failed to obtain a  
31 negative result on a drug test as required in item 6 of  
32 subsection (a) of this Section or under federal law.

33 The Secretary of State shall notify the State  
34 Superintendent of Education and the permit holder's  
35 prospective or current employer that the applicant has (1) has  
36 failed a criminal background investigation or (2) is no longer

1 eligible for a school bus driver permit; and of the related  
2 cancellation of the applicant's provisional school bus driver  
3 permit. The cancellation shall remain in effect pending the  
4 outcome of a hearing pursuant to Section 2-118 of this Code.  
5 The scope of the hearing shall be limited to the issuance  
6 criteria contained in subsection (a) of this Section. A  
7 petition requesting a hearing shall be submitted to the  
8 Secretary of State and shall contain the reason the individual  
9 feels he or she is entitled to a school bus driver permit. The  
10 permit holder's employer shall notify in writing to the  
11 Secretary of State that the employer has certified the removal  
12 of the offending school bus driver from service prior to the  
13 start of that school bus driver's next workshift. An employing  
14 school board that fails to remove the offending school bus  
15 driver from service is subject to the penalties defined in  
16 Section 3-14.23 of the School Code. A school bus contractor who  
17 violates a provision of this Section is subject to the  
18 penalties defined in Section 6-106.11.

19 All valid school bus driver permits issued under this  
20 Section prior to January 1, 1995, shall remain effective until  
21 their expiration date unless otherwise invalidated.

22 (Source: P.A. 92-703, eff. 7-19-02; 93-895, eff. 1-1-05.)

23 (625 ILCS 5/6-107) (from Ch. 95 1/2, par. 6-107)

24 Sec. 6-107. Graduated license.

25 (a) The purpose of the Graduated Licensing Program is to  
26 develop safe and mature driving habits in young, inexperienced  
27 drivers and reduce or prevent motor vehicle accidents,  
28 fatalities, and injuries by:

29 (1) providing for an increase in the time of practice  
30 period before granting permission to obtain a driver's  
31 license;

32 (2) strengthening driver licensing and testing  
33 standards for persons under the age of 21 years;

34 (3) sanctioning driving privileges of drivers under  
35 age 21 who have committed serious traffic violations or

1 other specified offenses; and

2 (4) setting stricter standards to promote the public's  
3 health and safety.

4 (b) The application of any person under the age of 18  
5 years, and not legally emancipated by marriage, for a drivers  
6 license or permit to operate a motor vehicle issued under the  
7 laws of this State, shall be accompanied by the written consent  
8 of either parent of the applicant; otherwise by the guardian  
9 having custody of the applicant, or in the event there is no  
10 parent or guardian, then by another responsible adult.

11 No graduated driver's license shall be issued to any  
12 applicant under 18 years of age, unless the applicant is at  
13 least 16 years of age and has:

14 (1) Held a valid instruction permit for a minimum of 3  
15 months.

16 (2) Passed an approved driver education course and  
17 submits proof of having passed the course as may be  
18 required.

19 (3) certification by the parent, legal guardian, or  
20 responsible adult that the applicant has had a minimum of  
21 25 hours of behind-the-wheel practice time and is  
22 sufficiently prepared and able to safely operate a motor  
23 vehicle.

24 (c) No graduated driver's license or permit shall be issued  
25 to any applicant under 18 years of age who has committed the  
26 offense of operating a motor vehicle without a valid license or  
27 permit in violation of Section 6-101 of this Code and no  
28 graduated driver's license or permit shall be issued to any  
29 applicant under 18 years of age who has committed an offense  
30 that would otherwise result in a mandatory revocation of a  
31 license or permit as provided in Section 6-205 of this Code or  
32 who has been either convicted of or adjudicated a delinquent  
33 based upon a violation of the Cannabis Control Act, ~~or~~ the  
34 Illinois Controlled Substances Act, or the Methamphetamine  
35 Control and Community Protection Act while that individual was  
36 in actual physical control of a motor vehicle. For purposes of

1 this Section, any person placed on probation under Section 10  
2 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois  
3 Controlled Substances Act, or Section 70 of the Methamphetamine  
4 Control and Community Protection Act shall not be considered  
5 convicted. Any person found guilty of this offense, while in  
6 actual physical control of a motor vehicle, shall have an entry  
7 made in the court record by the judge that this offense did  
8 occur while the person was in actual physical control of a  
9 motor vehicle and order the clerk of the court to report the  
10 violation to the Secretary of State as such.

11 (d) No graduated driver's license shall be issued for 6  
12 months to any applicant under the age of 18 years who has been  
13 convicted of any offense defined as a serious traffic violation  
14 in this Code or a similar provision of a local ordinance.

15 (e) No graduated driver's license holder under the age of  
16 18 years shall operate any motor vehicle, except a motor driven  
17 cycle or motorcycle, with more than one passenger in the front  
18 seat of the motor vehicle and no more passengers in the back  
19 seats than the number of available seat safety belts as set  
20 forth in Section 12-603 of this Code.

21 (f) No graduated driver's license holder under the age of  
22 18 shall operate a motor vehicle unless each driver and front  
23 or back seat passenger under the age of 18 is wearing a  
24 properly adjusted and fastened seat safety belt.

25 (g) If a graduated driver's license holder is under the age  
26 of 18 when he or she receives the license, for the first 6  
27 months he or she holds the license or until he or she reaches  
28 the age of 18, whichever occurs sooner, the graduated license  
29 holder may not operate a motor vehicle with more than one  
30 passenger in the vehicle who is under the age of 20, unless any  
31 additional passenger or passengers are siblings,  
32 step-siblings, children, or stepchildren of the driver.

33 (Source: P.A. 93-101, eff. 1-1-04; 93-788, eff. 1-1-05.)

34 (625 ILCS 5/6-108) (from Ch. 95 1/2, par. 6-108)

35 Sec. 6-108. Cancellation of license issued to minor.

1 (a) The Secretary of State shall cancel the license or  
2 permit of any minor under the age of 18 years in any of the  
3 following events:

4 1. Upon the verified written request of the person who  
5 consented to the application of the minor that the license  
6 or permit be cancelled;

7 2. Upon receipt of satisfactory evidence of the death  
8 of the person who consented to the application of the  
9 minor;

10 3. Upon receipt of satisfactory evidence that the  
11 person who consented to the application of a minor no  
12 longer has legal custody of the minor.

13 After cancellation, the Secretary of State shall not issue  
14 a new license or permit until the applicant meets the  
15 provisions of Section 6-107 of this Code.

16 (b) The Secretary of State shall cancel the license or  
17 permit of any person under the age of 18 years if he or she is  
18 convicted of violating the Cannabis Control Act, ~~or~~ the  
19 Illinois Controlled Substances Act, or the Methamphetamine  
20 Control and Community Protection Act while that person was in  
21 actual physical control of a motor vehicle. For purposes of  
22 this Section, any person placed on probation under Section 10  
23 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois  
24 Controlled Substances Act, or Section 70 of the Methamphetamine  
25 Control and Community Protection Act shall not be considered  
26 convicted. Any person found guilty of this offense, while in  
27 actual physical control of a motor vehicle, shall have an entry  
28 made in the court record by the judge that this offense did  
29 occur while the person was in actual physical control of a  
30 motor vehicle and order the clerk of the court to report the  
31 violation to the Secretary of State as such. After the  
32 cancellation, the Secretary of State shall not issue a new  
33 license or permit for a period of one year after the date of  
34 cancellation or until the minor attains the age of 18 years,  
35 whichever is longer. However, upon application, the Secretary  
36 of State may, if satisfied that the person applying will not

1 endanger the public safety, or welfare, issue a restricted  
2 driving permit granting the privilege of driving a motor  
3 vehicle between the person's residence and person's place of  
4 employment or within the scope of the person's employment  
5 related duties, or to allow transportation for the person or a  
6 household member of the person's family for the receipt of  
7 necessary medical care or, if the professional evaluation  
8 indicates, provide transportation for the petitioner for  
9 alcohol remedial or rehabilitative activity, or for the person  
10 to attend classes, as a student, in an accredited educational  
11 institution; if the person is able to demonstrate that no  
12 alternative means of transportation is reasonably available;  
13 provided that the Secretary's discretion shall be limited to  
14 cases where undue hardship would result from a failure to issue  
15 such restricted driving permit. In each case the Secretary of  
16 State may issue a restricted driving permit for a period as he  
17 deems appropriate, except that the permit shall expire within  
18 one year from the date of issuance. A restricted driving permit  
19 issued hereunder shall be subject to cancellation, revocation,  
20 and suspension by the Secretary of State in like manner and for  
21 like cause as a driver's license issued hereunder may be  
22 cancelled, revoked, or suspended; except that a conviction upon  
23 one or more offenses against laws or ordinances regulating the  
24 movement of traffic shall be deemed sufficient cause for the  
25 revocation, suspension, or cancellation of a restricted  
26 driving permit. The Secretary of State may, as a condition to  
27 the issuance of a restricted driving permit, require the  
28 applicant to participate in a driver remedial or rehabilitative  
29 program. Thereafter, upon reapplication for a license as  
30 provided in Section 6-106 of this Code or a permit as provided  
31 in Section 6-105 of this Code and upon payment of the  
32 appropriate application fee, the Secretary of State shall issue  
33 the applicant a license as provided in Section 6-106 of this  
34 Code or shall issue the applicant a permit as provided in  
35 Section 6-105.

36 (Source: P.A. 86-1450; 87-1114.)

1 (625 ILCS 5/6-201) (from Ch. 95 1/2, par. 6-201)

2 Sec. 6-201. Authority to cancel licenses and permits.

3 (a) The Secretary of State is authorized to cancel any  
4 license or permit upon determining that the holder thereof:

5 1. was not entitled to the issuance thereof hereunder;

6 or

7 2. failed to give the required or correct information  
8 in his application; or

9 3. failed to pay any fees, civil penalties owed to the  
10 Illinois Commerce Commission, or taxes due under this Act  
11 and upon reasonable notice and demand; or

12 4. committed any fraud in the making of such  
13 application; or

14 5. is ineligible therefor under the provisions of  
15 Section 6-103 of this Act, as amended; or

16 6. has refused or neglected to submit an alcohol, drug,  
17 and intoxicating compound evaluation or to submit to  
18 examination or re-examination as required under this Act;  
19 or

20 7. has been convicted of violating the Cannabis Control  
21 Act, the Illinois Controlled Substances Act, the  
22 Methamphetamine Control and Community Protection Act, or  
23 the Use of Intoxicating Compounds Act while that individual  
24 was in actual physical control of a motor vehicle. For  
25 purposes of this Section, any person placed on probation  
26 under Section 10 of the Cannabis Control Act, ~~or~~ Section  
27 410 of the Illinois Controlled Substances Act, or Section  
28 70 of the Methamphetamine Control and Community Protection  
29 Act shall not be considered convicted. Any person found  
30 guilty of this offense, while in actual physical control of  
31 a motor vehicle, shall have an entry made in the court  
32 record by the judge that this offense did occur while the  
33 person was in actual physical control of a motor vehicle  
34 and order the clerk of the court to report the violation to  
35 the Secretary of State as such. After the cancellation, the

1 Secretary of State shall not issue a new license or permit  
2 for a period of one year after the date of cancellation.  
3 However, upon application, the Secretary of State may, if  
4 satisfied that the person applying will not endanger the  
5 public safety, or welfare, issue a restricted driving  
6 permit granting the privilege of driving a motor vehicle  
7 between the person's residence and person's place of  
8 employment or within the scope of the person's employment  
9 related duties, or to allow transportation for the person  
10 or a household member of the person's family for the  
11 receipt of necessary medical care or, if the professional  
12 evaluation indicates, provide transportation for the  
13 petitioner for alcohol remedial or rehabilitative  
14 activity, or for the person to attend classes, as a  
15 student, in an accredited educational institution; if the  
16 person is able to demonstrate that no alternative means of  
17 transportation is reasonably available; provided that the  
18 Secretary's discretion shall be limited to cases where  
19 undue hardship would result from a failure to issue such  
20 restricted driving permit. In each case the Secretary of  
21 State may issue such restricted driving permit for such  
22 period as he deems appropriate, except that such permit  
23 shall expire within one year from the date of issuance. A  
24 restricted driving permit issued hereunder shall be  
25 subject to cancellation, revocation and suspension by the  
26 Secretary of State in like manner and for like cause as a  
27 driver's license issued hereunder may be cancelled,  
28 revoked or suspended; except that a conviction upon one or  
29 more offenses against laws or ordinances regulating the  
30 movement of traffic shall be deemed sufficient cause for  
31 the revocation, suspension or cancellation of a restricted  
32 driving permit. The Secretary of State may, as a condition  
33 to the issuance of a restricted driving permit, require the  
34 applicant to participate in a driver remedial or  
35 rehabilitative program; or

36 8. failed to submit a report as required by Section

1           6-116.5 of this Code.

2           (b) Upon such cancellation the licensee or permittee must  
3 surrender the license or permit so cancelled to the Secretary  
4 of State.

5           (c) Except as provided in Sections 6-206.1 and 7-702.1, the  
6 Secretary of State shall have exclusive authority to grant,  
7 issue, deny, cancel, suspend and revoke driving privileges,  
8 drivers' licenses and restricted driving permits.

9           (Source: P.A. 89-92, eff. 7-1-96; 89-584, eff. 7-31-96; 90-779,  
10 eff. 1-1-99.)

11           (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

12           Sec. 6-206. Discretionary authority to suspend or revoke  
13 license or permit; Right to a hearing.

14           (a) The Secretary of State is authorized to suspend or  
15 revoke the driving privileges of any person without preliminary  
16 hearing upon a showing of the person's records or other  
17 sufficient evidence that the person:

18           1. Has committed an offense for which mandatory  
19 revocation of a driver's license or permit is required upon  
20 conviction;

21           2. Has been convicted of not less than 3 offenses  
22 against traffic regulations governing the movement of  
23 vehicles committed within any 12 month period. No  
24 revocation or suspension shall be entered more than 6  
25 months after the date of last conviction;

26           3. Has been repeatedly involved as a driver in motor  
27 vehicle collisions or has been repeatedly convicted of  
28 offenses against laws and ordinances regulating the  
29 movement of traffic, to a degree that indicates lack of  
30 ability to exercise ordinary and reasonable care in the  
31 safe operation of a motor vehicle or disrespect for the  
32 traffic laws and the safety of other persons upon the  
33 highway;

34           4. Has by the unlawful operation of a motor vehicle  
35 caused or contributed to an accident resulting in death or

1 injury requiring immediate professional treatment in a  
2 medical facility or doctor's office to any person, except  
3 that any suspension or revocation imposed by the Secretary  
4 of State under the provisions of this subsection shall  
5 start no later than 6 months after being convicted of  
6 violating a law or ordinance regulating the movement of  
7 traffic, which violation is related to the accident, or  
8 shall start not more than one year after the date of the  
9 accident, whichever date occurs later;

10 5. Has permitted an unlawful or fraudulent use of a  
11 driver's license, identification card, or permit;

12 6. Has been lawfully convicted of an offense or  
13 offenses in another state, including the authorization  
14 contained in Section 6-203.1, which if committed within  
15 this State would be grounds for suspension or revocation;

16 7. Has refused or failed to submit to an examination  
17 provided for by Section 6-207 or has failed to pass the  
18 examination;

19 8. Is ineligible for a driver's license or permit under  
20 the provisions of Section 6-103;

21 9. Has made a false statement or knowingly concealed a  
22 material fact or has used false information or  
23 identification in any application for a license,  
24 identification card, or permit;

25 10. Has possessed, displayed, or attempted to  
26 fraudulently use any license, identification card, or  
27 permit not issued to the person;

28 11. Has operated a motor vehicle upon a highway of this  
29 State when the person's driving privilege or privilege to  
30 obtain a driver's license or permit was revoked or  
31 suspended unless the operation was authorized by a judicial  
32 driving permit, probationary license to drive, or a  
33 restricted driving permit issued under this Code;

34 12. Has submitted to any portion of the application  
35 process for another person or has obtained the services of  
36 another person to submit to any portion of the application

1 process for the purpose of obtaining a license,  
2 identification card, or permit for some other person;

3 13. Has operated a motor vehicle upon a highway of this  
4 State when the person's driver's license or permit was  
5 invalid under the provisions of Sections 6-107.1 and 6-110;

6 14. Has committed a violation of Section 6-301,  
7 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B  
8 of the Illinois Identification Card Act;

9 15. Has been convicted of violating Section 21-2 of the  
10 Criminal Code of 1961 relating to criminal trespass to  
11 vehicles in which case, the suspension shall be for one  
12 year;

13 16. Has been convicted of violating Section 11-204 of  
14 this Code relating to fleeing from a peace officer;

15 17. Has refused to submit to a test, or tests, as  
16 required under Section 11-501.1 of this Code and the person  
17 has not sought a hearing as provided for in Section  
18 11-501.1;

19 18. Has, since issuance of a driver's license or  
20 permit, been adjudged to be afflicted with or suffering  
21 from any mental disability or disease;

22 19. Has committed a violation of paragraph (a) or (b)  
23 of Section 6-101 relating to driving without a driver's  
24 license;

25 20. Has been convicted of violating Section 6-104  
26 relating to classification of driver's license;

27 21. Has been convicted of violating Section 11-402 of  
28 this Code relating to leaving the scene of an accident  
29 resulting in damage to a vehicle in excess of \$1,000, in  
30 which case the suspension shall be for one year;

31 22. Has used a motor vehicle in violating paragraph  
32 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of  
33 the Criminal Code of 1961 relating to unlawful use of  
34 weapons, in which case the suspension shall be for one  
35 year;

36 23. Has, as a driver, been convicted of committing a

1 violation of paragraph (a) of Section 11-502 of this Code  
2 for a second or subsequent time within one year of a  
3 similar violation;

4 24. Has been convicted by a court-martial or punished  
5 by non-judicial punishment by military authorities of the  
6 United States at a military installation in Illinois of or  
7 for a traffic related offense that is the same as or  
8 similar to an offense specified under Section 6-205 or  
9 6-206 of this Code;

10 25. Has permitted any form of identification to be used  
11 by another in the application process in order to obtain or  
12 attempt to obtain a license, identification card, or  
13 permit;

14 26. Has altered or attempted to alter a license or has  
15 possessed an altered license, identification card, or  
16 permit;

17 27. Has violated Section 6-16 of the Liquor Control Act  
18 of 1934;

19 28. Has been convicted of the illegal possession, while  
20 operating or in actual physical control, as a driver, of a  
21 motor vehicle, of any controlled substance prohibited  
22 under the Illinois Controlled Substances Act, ~~or~~ any  
23 cannabis prohibited under ~~the provisions of~~ the Cannabis  
24 Control Act, or any methamphetamine prohibited under the  
25 Methamphetamine Control and Community Protection Act, in  
26 which case the person's driving privileges shall be  
27 suspended for one year, and any driver who is convicted of  
28 a second or subsequent offense, within 5 years of a  
29 previous conviction, for the illegal possession, while  
30 operating or in actual physical control, as a driver, of a  
31 motor vehicle, of any controlled substance prohibited  
32 under ~~the provisions of~~ the Illinois Controlled Substances  
33 Act, ~~or~~ any cannabis prohibited under the Cannabis Control  
34 Act, or any methamphetamine prohibited under the  
35 Methamphetamine Control and Community Protection Act shall  
36 be suspended for 5 years. Any defendant found guilty of

1 this offense while operating a motor vehicle, shall have an  
2 entry made in the court record by the presiding judge that  
3 this offense did occur while the defendant was operating a  
4 motor vehicle and order the clerk of the court to report  
5 the violation to the Secretary of State;

6 29. Has been convicted of the following offenses that  
7 were committed while the person was operating or in actual  
8 physical control, as a driver, of a motor vehicle: criminal  
9 sexual assault, predatory criminal sexual assault of a  
10 child, aggravated criminal sexual assault, criminal sexual  
11 abuse, aggravated criminal sexual abuse, juvenile pimping,  
12 soliciting for a juvenile prostitute and the manufacture,  
13 sale or delivery of controlled substances or instruments  
14 used for illegal drug use or abuse in which case the  
15 driver's driving privileges shall be suspended for one  
16 year;

17 30. Has been convicted a second or subsequent time for  
18 any combination of the offenses named in paragraph 29 of  
19 this subsection, in which case the person's driving  
20 privileges shall be suspended for 5 years;

21 31. Has refused to submit to a test as required by  
22 Section 11-501.6 or has submitted to a test resulting in an  
23 alcohol concentration of 0.08 or more or any amount of a  
24 drug, substance, or compound resulting from the unlawful  
25 use or consumption of cannabis as listed in the Cannabis  
26 Control Act, a controlled substance as listed in the  
27 Illinois Controlled Substances Act, or an intoxicating  
28 compound as listed in the Use of Intoxicating Compounds  
29 Act, in which case the penalty shall be as prescribed in  
30 Section 6-208.1;

31 32. Has been convicted of Section 24-1.2 of the  
32 Criminal Code of 1961 relating to the aggravated discharge  
33 of a firearm if the offender was located in a motor vehicle  
34 at the time the firearm was discharged, in which case the  
35 suspension shall be for 3 years;

36 33. Has as a driver, who was less than 21 years of age

1 on the date of the offense, been convicted a first time of  
2 a violation of paragraph (a) of Section 11-502 of this Code  
3 or a similar provision of a local ordinance;

4 34. Has committed a violation of Section 11-1301.5 of  
5 this Code;

6 35. Has committed a violation of Section 11-1301.6 of  
7 this Code;

8 36. Is under the age of 21 years at the time of arrest  
9 and has been convicted of not less than 2 offenses against  
10 traffic regulations governing the movement of vehicles  
11 committed within any 24 month period. No revocation or  
12 suspension shall be entered more than 6 months after the  
13 date of last conviction;

14 37. Has committed a violation of subsection (c) of  
15 Section 11-907 of this Code;

16 38. Has been convicted of a violation of Section 6-20  
17 of the Liquor Control Act of 1934 or a similar provision of  
18 a local ordinance;

19 39. Has committed a second or subsequent violation of  
20 Section 11-1201 of this Code; ~~or~~

21 40. Has committed a violation of subsection (a-1) of  
22 Section 11-908 of this Code; or-

23 41. ~~40.~~ Has committed a second or subsequent violation  
24 of Section 11-605.1 of this Code within 2 years of the date  
25 of the previous violation, in which case the suspension  
26 shall be for 90 days.

27 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,  
28 and 27 of this subsection, license means any driver's license,  
29 any traffic ticket issued when the person's driver's license is  
30 deposited in lieu of bail, a suspension notice issued by the  
31 Secretary of State, a duplicate or corrected driver's license,  
32 a probationary driver's license or a temporary driver's  
33 license.

34 (b) If any conviction forming the basis of a suspension or  
35 revocation authorized under this Section is appealed, the  
36 Secretary of State may rescind or withhold the entry of the

1 order of suspension or revocation, as the case may be, provided  
2 that a certified copy of a stay order of a court is filed with  
3 the Secretary of State. If the conviction is affirmed on  
4 appeal, the date of the conviction shall relate back to the  
5 time the original judgment of conviction was entered and the 6  
6 month limitation prescribed shall not apply.

7 (c) 1. Upon suspending or revoking the driver's license or  
8 permit of any person as authorized in this Section, the  
9 Secretary of State shall immediately notify the person in  
10 writing of the revocation or suspension. The notice to be  
11 deposited in the United States mail, postage prepaid, to  
12 the last known address of the person.

13 2. If the Secretary of State suspends the driver's  
14 license of a person under subsection 2 of paragraph (a) of  
15 this Section, a person's privilege to operate a vehicle as  
16 an occupation shall not be suspended, provided an affidavit  
17 is properly completed, the appropriate fee received, and a  
18 permit issued prior to the effective date of the  
19 suspension, unless 5 offenses were committed, at least 2 of  
20 which occurred while operating a commercial vehicle in  
21 connection with the driver's regular occupation. All other  
22 driving privileges shall be suspended by the Secretary of  
23 State. Any driver prior to operating a vehicle for  
24 occupational purposes only must submit the affidavit on  
25 forms to be provided by the Secretary of State setting  
26 forth the facts of the person's occupation. The affidavit  
27 shall also state the number of offenses committed while  
28 operating a vehicle in connection with the driver's regular  
29 occupation. The affidavit shall be accompanied by the  
30 driver's license. Upon receipt of a properly completed  
31 affidavit, the Secretary of State shall issue the driver a  
32 permit to operate a vehicle in connection with the driver's  
33 regular occupation only. Unless the permit is issued by the  
34 Secretary of State prior to the date of suspension, the  
35 privilege to drive any motor vehicle shall be suspended as  
36 set forth in the notice that was mailed under this Section.

1 If an affidavit is received subsequent to the effective  
2 date of this suspension, a permit may be issued for the  
3 remainder of the suspension period.

4 The provisions of this subparagraph shall not apply to  
5 any driver required to obtain a commercial driver's license  
6 under Section 6-507 during the period of a disqualification  
7 of commercial driving privileges under Section 6-514.

8 Any person who falsely states any fact in the affidavit  
9 required herein shall be guilty of perjury under Section  
10 6-302 and upon conviction thereof shall have all driving  
11 privileges revoked without further rights.

12 3. At the conclusion of a hearing under Section 2-118  
13 of this Code, the Secretary of State shall either rescind  
14 or continue an order of revocation or shall substitute an  
15 order of suspension; or, good cause appearing therefor,  
16 rescind, continue, change, or extend the order of  
17 suspension. If the Secretary of State does not rescind the  
18 order, the Secretary may upon application, to relieve undue  
19 hardship, issue a restricted driving permit granting the  
20 privilege of driving a motor vehicle between the  
21 petitioner's residence and petitioner's place of  
22 employment or within the scope of his employment related  
23 duties, or to allow transportation for the petitioner, or a  
24 household member of the petitioner's family, to receive  
25 necessary medical care and if the professional evaluation  
26 indicates, provide transportation for alcohol remedial or  
27 rehabilitative activity, or for the petitioner to attend  
28 classes, as a student, in an accredited educational  
29 institution; if the petitioner is able to demonstrate that  
30 no alternative means of transportation is reasonably  
31 available and the petitioner will not endanger the public  
32 safety or welfare.

33 If a person's license or permit has been revoked or  
34 suspended due to 2 or more convictions of violating Section  
35 11-501 of this Code or a similar provision of a local  
36 ordinance or a similar out-of-state offense, arising out of

1 separate occurrences, that person, if issued a restricted  
2 driving permit, may not operate a vehicle unless it has  
3 been equipped with an ignition interlock device as defined  
4 in Section 1-129.1.

5 If a person's license or permit has been revoked or  
6 suspended 2 or more times within a 10 year period due to a  
7 single conviction of violating Section 11-501 of this Code  
8 or a similar provision of a local ordinance or a similar  
9 out-of-state offense, and a statutory summary suspension  
10 under Section 11-501.1, or 2 or more statutory summary  
11 suspensions, or combination of 2 offenses, or of an offense  
12 and a statutory summary suspension, arising out of separate  
13 occurrences, that person, if issued a restricted driving  
14 permit, may not operate a vehicle unless it has been  
15 equipped with an ignition interlock device as defined in  
16 Section 1-129.1. The person must pay to the Secretary of  
17 State DUI Administration Fund an amount not to exceed \$20  
18 per month. The Secretary shall establish by rule the amount  
19 and the procedures, terms, and conditions relating to these  
20 fees. If the restricted driving permit was issued for  
21 employment purposes, then this provision does not apply to  
22 the operation of an occupational vehicle owned or leased by  
23 that person's employer. In each case the Secretary may  
24 issue a restricted driving permit for a period deemed  
25 appropriate, except that all permits shall expire within  
26 one year from the date of issuance. The Secretary may not,  
27 however, issue a restricted driving permit to any person  
28 whose current revocation is the result of a second or  
29 subsequent conviction for a violation of Section 11-501 of  
30 this Code or a similar provision of a local ordinance  
31 relating to the offense of operating or being in physical  
32 control of a motor vehicle while under the influence of  
33 alcohol, other drug or drugs, intoxicating compound or  
34 compounds, or any similar out-of-state offense, or any  
35 combination of those offenses, until the expiration of at  
36 least one year from the date of the revocation. A

1 restricted driving permit issued under this Section shall  
2 be subject to cancellation, revocation, and suspension by  
3 the Secretary of State in like manner and for like cause as  
4 a driver's license issued under this Code may be cancelled,  
5 revoked, or suspended; except that a conviction upon one or  
6 more offenses against laws or ordinances regulating the  
7 movement of traffic shall be deemed sufficient cause for  
8 the revocation, suspension, or cancellation of a  
9 restricted driving permit. The Secretary of State may, as a  
10 condition to the issuance of a restricted driving permit,  
11 require the applicant to participate in a designated driver  
12 remedial or rehabilitative program. The Secretary of State  
13 is authorized to cancel a restricted driving permit if the  
14 permit holder does not successfully complete the program.

15 (c-5) The Secretary of State may, as a condition of the  
16 reissuance of a driver's license or permit to an applicant  
17 whose driver's license or permit has been suspended before he  
18 or she reached the age of 18 years pursuant to any of the  
19 provisions of this Section, require the applicant to  
20 participate in a driver remedial education course and be  
21 retested under Section 6-109 of this Code.

22 (d) This Section is subject to the provisions of the  
23 Drivers License Compact.

24 (e) The Secretary of State shall not issue a restricted  
25 driving permit to a person under the age of 16 years whose  
26 driving privileges have been suspended or revoked under any  
27 provisions of this Code.

28 (Source: P.A. 92-283, eff. 1-1-02; 92-418, eff. 8-17-01;  
29 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 92-804, eff.  
30 1-1-03; 92-814, eff. 1-1-03; 93-120, eff. 1-1-04; 93-667, eff.  
31 3-19-04; 93-788, eff. 1-1-05; 93-955, eff. 8-19-04; revised  
32 10-22-04.)

33 (625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

34 Sec. 6-508. Commercial Driver's License (CDL) -  
35 qualification standards.

1 (a) Testing.

2 (1) General. No person shall be issued an original or  
3 renewal CDL unless that person is domiciled in this State.  
4 The Secretary shall cause to be administered such tests as  
5 the Secretary deems necessary to meet the requirements of  
6 49 C.F.R. Part 383, subparts G and H.

7 (2) Third party testing. The Secretary of state may  
8 authorize a "third party tester", pursuant to 49 C.F.R.  
9 Part 383.75, to administer the skills test or tests  
10 specified by Federal Highway Administration pursuant to  
11 the Commercial Motor Vehicle Safety Act of 1986 and any  
12 appropriate federal rule.

13 (b) Waiver of Skills Test. The Secretary of State may waive  
14 the skills test specified in this Section for a commercial  
15 driver license applicant who meets the requirements of 49  
16 C.F.R. Part 383.77.

17 (c) Limitations on issuance of a CDL. A CDL, or a  
18 commercial driver instruction permit, shall not be issued to a  
19 person while the person is subject to a disqualification from  
20 driving a commercial motor vehicle, or unless otherwise  
21 permitted by this Code, while the person's driver's license is  
22 suspended, revoked or cancelled in any state, or any territory  
23 or province of Canada; nor may a CDL be issued to a person who  
24 has a CDL issued by any other state, or foreign jurisdiction,  
25 unless the person first surrenders all such licenses. No CDL  
26 shall be issued to or renewed for a person who does not meet  
27 the requirement of 49 CFR 391.41(b)(11). The requirement may be  
28 met with the aid of a hearing aid.

29 (c-1) The Secretary may issue a CDL with a school bus  
30 driver endorsement to allow a person to drive the type of bus  
31 described in subsection (d-5) of Section 6-104 of this Code.  
32 The CDL with a school bus driver endorsement may be issued only  
33 to a person meeting the following requirements:

34 (1) the person has submitted his or her fingerprints to  
35 the Department of State Police in the form and manner  
36 prescribed by the Department of State Police. These

1 fingerprints shall be checked against the fingerprint  
2 records now and hereafter filed in the Department of State  
3 Police and Federal Bureau of Investigation criminal  
4 history records databases ~~for fingerprint based criminal~~  
5 ~~background checks on current and future information~~  
6 ~~available in the state system and current information~~  
7 ~~available through the Federal Bureau of Investigation's~~  
8 ~~system;~~

9 (2) the person has passed a written test, administered  
10 by the Secretary of State, on charter bus operation,  
11 charter bus safety, and certain special traffic laws  
12 relating to school buses determined by the Secretary of  
13 State to be relevant to charter buses, and submitted to a  
14 review of the applicant's driving habits by the Secretary  
15 of State at the time the written test is given;

16 (3) the person has demonstrated physical fitness to  
17 operate school buses by submitting the results of a medical  
18 examination, including tests for drug use; and

19 (4) the person has not been convicted of committing or  
20 attempting to commit any one or more of the following  
21 offenses: (i) those offenses defined in Sections 9-1,  
22 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1,  
23 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15,  
24 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2,  
25 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2,  
26 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3,  
27 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16,  
28 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4,  
29 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3,  
30 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and  
31 subsection (b), clause (1), of Section 12-4 of the Criminal  
32 Code of 1961; (ii) those offenses defined in the Cannabis  
33 Control Act except those offenses defined in subsections  
34 (a) and (b) of Section 4, and subsection (a) of Section 5  
35 of the Cannabis Control Act; (iii) those offenses defined  
36 in the Illinois Controlled Substances Act; (iv) those

1 offenses defined in the Methamphetamine Control and  
2 Community Protection Act; (v) ~~(iv)~~ any offense committed or  
3 attempted in any other state or against the laws of the  
4 United States, which if committed or attempted in this  
5 State would be punishable as one or more of the foregoing  
6 offenses; (vi) ~~(v)~~ the offenses defined in Sections 4.1 and  
7 5.1 of the Wrongs to Children Act; and (vii) ~~(vi)~~ those  
8 offenses defined in Section 6-16 of the Liquor Control Act  
9 of 1934.

10 The Department of State Police shall charge a fee for  
11 conducting the criminal history records check, which shall be  
12 deposited into the State Police Services Fund and may not  
13 exceed the actual cost of the records check.

14 (d) Commercial driver instruction permit. A commercial  
15 driver instruction permit may be issued to any person holding a  
16 valid Illinois driver's license if such person successfully  
17 passes such tests as the Secretary determines to be necessary.  
18 A commercial driver instruction permit shall not be issued to a  
19 person who does not meet the requirements of 49 CFR 391.41  
20 (b)(11), except for the renewal of a commercial driver  
21 instruction permit for a person who possesses a commercial  
22 instruction permit prior to the effective date of this  
23 amendatory Act of 1999.

24 (Source: P.A. 93-476, eff. 1-1-04; 93-644, eff. 6-1-04; revised  
25 11-29-04.)

26 Section 1045. The Clerks of Courts Act is amended by  
27 changing Section 27.6 as follows:

28 (705 ILCS 105/27.6)

29 Sec. 27.6. (a) All fees, fines, costs, additional  
30 penalties, bail balances assessed or forfeited, and any other  
31 amount paid by a person to the circuit clerk equalling an  
32 amount of \$55 or more, except the additional fee required by  
33 subsections (b) and (c), restitution under Section 5-5-6 of the  
34 Unified Code of Corrections, reimbursement for the costs of an

1 emergency response as provided under Section 11-501 of the  
2 Illinois Vehicle Code, any fees collected for attending a  
3 traffic safety program under paragraph (c) of Supreme Court  
4 Rule 529, any fee collected on behalf of a State's Attorney  
5 under Section 4-2002 of the Counties Code or a sheriff under  
6 Section 4-5001 of the Counties Code, or any cost imposed under  
7 Section 124A-5 of the Code of Criminal Procedure of 1963, for  
8 convictions, orders of supervision, or any other disposition  
9 for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois  
10 Vehicle Code, or a similar provision of a local ordinance, and  
11 any violation of the Child Passenger Protection Act, or a  
12 similar provision of a local ordinance, and except as provided  
13 in subsection (d) shall be disbursed within 60 days after  
14 receipt by the circuit clerk as follows: 44.5% shall be  
15 disbursed to the entity authorized by law to receive the fine  
16 imposed in the case; 16.825% shall be disbursed to the State  
17 Treasurer; and 38.675% shall be disbursed to the county's  
18 general corporate fund. Of the 16.825% disbursed to the State  
19 Treasurer, 2/17 shall be deposited by the State Treasurer into  
20 the Violent Crime Victims Assistance Fund, 5.052/17 shall be  
21 deposited into the Traffic and Criminal Conviction Surcharge  
22 Fund, 3/17 shall be deposited into the Drivers Education Fund,  
23 and 6.948/17 shall be deposited into the Trauma Center Fund. Of  
24 the 6.948/17 deposited into the Trauma Center Fund from the  
25 16.825% disbursed to the State Treasurer, 50% shall be  
26 disbursed to the Department of Public Health and 50% shall be  
27 disbursed to the Department of Public Aid. For fiscal year  
28 1993, amounts deposited into the Violent Crime Victims  
29 Assistance Fund, the Traffic and Criminal Conviction Surcharge  
30 Fund, or the Drivers Education Fund shall not exceed 110% of  
31 the amounts deposited into those funds in fiscal year 1991. Any  
32 amount that exceeds the 110% limit shall be distributed as  
33 follows: 50% shall be disbursed to the county's general  
34 corporate fund and 50% shall be disbursed to the entity  
35 authorized by law to receive the fine imposed in the case. Not  
36 later than March 1 of each year the circuit clerk shall submit

1 a report of the amount of funds remitted to the State Treasurer  
2 under this Section during the preceding year based upon  
3 independent verification of fines and fees. All counties shall  
4 be subject to this Section, except that counties with a  
5 population under 2,000,000 may, by ordinance, elect not to be  
6 subject to this Section. For offenses subject to this Section,  
7 judges shall impose one total sum of money payable for  
8 violations. The circuit clerk may add on no additional amounts  
9 except for amounts that are required by Sections 27.3a and  
10 27.3c of this Act, unless those amounts are specifically waived  
11 by the judge. With respect to money collected by the circuit  
12 clerk as a result of forfeiture of bail, ex parte judgment or  
13 guilty plea pursuant to Supreme Court Rule 529, the circuit  
14 clerk shall first deduct and pay amounts required by Sections  
15 27.3a and 27.3c of this Act. This Section is a denial and  
16 limitation of home rule powers and functions under subsection  
17 (h) of Section 6 of Article VII of the Illinois Constitution.

18 (b) In addition to any other fines and court costs assessed  
19 by the courts, any person convicted or receiving an order of  
20 supervision for driving under the influence of alcohol or drugs  
21 shall pay an additional fee of \$100 to the clerk of the circuit  
22 court. This amount, less 2 1/2% that shall be used to defray  
23 administrative costs incurred by the clerk, shall be remitted  
24 by the clerk to the Treasurer within 60 days after receipt for  
25 deposit into the Trauma Center Fund. This additional fee of  
26 \$100 shall not be considered a part of the fine for purposes of  
27 any reduction in the fine for time served either before or  
28 after sentencing. Not later than March 1 of each year the  
29 Circuit Clerk shall submit a report of the amount of funds  
30 remitted to the State Treasurer under this subsection during  
31 the preceding calendar year.

32 (b-1) In addition to any other fines and court costs  
33 assessed by the courts, any person convicted or receiving an  
34 order of supervision for driving under the influence of alcohol  
35 or drugs shall pay an additional fee of \$5 to the clerk of the  
36 circuit court. This amount, less 2 1/2% that shall be used to

1 defray administrative costs incurred by the clerk, shall be  
2 remitted by the clerk to the Treasurer within 60 days after  
3 receipt for deposit into the Spinal Cord Injury Paralysis Cure  
4 Research Trust Fund. This additional fee of \$5 shall not be  
5 considered a part of the fine for purposes of any reduction in  
6 the fine for time served either before or after sentencing. Not  
7 later than March 1 of each year the Circuit Clerk shall submit  
8 a report of the amount of funds remitted to the State Treasurer  
9 under this subsection during the preceding calendar year.

10 (c) In addition to any other fines and court costs assessed  
11 by the courts, any person convicted for a violation of Sections  
12 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a  
13 person sentenced for a violation of the Cannabis Control Act,  
14 ~~or~~ the Illinois Controlled Substances ~~Substance~~ Act, or the  
15 Methamphetamine Control and Community Protection Act shall pay  
16 an additional fee of \$100 to the clerk of the circuit court.  
17 This amount, less 2 1/2% that shall be used to defray  
18 administrative costs incurred by the clerk, shall be remitted  
19 by the clerk to the Treasurer within 60 days after receipt for  
20 deposit into the Trauma Center Fund. This additional fee of  
21 \$100 shall not be considered a part of the fine for purposes of  
22 any reduction in the fine for time served either before or  
23 after sentencing. Not later than March 1 of each year the  
24 Circuit Clerk shall submit a report of the amount of funds  
25 remitted to the State Treasurer under this subsection during  
26 the preceding calendar year.

27 (c-1) In addition to any other fines and court costs  
28 assessed by the courts, any person sentenced for a violation of  
29 the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances  
30 Act, or the Methamphetamine Control and Community Protection  
31 Act shall pay an additional fee of \$5 to the clerk of the  
32 circuit court. This amount, less 2 1/2% that shall be used to  
33 defray administrative costs incurred by the clerk, shall be  
34 remitted by the clerk to the Treasurer within 60 days after  
35 receipt for deposit into the Spinal Cord Injury Paralysis Cure  
36 Research Trust Fund. This additional fee of \$5 shall not be

1 considered a part of the fine for purposes of any reduction in  
2 the fine for time served either before or after sentencing. Not  
3 later than March 1 of each year the Circuit Clerk shall submit  
4 a report of the amount of funds remitted to the State Treasurer  
5 under this subsection during the preceding calendar year.

6 (d) The following amounts must be remitted to the State  
7 Treasurer for deposit into the Illinois Animal Abuse Fund:

8 (1) 50% of the amounts collected for felony offenses  
9 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,  
10 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for  
11 Animals Act and Section 26-5 of the Criminal Code of 1961;

12 (2) 20% of the amounts collected for Class A and Class  
13 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,  
14 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care  
15 for Animals Act and Section 26-5 of the Criminal Code of  
16 1961; and

17 (3) 50% of the amounts collected for Class C  
18 misdemeanors under Sections 4.01 and 7.1 of the Humane Care  
19 for Animals Act and Section 26-5 of the Criminal Code of  
20 1961.

21 (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02; 92-650,  
22 eff. 7-11-02; 92-651, eff. 7-11-02; 93-800, eff. 1-1-05.)

23 Section 1050. The Juvenile Court Act of 1987 is amended by  
24 changing Sections 1-7, 1-8, 5-130, 5-601, 5-615, 5-710, 5-715,  
25 5-805, and 5-901 as follows:

26 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

27 Sec. 1-7. Confidentiality of law enforcement records.

28 (A) Inspection and copying of law enforcement records  
29 maintained by law enforcement agencies that relate to a minor  
30 who has been arrested or taken into custody before his or her  
31 17th birthday shall be restricted to the following:

32 (1) Any local, State or federal law enforcement  
33 officers of any jurisdiction or agency when necessary for  
34 the discharge of their official duties during the

1 investigation or prosecution of a crime or relating to a  
2 minor who has been adjudicated delinquent and there has  
3 been a previous finding that the act which constitutes the  
4 previous offense was committed in furtherance of criminal  
5 activities by a criminal street gang. For purposes of this  
6 Section, "criminal street gang" has the meaning ascribed to  
7 it in Section 10 of the Illinois Streetgang Terrorism  
8 Omnibus Prevention Act.

9 (2) Prosecutors, probation officers, social workers,  
10 or other individuals assigned by the court to conduct a  
11 pre-adjudication or pre-disposition investigation, and  
12 individuals responsible for supervising or providing  
13 temporary or permanent care and custody for minors pursuant  
14 to the order of the juvenile court, when essential to  
15 performing their responsibilities.

16 (3) Prosecutors and probation officers:

17 (a) in the course of a trial when institution of  
18 criminal proceedings has been permitted or required  
19 under Section 5-805; or

20 (b) when institution of criminal proceedings has  
21 been permitted or required under Section 5-805 and such  
22 minor is the subject of a proceeding to determine the  
23 amount of bail; or

24 (c) when criminal proceedings have been permitted  
25 or required under Section 5-805 and such minor is the  
26 subject of a pre-trial investigation, pre-sentence  
27 investigation, fitness hearing, or proceedings on an  
28 application for probation.

29 (4) Adult and Juvenile Prisoner Review Board.

30 (5) Authorized military personnel.

31 (6) Persons engaged in bona fide research, with the  
32 permission of the Presiding Judge of the Juvenile Court and  
33 the chief executive of the respective law enforcement  
34 agency; provided that publication of such research results  
35 in no disclosure of a minor's identity and protects the  
36 confidentiality of the minor's record.

1 (7) Department of Children and Family Services child  
2 protection investigators acting in their official  
3 capacity.

4 (8) The appropriate school official. Inspection and  
5 copying shall be limited to law enforcement records  
6 transmitted to the appropriate school official by a local  
7 law enforcement agency under a reciprocal reporting system  
8 established and maintained between the school district and  
9 the local law enforcement agency under Section 10-20.14 of  
10 the School Code concerning a minor enrolled in a school  
11 within the school district who has been arrested or taken  
12 into custody for any of the following offenses:

13 (i) unlawful use of weapons under Section 24-1 of  
14 the Criminal Code of 1961;

15 (ii) a violation of the Illinois Controlled  
16 Substances Act;

17 (iii) a violation of the Cannabis Control Act; ~~or~~

18 (iv) a forcible felony as defined in Section 2-8 of  
19 the Criminal Code of 1961; or

20 (v) a violation of the Methamphetamine Control and  
21 Community Protection Act.

22 (9) Mental health professionals on behalf of the  
23 Illinois Department of Corrections or the Department of  
24 Human Services or prosecutors who are evaluating,  
25 prosecuting, or investigating a potential or actual  
26 petition brought under the Sexually Violent Persons  
27 Commitment Act relating to a person who is the subject of  
28 juvenile law enforcement records or the respondent to a  
29 petition brought under the Sexually Violent Persons  
30 Commitment Act who is the subject of the juvenile law  
31 enforcement records sought. Any records and any  
32 information obtained from those records under this  
33 paragraph (9) may be used only in sexually violent persons  
34 commitment proceedings.

35 (B) (1) Except as provided in paragraph (2), no law  
36 enforcement officer or other person or agency may knowingly

1 transmit to the Department of Corrections, Adult Division  
2 or the Department of State Police or to the Federal Bureau  
3 of Investigation any fingerprint or photograph relating to  
4 a minor who has been arrested or taken into custody before  
5 his or her 17th birthday, unless the court in proceedings  
6 under this Act authorizes the transmission or enters an  
7 order under Section 5-805 permitting or requiring the  
8 institution of criminal proceedings.

9 (2) Law enforcement officers or other persons or  
10 agencies shall transmit to the Department of State Police  
11 copies of fingerprints and descriptions of all minors who  
12 have been arrested or taken into custody before their 17th  
13 birthday for the offense of unlawful use of weapons under  
14 Article 24 of the Criminal Code of 1961, a Class X or Class  
15 1 felony, a forcible felony as defined in Section 2-8 of  
16 the Criminal Code of 1961, or a Class 2 or greater felony  
17 under the Cannabis Control Act, the Illinois Controlled  
18 Substances Act, the Methamphetamine Control and Community  
19 Protection Act, or Chapter 4 of the Illinois Vehicle Code,  
20 pursuant to Section 5 of the Criminal Identification Act.  
21 Information reported to the Department pursuant to this  
22 Section may be maintained with records that the Department  
23 files pursuant to Section 2.1 of the Criminal  
24 Identification Act. Nothing in this Act prohibits a law  
25 enforcement agency from fingerprinting a minor taken into  
26 custody or arrested before his or her 17th birthday for an  
27 offense other than those listed in this paragraph (2).

28 (C) The records of law enforcement officers concerning all  
29 minors under 17 years of age must be maintained separate from  
30 the records of arrests and may not be open to public inspection  
31 or their contents disclosed to the public except by order of  
32 the court or when the institution of criminal proceedings has  
33 been permitted or required under Section 5-805 or such a person  
34 has been convicted of a crime and is the subject of  
35 pre-sentence investigation or proceedings on an application  
36 for probation or when provided by law.

1 (D) Nothing contained in subsection (C) of this Section  
2 shall prohibit the inspection or disclosure to victims and  
3 witnesses of photographs contained in the records of law  
4 enforcement agencies when the inspection and disclosure is  
5 conducted in the presence of a law enforcement officer for the  
6 purpose of the identification or apprehension of any person  
7 subject to the provisions of this Act or for the investigation  
8 or prosecution of any crime.

9 (E) Law enforcement officers may not disclose the identity  
10 of any minor in releasing information to the general public as  
11 to the arrest, investigation or disposition of any case  
12 involving a minor.

13 (F) Nothing contained in this Section shall prohibit law  
14 enforcement agencies from communicating with each other by  
15 letter, memorandum, teletype or intelligence alert bulletin or  
16 other means the identity or other relevant information  
17 pertaining to a person under 17 years of age if there are  
18 reasonable grounds to believe that the person poses a real and  
19 present danger to the safety of the public or law enforcement  
20 officers. The information provided under this subsection (F)  
21 shall remain confidential and shall not be publicly disclosed,  
22 except as otherwise allowed by law.

23 (G) Nothing in this Section shall prohibit the right of a  
24 Civil Service Commission or appointing authority of any state,  
25 county or municipality examining the character and fitness of  
26 an applicant for employment with a law enforcement agency,  
27 correctional institution, or fire department from obtaining  
28 and examining the records of any law enforcement agency  
29 relating to any record of the applicant having been arrested or  
30 taken into custody before the applicant's 17th birthday.

31 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00;  
32 92-415, eff. 8-17-01.)

33 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

34 Sec. 1-8. Confidentiality and accessibility of juvenile  
35 court records.

1 (A) Inspection and copying of juvenile court records  
2 relating to a minor who is the subject of a proceeding under  
3 this Act shall be restricted to the following:

4 (1) The minor who is the subject of record, his  
5 parents, guardian and counsel.

6 (2) Law enforcement officers and law enforcement  
7 agencies when such information is essential to executing an  
8 arrest or search warrant or other compulsory process, or to  
9 conducting an ongoing investigation or relating to a minor  
10 who has been adjudicated delinquent and there has been a  
11 previous finding that the act which constitutes the  
12 previous offense was committed in furtherance of criminal  
13 activities by a criminal street gang.

14 Before July 1, 1994, for the purposes of this Section,  
15 "criminal street gang" means any ongoing organization,  
16 association, or group of 3 or more persons, whether formal  
17 or informal, having as one of its primary activities the  
18 commission of one or more criminal acts and that has a  
19 common name or common identifying sign, symbol or specific  
20 color apparel displayed, and whose members individually or  
21 collectively engage in or have engaged in a pattern of  
22 criminal activity.

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

27 (3) Judges, hearing officers, prosecutors, probation  
28 officers, social workers or other individuals assigned by  
29 the court to conduct a pre-adjudication or predisposition  
30 investigation, and individuals responsible for supervising  
31 or providing temporary or permanent care and custody for  
32 minors pursuant to the order of the juvenile court when  
33 essential to performing their responsibilities.

34 (4) Judges, prosecutors and probation officers:

35 (a) in the course of a trial when institution of  
36 criminal proceedings has been permitted or required

1 under Section 5-805; or

2 (b) when criminal proceedings have been permitted  
3 or required under Section 5-805 and a minor is the  
4 subject of a proceeding to determine the amount of  
5 bail; or

6 (c) when criminal proceedings have been permitted  
7 or required under Section 5-805 and a minor is the  
8 subject of a pre-trial investigation, pre-sentence  
9 investigation or fitness hearing, or proceedings on an  
10 application for probation; or

11 (d) when a minor becomes 17 years of age or older,  
12 and is the subject of criminal proceedings, including a  
13 hearing to determine the amount of bail, a pre-trial  
14 investigation, a pre-sentence investigation, a fitness  
15 hearing, or proceedings on an application for  
16 probation.

17 (5) Adult and Juvenile Prisoner Review Boards.

18 (6) Authorized military personnel.

19 (7) Victims, their subrogees and legal  
20 representatives; however, such persons shall have access  
21 only to the name and address of the minor and information  
22 pertaining to the disposition or alternative adjustment  
23 plan of the juvenile court.

24 (8) Persons engaged in bona fide research, with the  
25 permission of the presiding judge of the juvenile court and  
26 the chief executive of the agency that prepared the  
27 particular records; provided that publication of such  
28 research results in no disclosure of a minor's identity and  
29 protects the confidentiality of the record.

30 (9) The Secretary of State to whom the Clerk of the  
31 Court shall report the disposition of all cases, as  
32 required in Section 6-204 of the Illinois Vehicle Code.  
33 However, information reported relative to these offenses  
34 shall be privileged and available only to the Secretary of  
35 State, courts, and police officers.

36 (10) The administrator of a bonafide substance abuse

1 student assistance program with the permission of the  
2 presiding judge of the juvenile court.

3 (11) Mental health professionals on behalf of the  
4 Illinois Department of Corrections or the Department of  
5 Human Services or prosecutors who are evaluating,  
6 prosecuting, or investigating a potential or actual  
7 petition brought under the Sexually Persons Commitment Act  
8 relating to a person who is the subject of juvenile court  
9 records or the respondent to a petition brought under the  
10 Sexually Violent Persons Commitment Act, who is the subject  
11 of juvenile court records sought. Any records and any  
12 information obtained from those records under this  
13 paragraph (11) may be used only in sexually violent persons  
14 commitment proceedings.

15 (B) A minor who is the victim in a juvenile proceeding  
16 shall be provided the same confidentiality regarding  
17 disclosure of identity as the minor who is the subject of  
18 record.

19 (C) Except as otherwise provided in this subsection (C),  
20 juvenile court records shall not be made available to the  
21 general public but may be inspected by representatives of  
22 agencies, associations and news media or other properly  
23 interested persons by general or special order of the court.  
24 The State's Attorney, the minor, his parents, guardian and  
25 counsel shall at all times have the right to examine court  
26 files and records.

27 (1) The court shall allow the general public to have  
28 access to the name, address, and offense of a minor who is  
29 adjudicated a delinquent minor under this Act under either  
30 of the following circumstances:

31 (A) The adjudication of delinquency was based upon  
32 the minor's commission of first degree murder, attempt  
33 to commit first degree murder, aggravated criminal  
34 sexual assault, or criminal sexual assault; or

35 (B) The court has made a finding that the minor was  
36 at least 13 years of age at the time the act was

1 committed and the adjudication of delinquency was  
2 based upon the minor's commission of: (i) an act in  
3 furtherance of the commission of a felony as a member  
4 of or on behalf of a criminal street gang, (ii) an act  
5 involving the use of a firearm in the commission of a  
6 felony, (iii) an act that would be a Class X felony  
7 offense under or the minor's second or subsequent Class  
8 2 or greater felony offense under the Cannabis Control  
9 Act if committed by an adult, (iv) an act that would be  
10 a second or subsequent offense under Section 402 of the  
11 Illinois Controlled Substances Act if committed by an  
12 adult, ~~or~~ (v) an act that would be an offense under  
13 Section 401 of the Illinois Controlled Substances Act  
14 if committed by an adult, (vi) an act that would be a  
15 second or subsequent offense under Section 60 of the  
16 Methamphetamine Control and Community Protection Act,  
17 or (vii) an act that would be an offense under another  
18 Section of the Methamphetamine Control and Community  
19 Protection Act.

20 (2) The court shall allow the general public to have  
21 access to the name, address, and offense of a minor who is  
22 at least 13 years of age at the time the offense is  
23 committed and who is convicted, in criminal proceedings  
24 permitted or required under Section 5-4, under either of  
25 the following circumstances:

26 (A) The minor has been convicted of first degree  
27 murder, attempt to commit first degree murder,  
28 aggravated criminal sexual assault, or criminal sexual  
29 assault,

30 (B) The court has made a finding that the minor was  
31 at least 13 years of age at the time the offense was  
32 committed and the conviction was based upon the minor's  
33 commission of: (i) an offense in furtherance of the  
34 commission of a felony as a member of or on behalf of a  
35 criminal street gang, (ii) an offense involving the use  
36 of a firearm in the commission of a felony, (iii) a

1 Class X felony offense under or a second or subsequent  
2 Class 2 or greater felony offense under the Cannabis  
3 Control Act, (iv) a second or subsequent offense under  
4 Section 402 of the Illinois Controlled Substances Act,  
5 ~~or~~ (v) an offense under Section 401 of the Illinois  
6 Controlled Substances Act, (vi) an act that would be a  
7 second or subsequent offense under Section 60 of the  
8 Methamphetamine Control and Community Protection Act,  
9 or (vii) an act that would be an offense under another  
10 Section of the Methamphetamine Control and Community  
11 Protection Act.

12 (D) Pending or following any adjudication of delinquency  
13 for any offense defined in Sections 12-13 through 12-16 of the  
14 Criminal Code of 1961, the victim of any such offense shall  
15 receive the rights set out in Sections 4 and 6 of the Bill of  
16 Rights for Victims and Witnesses of Violent Crime Act; and the  
17 juvenile who is the subject of the adjudication,  
18 notwithstanding any other provision of this Act, shall be  
19 treated as an adult for the purpose of affording such rights to  
20 the victim.

21 (E) Nothing in this Section shall affect the right of a  
22 Civil Service Commission or appointing authority of any state,  
23 county or municipality examining the character and fitness of  
24 an applicant for employment with a law enforcement agency,  
25 correctional institution, or fire department to ascertain  
26 whether that applicant was ever adjudicated to be a delinquent  
27 minor and, if so, to examine the records of disposition or  
28 evidence which were made in proceedings under this Act.

29 (F) Following any adjudication of delinquency for a crime  
30 which would be a felony if committed by an adult, or following  
31 any adjudication of delinquency for a violation of Section  
32 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the  
33 State's Attorney shall ascertain whether the minor respondent  
34 is enrolled in school and, if so, shall provide a copy of the  
35 dispositional order to the principal or chief administrative  
36 officer of the school. Access to such juvenile records shall be

1 limited to the principal or chief administrative officer of the  
2 school and any guidance counselor designated by him.

3 (G) Nothing contained in this Act prevents the sharing or  
4 disclosure of information or records relating or pertaining to  
5 juveniles subject to the provisions of the Serious Habitual  
6 Offender Comprehensive Action Program when that information is  
7 used to assist in the early identification and treatment of  
8 habitual juvenile offenders.

9 (H) When a Court hearing a proceeding under Article II of  
10 this Act becomes aware that an earlier proceeding under Article  
11 II had been heard in a different county, that Court shall  
12 request, and the Court in which the earlier proceedings were  
13 initiated shall transmit, an authenticated copy of the Court  
14 record, including all documents, petitions, and orders filed  
15 therein and the minute orders, transcript of proceedings, and  
16 docket entries of the Court.

17 (I) The Clerk of the Circuit Court shall report to the  
18 Department of State Police, in the form and manner required by  
19 the Department of State Police, the final disposition of each  
20 minor who has been arrested or taken into custody before his or  
21 her 17th birthday for those offenses required to be reported  
22 under Section 5 of the Criminal Identification Act. Information  
23 reported to the Department under this Section may be maintained  
24 with records that the Department files under Section 2.1 of the  
25 Criminal Identification Act.

26 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,  
27 92-415, eff. 8-17-01.)

28 (705 ILCS 405/5-130)

29 Sec. 5-130. Excluded jurisdiction.

30 (1) (a) The definition of delinquent minor under Section  
31 5-120 of this Article shall not apply to any minor who at the  
32 time of an offense was at least 15 years of age and who is  
33 charged with first degree murder, aggravated criminal sexual  
34 assault, aggravated battery with a firearm committed in a  
35 school, on the real property comprising a school, within 1,000

1 feet of the real property comprising a school, at a school  
2 related activity, or on, boarding, or departing from any  
3 conveyance owned, leased, or contracted by a school or school  
4 district to transport students to or from school or a school  
5 related activity regardless of the time of day or time of year  
6 that the offense was committed, armed robbery when the armed  
7 robbery was committed with a firearm, or aggravated vehicular  
8 hijacking when the hijacking was committed with a firearm.

9 These charges and all other charges arising out of the same  
10 incident shall be prosecuted under the criminal laws of this  
11 State.

12 For purposes of this paragraph (a) of subsection (1):

13 "School" means a public or private elementary or secondary  
14 school, community college, college, or university.

15 "School related activity" means any sporting, social,  
16 academic or other activity for which students' attendance or  
17 participation is sponsored, organized, or funded in whole or in  
18 part by a school or school district.

19 (b) (i) If before trial or plea an information or  
20 indictment is filed that does not charge an offense specified  
21 in paragraph (a) of this subsection (1) the State's Attorney  
22 may proceed on any lesser charge or charges, but only in  
23 Juvenile Court under the provisions of this Article. The  
24 State's Attorney may proceed under the Criminal Code of 1961 on  
25 a lesser charge if before trial the minor defendant knowingly  
26 and with advice of counsel waives, in writing, his or her right  
27 to have the matter proceed in Juvenile Court.

28 (ii) If before trial or plea an information or indictment  
29 is filed that includes one or more charges specified in  
30 paragraph (a) of this subsection (1) and additional charges  
31 that are not specified in that paragraph, all of the charges  
32 arising out of the same incident shall be prosecuted under the  
33 Criminal Code of 1961.

34 (c) (i) If after trial or plea the minor is convicted of  
35 any offense covered by paragraph (a) of this subsection (1),  
36 then, in sentencing the minor, the court shall have available

1 any or all dispositions prescribed for that offense under  
2 Chapter V of the Unified Code of Corrections.

3 (ii) If after trial or plea the court finds that the minor  
4 committed an offense not covered by paragraph (a) of this  
5 subsection (1), that finding shall not invalidate the verdict  
6 or the prosecution of the minor under the criminal laws of the  
7 State; however, unless the State requests a hearing for the  
8 purpose of sentencing the minor under Chapter V of the Unified  
9 Code of Corrections, the Court must proceed under Sections  
10 5-705 and 5-710 of this Article. To request a hearing, the  
11 State must file a written motion within 10 days following the  
12 entry of a finding or the return of a verdict. Reasonable  
13 notice of the motion shall be given to the minor or his or her  
14 counsel. If the motion is made by the State, the court shall  
15 conduct a hearing to determine if the minor should be sentenced  
16 under Chapter V of the Unified Code of Corrections. In making  
17 its determination, the court shall consider among other  
18 matters: (a) whether there is evidence that the offense was  
19 committed in an aggressive and premeditated manner; (b) the age  
20 of the minor; (c) the previous history of the minor; (d)  
21 whether there are facilities particularly available to the  
22 Juvenile Court or the Department of Corrections, Juvenile  
23 Division, for the treatment and rehabilitation of the minor;  
24 (e) whether the security of the public requires sentencing  
25 under Chapter V of the Unified Code of Corrections; and (f)  
26 whether the minor possessed a deadly weapon when committing the  
27 offense. The rules of evidence shall be the same as if at  
28 trial. If after the hearing the court finds that the minor  
29 should be sentenced under Chapter V of the Unified Code of  
30 Corrections, then the court shall sentence the minor  
31 accordingly having available to it any or all dispositions so  
32 prescribed.

33 (2) (a) The definition of a delinquent minor under Section  
34 5-120 of this Article shall not apply to any minor who at the  
35 time of the offense was at least 15 years of age and who is  
36 charged with an offense under Section 401 of the Illinois

1 Controlled Substances Act or an offense under the  
2 Methamphetamine Control and Community Protection Act, while in  
3 a school, regardless of the time of day or the time of year, or  
4 any conveyance owned, leased or contracted by a school to  
5 transport students to or from school or a school related  
6 activity, or residential property owned, operated or managed by  
7 a public housing agency or leased by a public housing agency as  
8 part of a scattered site or mixed-income development, on the  
9 real property comprising any school, regardless of the time of  
10 day or the time of year, or residential property owned,  
11 operated or managed by a public housing agency or leased by a  
12 public housing agency as part of a scattered site or  
13 mixed-income development, or on a public way within 1,000 feet  
14 of the real property comprising any school, regardless of the  
15 time of day or the time of year, or residential property owned,  
16 operated or managed by a public housing agency or leased by a  
17 public housing agency as part of a scattered site or  
18 mixed-income development. School is defined, for the purposes  
19 of this Section, as any public or private elementary or  
20 secondary school, community college, college, or university.  
21 These charges and all other charges arising out of the same  
22 incident shall be prosecuted under the criminal laws of this  
23 State.

24 (b) (i) If before trial or plea an information or  
25 indictment is filed that does not charge an offense specified  
26 in paragraph (a) of this subsection (2) the State's Attorney  
27 may proceed on any lesser charge or charges, but only in  
28 Juvenile Court under the provisions of this Article. The  
29 State's Attorney may proceed under the criminal laws of this  
30 State on a lesser charge if before trial the minor defendant  
31 knowingly and with advice of counsel waives, in writing, his or  
32 her right to have the matter proceed in Juvenile Court.

33 (ii) If before trial or plea an information or indictment  
34 is filed that includes one or more charges specified in  
35 paragraph (a) of this subsection (2) and additional charges  
36 that are not specified in that paragraph, all of the charges

1 arising out of the same incident shall be prosecuted under the  
2 criminal laws of this State.

3 (c) (i) If after trial or plea the minor is convicted of  
4 any offense covered by paragraph (a) of this subsection (2),  
5 then, in sentencing the minor, the court shall have available  
6 any or all dispositions prescribed for that offense under  
7 Chapter V of the Unified Code of Corrections.

8 (ii) If after trial or plea the court finds that the minor  
9 committed an offense not covered by paragraph (a) of this  
10 subsection (2), that finding shall not invalidate the verdict  
11 or the prosecution of the minor under the criminal laws of the  
12 State; however, unless the State requests a hearing for the  
13 purpose of sentencing the minor under Chapter V of the Unified  
14 Code of Corrections, the Court must proceed under Sections  
15 5-705 and 5-710 of this Article. To request a hearing, the  
16 State must file a written motion within 10 days following the  
17 entry of a finding or the return of a verdict. Reasonable  
18 notice of the motion shall be given to the minor or his or her  
19 counsel. If the motion is made by the State, the court shall  
20 conduct a hearing to determine if the minor should be sentenced  
21 under Chapter V of the Unified Code of Corrections. In making  
22 its determination, the court shall consider among other  
23 matters: (a) whether there is evidence that the offense was  
24 committed in an aggressive and premeditated manner; (b) the age  
25 of the minor; (c) the previous history of the minor; (d)  
26 whether there are facilities particularly available to the  
27 Juvenile Court or the Department of Corrections, Juvenile  
28 Division, for the treatment and rehabilitation of the minor;  
29 (e) whether the security of the public requires sentencing  
30 under Chapter V of the Unified Code of Corrections; and (f)  
31 whether the minor possessed a deadly weapon when committing the  
32 offense. The rules of evidence shall be the same as if at  
33 trial. If after the hearing the court finds that the minor  
34 should be sentenced under Chapter V of the Unified Code of  
35 Corrections, then the court shall sentence the minor  
36 accordingly having available to it any or all dispositions so

1 prescribed.

2 (3) (a) The definition of delinquent minor under Section  
3 5-120 of this Article shall not apply to any minor who at the  
4 time of the offense was at least 15 years of age and who is  
5 charged with a violation of the provisions of paragraph (1),  
6 (3), (4), or (10) of subsection (a) of Section 24-1 of the  
7 Criminal Code of 1961 while in school, regardless of the time  
8 of day or the time of year, or on the real property comprising  
9 any school, regardless of the time of day or the time of year.  
10 School is defined, for purposes of this Section as any public  
11 or private elementary or secondary school, community college,  
12 college, or university. These charges and all other charges  
13 arising out of the same incident shall be prosecuted under the  
14 criminal laws of this State.

15 (b) (i) If before trial or plea an information or  
16 indictment is filed that does not charge an offense specified  
17 in paragraph (a) of this subsection (3) the State's Attorney  
18 may proceed on any lesser charge or charges, but only in  
19 Juvenile Court under the provisions of this Article. The  
20 State's Attorney may proceed under the criminal laws of this  
21 State on a lesser charge if before trial the minor defendant  
22 knowingly and with advice of counsel waives, in writing, his or  
23 her right to have the matter proceed in Juvenile Court.

24 (ii) If before trial or plea an information or indictment  
25 is filed that includes one or more charges specified in  
26 paragraph (a) of this subsection (3) and additional charges  
27 that are not specified in that paragraph, all of the charges  
28 arising out of the same incident shall be prosecuted under the  
29 criminal laws of this State.

30 (c) (i) If after trial or plea the minor is convicted of  
31 any offense covered by paragraph (a) of this subsection (3),  
32 then, in sentencing the minor, the court shall have available  
33 any or all dispositions prescribed for that offense under  
34 Chapter V of the Unified Code of Corrections.

35 (ii) If after trial or plea the court finds that the minor  
36 committed an offense not covered by paragraph (a) of this

1 subsection (3), that finding shall not invalidate the verdict  
2 or the prosecution of the minor under the criminal laws of the  
3 State; however, unless the State requests a hearing for the  
4 purpose of sentencing the minor under Chapter V of the Unified  
5 Code of Corrections, the Court must proceed under Sections  
6 5-705 and 5-710 of this Article. To request a hearing, the  
7 State must file a written motion within 10 days following the  
8 entry of a finding or the return of a verdict. Reasonable  
9 notice of the motion shall be given to the minor or his or her  
10 counsel. If the motion is made by the State, the court shall  
11 conduct a hearing to determine if the minor should be sentenced  
12 under Chapter V of the Unified Code of Corrections. In making  
13 its determination, the court shall consider among other  
14 matters: (a) whether there is evidence that the offense was  
15 committed in an aggressive and premeditated manner; (b) the age  
16 of the minor; (c) the previous history of the minor; (d)  
17 whether there are facilities particularly available to the  
18 Juvenile Court or the Department of Corrections, Juvenile  
19 Division, for the treatment and rehabilitation of the minor;  
20 (e) whether the security of the public requires sentencing  
21 under Chapter V of the Unified Code of Corrections; and (f)  
22 whether the minor possessed a deadly weapon when committing the  
23 offense. The rules of evidence shall be the same as if at  
24 trial. If after the hearing the court finds that the minor  
25 should be sentenced under Chapter V of the Unified Code of  
26 Corrections, then the court shall sentence the minor  
27 accordingly having available to it any or all dispositions so  
28 prescribed.

29 (4) (a) The definition of delinquent minor under Section  
30 5-120 of this Article shall not apply to any minor who at the  
31 time of an offense was at least 13 years of age and who is  
32 charged with first degree murder committed during the course of  
33 either aggravated criminal sexual assault, criminal sexual  
34 assault, or aggravated kidnaping. However, this subsection (4)  
35 does not include a minor charged with first degree murder based  
36 exclusively upon the accountability provisions of the Criminal

1 Code of 1961.

2 (b) (i) If before trial or plea an information or  
3 indictment is filed that does not charge first degree murder  
4 committed during the course of aggravated criminal sexual  
5 assault, criminal sexual assault, or aggravated kidnaping, the  
6 State's Attorney may proceed on any lesser charge or charges,  
7 but only in Juvenile Court under the provisions of this  
8 Article. The State's Attorney may proceed under the criminal  
9 laws of this State on a lesser charge if before trial the minor  
10 defendant knowingly and with advice of counsel waives, in  
11 writing, his or her right to have the matter proceed in  
12 Juvenile Court.

13 (ii) If before trial or plea an information or indictment  
14 is filed that includes first degree murder committed during the  
15 course of aggravated criminal sexual assault, criminal sexual  
16 assault, or aggravated kidnaping, and additional charges that  
17 are not specified in paragraph (a) of this subsection, all of  
18 the charges arising out of the same incident shall be  
19 prosecuted under the criminal laws of this State.

20 (c) (i) If after trial or plea the minor is convicted of  
21 first degree murder committed during the course of aggravated  
22 criminal sexual assault, criminal sexual assault, or  
23 aggravated kidnaping, in sentencing the minor, the court shall  
24 have available any or all dispositions prescribed for that  
25 offense under Chapter V of the Unified Code of Corrections.

26 (ii) If the minor was not yet 15 years of age at the time of  
27 the offense, and if after trial or plea the court finds that  
28 the minor committed an offense other than first degree murder  
29 committed during the course of either aggravated criminal  
30 sexual assault, criminal sexual assault, or aggravated  
31 kidnaping, the finding shall not invalidate the verdict or the  
32 prosecution of the minor under the criminal laws of the State;  
33 however, unless the State requests a hearing for the purpose of  
34 sentencing the minor under Chapter V of the Unified Code of  
35 Corrections, the Court must proceed under Sections 5-705 and  
36 5-710 of this Article. To request a hearing, the State must

1 file a written motion within 10 days following the entry of a  
2 finding or the return of a verdict. Reasonable notice of the  
3 motion shall be given to the minor or his or her counsel. If  
4 the motion is made by the State, the court shall conduct a  
5 hearing to determine whether the minor should be sentenced  
6 under Chapter V of the Unified Code of Corrections. In making  
7 its determination, the court shall consider among other  
8 matters: (a) whether there is evidence that the offense was  
9 committed in an aggressive and premeditated manner; (b) the age  
10 of the minor; (c) the previous delinquent history of the minor;  
11 (d) whether there are facilities particularly available to the  
12 Juvenile Court or the Department of Corrections, Juvenile  
13 Division, for the treatment and rehabilitation of the minor;  
14 (e) whether the best interest of the minor and the security of  
15 the public require sentencing under Chapter V of the Unified  
16 Code of Corrections; and (f) whether the minor possessed a  
17 deadly weapon when committing the offense. The rules of  
18 evidence shall be the same as if at trial. If after the hearing  
19 the court finds that the minor should be sentenced under  
20 Chapter V of the Unified Code of Corrections, then the court  
21 shall sentence the minor accordingly having available to it any  
22 or all dispositions so prescribed.

23 (5) (a) The definition of delinquent minor under Section  
24 5-120 of this Article shall not apply to any minor who is  
25 charged with a violation of subsection (a) of Section 31-6 or  
26 Section 32-10 of the Criminal Code of 1961 when the minor is  
27 subject to prosecution under the criminal laws of this State as  
28 a result of the application of the provisions of Section 5-125,  
29 or subsection (1) or (2) of this Section. These charges and all  
30 other charges arising out of the same incident shall be  
31 prosecuted under the criminal laws of this State.

32 (b) (i) If before trial or plea an information or  
33 indictment is filed that does not charge an offense specified  
34 in paragraph (a) of this subsection (5), the State's Attorney  
35 may proceed on any lesser charge or charges, but only in  
36 Juvenile Court under the provisions of this Article. The

1 State's Attorney may proceed under the criminal laws of this  
2 State on a lesser charge if before trial the minor defendant  
3 knowingly and with advice of counsel waives, in writing, his or  
4 her right to have the matter proceed in Juvenile Court.

5 (ii) If before trial or plea an information or indictment  
6 is filed that includes one or more charges specified in  
7 paragraph (a) of this subsection (5) and additional charges  
8 that are not specified in that paragraph, all of the charges  
9 arising out of the same incident shall be prosecuted under the  
10 criminal laws of this State.

11 (c) (i) If after trial or plea the minor is convicted of  
12 any offense covered by paragraph (a) of this subsection (5),  
13 then, in sentencing the minor, the court shall have available  
14 any or all dispositions prescribed for that offense under  
15 Chapter V of the Unified Code of Corrections.

16 (ii) If after trial or plea the court finds that the minor  
17 committed an offense not covered by paragraph (a) of this  
18 subsection (5), the conviction shall not invalidate the verdict  
19 or the prosecution of the minor under the criminal laws of this  
20 State; however, unless the State requests a hearing for the  
21 purpose of sentencing the minor under Chapter V of the Unified  
22 Code of Corrections, the Court must proceed under Sections  
23 5-705 and 5-710 of this Article. To request a hearing, the  
24 State must file a written motion within 10 days following the  
25 entry of a finding or the return of a verdict. Reasonable  
26 notice of the motion shall be given to the minor or his or her  
27 counsel. If the motion is made by the State, the court shall  
28 conduct a hearing to determine if whether the minor should be  
29 sentenced under Chapter V of the Unified Code of Corrections.  
30 In making its determination, the court shall consider among  
31 other matters: (a) whether there is evidence that the offense  
32 was committed in an aggressive and premeditated manner; (b) the  
33 age of the minor; (c) the previous delinquent history of the  
34 minor; (d) whether there are facilities particularly available  
35 to the Juvenile Court or the Department of Corrections,  
36 Juvenile Division, for the treatment and rehabilitation of the

1 minor; (e) whether the security of the public requires  
2 sentencing under Chapter V of the Unified Code of Corrections;  
3 and (f) whether the minor possessed a deadly weapon when  
4 committing the offense. The rules of evidence shall be the same  
5 as if at trial. If after the hearing the court finds that the  
6 minor should be sentenced under Chapter V of the Unified Code  
7 of Corrections, then the court shall sentence the minor  
8 accordingly having available to it any or all dispositions so  
9 prescribed.

10 (6) The definition of delinquent minor under Section 5-120  
11 of this Article shall not apply to any minor who, pursuant to  
12 subsection (1), (2), or (3) or Section 5-805, or 5-810, has  
13 previously been placed under the jurisdiction of the criminal  
14 court and has been convicted of a crime under an adult criminal  
15 or penal statute. Such a minor shall be subject to prosecution  
16 under the criminal laws of this State.

17 (7) The procedures set out in this Article for the  
18 investigation, arrest and prosecution of juvenile offenders  
19 shall not apply to minors who are excluded from jurisdiction of  
20 the Juvenile Court, except that minors under 17 years of age  
21 shall be kept separate from confined adults.

22 (8) Nothing in this Act prohibits or limits the prosecution  
23 of any minor for an offense committed on or after his or her  
24 17th birthday even though he or she is at the time of the  
25 offense a ward of the court.

26 (9) If an original petition for adjudication of wardship  
27 alleges the commission by a minor 13 years of age or over of an  
28 act that constitutes a crime under the laws of this State, the  
29 minor, with the consent of his or her counsel, may, at any time  
30 before commencement of the adjudicatory hearing, file with the  
31 court a motion that criminal prosecution be ordered and that  
32 the petition be dismissed insofar as the act or acts involved  
33 in the criminal proceedings are concerned. If such a motion is  
34 filed as herein provided, the court shall enter its order  
35 accordingly.

36 (10) If a minor is subject to the provisions of subsection

1 (2) of this Section, other than a minor charged with a Class X  
2 felony violation of the Illinois Controlled Substances Act or  
3 the Methamphetamine Control and Community Protection Act, any  
4 party including the minor or the court sua sponte may, before  
5 trial, move for a hearing for the purpose of trying and  
6 sentencing the minor as a delinquent minor. To request a  
7 hearing, the party must file a motion prior to trial.  
8 Reasonable notice of the motion shall be given to all parties.  
9 On its own motion or upon the filing of a motion by one of the  
10 parties including the minor, the court shall conduct a hearing  
11 to determine whether the minor should be tried and sentenced as  
12 a delinquent minor under this Article. In making its  
13 determination, the court shall consider among other matters:

14 (a) The age of the minor;

15 (b) Any previous delinquent or criminal history of the  
16 minor;

17 (c) Any previous abuse or neglect history of the minor;

18 (d) Any mental health or educational history of the minor,  
19 or both; and

20 (e) Whether there is probable cause to support the charge,  
21 whether the minor is charged through accountability, and  
22 whether there is evidence the minor possessed a deadly weapon  
23 or caused serious bodily harm during the offense.

24 Any material that is relevant and reliable shall be  
25 admissible at the hearing. In all cases, the judge shall enter  
26 an order permitting prosecution under the criminal laws of  
27 Illinois unless the judge makes a finding based on a  
28 preponderance of the evidence that the minor would be amenable  
29 to the care, treatment, and training programs available through  
30 the facilities of the juvenile court based on an evaluation of  
31 the factors listed in this subsection (10).

32 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99; 92-16,  
33 eff. 6-28-01; 92-665, eff. 1-1-03.)

34 (705 ILCS 405/5-601)

35 Sec. 5-601. Trial.

1           (1) When a petition has been filed alleging that the minor  
2 is a delinquent, a trial must be held within 120 days of a  
3 written demand for such hearing made by any party, except that  
4 when the State, without success, has exercised due diligence to  
5 obtain evidence material to the case and there are reasonable  
6 grounds to believe that the evidence may be obtained at a later  
7 date, the court may, upon motion by the State, continue the  
8 trial for not more than 30 additional days.

9           (2) If a minor respondent has multiple delinquency  
10 petitions pending against him or her in the same county and  
11 simultaneously demands a trial upon more than one delinquency  
12 petition pending against him or her in the same county, he or  
13 she shall receive a trial or have a finding, after waiver of  
14 trial, upon at least one such petition before expiration  
15 relative to any of the pending petitions of the period  
16 described by this Section. All remaining petitions thus pending  
17 against the minor respondent shall be adjudicated within 160  
18 days from the date on which a finding relative to the first  
19 petition prosecuted is rendered under Section 5-620 of this  
20 Article, or, if the trial upon the first petition is terminated  
21 without a finding and there is no subsequent trial, or  
22 adjudication after waiver of trial, on the first petition  
23 within a reasonable time, the minor shall receive a trial upon  
24 all of the remaining petitions within 160 days from the date on  
25 which the trial, or finding after waiver of trial, on the first  
26 petition is concluded. If either such period of 160 days  
27 expires without the commencement of trial, or adjudication  
28 after waiver of trial, of any of the remaining pending  
29 petitions, the petition or petitions shall be dismissed and  
30 barred for want of prosecution unless the delay is occasioned  
31 by any of the reasons described in this Section.

32           (3) When no such trial is held within the time required by  
33 subsections (1) and (2) of this Section, the court shall, upon  
34 motion by any party, dismiss the petition with prejudice.

35           (4) Without affecting the applicability of the tolling and  
36 multiple prosecution provisions of subsections (8) and (2) of

1 this Section when a petition has been filed alleging that the  
2 minor is a delinquent and the minor is in detention or shelter  
3 care, the trial shall be held within 30 calendar days after the  
4 date of the order directing detention or shelter care, or the  
5 earliest possible date in compliance with the provisions of  
6 Section 5-525 as to the custodial parent, guardian or legal  
7 custodian, but no later than 45 calendar days from the date of  
8 the order of the court directing detention or shelter care.  
9 When the petition alleges the minor has committed an offense  
10 involving a controlled substance as defined in the Illinois  
11 Controlled Substances Act or methamphetamine as defined in the  
12 Methamphetamine Control and Community Protection Act, the  
13 court may, upon motion of the State, continue the trial for  
14 receipt of a confirmatory laboratory report for up to 45 days  
15 after the date of the order directing detention or shelter  
16 care. When the petition alleges the minor committed an offense  
17 that involves the death of, great bodily harm to or sexual  
18 assault or aggravated criminal sexual abuse on a victim, the  
19 court may, upon motion of the State, continue the trial for not  
20 more than 70 calendar days after the date of the order  
21 directing detention or shelter care.

22 Any failure to comply with the time limits of this Section  
23 shall require the immediate release of the minor from  
24 detention, and the time limits set forth in subsections (1) and  
25 (2) shall apply.

26 (5) If the court determines that the State, without  
27 success, has exercised due diligence to obtain the results of  
28 DNA testing that is material to the case, and that there are  
29 reasonable grounds to believe that the results may be obtained  
30 at a later date, the court may continue the cause on  
31 application of the State for not more than 120 additional days.  
32 The court may also extend the period of detention of the minor  
33 for not more than 120 additional days.

34 (6) If the State's Attorney makes a written request that a  
35 proceeding be designated an extended juvenile jurisdiction  
36 prosecution, and the minor is in detention, the period the

1 minor can be held in detention pursuant to subsection (4),  
2 shall be extended an additional 30 days after the court  
3 determines whether the proceeding will be designated an  
4 extended juvenile jurisdiction prosecution or the State's  
5 Attorney withdraws the request for extended juvenile  
6 jurisdiction prosecution.

7 (7) When the State's Attorney files a motion for waiver of  
8 jurisdiction pursuant to Section 5-805, and the minor is in  
9 detention, the period the minor can be held in detention  
10 pursuant to subsection (4), shall be extended an additional 30  
11 days if the court denies motion for waiver of jurisdiction or  
12 the State's Attorney withdraws the motion for waiver of  
13 jurisdiction.

14 (8) The period in which a trial shall be held as prescribed  
15 by subsections (1), (2), (3), (4), (5), (6), or (7) of this  
16 Section is tolled by: (i) delay occasioned by the minor; (ii) a  
17 continuance allowed pursuant to Section 114-4 of the Code of  
18 Criminal Procedure of 1963 after the court's determination of  
19 the minor's incapacity for trial; (iii) an interlocutory  
20 appeal; (iv) an examination of fitness ordered pursuant to  
21 Section 104-13 of the Code of Criminal Procedure of 1963; (v) a  
22 fitness hearing; or (vi) an adjudication of unfitness for  
23 trial. Any such delay shall temporarily suspend, for the time  
24 of the delay, the period within which a trial must be held as  
25 prescribed by subsections (1), (2), (4), (5), and (6) of this  
26 Section. On the day of expiration of the delays the period  
27 shall continue at the point at which the time was suspended.

28 (9) Nothing in this Section prevents the minor or the  
29 minor's parents, guardian or legal custodian from exercising  
30 their respective rights to waive the time limits set forth in  
31 this Section.

32 (Source: P.A. 90-590, eff. 1-1-99.)

33 (705 ILCS 405/5-615)

34 Sec. 5-615. Continuance under supervision.

35 (1) The court may enter an order of continuance under

1 supervision for an offense other than first degree murder, a  
2 Class X felony or a forcible felony (a) upon an admission or  
3 stipulation by the appropriate respondent or minor respondent  
4 of the facts supporting the petition and before proceeding to  
5 adjudication, or after hearing the evidence at the trial, and  
6 (b) in the absence of objection made in open court by the  
7 minor, his or her parent, guardian, or legal custodian, the  
8 minor's attorney or the State's Attorney.

9 (2) If the minor, his or her parent, guardian, or legal  
10 custodian, the minor's attorney or State's Attorney objects in  
11 open court to any continuance and insists upon proceeding to  
12 findings and adjudication, the court shall so proceed.

13 (3) Nothing in this Section limits the power of the court  
14 to order a continuance of the hearing for the production of  
15 additional evidence or for any other proper reason.

16 (4) When a hearing where a minor is alleged to be a  
17 delinquent is continued pursuant to this Section, the period of  
18 continuance under supervision may not exceed 24 months. The  
19 court may terminate a continuance under supervision at any time  
20 if warranted by the conduct of the minor and the ends of  
21 justice.

22 (5) When a hearing where a minor is alleged to be  
23 delinquent is continued pursuant to this Section, the court  
24 may, as conditions of the continuance under supervision,  
25 require the minor to do any of the following:

26 (a) not violate any criminal statute of any  
27 jurisdiction;

28 (b) make a report to and appear in person before any  
29 person or agency as directed by the court;

30 (c) work or pursue a course of study or vocational  
31 training;

32 (d) undergo medical or psychotherapeutic treatment  
33 rendered by a therapist licensed under the provisions of  
34 the Medical Practice Act of 1987, the Clinical Psychologist  
35 Licensing Act, or the Clinical Social Work and Social Work  
36 Practice Act, or an entity licensed by the Department of

1 Human Services as a successor to the Department of  
2 Alcoholism and Substance Abuse, for the provision of drug  
3 addiction and alcoholism treatment;

4 (e) attend or reside in a facility established for the  
5 instruction or residence of persons on probation;

6 (f) support his or her dependents, if any;

7 (g) pay costs;

8 (h) refrain from possessing a firearm or other  
9 dangerous weapon, or an automobile;

10 (i) permit the probation officer to visit him or her at  
11 his or her home or elsewhere;

12 (j) reside with his or her parents or in a foster home;

13 (k) attend school;

14 (k-5) with the consent of the superintendent of the  
15 facility, attend an educational program at a facility other  
16 than the school in which the offense was committed if he or  
17 she committed a crime of violence as defined in Section 2  
18 of the Crime Victims Compensation Act in a school, on the  
19 real property comprising a school, or within 1,000 feet of  
20 the real property comprising a school;

21 (l) attend a non-residential program for youth;

22 (m) contribute to his or her own support at home or in  
23 a foster home;

24 (n) perform some reasonable public or community  
25 service;

26 (o) make restitution to the victim, in the same manner  
27 and under the same conditions as provided in subsection (4)  
28 of Section 5-710, except that the "sentencing hearing"  
29 referred to in that Section shall be the adjudicatory  
30 hearing for purposes of this Section;

31 (p) comply with curfew requirements as designated by  
32 the court;

33 (q) refrain from entering into a designated geographic  
34 area except upon terms as the court finds appropriate. The  
35 terms may include consideration of the purpose of the  
36 entry, the time of day, other persons accompanying the

1 minor, and advance approval by a probation officer;

2 (r) refrain from having any contact, directly or  
3 indirectly, with certain specified persons or particular  
4 types of persons, including but not limited to members of  
5 street gangs and drug users or dealers;

6 (r-5) undergo a medical or other procedure to have a  
7 tattoo symbolizing allegiance to a street gang removed from  
8 his or her body;

9 (s) refrain from having in his or her body the presence  
10 of any illicit drug prohibited by the Cannabis Control Act,  
11 ~~or~~ the Illinois Controlled Substances Act, or the  
12 Methamphetamine Control and Community Protection Act,  
13 unless prescribed by a physician, and submit samples of his  
14 or her blood or urine or both for tests to determine the  
15 presence of any illicit drug; or

16 (t) comply with any other conditions as may be ordered  
17 by the court.

18 (6) A minor whose case is continued under supervision under  
19 subsection (5) shall be given a certificate setting forth the  
20 conditions imposed by the court. Those conditions may be  
21 reduced, enlarged, or modified by the court on motion of the  
22 probation officer or on its own motion, or that of the State's  
23 Attorney, or, at the request of the minor after notice and  
24 hearing.

25 (7) If a petition is filed charging a violation of a  
26 condition of the continuance under supervision, the court shall  
27 conduct a hearing. If the court finds that a condition of  
28 supervision has not been fulfilled, the court may proceed to  
29 findings and adjudication and disposition. The filing of a  
30 petition for violation of a condition of the continuance under  
31 supervision shall toll the period of continuance under  
32 supervision until the final determination of the charge, and  
33 the term of the continuance under supervision shall not run  
34 until the hearing and disposition of the petition for  
35 violation; provided where the petition alleges conduct that  
36 does not constitute a criminal offense, the hearing must be

1 held within 30 days of the filing of the petition unless a  
2 delay shall continue the tolling of the period of continuance  
3 under supervision for the period of the delay.

4 (8) When a hearing in which a minor is alleged to be a  
5 delinquent for reasons that include a violation of Section  
6 21-1.3 of the Criminal Code of 1961 is continued under this  
7 Section, the court shall, as a condition of the continuance  
8 under supervision, require the minor to perform community  
9 service for not less than 30 and not more than 120 hours, if  
10 community service is available in the jurisdiction. The  
11 community service shall include, but need not be limited to,  
12 the cleanup and repair of the damage that was caused by the  
13 alleged violation or similar damage to property located in the  
14 municipality or county in which the alleged violation occurred.  
15 The condition may be in addition to any other condition.

16 (8.5) When a hearing in which a minor is alleged to be a  
17 delinquent for reasons that include a violation of Section 3.02  
18 or Section 3.03 of the Humane Care for Animals Act or paragraph  
19 (d) of subsection (1) of Section 21-1 of the Criminal Code of  
20 1961 is continued under this Section, the court shall, as a  
21 condition of the continuance under supervision, require the  
22 minor to undergo medical or psychiatric treatment rendered by a  
23 psychiatrist or psychological treatment rendered by a clinical  
24 psychologist. The condition may be in addition to any other  
25 condition.

26 (9) When a hearing in which a minor is alleged to be a  
27 delinquent is continued under this Section, the court, before  
28 continuing the case, shall make a finding whether the offense  
29 alleged to have been committed either: (i) was related to or in  
30 furtherance of the activities of an organized gang or was  
31 motivated by the minor's membership in or allegiance to an  
32 organized gang, or (ii) is a violation of paragraph (13) of  
33 subsection (a) of Section 12-2 of the Criminal Code of 1961, a  
34 violation of any Section of Article 24 of the Criminal Code of  
35 1961, or a violation of any statute that involved the unlawful  
36 use of a firearm. If the court determines the question in the

1 affirmative the court shall, as a condition of the continuance  
2 under supervision and as part of or in addition to any other  
3 condition of the supervision, require the minor to perform  
4 community service for not less than 30 hours, provided that  
5 community service is available in the jurisdiction and is  
6 funded and approved by the county board of the county where the  
7 offense was committed. The community service shall include, but  
8 need not be limited to, the cleanup and repair of any damage  
9 caused by an alleged violation of Section 21-1.3 of the  
10 Criminal Code of 1961 and similar damage to property located in  
11 the municipality or county in which the alleged violation  
12 occurred. When possible and reasonable, the community service  
13 shall be performed in the minor's neighborhood. For the  
14 purposes of this Section, "organized gang" has the meaning  
15 ascribed to it in Section 10 of the Illinois Streetgang  
16 Terrorism Omnibus Prevention Act.

17 (10) The court shall impose upon a minor placed on  
18 supervision, as a condition of the supervision, a fee of \$25  
19 for each month of supervision ordered by the court, unless  
20 after determining the inability of the minor placed on  
21 supervision to pay the fee, the court assesses a lesser amount.  
22 The court may not impose the fee on a minor who is made a ward  
23 of the State under this Act while the minor is in placement.  
24 The fee shall be imposed only upon a minor who is actively  
25 supervised by the probation and court services department. A  
26 court may order the parent, guardian, or legal custodian of the  
27 minor to pay some or all of the fee on the minor's behalf.

28 (Source: P.A. 91-98; eff. 1-1-00; 91-332, eff. 7-29-99; 92-16,  
29 eff. 6-28-01; 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651,  
30 eff. 7-11-02.)

31 (705 ILCS 405/5-710)

32 Sec. 5-710. Kinds of sentencing orders.

33 (1) The following kinds of sentencing orders may be made in  
34 respect of wards of the court:

35 (a) Except as provided in Sections 5-805, 5-810, 5-815,

1 a minor who is found guilty under Section 5-620 may be:

2 (i) put on probation or conditional discharge and  
3 released to his or her parents, guardian or legal  
4 custodian, provided, however, that any such minor who  
5 is not committed to the Department of Corrections,  
6 Juvenile Division under this subsection and who is  
7 found to be a delinquent for an offense which is first  
8 degree murder, a Class X felony, or a forcible felony  
9 shall be placed on probation;

10 (ii) placed in accordance with Section 5-740, with  
11 or without also being put on probation or conditional  
12 discharge;

13 (iii) required to undergo a substance abuse  
14 assessment conducted by a licensed provider and  
15 participate in the indicated clinical level of care;

16 (iv) placed in the guardianship of the Department  
17 of Children and Family Services, but only if the  
18 delinquent minor is under 13 years of age;

19 (v) placed in detention for a period not to exceed  
20 30 days, either as the exclusive order of disposition  
21 or, where appropriate, in conjunction with any other  
22 order of disposition issued under this paragraph,  
23 provided that any such detention shall be in a juvenile  
24 detention home and the minor so detained shall be 10  
25 years of age or older. However, the 30-day limitation  
26 may be extended by further order of the court for a  
27 minor under age 13 committed to the Department of  
28 Children and Family Services if the court finds that  
29 the minor is a danger to himself or others. The minor  
30 shall be given credit on the sentencing order of  
31 detention for time spent in detention under Sections  
32 5-501, 5-601, 5-710, or 5-720 of this Article as a  
33 result of the offense for which the sentencing order  
34 was imposed. The court may grant credit on a sentencing  
35 order of detention entered under a violation of  
36 probation or violation of conditional discharge under

1 Section 5-720 of this Article for time spent in  
2 detention before the filing of the petition alleging  
3 the violation. A minor shall not be deprived of credit  
4 for time spent in detention before the filing of a  
5 violation of probation or conditional discharge  
6 alleging the same or related act or acts;

7 (vi) ordered partially or completely emancipated  
8 in accordance with the provisions of the Emancipation  
9 of ~~Mature~~ Minors Act;

10 (vii) subject to having his or her driver's license  
11 or driving privileges suspended for such time as  
12 determined by the court but only until he or she  
13 attains 18 years of age;

14 (viii) put on probation or conditional discharge  
15 and placed in detention under Section 3-6039 of the  
16 Counties Code for a period not to exceed the period of  
17 incarceration permitted by law for adults found guilty  
18 of the same offense or offenses for which the minor was  
19 adjudicated delinquent, and in any event no longer than  
20 upon attainment of age 21; this subdivision (viii)  
21 notwithstanding any contrary provision of the law; or

22 (ix) ordered to undergo a medical or other  
23 procedure to have a tattoo symbolizing allegiance to a  
24 street gang removed from his or her body.

25 (b) A minor found to be guilty may be committed to the  
26 Department of Corrections, Juvenile Division, under  
27 Section 5-750 if the minor is 13 years of age or older,  
28 provided that the commitment to the Department of  
29 Corrections, Juvenile Division, shall be made only if a  
30 term of incarceration is permitted by law for adults found  
31 guilty of the offense for which the minor was adjudicated  
32 delinquent. The time during which a minor is in custody  
33 before being released upon the request of a parent,  
34 guardian or legal custodian shall be considered as time  
35 spent in detention.

36 (c) When a minor is found to be guilty for an offense

1           which is a violation of the Illinois Controlled Substances  
2           Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine  
3           Control and Community Protection Act and made a ward of the  
4           court, the court may enter a disposition order requiring  
5           the minor to undergo assessment, counseling or treatment in  
6           a substance abuse program approved by the Department of  
7           Human Services.

8           (2) Any sentencing order other than commitment to the  
9           Department of Corrections, Juvenile Division, may provide for  
10          protective supervision under Section 5-725 and may include an  
11          order of protection under Section 5-730.

12          (3) Unless the sentencing order expressly so provides, it  
13          does not operate to close proceedings on the pending petition,  
14          but is subject to modification until final closing and  
15          discharge of the proceedings under Section 5-750.

16          (4) In addition to any other sentence, the court may order  
17          any minor found to be delinquent to make restitution, in  
18          monetary or non-monetary form, under the terms and conditions  
19          of Section 5-5-6 of the Unified Code of Corrections, except  
20          that the "presentencing hearing" referred to in that Section  
21          shall be the sentencing hearing for purposes of this Section.  
22          The parent, guardian or legal custodian of the minor may be  
23          ordered by the court to pay some or all of the restitution on  
24          the minor's behalf, pursuant to the Parental Responsibility  
25          Law. The State's Attorney is authorized to act on behalf of any  
26          victim in seeking restitution in proceedings under this  
27          Section, up to the maximum amount allowed in Section 5 of the  
28          Parental Responsibility Law.

29          (5) Any sentencing order where the minor is committed or  
30          placed in accordance with Section 5-740 shall provide for the  
31          parents or guardian of the estate of the minor to pay to the  
32          legal custodian or guardian of the person of the minor such  
33          sums as are determined by the custodian or guardian of the  
34          person of the minor as necessary for the minor's needs. The  
35          payments may not exceed the maximum amounts provided for by  
36          Section 9.1 of the Children and Family Services Act.

1 (6) Whenever the sentencing order requires the minor to  
2 attend school or participate in a program of training, the  
3 truant officer or designated school official shall regularly  
4 report to the court if the minor is a chronic or habitual  
5 truant under Section 26-2a of the School Code.

6 (7) In no event shall a guilty minor be committed to the  
7 Department of Corrections, Juvenile Division for a period of  
8 time in excess of that period for which an adult could be  
9 committed for the same act.

10 (8) A minor found to be guilty for reasons that include a  
11 violation of Section 21-1.3 of the Criminal Code of 1961 shall  
12 be ordered to perform community service for not less than 30  
13 and not more than 120 hours, if community service is available  
14 in the jurisdiction. The community service shall include, but  
15 need not be limited to, the cleanup and repair of the damage  
16 that was caused by the violation or similar damage to property  
17 located in the municipality or county in which the violation  
18 occurred. The order may be in addition to any other order  
19 authorized by this Section.

20 (8.5) A minor found to be guilty for reasons that include a  
21 violation of Section 3.02 or Section 3.03 of the Humane Care  
22 for Animals Act or paragraph (d) of subsection (1) of Section  
23 21-1 of the Criminal Code of 1961 shall be ordered to undergo  
24 medical or psychiatric treatment rendered by a psychiatrist or  
25 psychological treatment rendered by a clinical psychologist.  
26 The order may be in addition to any other order authorized by  
27 this Section.

28 (9) In addition to any other sentencing order, the court  
29 shall order any minor found to be guilty for an act which would  
30 constitute, predatory criminal sexual assault of a child,  
31 aggravated criminal sexual assault, criminal sexual assault,  
32 aggravated criminal sexual abuse, or criminal sexual abuse if  
33 committed by an adult to undergo medical testing to determine  
34 whether the defendant has any sexually transmissible disease  
35 including a test for infection with human immunodeficiency  
36 virus (HIV) or any other identified causative agency of

1 acquired immunodeficiency syndrome (AIDS). Any medical test  
2 shall be performed only by appropriately licensed medical  
3 practitioners and may include an analysis of any bodily fluids  
4 as well as an examination of the minor's person. Except as  
5 otherwise provided by law, the results of the test shall be  
6 kept strictly confidential by all medical personnel involved in  
7 the testing and must be personally delivered in a sealed  
8 envelope to the judge of the court in which the sentencing  
9 order was entered for the judge's inspection in camera. Acting  
10 in accordance with the best interests of the victim and the  
11 public, the judge shall have the discretion to determine to  
12 whom the results of the testing may be revealed. The court  
13 shall notify the minor of the results of the test for infection  
14 with the human immunodeficiency virus (HIV). The court shall  
15 also notify the victim if requested by the victim, and if the  
16 victim is under the age of 15 and if requested by the victim's  
17 parents or legal guardian, the court shall notify the victim's  
18 parents or the legal guardian, of the results of the test for  
19 infection with the human immunodeficiency virus (HIV). The  
20 court shall provide information on the availability of HIV  
21 testing and counseling at the Department of Public Health  
22 facilities to all parties to whom the results of the testing  
23 are revealed. The court shall order that the cost of any test  
24 shall be paid by the county and may be taxed as costs against  
25 the minor.

26 (10) When a court finds a minor to be guilty the court  
27 shall, before entering a sentencing order under this Section,  
28 make a finding whether the offense committed either: (a) was  
29 related to or in furtherance of the criminal activities of an  
30 organized gang or was motivated by the minor's membership in or  
31 allegiance to an organized gang, or (b) involved a violation of  
32 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,  
33 a violation of any Section of Article 24 of the Criminal Code  
34 of 1961, or a violation of any statute that involved the  
35 wrongful use of a firearm. If the court determines the question  
36 in the affirmative, and the court does not commit the minor to

1 the Department of Corrections, Juvenile Division, the court  
2 shall order the minor to perform community service for not less  
3 than 30 hours nor more than 120 hours, provided that community  
4 service is available in the jurisdiction and is funded and  
5 approved by the county board of the county where the offense  
6 was committed. The community service shall include, but need  
7 not be limited to, the cleanup and repair of any damage caused  
8 by a violation of Section 21-1.3 of the Criminal Code of 1961  
9 and similar damage to property located in the municipality or  
10 county in which the violation occurred. When possible and  
11 reasonable, the community service shall be performed in the  
12 minor's neighborhood. This order shall be in addition to any  
13 other order authorized by this Section except for an order to  
14 place the minor in the custody of the Department of  
15 Corrections, Juvenile Division. For the purposes of this  
16 Section, "organized gang" has the meaning ascribed to it in  
17 Section 10 of the Illinois Streetgang Terrorism Omnibus  
18 Prevention Act.

19 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised  
20 10-9-03.)

21 (705 ILCS 405/5-715)

22 Sec. 5-715. Probation.

23 (1) The period of probation or conditional discharge shall  
24 not exceed 5 years or until the minor has attained the age of  
25 21 years, whichever is less, except as provided in this Section  
26 for a minor who is found to be guilty for an offense which is  
27 first degree murder, a Class X felony or a forcible felony. The  
28 juvenile court may terminate probation or conditional  
29 discharge and discharge the minor at any time if warranted by  
30 the conduct of the minor and the ends of justice; provided,  
31 however, that the period of probation for a minor who is found  
32 to be guilty for an offense which is first degree murder, a  
33 Class X felony, or a forcible felony shall be at least 5 years.

34 (2) The court may as a condition of probation or of  
35 conditional discharge require that the minor:

1 (a) not violate any criminal statute of any  
2 jurisdiction;

3 (b) make a report to and appear in person before any  
4 person or agency as directed by the court;

5 (c) work or pursue a course of study or vocational  
6 training;

7 (d) undergo medical or psychiatric treatment, rendered  
8 by a psychiatrist or psychological treatment rendered by a  
9 clinical psychologist or social work services rendered by a  
10 clinical social worker, or treatment for drug addiction or  
11 alcoholism;

12 (e) attend or reside in a facility established for the  
13 instruction or residence of persons on probation;

14 (f) support his or her dependents, if any;

15 (g) refrain from possessing a firearm or other  
16 dangerous weapon, or an automobile;

17 (h) permit the probation officer to visit him or her at  
18 his or her home or elsewhere;

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

20 (j) attend school;

21 (j-5) with the consent of the superintendent of the  
22 facility, attend an educational program at a facility other  
23 than the school in which the offense was committed if he or  
24 she committed a crime of violence as defined in Section 2  
25 of the Crime Victims Compensation Act in a school, on the  
26 real property comprising a school, or within 1,000 feet of  
27 the real property comprising a school;

28 (k) attend a non-residential program for youth;

29 (l) make restitution under the terms of subsection (4)  
30 of Section 5-710;

31 (m) contribute to his or her own support at home or in  
32 a foster home;

33 (n) perform some reasonable public or community  
34 service;

35 (o) participate with community corrections programs  
36 including unified delinquency intervention services

1 administered by the Department of Human Services subject to  
2 Section 5 of the Children and Family Services Act;

3 (p) pay costs;

4 (q) serve a term of home confinement. In addition to  
5 any other applicable condition of probation or conditional  
6 discharge, the conditions of home confinement shall be that  
7 the minor:

8 (i) remain within the interior premises of the  
9 place designated for his or her confinement during the  
10 hours designated by the court;

11 (ii) admit any person or agent designated by the  
12 court into the minor's place of confinement at any time  
13 for purposes of verifying the minor's compliance with  
14 the conditions of his or her confinement; and

15 (iii) use an approved electronic monitoring device  
16 if ordered by the court subject to Article 8A of  
17 Chapter V of the Unified Code of Corrections;

18 (r) refrain from entering into a designated geographic  
19 area except upon terms as the court finds appropriate. The  
20 terms may include consideration of the purpose of the  
21 entry, the time of day, other persons accompanying the  
22 minor, and advance approval by a probation officer, if the  
23 minor has been placed on probation, or advance approval by  
24 the court, if the minor has been placed on conditional  
25 discharge;

26 (s) refrain from having any contact, directly or  
27 indirectly, with certain specified persons or particular  
28 types of persons, including but not limited to members of  
29 street gangs and drug users or dealers;

30 (s-5) undergo a medical or other procedure to have a  
31 tattoo symbolizing allegiance to a street gang removed from  
32 his or her body;

33 (t) refrain from having in his or her body the presence  
34 of any illicit drug prohibited by the Cannabis Control Act,  
35 ~~or~~ the Illinois Controlled Substances Act, or the  
36 Methamphetamine Control and Community Protection Act,

1 unless prescribed by a physician, and shall submit samples  
2 of his or her blood or urine or both for tests to determine  
3 the presence of any illicit drug; or

4 (u) comply with other conditions as may be ordered by  
5 the court.

6 (3) The court may as a condition of probation or of  
7 conditional discharge require that a minor found guilty on any  
8 alcohol, cannabis, methamphetamine, or controlled substance  
9 violation, refrain from acquiring a driver's license during the  
10 period of probation or conditional discharge. If the minor is  
11 in possession of a permit or license, the court may require  
12 that the minor refrain from driving or operating any motor  
13 vehicle during the period of probation or conditional  
14 discharge, except as may be necessary in the course of the  
15 minor's lawful employment.

16 (3.5) The court shall, as a condition of probation or of  
17 conditional discharge, require that a minor found to be guilty  
18 and placed on probation for reasons that include a violation of  
19 Section 3.02 or Section 3.03 of the Humane Care for Animals Act  
20 or paragraph (d) of subsection (1) of Section 21-1 of the  
21 Criminal Code of 1961 undergo medical or psychiatric treatment  
22 rendered by a psychiatrist or psychological treatment rendered  
23 by a clinical psychologist. The condition may be in addition to  
24 any other condition.

25 (3.10) The court shall order that a minor placed on  
26 probation or conditional discharge for a sex offense as defined  
27 in the Sex Offender Management Board Act undergo and  
28 successfully complete sex offender treatment. The treatment  
29 shall be in conformance with the standards developed under the  
30 Sex Offender Management Board Act and conducted by a treatment  
31 provider approved by the Board. The treatment shall be at the  
32 expense of the person evaluated based upon that person's  
33 ability to pay for the treatment.

34 (4) A minor on probation or conditional discharge shall be  
35 given a certificate setting forth the conditions upon which he  
36 or she is being released.

1           (5) The court shall impose upon a minor placed on probation  
2 or conditional discharge, as a condition of the probation or  
3 conditional discharge, a fee of \$25 for each month of probation  
4 or conditional discharge supervision ordered by the court,  
5 unless after determining the inability of the minor placed on  
6 probation or conditional discharge to pay the fee, the court  
7 assesses a lesser amount. The court may not impose the fee on a  
8 minor who is made a ward of the State under this Act while the  
9 minor is in placement. The fee shall be imposed only upon a  
10 minor who is actively supervised by the probation and court  
11 services department. The court may order the parent, guardian,  
12 or legal custodian of the minor to pay some or all of the fee on  
13 the minor's behalf.

14           (6) The General Assembly finds that in order to protect the  
15 public, the juvenile justice system must compel compliance with  
16 the conditions of probation by responding to violations with  
17 swift, certain, and fair punishments and intermediate  
18 sanctions. The Chief Judge of each circuit shall adopt a system  
19 of structured, intermediate sanctions for violations of the  
20 terms and conditions of a sentence of supervision, probation or  
21 conditional discharge, under this Act.

22           The court shall provide as a condition of a disposition of  
23 probation, conditional discharge, or supervision, that the  
24 probation agency may invoke any sanction from the list of  
25 intermediate sanctions adopted by the chief judge of the  
26 circuit court for violations of the terms and conditions of the  
27 sentence of probation, conditional discharge, or supervision,  
28 subject to the provisions of Section 5-720 of this Act.

29           (Source: P.A. 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651,  
30 eff. 7-11-02; 93-616, eff. 1-1-04.)

31           (705 ILCS 405/5-805)

32           Sec. 5-805. Transfer of jurisdiction.

33           (1) Mandatory transfers.

34           (a) If a petition alleges commission by a minor 15  
35 years of age or older of an act that constitutes a forcible

1 felony under the laws of this State, and if a motion by the  
2 State's Attorney to prosecute the minor under the criminal  
3 laws of Illinois for the alleged forcible felony alleges  
4 that (i) the minor has previously been adjudicated  
5 delinquent or found guilty for commission of an act that  
6 constitutes a felony under the laws of this State or any  
7 other state and (ii) the act that constitutes the offense  
8 was committed in furtherance of criminal activity by an  
9 organized gang, the Juvenile Judge assigned to hear and  
10 determine those motions shall, upon determining that there  
11 is probable cause that both allegations are true, enter an  
12 order permitting prosecution under the criminal laws of  
13 Illinois.

14 (b) If a petition alleges commission by a minor 15  
15 years of age or older of an act that constitutes a felony  
16 under the laws of this State, and if a motion by a State's  
17 Attorney to prosecute the minor under the criminal laws of  
18 Illinois for the alleged felony alleges that (i) the minor  
19 has previously been adjudicated delinquent or found guilty  
20 for commission of an act that constitutes a forcible felony  
21 under the laws of this State or any other state and (ii)  
22 the act that constitutes the offense was committed in  
23 furtherance of criminal activities by an organized gang,  
24 the Juvenile Judge assigned to hear and determine those  
25 motions shall, upon determining that there is probable  
26 cause that both allegations are true, enter an order  
27 permitting prosecution under the criminal laws of  
28 Illinois.

29 (c) If a petition alleges commission by a minor 15  
30 years of age or older of: (i) an act that constitutes an  
31 offense enumerated in the presumptive transfer provisions  
32 of subsection (2); and (ii) the minor has previously been  
33 adjudicated delinquent or found guilty of a forcible  
34 felony, the Juvenile Judge designated to hear and determine  
35 those motions shall, upon determining that there is  
36 probable cause that both allegations are true, enter an

1 order permitting prosecution under the criminal laws of  
2 Illinois.

3 (d) If a petition alleges commission by a minor 15  
4 years of age or older of an act that constitutes the  
5 offense of aggravated discharge of a firearm committed in a  
6 school, on the real property comprising a school, within  
7 1,000 feet of the real property comprising a school, at a  
8 school related activity, or on, boarding, or departing from  
9 any conveyance owned, leased, or contracted by a school or  
10 school district to transport students to or from school or  
11 a school related activity, regardless of the time of day or  
12 the time of year, the juvenile judge designated to hear and  
13 determine those motions shall, upon determining that there  
14 is probable cause that the allegations are true, enter an  
15 order permitting prosecution under the criminal laws of  
16 Illinois.

17 For purposes of this paragraph (d) of subsection (1):

18 "School" means a public or private elementary or  
19 secondary school, community college, college, or  
20 university.

21 "School related activity" means any sporting, social,  
22 academic, or other activity for which students' attendance  
23 or participation is sponsored, organized, or funded in  
24 whole or in part by a school or school district.

25 (2) Presumptive transfer.

26 (a) If the State's Attorney files a petition, at any  
27 time prior to commencement of the minor's trial, to permit  
28 prosecution under the criminal laws and the petition  
29 alleges the commission by a minor 15 years of age or older  
30 of: (i) a Class X felony other than armed violence; (ii)  
31 aggravated discharge of a firearm; (iii) armed violence  
32 with a firearm when the predicate offense is a Class 1 or  
33 Class 2 felony and the State's Attorney's motion to  
34 transfer the case alleges that the offense committed is in  
35 furtherance of the criminal activities of an organized  
36 gang; (iv) armed violence with a firearm when the predicate

1 offense is a violation of the Illinois Controlled  
2 Substances Act, ~~or~~ a violation of the Cannabis Control Act,  
3 or a violation of the Methamphetamine Control and Community  
4 Protection Act; (v) armed violence when the weapon involved  
5 was a machine gun or other weapon described in subsection  
6 (a)(7) of Section 24-1 of the Criminal Code of 1961, and,  
7 if the juvenile judge assigned to hear and determine  
8 motions to transfer a case for prosecution in the criminal  
9 court determines that there is probable cause to believe  
10 that the allegations in the petition and motion are true,  
11 there is a rebuttable presumption that the minor is not a  
12 fit and proper subject to be dealt with under the Juvenile  
13 Justice Reform Provisions of 1998 (Public Act 90-590), and  
14 that, except as provided in paragraph (b), the case should  
15 be transferred to the criminal court.

16 (b) The judge shall enter an order permitting  
17 prosecution under the criminal laws of Illinois unless the  
18 judge makes a finding based on clear and convincing  
19 evidence that the minor would be amenable to the care,  
20 treatment, and training programs available through the  
21 facilities of the juvenile court based on an evaluation of  
22 the following:

23 (i) The seriousness of the alleged offense;

24 (ii) The minor's history of delinquency;

25 (iii) The age of the minor;

26 (iv) The culpability of the minor in committing the  
27 alleged offense;

28 (v) Whether the offense was committed in an aggressive  
29 or premeditated manner;

30 (vi) Whether the minor used or possessed a deadly  
31 weapon when committing the alleged offense;

32 (vii) The minor's history of services, including the  
33 minor's willingness to participate meaningfully in  
34 available services;

35 (viii) Whether there is a reasonable likelihood that  
36 the minor can be rehabilitated before the expiration of the

1 juvenile court's jurisdiction;

2 (ix) The adequacy of the punishment or services  
3 available in the juvenile justice system.

4 In considering these factors, the court shall give greater  
5 weight to the seriousness of the alleged offense and the  
6 minor's prior record of delinquency than to the other factors  
7 listed in this subsection.

8 (3) Discretionary transfer.

9 (a) If a petition alleges commission by a minor 13  
10 years of age or over of an act that constitutes a crime  
11 under the laws of this State and, on motion of the State's  
12 Attorney to permit prosecution of the minor under the  
13 criminal laws, a Juvenile Judge assigned by the Chief Judge  
14 of the Circuit to hear and determine those motions, after  
15 hearing but before commencement of the trial, finds that  
16 there is probable cause to believe that the allegations in  
17 the motion are true and that it is not in the best  
18 interests of the public to proceed under this Act, the  
19 court may enter an order permitting prosecution under the  
20 criminal laws.

21 (b) In making its determination on the motion to permit  
22 prosecution under the criminal laws, the court shall  
23 consider among other matters:

24 (i) The seriousness of the alleged offense;

25 (ii) The minor's history of delinquency;

26 (iii) The age of the minor;

27 (iv) The culpability of the minor in committing the  
28 alleged offense;

29 (v) Whether the offense was committed in an aggressive  
30 or premeditated manner;

31 (vi) Whether the minor used or possessed a deadly  
32 weapon when committing the alleged offense;

33 (vii) The minor's history of services, including the  
34 minor's willingness to participate meaningfully in  
35 available services;

36 (viii) The adequacy of the punishment or services

1 available in the juvenile justice system.

2 In considering these factors, the court shall give greater  
3 weight to the seriousness of the alleged offense and the  
4 minor's prior record of delinquency than to the other factors  
5 listed in this subsection.

6 (4) The rules of evidence for this hearing shall be the  
7 same as under Section 5-705 of this Act. A minor must be  
8 represented in court by counsel before the hearing may be  
9 commenced.

10 (5) If criminal proceedings are instituted, the petition  
11 for adjudication of wardship shall be dismissed insofar as the  
12 act or acts involved in the criminal proceedings. Taking of  
13 evidence in a trial on petition for adjudication of wardship is  
14 a bar to criminal proceedings based upon the conduct alleged in  
15 the petition.

16 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00; 91-357,  
17 eff. 7-29-99.)

18 (705 ILCS 405/5-901)

19 Sec. 5-901. Court file.

20 (1) The Court file with respect to proceedings under this  
21 Article shall consist of the petitions, pleadings, victim  
22 impact statements, process, service of process, orders, writs  
23 and docket entries reflecting hearings held and judgments and  
24 decrees entered by the court. The court file shall be kept  
25 separate from other records of the court.

26 (a) The file, including information identifying the  
27 victim or alleged victim of any sex offense, shall be  
28 disclosed only to the following parties when necessary for  
29 discharge of their official duties:

30 (i) A judge of the circuit court and members of the  
31 staff of the court designated by the judge;

32 (ii) Parties to the proceedings and their  
33 attorneys;

34 (iii) Victims and their attorneys, except in cases  
35 of multiple victims of sex offenses in which case the

1 information identifying the nonrequesting victims  
2 shall be redacted;

3 (iv) Probation officers, law enforcement officers  
4 or prosecutors or their staff;

5 (v) Adult and juvenile Prisoner Review Boards.

6 (b) The Court file redacted to remove any information  
7 identifying the victim or alleged victim of any sex offense  
8 shall be disclosed only to the following parties when  
9 necessary for discharge of their official duties:

10 (i) Authorized military personnel;

11 (ii) Persons engaged in bona fide research, with  
12 the permission of the judge of the juvenile court and  
13 the chief executive of the agency that prepared the  
14 particular recording: provided that publication of  
15 such research results in no disclosure of a minor's  
16 identity and protects the confidentiality of the  
17 record;

18 (iii) The Secretary of State to whom the Clerk of  
19 the Court shall report the disposition of all cases, as  
20 required in Section 6-204 or Section 6-205.1 of the  
21 Illinois Vehicle Code. However, information reported  
22 relative to these offenses shall be privileged and  
23 available only to the Secretary of State, courts, and  
24 police officers;

25 (iv) The administrator of a bonafide substance  
26 abuse student assistance program with the permission  
27 of the presiding judge of the juvenile court;

28 (v) Any individual, or any public or private agency  
29 or institution, having custody of the juvenile under  
30 court order or providing educational, medical or  
31 mental health services to the juvenile or a  
32 court-approved advocate for the juvenile or any  
33 placement provider or potential placement provider as  
34 determined by the court.

35 (3) A minor who is the victim or alleged victim in a  
36 juvenile proceeding shall be provided the same confidentiality

1 regarding disclosure of identity as the minor who is the  
2 subject of record. Information identifying victims and alleged  
3 victims of sex offenses, shall not be disclosed or open to  
4 public inspection under any circumstances. Nothing in this  
5 Section shall prohibit the victim or alleged victim of any sex  
6 offense from voluntarily disclosing his or her identity.

7 (4) Relevant information, reports and records shall be made  
8 available to the Department of Corrections when a juvenile  
9 offender has been placed in the custody of the Department of  
10 Corrections, Juvenile Division.

11 (5) Except as otherwise provided in this subsection (5),  
12 juvenile court records shall not be made available to the  
13 general public but may be inspected by representatives of  
14 agencies, associations and news media or other properly  
15 interested persons by general or special order of the court.  
16 The State's Attorney, the minor, his or her parents, guardian  
17 and counsel shall at all times have the right to examine court  
18 files and records.

19 (a) The court shall allow the general public to have  
20 access to the name, address, and offense of a minor who is  
21 adjudicated a delinquent minor under this Act under either  
22 of the following circumstances:

23 (i) The adjudication of delinquency was based upon  
24 the minor's commission of first degree murder, attempt  
25 to commit first degree murder, aggravated criminal  
26 sexual assault, or criminal sexual assault; or

27 (ii) The court has made a finding that the minor  
28 was at least 13 years of age at the time the act was  
29 committed and the adjudication of delinquency was  
30 based upon the minor's commission of: (A) an act in  
31 furtherance of the commission of a felony as a member  
32 of or on behalf of a criminal street gang, (B) an act  
33 involving the use of a firearm in the commission of a  
34 felony, (C) an act that would be a Class X felony  
35 offense under or the minor's second or subsequent Class  
36 2 or greater felony offense under the Cannabis Control

1 Act if committed by an adult, (D) an act that would be  
2 a second or subsequent offense under Section 402 of the  
3 Illinois Controlled Substances Act if committed by an  
4 adult, ~~or~~ (E) an act that would be an offense under  
5 Section 401 of the Illinois Controlled Substances Act  
6 if committed by an adult, or (F) an act that would be  
7 an offense under the Methamphetamine Control and  
8 Community Protection Act if committed by an adult.

9 (b) The court shall allow the general public to have  
10 access to the name, address, and offense of a minor who is  
11 at least 13 years of age at the time the offense is  
12 committed and who is convicted, in criminal proceedings  
13 permitted or required under Section 5-805, under either of  
14 the following circumstances:

15 (i) The minor has been convicted of first degree  
16 murder, attempt to commit first degree murder,  
17 aggravated criminal sexual assault, or criminal sexual  
18 assault,

19 (ii) The court has made a finding that the minor  
20 was at least 13 years of age at the time the offense  
21 was committed and the conviction was based upon the  
22 minor's commission of: (A) an offense in furtherance of  
23 the commission of a felony as a member of or on behalf  
24 of a criminal street gang, (B) an offense involving the  
25 use of a firearm in the commission of a felony, (C) a  
26 Class X felony offense under the Cannabis Control Act  
27 or a second or subsequent Class 2 or greater felony  
28 offense under the Cannabis Control Act, (D) a second or  
29 subsequent offense under Section 402 of the Illinois  
30 Controlled Substances Act, ~~or~~ (E) an offense under  
31 Section 401 of the Illinois Controlled Substances Act, or  
32 or (F) an offense under the Methamphetamine Control and  
33 Community Protection Act.

34 (6) Nothing in this Section shall be construed to limit the  
35 use of a adjudication of delinquency as evidence in any  
36 juvenile or criminal proceeding, where it would otherwise be

1 admissible under the rules of evidence, including but not  
2 limited to, use as impeachment evidence against any witness,  
3 including the minor if he or she testifies.

4 (7) Nothing in this Section shall affect the right of a  
5 Civil Service Commission or appointing authority examining the  
6 character and fitness of an applicant for a position as a law  
7 enforcement officer to ascertain whether that applicant was  
8 ever adjudicated to be a delinquent minor and, if so, to  
9 examine the records or evidence which were made in proceedings  
10 under this Act.

11 (8) Following any adjudication of delinquency for a crime  
12 which would be a felony if committed by an adult, or following  
13 any adjudication of delinquency for a violation of Section  
14 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the  
15 State's Attorney shall ascertain whether the minor respondent  
16 is enrolled in school and, if so, shall provide a copy of the  
17 sentencing order to the principal or chief administrative  
18 officer of the school. Access to such juvenile records shall be  
19 limited to the principal or chief administrative officer of the  
20 school and any guidance counselor designated by him or her.

21 (9) Nothing contained in this Act prevents the sharing or  
22 disclosure of information or records relating or pertaining to  
23 juveniles subject to the provisions of the Serious Habitual  
24 Offender Comprehensive Action Program when that information is  
25 used to assist in the early identification and treatment of  
26 habitual juvenile offenders.

27 (11) The Clerk of the Circuit Court shall report to the  
28 Department of State Police, in the form and manner required by  
29 the Department of State Police, the final disposition of each  
30 minor who has been arrested or taken into custody before his or  
31 her 17th birthday for those offenses required to be reported  
32 under Section 5 of the Criminal Identification Act. Information  
33 reported to the Department under this Section may be maintained  
34 with records that the Department files under Section 2.1 of the  
35 Criminal Identification Act.

36 (12) Information or records may be disclosed to the general

1 public when the court is conducting hearings under Section  
2 5-805 or 5-810.

3 (Source: P.A. 90-590, eff. 1-1-99.)

4 Section 1055. The Criminal Code of 1961 is amended by  
5 changing Sections 9-3.3, 11-19.2, 14-3, 19-5, 20-2, 24-1.1,  
6 24-1.6, 29B-1, 31A-1.1, 31A-1.2, 33A-3, 37-1, 44-2, and 44-3 as  
7 follows:

8 (720 ILCS 5/9-3.3) (from Ch. 38, par. 9-3.3)

9 Sec. 9-3.3. Drug-induced homicide.

10 (a) A person who violates Section 401 of the Illinois  
11 Controlled Substances Act or Section 55 of the Methamphetamine  
12 Control and Community Protection Act by unlawfully delivering a  
13 controlled substance to another, and any person dies as a  
14 result of the injection, inhalation or ingestion of any amount  
15 of that controlled substance, commits the offense of  
16 drug-induced homicide.

17 (b) Sentence. Drug-induced homicide is a Class X felony.

18 (c) A person who commits drug-induced homicide by violating  
19 subsection (a) or subsection (c) of Section 401 of the Illinois  
20 Controlled Substances Act or Section 55 of the Methamphetamine  
21 Control and Community Protection Act commits a Class X felony  
22 for which the defendant shall in addition to a sentence  
23 authorized by law, be sentenced to a term of imprisonment of  
24 not less than 15 years and not more than 30 years or an  
25 extended term of not less than 30 years and not more than 60  
26 years.

27 (Source: P.A. 91-357, eff. 7-29-99; 92-256, eff. 1-1-02.)

28 (720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

29 Sec. 11-19.2. Exploitation of a child.

30 (A) A person commits exploitation of a child when he or she  
31 confines a child under the age of 16 or a severely or  
32 profoundly mentally retarded person against his or her will by  
33 the infliction or threat of imminent infliction of great bodily

1 harm, permanent disability or disfigurement or by  
2 administering to the child or severely or profoundly mentally  
3 retarded person without his or her consent or by threat or  
4 deception and for other than medical purposes, any alcoholic  
5 intoxicant or a drug as defined in the Illinois Controlled  
6 Substances Act or the Cannabis Control Act or methamphetamine  
7 as defined in the Methamphetamine Control and Community  
8 Protection Act and:

9 (1) compels the child or severely or profoundly  
10 mentally retarded person to become a prostitute; or

11 (2) arranges a situation in which the child or severely  
12 or profoundly mentally retarded person may practice  
13 prostitution; or

14 (3) receives any money, property, token, object, or  
15 article or anything of value from the child or severely or  
16 profoundly mentally retarded person knowing it was  
17 obtained in whole or in part from the practice of  
18 prostitution.

19 (B) For purposes of this Section, administering drugs, as  
20 defined in subsection (A), or an alcoholic intoxicant to a  
21 child under the age of 13 or a severely or profoundly mentally  
22 retarded person shall be deemed to be without consent if such  
23 administering is done without the consent of the parents or  
24 legal guardian.

25 (C) Exploitation of a child is a Class X felony.

26 (D) Any person convicted under this Section is subject to  
27 the forfeiture provisions of Section 11-20.1A of this Act.

28 (Source: P.A. 91-357, eff. 7-29-99; 91-696, eff. 4-13-00;  
29 92-434, eff. 1-1-02.)

30 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

31 Sec. 14-3. Exemptions. The following activities shall be  
32 exempt from the provisions of this Article:

33 (a) Listening to radio, wireless and television  
34 communications of any sort where the same are publicly made;

35 (b) Hearing conversation when heard by employees of any

1 common carrier by wire incidental to the normal course of their  
2 employment in the operation, maintenance or repair of the  
3 equipment of such common carrier by wire so long as no  
4 information obtained thereby is used or divulged by the hearer;

5 (c) Any broadcast by radio, television or otherwise whether  
6 it be a broadcast or recorded for the purpose of later  
7 broadcasts of any function where the public is in attendance  
8 and the conversations are overheard incidental to the main  
9 purpose for which such broadcasts are then being made;

10 (d) Recording or listening with the aid of any device to  
11 any emergency communication made in the normal course of  
12 operations by any federal, state or local law enforcement  
13 agency or institutions dealing in emergency services,  
14 including, but not limited to, hospitals, clinics, ambulance  
15 services, fire fighting agencies, any public utility,  
16 emergency repair facility, civilian defense establishment or  
17 military installation;

18 (e) Recording the proceedings of any meeting required to be  
19 open by the Open Meetings Act, as amended;

20 (f) Recording or listening with the aid of any device to  
21 incoming telephone calls of phone lines publicly listed or  
22 advertised as consumer "hotlines" by manufacturers or  
23 retailers of food and drug products. Such recordings must be  
24 destroyed, erased or turned over to local law enforcement  
25 authorities within 24 hours from the time of such recording and  
26 shall not be otherwise disseminated. Failure on the part of the  
27 individual or business operating any such recording or  
28 listening device to comply with the requirements of this  
29 subsection shall eliminate any civil or criminal immunity  
30 conferred upon that individual or business by the operation of  
31 this Section;

32 (g) With prior notification to the State's Attorney of the  
33 county in which it is to occur, recording or listening with the  
34 aid of any device to any conversation where a law enforcement  
35 officer, or any person acting at the direction of law  
36 enforcement, is a party to the conversation and has consented

1 to it being intercepted or recorded under circumstances where  
2 the use of the device is necessary for the protection of the  
3 law enforcement officer or any person acting at the direction  
4 of law enforcement, in the course of an investigation of a  
5 forcible felony, a felony violation of the Illinois Controlled  
6 Substances Act, a felony violation of the Cannabis Control Act,  
7 a felony violation of the Methamphetamine Control and Community  
8 Protection Act, or any "streetgang related" or "gang-related"  
9 felony as those terms are defined in the Illinois Streetgang  
10 Terrorism Omnibus Prevention Act. Any recording or evidence  
11 derived as the result of this exemption shall be inadmissible  
12 in any proceeding, criminal, civil or administrative, except  
13 (i) where a party to the conversation suffers great bodily  
14 injury or is killed during such conversation, or (ii) when used  
15 as direct impeachment of a witness concerning matters contained  
16 in the interception or recording. The Director of the  
17 Department of State Police shall issue regulations as are  
18 necessary concerning the use of devices, retention of tape  
19 recordings, and reports regarding their use;

20 (g-5) With approval of the State's Attorney of the county  
21 in which it is to occur, recording or listening with the aid of  
22 any device to any conversation where a law enforcement officer,  
23 or any person acting at the direction of law enforcement, is a  
24 party to the conversation and has consented to it being  
25 intercepted or recorded in the course of an investigation of  
26 any offense defined in Article 29D of this Code. In all such  
27 cases, an application for an order approving the previous or  
28 continuing use of an eavesdropping device must be made within  
29 48 hours of the commencement of such use. In the absence of  
30 such an order, or upon its denial, any continuing use shall  
31 immediately terminate. The Director of State Police shall issue  
32 rules as are necessary concerning the use of devices, retention  
33 of tape recordings, and reports regarding their use.

34 Any recording or evidence obtained or derived in the course  
35 of an investigation of any offense defined in Article 29D of  
36 this Code shall, upon motion of the State's Attorney or

1 Attorney General prosecuting any violation of Article 29D, be  
2 reviewed in camera with notice to all parties present by the  
3 court presiding over the criminal case, and, if ruled by the  
4 court to be relevant and otherwise admissible, it shall be  
5 admissible at the trial of the criminal case.

6 This subsection (g-5) is inoperative on and after January  
7 1, 2005. No conversations recorded or monitored pursuant to  
8 this subsection (g-5) shall be inadmissible ~~inadmissible~~ in a  
9 court of law by virtue of the repeal of this subsection (g-5)  
10 on January 1, 2005;

11 (h) Recordings made simultaneously with a video recording  
12 of an oral conversation between a peace officer, who has  
13 identified his or her office, and a person stopped for an  
14 investigation of an offense under the Illinois Vehicle Code;

15 (i) Recording of a conversation made by or at the request  
16 of a person, not a law enforcement officer or agent of a law  
17 enforcement officer, who is a party to the conversation, under  
18 reasonable suspicion that another party to the conversation is  
19 committing, is about to commit, or has committed a criminal  
20 offense against the person or a member of his or her immediate  
21 household, and there is reason to believe that evidence of the  
22 criminal offense may be obtained by the recording;

23 (j) The use of a telephone monitoring device by either (1)  
24 a corporation or other business entity engaged in marketing or  
25 opinion research or (2) a corporation or other business entity  
26 engaged in telephone solicitation, as defined in this  
27 subsection, to record or listen to oral telephone solicitation  
28 conversations or marketing or opinion research conversations  
29 by an employee of the corporation or other business entity  
30 when:

31 (i) the monitoring is used for the purpose of service  
32 quality control of marketing or opinion research or  
33 telephone solicitation, the education or training of  
34 employees or contractors engaged in marketing or opinion  
35 research or telephone solicitation, or internal research  
36 related to marketing or opinion research or telephone

1 solicitation; and

2 (ii) the monitoring is used with the consent of at  
3 least one person who is an active party to the marketing or  
4 opinion research conversation or telephone solicitation  
5 conversation being monitored.

6 No communication or conversation or any part, portion, or  
7 aspect of the communication or conversation made, acquired, or  
8 obtained, directly or indirectly, under this exemption (j), may  
9 be, directly or indirectly, furnished to any law enforcement  
10 officer, agency, or official for any purpose or used in any  
11 inquiry or investigation, or used, directly or indirectly, in  
12 any administrative, judicial, or other proceeding, or divulged  
13 to any third party.

14 When recording or listening authorized by this subsection  
15 (j) on telephone lines used for marketing or opinion research  
16 or telephone solicitation purposes results in recording or  
17 listening to a conversation that does not relate to marketing  
18 or opinion research or telephone solicitation; the person  
19 recording or listening shall, immediately upon determining  
20 that the conversation does not relate to marketing or opinion  
21 research or telephone solicitation, terminate the recording or  
22 listening and destroy any such recording as soon as is  
23 practicable.

24 Business entities that use a telephone monitoring or  
25 telephone recording system pursuant to this exemption (j) shall  
26 provide current and prospective employees with notice that the  
27 monitoring or recordings may occur during the course of their  
28 employment. The notice shall include prominent signage  
29 notification within the workplace.

30 Business entities that use a telephone monitoring or  
31 telephone recording system pursuant to this exemption (j) shall  
32 provide their employees or agents with access to personal-only  
33 telephone lines which may be pay telephones, that are not  
34 subject to telephone monitoring or telephone recording.

35 For the purposes of this subsection (j), "telephone  
36 solicitation" means a communication through the use of a

1 telephone by live operators:

2 (i) soliciting the sale of goods or services;

3 (ii) receiving orders for the sale of goods or  
4 services;

5 (iii) assisting in the use of goods or services; or

6 (iv) engaging in the solicitation, administration, or  
7 collection of bank or retail credit accounts.

8 For the purposes of this subsection (j), "marketing or  
9 opinion research" means a marketing or opinion research  
10 interview conducted by a live telephone interviewer engaged by  
11 a corporation or other business entity whose principal business  
12 is the design, conduct, and analysis of polls and surveys  
13 measuring the opinions, attitudes, and responses of  
14 respondents toward products and services, or social or  
15 political issues, or both;i-

16 (k) Electronic recordings, including but not limited to, a  
17 motion picture, videotape, digital, or other visual or audio  
18 recording, made of a custodial interrogation of an individual  
19 at a police station or other place of detention by a law  
20 enforcement officer under Section 5-401.5 of the Juvenile Court  
21 Act of 1987 or Section 103-2.1 of the Code of Criminal  
22 Procedure of 1963; and

23 (l) ~~(k)~~ Recording the interview or statement of any person  
24 when the person knows that the interview is being conducted by  
25 a law enforcement officer or prosecutor and the interview takes  
26 place at a police station that is currently participating in  
27 the Custodial Interview Pilot Program established under the  
28 Illinois Criminal Justice Information Act.

29 (Source: P.A. 92-854, eff. 12-5-02; 93-206, eff. 7-18-03;  
30 93-517, eff. 8-6-03; 93-605, eff. 11-19-03; revised 12-9-03.)

31 (720 ILCS 5/19-5) (from Ch. 38, par. 19-5)

32 Sec. 19-5. Criminal fortification of a residence or  
33 building. (a) A person commits the offense of criminal  
34 fortification of a residence or building when, with the intent  
35 to prevent the lawful entry of a law enforcement officer or

1 another, he maintains a residence or building in a fortified  
2 condition, knowing that such residence or building is used for  
3 the manufacture, storage, delivery, or trafficking of  
4 cannabis, ~~or~~ controlled substances, or methamphetamine as  
5 defined in the Cannabis Control Act, the ~~or~~ Illinois Controlled  
6 Substances Act, or the Methamphetamine Control and Community  
7 Protection Act.

8 (b) "Fortified condition" means preventing or impeding  
9 entry through the use of steel doors, wooden planking,  
10 crossbars, alarm systems, dogs, or other similar means.

11 (c) Sentence. Criminal fortification of a residence or  
12 building is a Class 3 felony.

13 (d) This Section does not apply to the fortification of a  
14 residence or building used in the manufacture of  
15 methamphetamine as described in Sections 10 and 15 of the  
16 Methamphetamine Control and Community Protection Act.

17 (Source: P.A. 86-760.)

18 (720 ILCS 5/20-2) (from Ch. 38, par. 20-2)

19 Sec. 20-2. Possession of explosives or explosive or  
20 incendiary devices.

21 (a) A person commits the offense of possession of  
22 explosives or explosive or incendiary devices in violation of  
23 this Section when he or she possesses, manufactures or  
24 transports any explosive compound, timing or detonating device  
25 for use with any explosive compound or incendiary device and  
26 either intends to use such explosive or device to commit any  
27 offense or knows that another intends to use such explosive or  
28 device to commit a felony.

29 (b) Sentence.

30 Possession of explosives or explosive or incendiary  
31 devices in violation of this Section is a Class 1 felony for  
32 which a person, if sentenced to a term of imprisonment, shall  
33 be sentenced to not less than 4 years and not more than 30  
34 years.

35 (c) (Blank). ~~In this Section, "explosive compound" or~~

1 ~~"incendiary device" includes a methamphetamine manufacturing~~  
2 ~~chemical as defined in clause (z-1) of Section 102 of the~~  
3 ~~Illinois Controlled Substances Act.~~

4 (Source: P.A. 93-594, eff. 1-1-04.)

5 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

6 Sec. 24-1.1. Unlawful Use or Possession of Weapons by  
7 Felons or Persons in the Custody of the Department of  
8 Corrections Facilities.

9 (a) It is unlawful for a person to knowingly possess on or  
10 about his person or on his land or in his own abode or fixed  
11 place of business any weapon prohibited under Section 24-1 of  
12 this Act or any firearm or any firearm ammunition if the person  
13 has been convicted of a felony under the laws of this State or  
14 any other jurisdiction. This Section shall not apply if the  
15 person has been granted relief by the Director of the  
16 Department of State Police under Section 10 of the Firearm  
17 Owners Identification Card Act.

18 (b) It is unlawful for any person confined in a penal  
19 institution, which is a facility of the Illinois Department of  
20 Corrections, to possess any weapon prohibited under Section  
21 24-1 of this Code or any firearm or firearm ammunition,  
22 regardless of the intent with which he possesses it.

23 (c) It shall be an affirmative defense to a violation of  
24 subsection (b), that such possession was specifically  
25 authorized by rule, regulation, or directive of the Illinois  
26 Department of Corrections or order issued pursuant thereto.

27 (d) The defense of necessity is not available to a person  
28 who is charged with a violation of subsection (b) of this  
29 Section.

30 (e) Sentence. Violation of this Section by a person not  
31 confined in a penal institution shall be a Class 3 felony for  
32 which the person, if sentenced to a term of imprisonment, shall  
33 be sentenced to no less than 2 years and no more than 10 years.  
34 Violation of this Section by a person not confined in a penal  
35 institution who has been convicted of a forcible felony, a

1 felony violation of Article 24 of this Code or of the Firearm  
2 Owners Identification Card Act, stalking or aggravated  
3 stalking, or a Class 2 or greater felony under the Illinois  
4 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the  
5 Methamphetamine Control and Community Protection Act is a Class  
6 2 felony for which the person, if sentenced to a term of  
7 imprisonment, shall be sentenced to not less than 3 years and  
8 not more than 14 years. Violation of this Section by a person  
9 who is on parole or mandatory supervised release is a Class 2  
10 felony for which the person, if sentenced to a term of  
11 imprisonment, shall be sentenced to not less than 3 years and  
12 not more than 14 years. Violation of this Section by a person  
13 not confined in a penal institution is a Class X felony when  
14 the firearm possessed is a machine gun. Any person who violates  
15 this Section while confined in a penal institution, which is a  
16 facility of the Illinois Department of Corrections, is guilty  
17 of a Class 1 felony, if he possesses any weapon prohibited  
18 under Section 24-1 of this Code regardless of the intent with  
19 which he possesses it, a Class X felony if he possesses any  
20 firearm, firearm ammunition or explosive, and a Class X felony  
21 for which the offender shall be sentenced to not less than 12  
22 years and not more than 50 years when the firearm possessed is  
23 a machine gun. A violation of this Section while wearing or in  
24 possession of body armor as defined in Section 33F-1 is a Class  
25 X felony punishable by a term of imprisonment of not less than  
26 10 years and not more than 40 years.

27 (Source: P.A. 93-906, eff. 8-11-04.)

28 (720 ILCS 5/24-1.6)

29 Sec. 24-1.6. Aggravated unlawful use of a weapon.

30 (a) A person commits the offense of aggravated unlawful use  
31 of a weapon when he or she knowingly:

32 (1) Carries on or about his or her person or in any  
33 vehicle or concealed on or about his or her person except  
34 when on his or her land or in his or her abode or fixed  
35 place of business any pistol, revolver, stun gun or taser

1 or other firearm; or

2 (2) Carries or possesses on or about his or her person,  
3 upon any public street, alley, or other public lands within  
4 the corporate limits of a city, village or incorporated  
5 town, except when an invitee thereon or therein, for the  
6 purpose of the display of such weapon or the lawful  
7 commerce in weapons, or except when on his or her own land  
8 or in his or her own abode or fixed place of business, any  
9 pistol, revolver, stun gun or taser or other firearm; and

10 (3) One of the following factors is present:

11 (A) the firearm possessed was uncased, loaded and  
12 immediately accessible at the time of the offense; or

13 (B) the firearm possessed was uncased, unloaded  
14 and the ammunition for the weapon was immediately  
15 accessible at the time of the offense; or

16 (C) the person possessing the firearm has not been  
17 issued a currently valid Firearm Owner's  
18 Identification Card; or

19 (D) the person possessing the weapon was  
20 previously adjudicated a delinquent minor under the  
21 Juvenile Court Act of 1987 for an act that if committed  
22 by an adult would be a felony; or

23 (E) the person possessing the weapon was engaged in  
24 a misdemeanor violation of the Cannabis Control Act, ~~or~~  
25 in a misdemeanor violation of the Illinois Controlled  
26 Substances Act, or in a misdemeanor violation of the  
27 Methamphetamine Control and Community Protection Act;  
28 or

29 (F) the person possessing the weapon is a member of  
30 a street gang or is engaged in street gang related  
31 activity, as defined in Section 10 of the Illinois  
32 Streetgang Terrorism Omnibus Prevention Act; or

33 (G) the person possessing the weapon had a order of  
34 protection issued against him or her within the  
35 previous 2 years; or

36 (H) the person possessing the weapon was engaged in

1 the commission or attempted commission of a  
2 misdemeanor involving the use or threat of violence  
3 against the person or property of another; or

4 (I) the person possessing the weapon was under 21  
5 years of age and in possession of a handgun as defined  
6 in Section 24-3, unless the person under 21 is engaged  
7 in lawful activities under the Wildlife Code or  
8 described in subsection 24-2(b)(1), (b)(3), or  
9 24-2(f).

10 (b) "Stun gun or taser" as used in this Section has the  
11 same definition given to it in Section 24-1 of this Code.

12 (c) This Section does not apply to or affect the  
13 transportation or possession of weapons that:

14 (i) are broken down in a non-functioning state; or

15 (ii) are not immediately accessible; or

16 (iii) are unloaded and enclosed in a case, firearm  
17 carrying box, shipping box, or other container by a  
18 person who has been issued a currently valid Firearm  
19 Owner's Identification Card.

20 (d) Sentence. Aggravated unlawful use of a weapon is a  
21 Class 4 felony; a second or subsequent offense is a Class 2  
22 felony. Aggravated unlawful use of a weapon by a person who has  
23 been previously convicted of a felony in this State or another  
24 jurisdiction is a Class 2 felony. Aggravated unlawful use of a  
25 weapon while wearing or in possession of body armor as defined  
26 in Section 33F-1 by a person who has not been issued a valid  
27 Firearms Owner's Identification Card in accordance with  
28 Section 5 of the Firearm Owners Identification Card Act is a  
29 Class X felony.

30 (Source: P.A. 93-906, eff. 8-11-04.)

31 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

32 Sec. 29B-1. (a) A person commits the offense of money  
33 laundering:

34 (1) when he knowingly engages or attempts to engage in  
35 a financial transaction in criminally derived property

1 with either the intent to promote the carrying on of the  
2 unlawful activity from which the criminally derived  
3 property was obtained or where he knows or reasonably  
4 should know that the financial transaction is designed in  
5 whole or in part to conceal or disguise the nature, the  
6 location, the source, the ownership or the control of the  
7 criminally derived property; or

8 (2) when, with the intent to:

9 (A) promote the carrying on of a specified criminal  
10 activity as defined in this Article; or

11 (B) conceal or disguise the nature, location,  
12 source, ownership, or control of property believed to  
13 be the proceeds of a specified criminal activity as  
14 defined by subdivision (b) (6),

15 he or she conducts or attempts to conduct a financial  
16 transaction involving property he or she believes to be the  
17 proceeds of specified criminal activity as defined by  
18 subdivision (b) (6) or property used to conduct or  
19 facilitate specified criminal activity as defined by  
20 subdivision (b) (6).

21 (b) As used in this Section:

22 (1) "Financial transaction" means a purchase, sale,  
23 loan, pledge, gift, transfer, delivery or other  
24 disposition utilizing criminally derived property, and  
25 with respect to financial institutions, includes a  
26 deposit, withdrawal, transfer between accounts, exchange  
27 of currency, loan, extension of credit, purchase or sale of  
28 any stock, bond, certificate of deposit or other monetary  
29 instrument or any other payment, transfer or delivery by,  
30 through, or to a financial institution. For purposes of  
31 clause (a) (2) of this Section, the term "financial  
32 transaction" also means a transaction which without regard  
33 to whether the funds, monetary instruments, or real or  
34 personal property involved in the transaction are  
35 criminally derived, any transaction which in any way or  
36 degree: (1) involves the movement of funds by wire or any

1 other means; (2) involves one or more monetary instruments;  
2 or (3) the transfer of title to any real or personal  
3 property. The receipt by an attorney of bona fide fees for  
4 the purpose of legal representation is not a financial  
5 transaction for purposes of this Section.

6 (2) "Financial institution" means any bank; saving and  
7 loan association; trust company; agency or branch of a  
8 foreign bank in the United States; currency exchange;  
9 credit union, mortgage banking institution; pawnbroker;  
10 loan or finance company; operator of a credit card system;  
11 issuer, redeemer or cashier of travelers checks, checks or  
12 money orders; dealer in precious metals, stones or jewels;  
13 broker or dealer in securities or commodities; investment  
14 banker; or investment company.

15 (3) "Monetary instrument" means United States coins  
16 and currency; coins and currency of a foreign country;  
17 travelers checks; personal checks, bank checks, and money  
18 orders; investment securities; bearer negotiable  
19 instruments; bearer investment securities; or bearer  
20 securities and certificates of stock in such form that  
21 title thereto passes upon delivery.

22 (4) "Criminally derived property" means: (A) any  
23 property constituting or derived from proceeds obtained,  
24 directly or indirectly, pursuant to a violation of the  
25 Criminal Code of 1961, the Illinois Controlled Substances  
26 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine  
27 Control and Community Protection Act; or (B) any property  
28 represented to be property constituting or derived from  
29 proceeds obtained, directly or indirectly, pursuant to a  
30 violation of this Code, the Illinois Controlled Substances  
31 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine  
32 Control and Community Protection Act.

33 (5) "Conduct" or "conducts" includes, in addition to  
34 its ordinary meaning, initiating, concluding, or  
35 participating in initiating or concluding a transaction.

36 (6) "Specified criminal activity" means any violation

1 of Section 20.5-5 (720 ILCS 5/20.5-5) and any violation of  
2 Article 29D of this Code.

3 (c) Sentence.

4 (1) Laundering of criminally derived property of a  
5 value not exceeding \$10,000 is a Class 3 felony;

6 (2) Laundering of criminally derived property of a  
7 value exceeding \$10,000 but not exceeding \$100,000 is a  
8 Class 2 felony;

9 (3) Laundering of criminally derived property of a  
10 value exceeding \$100,000 but not exceeding \$500,000 is a  
11 Class 1 felony;

12 (4) Money laundering in violation of subsection (a)(2)  
13 of this Section is a Class X felony;

14 (5) Laundering of criminally derived property of a  
15 value exceeding \$500,000 is a Class 1 non-probationable  
16 felony.

17 (Source: P.A. 92-854, eff. 12-5-02; 93-520, eff. 8-6-03.)

18 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

19 Sec. 31A-1.1. Bringing Contraband into a Penal  
20 Institution; Possessing Contraband in a Penal Institution.

21 (a) A person commits the offense of bringing contraband  
22 into a penal institution when he knowingly and without  
23 authority of any person designated or authorized to grant such  
24 authority (1) brings an item of contraband into a penal  
25 institution or (2) causes another to bring an item of  
26 contraband into a penal institution or (3) places an item of  
27 contraband in such proximity to a penal institution as to give  
28 an inmate access to the contraband.

29 (b) A person commits the offense of possessing contraband  
30 in a penal institution when he possesses contraband in a penal  
31 institution, regardless of the intent with which he possesses  
32 it.

33 (c) For the purposes of this Section, the words and phrases  
34 listed below shall be defined as follows:

35 (1) "Penal institution" means any penitentiary, State

1 farm, reformatory, prison, jail, house of correction,  
2 police detention area, half-way house or other institution  
3 or place for the incarceration or custody of persons under  
4 sentence for offenses awaiting trial or sentence for  
5 offenses, under arrest for an offense, a violation of  
6 probation, a violation of parole, or a violation of  
7 mandatory supervised release, or awaiting a bail setting  
8 hearing or preliminary hearing; provided that where the  
9 place for incarceration or custody is housed within another  
10 public building this Act shall not apply to that part of  
11 such building unrelated to the incarceration or custody of  
12 persons.

13 (2) "Item of contraband" means any of the following:

14 (i) "Alcoholic liquor" as such term is defined in  
15 Section 1-3.05 of the ~~The~~ Liquor Control Act of 1934 ~~as~~  
16 ~~such Act may be now or hereafter amended.~~

17 (ii) "Cannabis" as such term is defined in  
18 subsection (a) of Section 3 of the ~~"Cannabis Control~~  
19 ~~Act", approved August 16, 1971, as now or hereafter~~  
20 ~~amended.~~

21 (iii) "Controlled substance" as such term is  
22 defined in the ~~"Illinois Controlled Substances Act",~~  
23 ~~approved August 16, 1971, as now or hereafter amended.~~

24 (iii-a) "Methamphetamine" as such term is defined  
25 in the Illinois Controlled Substances Act or the  
26 Methamphetamine Control and Community Protection Act.

27 (iv) "Hypodermic syringe" or hypodermic needle, or  
28 any instrument adapted for use of controlled  
29 substances or cannabis by subcutaneous injection.

30 (v) "Weapon" means any knife, dagger, dirk, billy,  
31 razor, stiletto, broken bottle, or other piece of glass  
32 which could be used as a dangerous weapon. Such term  
33 includes any of the devices or implements designated in  
34 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1  
35 of this Act, or any other dangerous weapon or  
36 instrument of like character.

1 (vi) "Firearm" means any device, by whatever name  
2 known, which is designed to expel a projectile or  
3 projectiles by the action of an explosion, expansion of  
4 gas or escape of gas, including but not limited to:

5 (A) any pneumatic gun, spring gun, or B-B gun  
6 which expels a single globular projectile not  
7 exceeding .18 inch in diameter, or;

8 (B) any device used exclusively for signaling  
9 or safety and required as recommended by the United  
10 States Coast Guard or the Interstate Commerce  
11 Commission; or

12 (C) any device used exclusively for the firing  
13 of stud cartridges, explosive rivets or industrial  
14 ammunition; or

15 (D) any device which is powered by electrical  
16 charging units, such as batteries, and which fires  
17 one or several barbs attached to a length of wire  
18 and which, upon hitting a human, can send out  
19 current capable of disrupting the person's nervous  
20 system in such a manner as to render him incapable  
21 of normal functioning, commonly referred to as a  
22 stun gun or taser.

23 (vii) "Firearm ammunition" means any  
24 self-contained cartridge or shotgun shell, by whatever  
25 name known, which is designed to be used or adaptable  
26 to use in a firearm, including but not limited to:

27 (A) any ammunition exclusively designed for  
28 use with a device used exclusively for signaling or  
29 safety and required or recommended by the United  
30 States Coast Guard or the Interstate Commerce  
31 Commission; or

32 (B) any ammunition designed exclusively for  
33 use with a stud or rivet driver or other similar  
34 industrial ammunition.

35 (viii) "Explosive" means, but is not limited to,  
36 bomb, bombshell, grenade, bottle or other container

1 containing an explosive substance of over one-quarter  
2 ounce for like purposes such as black powder bombs and  
3 Molotov cocktails or artillery projectiles.

4 (ix) "Tool to defeat security mechanisms" means,  
5 but is not limited to, handcuff or security restraint  
6 key, tool designed to pick locks, or device or  
7 instrument capable of unlocking handcuff or security  
8 restraints, doors to cells, rooms, gates or other areas  
9 of the penal institution.

10 (x) "Cutting tool" means, but is not limited to,  
11 hacksaw blade, wirecutter, or device, instrument or  
12 file capable of cutting through metal.

13 (xi) "Electronic contraband" means, but is not  
14 limited to, any electronic, video recording device,  
15 computer, or cellular communications equipment,  
16 including, but not limited to, cellular telephones,  
17 cellular telephone batteries, videotape recorders,  
18 pagers, computers, and computer peripheral equipment  
19 brought into or possessed in a penal institution  
20 without the written authorization of the Chief  
21 Administrative Officer.

22 (d) Bringing alcoholic liquor into a penal institution is a  
23 Class 4 felony. Possessing alcoholic liquor in a penal  
24 institution is a Class 4 felony.

25 (e) Bringing cannabis into a penal institution is a Class 3  
26 felony. Possessing cannabis in a penal institution is a Class 3  
27 felony.

28 (f) Bringing any amount of a controlled substance  
29 classified in Schedules III, IV or V of Article II of the  
30 Controlled Substance Act into a penal institution is a Class 2  
31 felony. Possessing any amount of a controlled substance  
32 classified in Schedule III, IV, or V of Article II of the  
33 Controlled Substance Act in a penal institution is a Class 2  
34 felony.

35 (g) Bringing any amount of a controlled substance  
36 classified in Schedules I or II of Article II of the Controlled

1 Substance Act into a penal institution is a Class 1 felony.  
2 Possessing any amount of a controlled substance classified in  
3 Schedules I or II of Article II of the Controlled Substance Act  
4 in a penal institution is a Class 1 felony.

5 (h) Bringing an item of contraband listed in paragraph (iv)  
6 of subsection (c)(2) into a penal institution is a Class 1  
7 felony. Possessing an item of contraband listed in paragraph  
8 (iv) of subsection (c)(2) in a penal institution is a Class 1  
9 felony.

10 (i) Bringing an item of contraband listed in paragraph (v),  
11 (ix), (x), or (xi) of subsection (c)(2) into a penal  
12 institution is a Class 1 felony. Possessing an item of  
13 contraband listed in paragraph (v), (ix), (x), or (xi) of  
14 subsection (c)(2) in a penal institution is a Class 1 felony.

15 (j) Bringing an item of contraband listed in paragraphs  
16 (vi), (vii) or (viii) of subsection (c)(2) in a penal  
17 institution is a Class X felony. Possessing an item of  
18 contraband listed in paragraphs (vi), (vii), or (viii) of  
19 subsection (c)(2) in a penal institution is a Class X felony.

20 (k) It shall be an affirmative defense to subsection (b)  
21 hereof, that such possession was specifically authorized by  
22 rule, regulation, or directive of the governing authority of  
23 the penal institution or order issued pursuant thereto.

24 (l) It shall be an affirmative defense to subsection (a)(1)  
25 and subsection (b) hereof that the person bringing into or  
26 possessing contraband in a penal institution had been arrested,  
27 and that that person possessed such contraband at the time of  
28 his arrest, and that such contraband was brought into or  
29 possessed in the penal institution by that person as a direct  
30 and immediate result of his arrest.

31 (m) Items confiscated may be retained for use by the  
32 Department of Corrections or disposed of as deemed appropriate  
33 by the Chief Administrative Officer in accordance with  
34 Department rules or disposed of as required by law.

35 (Source: P.A. 88-678, eff. 7-1-95; 89-688, eff. 6-1-97.)

1 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

2 Sec. 31A-1.2. Unauthorized bringing of contraband into a  
3 penal institution by an employee; unauthorized possessing of  
4 contraband in a penal institution by an employee; unauthorized  
5 delivery of contraband in a penal institution by an employee.

6 (a) A person commits the offense of unauthorized bringing  
7 of contraband into a penal institution by an employee when a  
8 person who is an employee knowingly and without authority or  
9 any person designated or authorized to grant such authority:

10 (1) brings or attempts to bring an item of contraband  
11 listed in paragraphs (i) through (iv) of subsection (d)(4)  
12 into a penal institution, or

13 (2) causes or permits another to bring an item of  
14 contraband listed in paragraphs (i) through (iv) of  
15 subsection (d)(4) into a penal institution.

16 (b) A person commits the offense of unauthorized possession  
17 of contraband in a penal institution by an employee when a  
18 person who is an employee knowingly and without authority of  
19 any person designated or authorized to grant such authority  
20 possesses contraband listed in paragraphs (i) through (iv) of  
21 subsection (d)(4) in a penal institution, regardless of the  
22 intent with which he possesses it.

23 (c) A person commits the offense of unauthorized delivery  
24 of contraband in a penal institution by an employee when a  
25 person who is an employee knowingly and without authority of  
26 any person designated or authorized to grant such authority:

27 (1) delivers or possesses with intent to deliver an  
28 item of contraband to any inmate of a penal institution, or

29 (2) conspires to deliver or solicits the delivery of an  
30 item of contraband to any inmate of a penal institution, or

31 (3) causes or permits the delivery of an item of  
32 contraband to any inmate of a penal institution, or

33 (4) permits another person to attempt to deliver an  
34 item of contraband to any inmate of a penal institution.

35 (d) For purpose of this Section, the words and phrases  
36 listed below shall be defined as follows:

1           (1) "Penal Institution" shall have the meaning  
2 ascribed to it in subsection (c)(1) of Section 31A-1.1 of  
3 this Code;

4           (2) "Employee" means any elected or appointed officer,  
5 trustee or employee of a penal institution or of the  
6 governing authority of the penal institution, or any person  
7 who performs services for the penal institution pursuant to  
8 contract with the penal institution or its governing  
9 authority.

10          (3) "Deliver" or "delivery" means the actual,  
11 constructive or attempted transfer of possession of an item  
12 of contraband, with or without consideration, whether or  
13 not there is an agency relationship;

14          (4) "Item of contraband" means any of the following:

15           (i) "Alcoholic liquor" as such term is defined in  
16 Section 1-3.05 of the Liquor Control Act of 1934.

17           (ii) "Cannabis" as such term is defined in  
18 subsection (a) of Section 3 of the Cannabis Control  
19 Act.

20           (iii) "Controlled substance" as such term is  
21 defined in the Illinois Controlled Substances Act.

22           (iii-a) "Methamphetamine" as such term is defined  
23 in the Illinois Controlled Substances Act or the  
24 Methamphetamine Control and Community Protection Act.

25           (iv) "Hypodermic syringe" or hypodermic needle, or  
26 any instrument adapted for use of controlled  
27 substances or cannabis by subcutaneous injection.

28           (v) "Weapon" means any knife, dagger, dirk, billy,  
29 razor, stiletto, broken bottle, or other piece of glass  
30 which could be used as a dangerous weapon. Such term  
31 includes any of the devices or implements designated in  
32 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1  
33 of this Act, or any other dangerous weapon or  
34 instrument of like character.

35           (vi) "Firearm" means any device, by whatever name  
36 known, which is designed to expel a projectile or

1 projectiles by the action of an explosion, expansion of  
2 gas or escape of gas, including but not limited to:

3 (A) any pneumatic gun, spring gun, or B-B gun  
4 which expels a single globular projectile not  
5 exceeding .18 inch in diameter; or

6 (B) any device used exclusively for signaling  
7 or safety and required or recommended by the United  
8 States Coast Guard or the Interstate Commerce  
9 Commission; or

10 (C) any device used exclusively for the firing  
11 of stud cartridges, explosive rivets or industrial  
12 ammunition; or

13 (D) any device which is powered by electrical  
14 charging units, such as batteries, and which fires  
15 one or several barbs attached to a length of wire  
16 and which, upon hitting a human, can send out  
17 current capable of disrupting the person's nervous  
18 system in such a manner as to render him incapable  
19 of normal functioning, commonly referred to as a  
20 stun gun or taser.

21 (vii) "Firearm ammunition" means any  
22 self-contained cartridge or shotgun shell, by whatever  
23 name known, which is designed to be used or adaptable  
24 to use in a firearm, including but not limited to:

25 (A) any ammunition exclusively designed for  
26 use with a device used exclusively for signaling or  
27 safety and required or recommended by the United  
28 States Coast Guard or the Interstate Commerce  
29 Commission; or

30 (B) any ammunition designed exclusively for  
31 use with a stud or rivet driver or other similar  
32 industrial ammunition.

33 (viii) "Explosive" means, but is not limited to,  
34 bomb, bombshell, grenade, bottle or other container  
35 containing an explosive substance of over one-quarter  
36 ounce for like purposes such as black powder bombs and

1 Molotov cocktails or artillery projectiles.

2 (ix) "Tool to defeat security mechanisms" means,  
3 but is not limited to, handcuff or security restraint  
4 key, tool designed to pick locks, or device or  
5 instrument capable of unlocking handcuff or security  
6 restraints, doors to cells, rooms, gates or other areas  
7 of the penal institution.

8 (x) "Cutting tool" means, but is not limited to,  
9 hacksaw blade, wirecutter, or device, instrument or  
10 file capable of cutting through metal.

11 (xi) "Electronic contraband" means, but is not  
12 limited to, any electronic, video recording device,  
13 computer, or cellular communications equipment,  
14 including, but not limited to, cellular telephones,  
15 cellular telephone batteries, videotape recorders,  
16 pagers, computers, and computer peripheral equipment.

17 (e) A violation of paragraphs (a) or (b) of this Section  
18 involving alcohol is a Class 4 felony. A violation of paragraph  
19 (a) or (b) of this Section involving cannabis is a Class 2  
20 felony. A violation of paragraph (a) or (b) involving any  
21 amount of a controlled substance classified in Schedules III,  
22 IV or V of Article II of the Illinois Controlled Substances Act  
23 is a Class 1 felony. A violation of paragraph (a) or (b) of  
24 this Section involving any amount of a controlled substance  
25 classified in Schedules I or II of Article II of the Illinois  
26 Controlled Substances Act is a Class X felony. A violation of  
27 paragraph (a) or (b) involving an item of contraband listed in  
28 paragraph (iv) of subsection (d)(4) is a Class X felony. A  
29 violation of paragraph (a) or (b) involving an item of  
30 contraband listed in paragraph (v) or (xi) of subsection (d)(4)  
31 is a Class 1 felony. A violation of paragraph (a) or (b)  
32 involving an item of contraband listed in paragraphs (vi),  
33 (vii) or (viii) of subsection (d)(4) is a Class X felony.

34 (f) A violation of paragraph (c) of this Section involving  
35 alcoholic liquor is a Class 3 felony. A violation of paragraph  
36 (c) involving cannabis is a Class 1 felony. A violation of

1 paragraph (c) involving any amount of a controlled substance  
2 classified in Schedules III, IV or V of Article II of the  
3 Illinois Controlled Substances Act is a Class X felony. A  
4 violation of paragraph (c) involving any amount of a controlled  
5 substance classified in Schedules I or II of Article II of the  
6 Illinois Controlled Substances Act is a Class X felony for  
7 which the minimum term of imprisonment shall be 8 years. A  
8 violation of paragraph (c) involving an item of contraband  
9 listed in paragraph (iv) of subsection (d)(4) is a Class X  
10 felony for which the minimum term of imprisonment shall be 8  
11 years. A violation of paragraph (c) involving an item of  
12 contraband listed in paragraph (v), (ix) or (x) of subsection  
13 (d)(4) is a Class X felony for which the minimum term of  
14 imprisonment shall be 10 years. A violation of paragraph (c)  
15 involving an item of contraband listed in paragraphs (vi),  
16 (vii) or (viii) of subsection (d)(4) is a Class X felony for  
17 which the minimum term of imprisonment shall be 12 years.

18 (g) Items confiscated may be retained for use by the  
19 Department of Corrections or disposed of as deemed appropriate  
20 by the Chief Administrative Officer in accordance with  
21 Department rules or disposed of as required by law.

22 (Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

23 (720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

24 Sec. 33A-3. Sentence.

25 (a) Violation of Section 33A-2(a) with a Category I weapon  
26 is a Class X felony for which the defendant shall be sentenced  
27 to a minimum term of imprisonment of 15 years.

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

31 (b) Violation of Section 33A-2(a) with a Category III  
32 weapon is a Class 2 felony or the felony classification  
33 provided for the same act while unarmed, whichever permits the  
34 greater penalty. A second or subsequent violation of Section  
35 33A-2(a) with a Category III weapon is a Class 1 felony or the

1 felony classification provided for the same act while unarmed,  
2 whichever permits the greater penalty.

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

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

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

28 (c-5) Except as otherwise provided in paragraph (b-10) or  
29 (c) of this Section, a person who violates Section 33A-2(a)  
30 with a firearm that is a Category I weapon or Section 33A-2(b)  
31 in any school, in any conveyance owned, leased, or contracted  
32 by a school to transport students to or from school or a school  
33 related activity, or on the real property comprising any school  
34 or public park, and where the offense was related to the  
35 activities of an organized gang, shall be sentenced to a term  
36 of imprisonment of not less than the term set forth in

1 subsection (a) or (b-5) of this Section, whichever is  
2 applicable, and not more than 30 years. For the purposes of  
3 this subsection (c-5), "organized gang" has the meaning  
4 ascribed to it in Section 10 of the Illinois Streetgang  
5 Terrorism Omnibus Prevention Act.

6 (d) For armed violence based upon a predicate offense  
7 listed in this subsection (d) the court shall enter the  
8 sentence for armed violence to run consecutively to the  
9 sentence imposed for the predicate offense. The offenses  
10 covered by this provision are:

11 (i) solicitation of murder,

12 (ii) solicitation of murder for hire,

13 (iii) heinous battery,

14 (iv) aggravated battery of a senior citizen,

15 (v) criminal sexual assault,

16 (vi) a violation of subsection (g) of Section 5 of the  
17 Cannabis Control Act,

18 (vii) cannabis trafficking,

19 (viii) a violation of subsection (a) of Section 401 of  
20 the Illinois Controlled Substances Act,

21 (ix) controlled substance trafficking involving a  
22 Class X felony amount of controlled substance under Section  
23 401 of the Illinois Controlled Substances Act,

24 (x) calculated criminal drug conspiracy, ~~or~~

25 (xi) streetgang criminal drug conspiracy, or.

26 (xii) a violation of the Methamphetamine Control and  
27 Community Protection Act.

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

29 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

30 Sec. 37-1. Maintaining Public Nuisance. Any building used  
31 in the commission of offenses prohibited by Sections 9-1, 10-1,  
32 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22,  
33 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1,  
34 28-3, 31-5 or 39A-1 of the Criminal Code of 1961, or prohibited  
35 by the Illinois Controlled Substances Act, the Methamphetamine

1 Control and Community Protection Act, or the Cannabis Control  
2 Act, or used in the commission of an inchoate offense relative  
3 to any of the aforesaid principal offenses, or any real  
4 property erected, established, maintained, owned, leased, or  
5 used by a streetgang for the purpose of conducting streetgang  
6 related activity as defined in Section 10 of the Illinois  
7 Streetgang Terrorism Omnibus Prevention Act is a public  
8 nuisance.

9 (b) Sentence. A person convicted of knowingly maintaining  
10 such a public nuisance commits a Class A misdemeanor. Each  
11 subsequent offense under this Section is a Class 4 felony.

12 (Source: P.A. 91-876, eff. 1-1-01.)

13 (720 ILCS 5/44-2) (from Ch. 38, par. 44-2)

14 Sec. 44-2. (a) A person commits unlawful transfer of a  
15 telecommunications device to a minor when he gives, sells or  
16 otherwise transfers possession of a telecommunications device  
17 to a person under 18 years of age with the intent that the  
18 device be used to commit any offense under this Code, the  
19 Cannabis Control Act, ~~or~~ the Illinois Controlled Substances  
20 Act, or the Methamphetamine Control and Community Protection  
21 Act.

22 (b) Unlawful transfer of a telecommunications device to a  
23 minor is a Class A misdemeanor.

24 (Source: P.A. 86-811.)

25 (720 ILCS 5/44-3) (from Ch. 38, par. 44-3)

26 Sec. 44-3. (a) Seizure. Any telecommunications device  
27 possessed by a person on the real property of any elementary or  
28 secondary school without the authority of the school principal,  
29 or used in the commission of an offense prohibited by this  
30 Code, the Illinois Controlled Substances Act, ~~or~~ the Cannabis  
31 Control Act, or the Methamphetamine Control and Community  
32 Protection Act or which constitutes evidence of the commission  
33 of such offenses may be seized and delivered forthwith to the  
34 investigating law enforcement agency. A person who is not a

1 student of the particular elementary or secondary school, who  
2 is on school property as an invitee of the school, and who has  
3 possession of a telecommunication device for lawful and  
4 legitimate purposes, shall not need to obtain authority from  
5 the school principal to possess the telecommunication device on  
6 school property. Such telecommunication device shall not be  
7 seized unless it was used in the commission of an offense  
8 specified above, or constitutes evidence of such an offense.  
9 Within 15 days after such delivery the investigating law  
10 enforcement agency shall give notice of seizure to any known  
11 owners, lienholders and secured parties of such property.  
12 Within that 15 day period the investigating law enforcement  
13 agency shall also notify the State's Attorney of the county of  
14 seizure about the seizure.

15 (b) Rights of lienholders and secured parties.

16 The State's Attorney shall promptly release a  
17 telecommunications device seized under the provisions of this  
18 Article to any lienholder or secured party if such lienholder  
19 or secured party shows to the State's Attorney that his lien or  
20 security interest is bona fide and was created without actual  
21 knowledge that such telecommunications device was or possessed  
22 in violation of this Section or used or to be used in the  
23 commission of the offense charged.

24 (c) Action for forfeiture. (1) The State's Attorney in the  
25 county in which such seizure occurs if he finds that such  
26 forfeiture was incurred without willful negligence or without  
27 any intention on the part of the owner of the  
28 telecommunications device or a lienholder or secured party to  
29 violate the law, or finds the existence of such mitigating  
30 circumstances as to justify remission of the forfeiture, may  
31 cause the investigating law enforcement agency to remit the  
32 same upon such terms and conditions as the State's Attorney  
33 deems reasonable and just. The State's Attorney shall exercise  
34 his discretion under the foregoing provision of this Section  
35 promptly after notice is given in accordance with subsection  
36 (a). If the State's Attorney does not cause the forfeiture to

1 be remitted he shall forthwith bring an action for forfeiture  
2 in the circuit court within whose jurisdiction the seizure and  
3 confiscation has taken place. The State's Attorney shall give  
4 notice of the forfeiture proceeding by mailing a copy of the  
5 complaint in the forfeiture proceeding to the persons and in  
6 the manner set forth in subsection (a). The owner of the device  
7 or any person with any right, title, or interest in the device  
8 may within 20 days after the mailing of such notice file a  
9 verified answer to the complaint and may appear at the hearing  
10 on the action for forfeiture. The State shall show at such  
11 hearing by a preponderance of the evidence that the device was  
12 used in the commission of an offense described in subsection  
13 (a). The owner of the device or any person with any right,  
14 title, or interest in the device may show by a preponderance of  
15 the evidence that he did not know, and did not have reason to  
16 know, that the device was possessed in violation of this  
17 Section or to be used in the commission of such an offense or  
18 that any of the exceptions set forth in subsection (d) are  
19 applicable. Unless the State shall make such showing, the Court  
20 shall order the device released to the owner. Where the State  
21 has made such showing, the Court may order the device  
22 destroyed; may upon the request of the investigating law  
23 enforcement agency, order it delivered to any local, municipal  
24 or county law enforcement agency, or the Department of State  
25 Police or the Department of Revenue of the State of Illinois;  
26 or may order it sold at public auction.

27 (2) A copy of the order shall be filed with the  
28 investigating law enforcement agency of the county in which the  
29 seizure occurs. Such order, when filed, confers ownership of  
30 the device to the department or agency to whom it is delivered  
31 or any purchaser thereof. The investigating law enforcement  
32 agency shall comply promptly with instructions to remit  
33 received from the State's Attorney or Attorney General in  
34 accordance with paragraph (1) of this subsection or subsection  
35 (d).

36 (3) The proceeds of any sale at public auction pursuant to

1 this subsection, after payment of all liens and deduction of  
2 the reasonable charges and expenses incurred by the  
3 investigating law enforcement agency in storing and selling the  
4 device, shall be paid into the general fund of the level of  
5 government responsible for the operation of the investigating  
6 law enforcement agency.

7 (d) Exceptions to forfeiture. (b) No device shall be  
8 forfeited under the provisions of subsection (c) by reason of  
9 any act or omission established by the owner thereof to have  
10 been committed or omitted by any person other than the owner  
11 while the device was unlawfully in the possession of a person  
12 who acquired possession thereof in violation of the criminal  
13 laws of the United States, or of any state.

14 (e) Remission by Attorney General. Whenever any owner of,  
15 or other person interested in, a device seized under the  
16 provisions of this Section files with the Attorney General  
17 before the sale or destruction of the device a petition for the  
18 remission of such forfeiture the Attorney General if he finds  
19 that such forfeiture was incurred without willful negligence or  
20 without any intention on the part of the owner or any person  
21 with any right, title or interest in the device to violate the  
22 law, or finds the existence of such mitigating circumstances as  
23 to justify the remission of forfeiture, may cause the same to  
24 be remitted upon such terms and conditions as he deems  
25 reasonable and just, or order discontinuance of any forfeiture  
26 proceeding relating thereto.

27 (Source: P.A. 86-811.)

28 (720 ILCS 5/12-4.10 rep., from P.A. 93-111)

29 (720 ILCS 5/12-4.10 rep., from P.A. 93-340)

30 (720 ILCS 5/12-4.11 rep., from P.A. 93-340)

31 (720 ILCS 5/20-1.4 rep.)

32 (720 ILCS 5/20-1.5 rep.)

33 (720 ILCS 5/21-1.5 rep.)

34 Section 1056. The Criminal Code of 1961 is amended by  
35 repealing Sections 12-4.10 (as added by Public Act 93-111),

1 12-4.10 (as added by Public Act 93-340), 12-4.11 (as added by  
2 Public Act 93-340), 20-1.4, 20-1.5, and 21-1.5.

3 Section 1060. The Cannabis Control Act is amended by  
4 changing Sections 10 and 10.2 as follows:

5 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

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

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

20 (c) The conditions of probation shall be that the person:  
21 (1) not violate any criminal statute of any jurisdiction; (2)  
22 refrain from possession of a firearm or other dangerous weapon;  
23 (3) submit to periodic drug testing at a time and in a manner  
24 as ordered by the court, but no less than 3 times during the  
25 period of the probation, with the cost of the testing to be  
26 paid by the probationer; and (4) perform no less than 30 hours  
27 of community service, provided community service is available  
28 in the jurisdiction and is funded and approved by the county  
29 board.

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

32 (1) make a report to and appear in person before or  
33 participate with the court or such courts, person, or  
34 social service agency as directed by the court in the order

1 of probation;

2 (2) pay a fine and costs;

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

5 (4) undergo medical or psychiatric treatment; or  
6 treatment for drug addiction or alcoholism;

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

9 (6) support his dependents;

10 (7) refrain from possessing a firearm or other  
11 dangerous weapon;

12 (7-5) refrain from having in his or her body the  
13 presence of any illicit drug prohibited by the Cannabis  
14 Control Act, ~~or~~ the Illinois Controlled Substances Act, or  
15 the Methamphetamine Control and Community Protection Act,  
16 unless prescribed by a physician, and submit samples of his  
17 or her blood or urine or both for tests to determine the  
18 presence of any illicit drug;

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

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

21 (ii) attend school;

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

23 (iv) contribute to his own support at home or in a  
24 foster home.

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

28 (f) Upon fulfillment of the terms and conditions of  
29 probation, the court shall discharge such person and dismiss  
30 the proceedings against him.

31 (g) A disposition of probation is considered to be a  
32 conviction for the purposes of imposing the conditions of  
33 probation and for appeal, however, discharge and dismissal  
34 under this Section is not a conviction for purposes of  
35 disqualification or disabilities imposed by law upon  
36 conviction of a crime (including the additional penalty imposed

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

3 (h) Discharge and dismissal under this Section, ~~or under~~  
4 Section 410 of the Illinois Controlled Substances Act, or  
5 Section 70 of the Methamphetamine Control and Community  
6 Protection Act may occur only once with respect to any person.

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

14 (Source: P.A. 91-696, eff. 4-13-00.)

15 (720 ILCS 550/10.2) (from Ch. 56 1/2, par. 710.2)

16 Sec. 10.2. (a) Twelve and one-half percent of all amounts  
17 collected as fines pursuant to the provisions of this Act shall  
18 be paid into the Youth Drug Abuse Prevention Fund, which is  
19 hereby created in the State treasury, to be used by the  
20 Department of Human Services for the funding of programs and  
21 services for drug-abuse treatment, and prevention and  
22 education services, for juveniles.

23 (b) Eighty-seven and one-half percent of the proceeds of  
24 all fines received under the provisions of this Act shall be  
25 transmitted to and deposited in the treasurer's office at the  
26 level of government as follows:

27 (1) If such seizure was made by a combination of law  
28 enforcement personnel representing differing units of  
29 local government, the court levying the fine shall  
30 equitably allocate 50% of the fine among these units of  
31 local government and shall allocate 37 1/2% to the county  
32 general corporate fund. In the event that the seizure was  
33 made by law enforcement personnel representing a unit of  
34 local government from a municipality where the number of  
35 inhabitants exceeds 2 million in population, the court

1           levying the fine shall allocate 87 1/2% of the fine to that  
2           unit of local government. If the seizure was made by a  
3           combination of law enforcement personnel representing  
4           differing units of local government, and at least one of  
5           those units represents a municipality where the number of  
6           inhabitants exceeds 2 million in population, the court  
7           shall equitably allocate 87 1/2% of the proceeds of the  
8           fines received among the differing units of local  
9           government.

10           (2) If such seizure was made by State law enforcement  
11           personnel, then the court shall allocate 37 1/2% to the  
12           State treasury and 50% to the county general corporate  
13           fund.

14           (3) If a State law enforcement agency in combination  
15           with a law enforcement agency or agencies of a unit or  
16           units of local government conducted the seizure, the court  
17           shall equitably allocate 37 1/2% of the fines to or among  
18           the law enforcement agency or agencies of the unit or units  
19           of local government which conducted the seizure and shall  
20           allocate 50% to the county general corporate fund.

21           (c) The proceeds of all fines allocated to the law  
22           enforcement agency or agencies of the unit or units of local  
23           government pursuant to subsection (b) shall be made available  
24           to that law enforcement agency as expendable receipts for use  
25           in the enforcement of laws regulating controlled substances and  
26           cannabis. The proceeds of fines awarded to the State treasury  
27           shall be deposited in a special fund known as the Drug Traffic  
28           Prevention Fund, except that amounts distributed to the  
29           Secretary of State shall be deposited into the Secretary of  
30           State Evidence Fund to be used as provided in Section 2-115 of  
31           the Illinois Vehicle Code. Monies from this fund may be used by  
32           the Department of State Police for use in the enforcement of  
33           laws regulating controlled substances and cannabis; to satisfy  
34           funding provisions of the Intergovernmental Drug Laws  
35           Enforcement Act; to defray costs and expenses associated with  
36           returning violators of this Act, ~~and~~ the Illinois Controlled

1 Substances Act, and the Methamphetamine Control and Community  
2 Protection Act only, as provided in such Acts, when punishment  
3 of the crime shall be confinement of the criminal in the  
4 penitentiary; and all other monies shall be paid into the  
5 general revenue fund in the State treasury.

6 (Source: P.A. 88-517; 89-507, eff. 7-1-97.)

7 Section 1065. The Illinois Controlled Substances Act is  
8 amended by changing Sections 102, 401, 401.1, 401.5, 402,  
9 405.2, 405.3, 406.1, 407, 410, and 413 as follows:

10 (720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

11 Sec. 102. Definitions. As used in this Act, unless the  
12 context otherwise requires:

13 (a) "Addict" means any person who habitually uses any drug,  
14 chemical, substance or dangerous drug other than alcohol so as  
15 to endanger the public morals, health, safety or welfare or who  
16 is so far addicted to the use of a dangerous drug or controlled  
17 substance other than alcohol as to have lost the power of self  
18 control with reference to his addiction.

19 (b) "Administer" means the direct application of a  
20 controlled substance, whether by injection, inhalation,  
21 ingestion, or any other means, to the body of a patient,  
22 research subject, or animal (as defined by the Humane  
23 Euthanasia in Animal Shelters Act) by:

24 (1) a practitioner (or, in his presence, by his  
25 authorized agent),

26 (2) the patient or research subject at the lawful  
27 direction of the practitioner, or

28 (3) a euthanasia technician as defined by the Humane  
29 Euthanasia in Animal Shelters Act.

30 (c) "Agent" means an authorized person who acts on behalf  
31 of or at the direction of a manufacturer, distributor, or  
32 dispenser. It does not include a common or contract carrier,  
33 public warehouseman or employee of the carrier or warehouseman.

34 (c-1) "Anabolic Steroids" means any drug or hormonal

1 substance, chemically and pharmacologically related to  
2 testosterone (other than estrogens, progestins, and  
3 corticosteroids) that promotes muscle growth, and includes:

- 4 (i) boldenone,
- 5 (ii) chlorotestosterone,
- 6 (iii) chostebol,
- 7 (iv) dehydrochlormethyltestosterone,
- 8 (v) dihydrotestosterone,
- 9 (vi) drostanolone,
- 10 (vii) ethylestrenol,
- 11 (viii) fluoxymesterone,
- 12 (ix) formebulone,
- 13 (x) mesterolone,
- 14 (xi) methandienone,
- 15 (xii) methandranone,
- 16 (xiii) methandriol,
- 17 (xiv) methandrostenolone,
- 18 (xv) methenolone,
- 19 (xvi) methyltestosterone,
- 20 (xvii) mibolerone,
- 21 (xviii) nandrolone,
- 22 (xix) norethandrolone,
- 23 (xx) oxandrolone,
- 24 (xxi) oxymesterone,
- 25 (xxii) oxymetholone,
- 26 (xxiii) stanolone,
- 27 (xxiv) stanozolol,
- 28 (xxv) testolactone,
- 29 (xxvi) testosterone,
- 30 (xxvii) trenbolone, and
- 31 (xxviii) any salt, ester, or isomer of a drug or  
32 substance described or listed in this paragraph, if  
33 that salt, ester, or isomer promotes muscle growth.

34 Any person who is otherwise lawfully in possession of an  
35 anabolic steroid, or who otherwise lawfully manufactures,  
36 distributes, dispenses, delivers, or possesses with intent to

1 deliver an anabolic steroid, which anabolic steroid is  
2 expressly intended for and lawfully allowed to be administered  
3 through implants to livestock or other nonhuman species, and  
4 which is approved by the Secretary of Health and Human Services  
5 for such administration, and which the person intends to  
6 administer or have administered through such implants, shall  
7 not be considered to be in unauthorized possession or to  
8 unlawfully manufacture, distribute, dispense, deliver, or  
9 possess with intent to deliver such anabolic steroid for  
10 purposes of this Act.

11 (d) "Administration" means the Drug Enforcement  
12 Administration, United States Department of Justice, or its  
13 successor agency.

14 (e) "Control" means to add a drug or other substance, or  
15 immediate precursor, to a Schedule under Article II of this Act  
16 whether by transfer from another Schedule or otherwise.

17 (f) "Controlled Substance" means a drug, substance, or  
18 immediate precursor in the Schedules of Article II of this Act.

19 (g) "Counterfeit substance" means a controlled substance,  
20 which, or the container or labeling of which, without  
21 authorization bears the trademark, trade name, or other  
22 identifying mark, imprint, number or device, or any likeness  
23 thereof, of a manufacturer, distributor, or dispenser other  
24 than the person who in fact manufactured, distributed, or  
25 dispensed the substance.

26 (h) "Deliver" or "delivery" means the actual, constructive  
27 or attempted transfer of possession of a controlled substance,  
28 with or without consideration, whether or not there is an  
29 agency relationship.

30 (i) "Department" means the Illinois Department of Human  
31 Services (as successor to the Department of Alcoholism and  
32 Substance Abuse) or its successor agency.

33 (j) "Department of State Police" means the Department of  
34 State Police of the State of Illinois or its successor agency.

35 (k) "Department of Corrections" means the Department of  
36 Corrections of the State of Illinois or its successor agency.

1 (l) "Department of Professional Regulation" means the  
2 Department of Professional Regulation of the State of Illinois  
3 or its successor agency.

4 (m) "Depressant" or "stimulant substance" means:

5 (1) a drug which contains any quantity of (i)  
6 barbituric acid or any of the salts of barbituric acid  
7 which has been designated as habit forming under section  
8 502 (d) of the Federal Food, Drug, and Cosmetic Act (21  
9 U.S.C. 352 (d)); or

10 (2) a drug which contains any quantity of (i)  
11 amphetamine or methamphetamine and any of their optical  
12 isomers; (ii) any salt of amphetamine or methamphetamine or  
13 any salt of an optical isomer of amphetamine; or (iii) any  
14 substance which the Department, after investigation, has  
15 found to be, and by rule designated as, habit forming  
16 because of its depressant or stimulant effect on the  
17 central nervous system; or

18 (3) lysergic acid diethylamide; or

19 (4) any drug which contains any quantity of a substance  
20 which the Department, after investigation, has found to  
21 have, and by rule designated as having, a potential for  
22 abuse because of its depressant or stimulant effect on the  
23 central nervous system or its hallucinogenic effect.

24 (n) (Blank).

25 (o) "Director" means the Director of the Department of  
26 State Police or the Department of Professional Regulation or  
27 his designated agents.

28 (p) "Dispense" means to deliver a controlled substance to  
29 an ultimate user or research subject by or pursuant to the  
30 lawful order of a prescriber, including the prescribing,  
31 administering, packaging, labeling, or compounding necessary  
32 to prepare the substance for that delivery.

33 (q) "Dispenser" means a practitioner who dispenses.

34 (r) "Distribute" means to deliver, other than by  
35 administering or dispensing, a controlled substance.

36 (s) "Distributor" means a person who distributes.

1 (t) "Drug" means (1) substances recognized as drugs in the  
2 official United States Pharmacopoeia, Official Homeopathic  
3 Pharmacopoeia of the United States, or official National  
4 Formulary, or any supplement to any of them; (2) substances  
5 intended for use in diagnosis, cure, mitigation, treatment, or  
6 prevention of disease in man or animals; (3) substances (other  
7 than food) intended to affect the structure of any function of  
8 the body of man or animals and (4) substances intended for use  
9 as a component of any article specified in clause (1), (2), or  
10 (3) of this subsection. It does not include devices or their  
11 components, parts, or accessories.

12 (t-5) "Euthanasia agency" means an entity certified by the  
13 Department of Professional Regulation for the purpose of animal  
14 euthanasia that holds an animal control facility license or  
15 animal shelter license under the Animal Welfare Act. A  
16 euthanasia agency is authorized to purchase, store, possess,  
17 and utilize Schedule II nonnarcotic and Schedule III  
18 nonnarcotic drugs for the sole purpose of animal euthanasia.

19 (t-10) "Euthanasia drugs" means Schedule II or Schedule III  
20 substances (nonnarcotic controlled substances) that are used  
21 by a euthanasia agency for the purpose of animal euthanasia.

22 (u) "Good faith" means the prescribing or dispensing of a  
23 controlled substance by a practitioner in the regular course of  
24 professional treatment to or for any person who is under his  
25 treatment for a pathology or condition other than that  
26 individual's physical or psychological dependence upon or  
27 addiction to a controlled substance, except as provided herein:  
28 and application of the term to a pharmacist shall mean the  
29 dispensing of a controlled substance pursuant to the  
30 prescriber's order which in the professional judgment of the  
31 pharmacist is lawful. The pharmacist shall be guided by  
32 accepted professional standards including, but not limited to  
33 the following, in making the judgment:

34 (1) lack of consistency of doctor-patient  
35 relationship,

36 (2) frequency of prescriptions for same drug by one

1 prescriber for large numbers of patients,  
2 (3) quantities beyond those normally prescribed,  
3 (4) unusual dosages,  
4 (5) unusual geographic distances between patient,  
5 pharmacist and prescriber,  
6 (6) consistent prescribing of habit-forming drugs.

7 (u-1) "Home infusion services" means services provided by a  
8 pharmacy in compounding solutions for direct administration to  
9 a patient in a private residence, long-term care facility, or  
10 hospice setting by means of parenteral, intravenous,  
11 intramuscular, subcutaneous, or intraspinal infusion.

12 (v) "Immediate precursor" means a substance:

13 (1) which the Department has found to be and by rule  
14 designated as being a principal compound used, or produced  
15 primarily for use, in the manufacture of a controlled  
16 substance;

17 (2) which is an immediate chemical intermediary used or  
18 likely to be used in the manufacture of such controlled  
19 substance; and

20 (3) the control of which is necessary to prevent,  
21 curtail or limit the manufacture of such controlled  
22 substance.

23 (w) "Instructional activities" means the acts of teaching,  
24 educating or instructing by practitioners using controlled  
25 substances within educational facilities approved by the State  
26 Board of Education or its successor agency.

27 (x) "Local authorities" means a duly organized State,  
28 County or Municipal peace unit or police force.

29 (y) "Look-alike substance" means a substance, other than a  
30 controlled substance which (1) by overall dosage unit  
31 appearance, including shape, color, size, markings or lack  
32 thereof, taste, consistency, or any other identifying physical  
33 characteristic of the substance, would lead a reasonable person  
34 to believe that the substance is a controlled substance, or (2)  
35 is expressly or impliedly represented to be a controlled  
36 substance or is distributed under circumstances which would

1 lead a reasonable person to believe that the substance is a  
2 controlled substance. For the purpose of determining whether  
3 the representations made or the circumstances of the  
4 distribution would lead a reasonable person to believe the  
5 substance to be a controlled substance under this clause (2) of  
6 subsection (y), the court or other authority may consider the  
7 following factors in addition to any other factor that may be  
8 relevant:

9 (a) statements made by the owner or person in control  
10 of the substance concerning its nature, use or effect;

11 (b) statements made to the buyer or recipient that the  
12 substance may be resold for profit;

13 (c) whether the substance is packaged in a manner  
14 normally used for the illegal distribution of controlled  
15 substances;

16 (d) whether the distribution or attempted distribution  
17 included an exchange of or demand for money or other  
18 property as consideration, and whether the amount of the  
19 consideration was substantially greater than the  
20 reasonable retail market value of the substance.

21 Clause (1) of this subsection (y) shall not apply to a  
22 noncontrolled substance in its finished dosage form that was  
23 initially introduced into commerce prior to the initial  
24 introduction into commerce of a controlled substance in its  
25 finished dosage form which it may substantially resemble.

26 Nothing in this subsection (y) prohibits the dispensing or  
27 distributing of noncontrolled substances by persons authorized  
28 to dispense and distribute controlled substances under this  
29 Act, provided that such action would be deemed to be carried  
30 out in good faith under subsection (u) if the substances  
31 involved were controlled substances.

32 Nothing in this subsection (y) or in this Act prohibits the  
33 manufacture, preparation, propagation, compounding,  
34 processing, packaging, advertising or distribution of a drug or  
35 drugs by any person registered pursuant to Section 510 of the  
36 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

1 (y-1) "Mail-order pharmacy" means a pharmacy that is  
2 located in a state of the United States, other than Illinois,  
3 that delivers, dispenses or distributes, through the United  
4 States Postal Service or other common carrier, to Illinois  
5 residents, any substance which requires a prescription.

6 (z) "Manufacture" means the production, preparation,  
7 propagation, compounding, conversion or processing of a  
8 controlled substance other than methamphetamine, either  
9 directly or indirectly, by extraction from substances of  
10 natural origin, or independently by means of chemical  
11 synthesis, or by a combination of extraction and chemical  
12 synthesis, and includes any packaging or repackaging of the  
13 substance or labeling of its container, except that this term  
14 does not include:

15 (1) by an ultimate user, the preparation or compounding  
16 of a controlled substance for his own use; or

17 (2) by a practitioner, or his authorized agent under  
18 his supervision, the preparation, compounding, packaging,  
19 or labeling of a controlled substance:

20 (a) as an incident to his administering or  
21 dispensing of a controlled substance in the course of  
22 his professional practice; or

23 (b) as an incident to lawful research, teaching or  
24 chemical analysis and not for sale.

25 (z-1) (Blank). ~~"Methamphetamine manufacturing chemical"~~  
26 ~~means any of the following chemicals or substances containing~~  
27 ~~any of the following chemicals: benzyl methyl ketone,~~  
28 ~~ephedrine, methyl benzyl ketone, phenylacetone,~~  
29 ~~phenyl 2 propanone, pseudoephedrine, or red phosphorous or any~~  
30 ~~of the salts, optical isomers, or salts of optical isomers of~~  
31 ~~the above listed chemicals.~~

32 (aa) "Narcotic drug" means any of the following, whether  
33 produced directly or indirectly by extraction from substances  
34 of natural origin, or independently by means of chemical  
35 synthesis, or by a combination of extraction and chemical  
36 synthesis:

1 (1) opium and opiate, and any salt, compound,  
2 derivative, or preparation of opium or opiate;

3 (2) any salt, compound, isomer, derivative, or  
4 preparation thereof which is chemically equivalent or  
5 identical with any of the substances referred to in clause  
6 (1), but not including the isoquinoline alkaloids of opium;

7 (3) opium poppy and poppy straw;

8 (4) coca leaves and any salts, compound, isomer, salt  
9 of an isomer, derivative, or preparation of coca leaves  
10 including cocaine or ecgonine, and any salt, compound,  
11 isomer, derivative, or preparation thereof which is  
12 chemically equivalent or identical with any of these  
13 substances, but not including decocainized coca leaves or  
14 extractions of coca leaves which do not contain cocaine or  
15 ecgonine (for the purpose of this paragraph, the term  
16 "isomer" includes optical, positional and geometric  
17 isomers).

18 (bb) "Nurse" means a registered nurse licensed under the  
19 Nursing and Advanced Practice Nursing Act.

20 (cc) (Blank).

21 (dd) "Opiate" means any substance having an addiction  
22 forming or addiction sustaining liability similar to morphine  
23 or being capable of conversion into a drug having addiction  
24 forming or addiction sustaining liability.

25 (ee) "Opium poppy" means the plant of the species *Papaver*  
26 *somniferum* L., except its seeds.

27 (ff) "Parole and Pardon Board" means the Parole and Pardon  
28 Board of the State of Illinois or its successor agency.

29 (gg) "Person" means any individual, corporation,  
30 mail-order pharmacy, government or governmental subdivision or  
31 agency, business trust, estate, trust, partnership or  
32 association, or any other entity.

33 (hh) "Pharmacist" means any person who holds a certificate  
34 of registration as a registered pharmacist, a local registered  
35 pharmacist or a registered assistant pharmacist under the  
36 Pharmacy Practice Act of 1987.

1           (ii) "Pharmacy" means any store, ship or other place in  
2 which pharmacy is authorized to be practiced under the Pharmacy  
3 Practice Act of 1987.

4           (jj) "Poppy straw" means all parts, except the seeds, of  
5 the opium poppy, after mowing.

6           (kk) "Practitioner" means a physician licensed to practice  
7 medicine in all its branches, dentist, podiatrist,  
8 veterinarian, scientific investigator, pharmacist, physician  
9 assistant, advanced practice nurse, licensed practical nurse,  
10 registered nurse, hospital, laboratory, or pharmacy, or other  
11 person licensed, registered, or otherwise lawfully permitted  
12 by the United States or this State to distribute, dispense,  
13 conduct research with respect to, administer or use in teaching  
14 or chemical analysis, a controlled substance in the course of  
15 professional practice or research.

16           (ll) "Pre-printed prescription" means a written  
17 prescription upon which the designated drug has been indicated  
18 prior to the time of issuance.

19           (mm) "Prescriber" means a physician licensed to practice  
20 medicine in all its branches, dentist, podiatrist or  
21 veterinarian who issues a prescription, a physician assistant  
22 who issues a prescription for a Schedule III, IV, or V  
23 controlled substance in accordance with Section 303.05 and the  
24 written guidelines required under Section 7.5 of the Physician  
25 Assistant Practice Act of 1987, or an advanced practice nurse  
26 with prescriptive authority in accordance with Section 303.05  
27 and a written collaborative agreement under Sections 15-15 and  
28 15-20 of the Nursing and Advanced Practice Nursing Act.

29           (nn) "Prescription" means a lawful written, facsimile, or  
30 verbal order of a physician licensed to practice medicine in  
31 all its branches, dentist, podiatrist or veterinarian for any  
32 controlled substance, of a physician assistant for a Schedule  
33 III, IV, or V controlled substance in accordance with Section  
34 303.05 and the written guidelines required under Section 7.5 of  
35 the Physician Assistant Practice Act of 1987, or of an advanced  
36 practice nurse who issues a prescription for a Schedule III,

1 IV, or V controlled substance in accordance with Section 303.05  
2 and a written collaborative agreement under Sections 15-15 and  
3 15-20 of the Nursing and Advanced Practice Nursing Act.

4 (oo) "Production" or "produce" means manufacture,  
5 planting, cultivating, growing, or harvesting of a controlled  
6 substance other than methamphetamine.

7 (pp) "Registrant" means every person who is required to  
8 register under Section 302 of this Act.

9 (qq) "Registry number" means the number assigned to each  
10 person authorized to handle controlled substances under the  
11 laws of the United States and of this State.

12 (rr) "State" includes the State of Illinois and any state,  
13 district, commonwealth, territory, insular possession thereof,  
14 and any area subject to the legal authority of the United  
15 States of America.

16 (ss) "Ultimate user" means a person who lawfully possesses  
17 a controlled substance for his own use or for the use of a  
18 member of his household or for administering to an animal owned  
19 by him or by a member of his household.

20 (Source: P.A. 92-449, eff. 1-1-02; 93-596, eff. 8-26-03;  
21 93-626, eff. 12-23-03.)

22 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

23 Sec. 401. Except as authorized by this Act, it is unlawful  
24 for any person knowingly to: ~~(i)~~ manufacture or deliver, or  
25 possess with intent to manufacture or deliver, a controlled  
26 substance other than methamphetamine, a ~~or~~ counterfeit  
27 substance, or a controlled substance analog ~~or (ii) possess any~~  
28 ~~methamphetamine manufacturing chemical listed in paragraph~~  
29 ~~(z 1) of Section 102 with the intent to manufacture~~  
30 ~~methamphetamine or the salt of an optical isomer of~~  
31 ~~methamphetamine or an analog thereof.~~ A violation of this Act  
32 with respect to each of the controlled substances listed herein  
33 constitutes a single and separate violation of this Act. For  
34 purposes of this Section, "controlled substance analog" or  
35 "analog" means a substance which is intended for human

1 consumption, other than a controlled substance, that has a  
2 chemical structure substantially similar to that of a  
3 controlled substance in Schedule I or II, or that was  
4 specifically designed to produce an effect substantially  
5 similar to that of a controlled substance in Schedule I or II.  
6 Examples of chemical classes in which controlled substance  
7 analogs are found include, but are not limited to, the  
8 following: phenethylamines, N-substituted piperidines,  
9 morphinans, ecgonines, quinazolinones, substituted indoles,  
10 and arylcycloalkylamines. For purposes of this Act, a  
11 controlled substance analog shall be treated in the same manner  
12 as the controlled substance to which it is substantially  
13 similar.

14 (a) Any person who violates this Section with respect to  
15 the following amounts of controlled or counterfeit substances  
16 or controlled substance analogs, notwithstanding any of the  
17 provisions of subsections (c), ~~(e-5)~~, (d), ~~(d-5)~~, (e), (f), (g)  
18 or (h) to the contrary, is guilty of a Class X felony and shall  
19 be sentenced to a term of imprisonment as provided in this  
20 subsection (a) and fined as provided in subsection (b):

21 (1) (A) not less than 6 years and not more than 30  
22 years with respect to 15 grams or more but less than  
23 100 grams of a substance containing heroin, or an  
24 analog thereof;

25 (B) not less than 9 years and not more than 40  
26 years with respect to 100 grams or more but less than  
27 400 grams of a substance containing heroin, or an  
28 analog thereof;

29 (C) not less than 12 years and not more than 50  
30 years with respect to 400 grams or more but less than  
31 900 grams of a substance containing heroin, or an  
32 analog thereof;

33 (D) not less than 15 years and not more than 60  
34 years with respect to 900 grams or more of any  
35 substance containing heroin, or an analog thereof;

36 (2) (A) not less than 6 years and not more than 30

1 years with respect to 15 grams or more but less than  
2 100 grams of a substance containing cocaine, or an  
3 analog thereof;

4 (B) not less than 9 years and not more than 40  
5 years with respect to 100 grams or more but less than  
6 400 grams of a substance containing cocaine, or an  
7 analog thereof;

8 (C) not less than 12 years and not more than 50  
9 years with respect to 400 grams or more but less than  
10 900 grams of a substance containing cocaine, or an  
11 analog thereof;

12 (D) not less than 15 years and not more than 60  
13 years with respect to 900 grams or more of any  
14 substance containing cocaine, or an analog thereof;

15 (3) (A) not less than 6 years and not more than 30  
16 years with respect to 15 grams or more but less than  
17 100 grams of a substance containing morphine, or an  
18 analog thereof;

19 (B) not less than 9 years and not more than 40  
20 years with respect to 100 grams or more but less than  
21 400 grams of a substance containing morphine, or an  
22 analog thereof;

23 (C) not less than 12 years and not more than 50  
24 years with respect to 400 grams or more but less than  
25 900 grams of a substance containing morphine, or an  
26 analog thereof;

27 (D) not less than 15 years and not more than 60  
28 years with respect to 900 grams or more of a substance  
29 containing morphine, or an analog thereof;

30 (4) 200 grams or more of any substance containing  
31 peyote, or an analog thereof;

32 (5) 200 grams or more of any substance containing a  
33 derivative of barbituric acid or any of the salts of a  
34 derivative of barbituric acid, or an analog thereof;

35 (6) 200 grams or more of any substance containing  
36 amphetamine or any salt of an optical isomer of

1 amphetamine, or an analog thereof;

2 (6.5) (blank); ~~(A) not less than 6 years and not more~~  
3 ~~than 30 years with respect to 15 grams or more but less~~  
4 ~~than 100 grams of a substance containing~~  
5 ~~methamphetamine or any salt of an optical isomer of~~  
6 ~~methamphetamine, or an analog thereof;~~

7 ~~(B) not less than 9 years and not more than 40~~  
8 ~~years with respect to 100 grams or more but less than~~  
9 ~~400 grams of a substance containing methamphetamine or~~  
10 ~~any salt of an optical isomer of methamphetamine, or an~~  
11 ~~analog thereof;~~

12 ~~(C) not less than 12 years and not more than 50~~  
13 ~~years with respect to 400 grams or more but less than~~  
14 ~~900 grams of a substance containing methamphetamine or~~  
15 ~~any salt of an optical isomer of methamphetamine, or an~~  
16 ~~analog thereof;~~

17 ~~(D) not less than 15 years and not more than 60~~  
18 ~~years with respect to 900 grams or more of any~~  
19 ~~substance containing methamphetamine or any salt of an~~  
20 ~~optical isomer of methamphetamine, or an analog~~  
21 ~~thereof.~~

22 (6.6) (blank); ~~(A) not less than 6 years and not more~~  
23 ~~than 30 years for the possession of any methamphetamine~~  
24 ~~manufacturing chemical set forth in paragraph (z-1) of~~  
25 ~~Section 102 with intent to manufacture 30 grams or more~~  
26 ~~but less than 150 grams of any substance containing~~  
27 ~~methamphetamine, or salt of any optical isomer of~~  
28 ~~methamphetamine, or an analog thereof;~~

29 ~~(B) not less than 6 years and not more than 40~~  
30 ~~years for the possession of any methamphetamine~~  
31 ~~manufacturing chemical set forth in paragraph (z-1) of~~  
32 ~~Section 102 with intent to manufacture 150 grams or~~  
33 ~~more but less than 500 grams of any substance~~  
34 ~~containing methamphetamine, or salt of an optical~~  
35 ~~isomer of methamphetamine, or an analog thereof;~~

36 ~~(C) not less than 6 years and not more than 50~~

~~years for the possession of any methamphetamine manufacturing chemical set forth in paragraph (z-1) of Section 102 with intent to manufacture 500 grams or more but less than 1200 grams of any substance containing methamphetamine, or salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(D) not less than 6 years and not more than 60 years for the possession of any methamphetamine manufacturing chemical set forth in paragraph (z-1) of Section 102 with intent to manufacture 1200 grams or more of any substance containing methamphetamine, or salt of an optical isomer of methamphetamine, or an analog thereof;~~

(7) (A) not less than 6 years and not more than 30 years with respect to: (i) 15 grams or more but less than 100 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 15 or more objects or 15 or more segregated parts of an object or objects but less than 200 objects or 200 segregated parts of an object or objects containing in them or having upon them any amounts of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(B) not less than 9 years and not more than 40 years with respect to: (i) 100 grams or more but less than 400 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 200 or more objects or 200 or more segregated parts of an object or objects but less than 600 objects or less than 600 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(C) not less than 12 years and not more than 50 years with respect to: (i) 400 grams or more but less than 900 grams of a substance containing lysergic acid

1 diethylamide (LSD), or an analog thereof, or (ii) 600  
2 or more objects or 600 or more segregated parts of an  
3 object or objects but less than 1500 objects or 1500  
4 segregated parts of an object or objects containing in  
5 them or having upon them any amount of any substance  
6 containing lysergic acid diethylamide (LSD), or an  
7 analog thereof;

8 (D) not less than 15 years and not more than 60  
9 years with respect to: (i) 900 grams or more of any  
10 substance containing lysergic acid diethylamide (LSD),  
11 or an analog thereof, or (ii) 1500 or more objects or  
12 1500 or more segregated parts of an object or objects  
13 containing in them or having upon them any amount of a  
14 substance containing lysergic acid diethylamide (LSD),  
15 or an analog thereof;

16 (7.5) (A) not less than 6 years and not more than 30  
17 years with respect to: (i) 15 grams or more but less  
18 than 100 grams of a substance listed in paragraph (1),  
19 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
20 (25), or (26) of subsection (d) of Section 204, or an  
21 analog or derivative thereof, or (ii) 15 or more pills,  
22 tablets, caplets, capsules, or objects but less than  
23 200 pills, tablets, caplets, capsules, or objects  
24 containing in them or having upon them any amounts of  
25 any substance listed in paragraph (1), (2), (2.1), (3),  
26 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
27 subsection (d) of Section 204, or an analog or  
28 derivative thereof;

29 (B) not less than 9 years and not more than 40  
30 years with respect to: (i) 100 grams or more but less  
31 than 400 grams of a substance listed in paragraph (1),  
32 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
33 (25), or (26) of subsection (d) of Section 204, or an  
34 analog or derivative thereof, or (ii) 200 or more  
35 pills, tablets, caplets, capsules, or objects but less  
36 than 600 pills, tablets, caplets, capsules, or objects

1 containing in them or having upon them any amount of  
2 any substance listed in paragraph (1), (2), (2.1), (3),  
3 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
4 subsection (d) of Section 204, or an analog or  
5 derivative thereof;

6 (C) not less than 12 years and not more than 50  
7 years with respect to: (i) 400 grams or more but less  
8 than 900 grams of a substance listed in paragraph (1),  
9 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
10 (25), or (26) of subsection (d) of Section 204, or an  
11 analog or derivative thereof, or (ii) 600 or more  
12 pills, tablets, caplets, capsules, or objects but less  
13 than 1,500 pills, tablets, caplets, capsules, or  
14 objects containing in them or having upon them any  
15 amount of any substance listed in paragraph (1), (2),  
16 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
17 (26) of subsection (d) of Section 204, or an analog or  
18 derivative thereof;

19 (D) not less than 15 years and not more than 60  
20 years with respect to: (i) 900 grams or more of any  
21 substance listed in paragraph (1), (2), (2.1), (3),  
22 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
23 subsection (d) of Section 204, or an analog or  
24 derivative thereof, or (ii) 1,500 or more pills,  
25 tablets, caplets, capsules, or objects containing in  
26 them or having upon them any amount of a substance  
27 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),  
28 (20), (20.1), (21), (25), or (26) of subsection (d) of  
29 Section 204, or an analog or derivative thereof;

30 (8) 30 grams or more of any substance containing  
31 pentazocine or any of the salts, isomers and salts of  
32 isomers of pentazocine, or an analog thereof;

33 (9) 30 grams or more of any substance containing  
34 methaqualone or any of the salts, isomers and salts of  
35 isomers of methaqualone, or an analog thereof;

36 (10) 30 grams or more of any substance containing

1 phencyclidine or any of the salts, isomers and salts of  
2 isomers of phencyclidine (PCP), or an analog thereof;

3 (10.5) 30 grams or more of any substance containing  
4 ketamine or any of the salts, isomers and salts of isomers  
5 of ketamine, or an analog thereof;

6 (11) 200 grams or more of any substance containing any  
7 other controlled substance classified in Schedules I or II,  
8 or an analog thereof, which is not otherwise included in  
9 this subsection.

10 (b) Any person sentenced with respect to violations of  
11 paragraph (1), (2), (3), ~~(6.5), (6.6)~~, (7), or (7.5) of  
12 subsection (a) involving 100 grams or more of the controlled  
13 substance named therein, may in addition to the penalties  
14 provided therein, be fined an amount not more than \$500,000 or  
15 the full street value of the controlled or counterfeit  
16 substance or controlled substance analog, whichever is  
17 greater. The term "street value" shall have the meaning  
18 ascribed in Section 110-5 of the Code of Criminal Procedure of  
19 1963. Any person sentenced with respect to any other provision  
20 of subsection (a), may in addition to the penalties provided  
21 therein, be fined an amount not to exceed \$500,000.

22 (c) Any person who violates this Section with regard to the  
23 following amounts of controlled or counterfeit substances or  
24 controlled substance analogs, notwithstanding any of the  
25 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)  
26 to the contrary, is guilty of a Class 1 felony. The fine for  
27 violation of this subsection (c) shall not be more than  
28 \$250,000:

29 (1) 1 gram or more but less than 15 grams of any  
30 substance containing heroin, or an analog thereof;

31 (2) 1 gram or more but less than 15 grams of any  
32 substance containing cocaine, or an analog thereof;

33 (3) 10 grams or more but less than 15 grams of any  
34 substance containing morphine, or an analog thereof;

35 (4) 50 grams or more but less than 200 grams of any  
36 substance containing peyote, or an analog thereof;

1 (5) 50 grams or more but less than 200 grams of any  
2 substance containing a derivative of barbituric acid or any  
3 of the salts of a derivative of barbituric acid, or an  
4 analog thereof;

5 (6) 50 grams or more but less than 200 grams of any  
6 substance containing amphetamine or any salt of an optical  
7 isomer of amphetamine, or an analog thereof;

8 (6.5) (blank); ~~5 grams or more but less than 15 grams~~  
9 ~~of any substance containing methamphetamine or any salt or~~  
10 ~~optical isomer of methamphetamine, or an analog thereof;~~

11 (7) (i) 5 grams or more but less than 15 grams of any  
12 substance containing lysergic acid diethylamide (LSD), or  
13 an analog thereof, or (ii) more than 10 objects or more  
14 than 10 segregated parts of an object or objects but less  
15 than 15 objects or less than 15 segregated parts of an  
16 object containing in them or having upon them any amount of  
17 any substance containing lysergic acid diethylamide (LSD),  
18 or an analog thereof;

19 (7.5) (i) 5 grams or more but less than 15 grams of any  
20 substance listed in paragraph (1), (2), (2.1), (3), (14.1),  
21 (19), (20), (20.1), (21), (25), or (26) of subsection (d)  
22 of Section 204, or an analog or derivative thereof, or (ii)  
23 more than 10 pills, tablets, caplets, capsules, or objects  
24 but less than 15 pills, tablets, caplets, capsules, or  
25 objects containing in them or having upon them any amount  
26 of any substance listed in paragraph (1), (2), (2.1), (3),  
27 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
28 subsection (d) of Section 204, or an analog or derivative  
29 thereof;

30 (8) 10 grams or more but less than 30 grams of any  
31 substance containing pentazocine or any of the salts,  
32 isomers and salts of isomers of pentazocine, or an analog  
33 thereof;

34 (9) 10 grams or more but less than 30 grams of any  
35 substance containing methaqualone or any of the salts,  
36 isomers and salts of isomers of methaqualone, or an analog

1           thereof;

2           (10) 10 grams or more but less than 30 grams of any  
3           substance containing phencyclidine or any of the salts,  
4           isomers and salts of isomers of phencyclidine (PCP), or an  
5           analog thereof;

6           (10.5) 10 grams or more but less than 30 grams of any  
7           substance containing ketamine or any of the salts, isomers  
8           and salts of isomers of ketamine, or an analog thereof;

9           (11) 50 grams or more but less than 200 grams of any  
10          substance containing a substance classified in Schedules I  
11          or II, or an analog thereof, which is not otherwise  
12          included in this subsection.

13          (c-5) (Blank). ~~Any person who violates this Section with~~  
14 ~~regard to possession of any methamphetamine manufacturing~~  
15 ~~chemical set forth in paragraph (z-1) of Section 102 with~~  
16 ~~intent to manufacture 15 grams or more but less than 30 grams~~  
17 ~~of methamphetamine, or salt of an optical isomer of~~  
18 ~~methamphetamine or any analog thereof, is guilty of a Class 1~~  
19 ~~felony. The fine for violation of this subsection (c-5) shall~~  
20 ~~not be more than \$250,000.~~

21          (d) Any person who violates this Section with regard to any  
22          other amount of a controlled or counterfeit substance  
23          classified in Schedules I or II, or an analog thereof, which is  
24          (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or  
25          an analog thereof, or (iii) any substance containing  
26          amphetamine ~~or methamphetamine~~ or any salt or optical isomer of  
27          amphetamine ~~or methamphetamine~~, or an analog thereof, is guilty  
28          of a Class 2 felony. The fine for violation of this subsection  
29          (d) shall not be more than \$200,000.

30          (d-5) (Blank). ~~Any person who violates this Section with~~  
31 ~~regard to possession of any methamphetamine manufacturing~~  
32 ~~chemical set forth in paragraph (z-1) of Section 102 with~~  
33 ~~intent to manufacture less than 15 grams of methamphetamine, or~~  
34 ~~salt of an optical isomer of methamphetamine or any analog~~  
35 ~~thereof, is guilty of a Class 2 felony. The fine for violation~~  
36 ~~of this subsection (d-5) shall not be more than \$200,000.~~

1 (e) Any person who violates this Section with regard to any  
2 other amount of a controlled substance other than  
3 methamphetamine or counterfeit substance classified in  
4 Schedule I or II, or an analog thereof, which substance is not  
5 included under subsection (d) of this Section, is guilty of a  
6 Class 3 felony. The fine for violation of this subsection (e)  
7 shall not be more than \$150,000.

8 (f) Any person who violates this Section with regard to any  
9 other amount of a controlled or counterfeit substance  
10 classified in Schedule III is guilty of a Class 3 felony. The  
11 fine for violation of this subsection (f) shall not be more  
12 than \$125,000.

13 (g) Any person who violates this Section with regard to any  
14 other amount of a controlled or counterfeit substance  
15 classified in Schedule IV is guilty of a Class 3 felony. The  
16 fine for violation of this subsection (g) shall not be more  
17 than \$100,000.

18 (h) Any person who violates this Section with regard to any  
19 other amount of a controlled or counterfeit substance  
20 classified in Schedule V is guilty of a Class 3 felony. The  
21 fine for violation of this subsection (h) shall not be more  
22 than \$75,000.

23 (i) This Section does not apply to the manufacture,  
24 possession or distribution of a substance in conformance with  
25 the provisions of an approved new drug application or an  
26 exemption for investigational use within the meaning of Section  
27 505 of the Federal Food, Drug and Cosmetic Act.

28 (j) (Blank). ~~The presence of any methamphetamine~~  
29 ~~manufacturing chemical in a sealed, factory imprinted~~  
30 ~~container, including, but not limited to a bottle, box, or~~  
31 ~~plastic blister package, at the time of seizure by law~~  
32 ~~enforcement, is prima facie evidence that the methamphetamine~~  
33 ~~manufacturing chemical located within the container is in fact~~  
34 ~~the chemical so described and in the amount and dosage listed~~  
35 ~~on the container. The factory imprinted container is admissible~~  
36 ~~for a violation of this Section for purposes of proving the~~

1 ~~contents of the container.~~

2 (Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698,  
3 eff. 7-19-02; 93-278, eff. 1-1-04.)

4 (720 ILCS 570/401.1) (from Ch. 56 1/2, par. 1401.1)

5 Sec. 401.1. Controlled Substance Trafficking.

6 (a) Except for purposes as authorized by this Act, any  
7 person who knowingly brings or causes to be brought into this  
8 State for the purpose of manufacture or delivery or with the  
9 intent to manufacture or deliver a controlled substance other  
10 than methamphetamine or counterfeit substance in this or any  
11 other state or country is guilty of controlled substance  
12 trafficking.

13 (b) A person convicted of controlled substance trafficking  
14 shall be sentenced to a term of imprisonment not less than  
15 twice the minimum term and fined an amount as authorized by  
16 Section 401 of this Act, based upon the amount of controlled or  
17 counterfeit substance brought or caused to be brought into this  
18 State, and not more than twice the maximum term of imprisonment  
19 and fined twice the amount as authorized by Section 401 of this  
20 Act, based upon the amount of controlled or counterfeit  
21 substance brought or caused to be brought into this State.

22 (c) It shall be a Class 2 felony for which a fine not to  
23 exceed \$100,000 may be imposed for any person to knowingly use  
24 a cellular radio telecommunication device in the furtherance of  
25 controlled substance trafficking. This penalty shall be in  
26 addition to any other penalties imposed by law.

27 (Source: P.A. 85-1294; 86-1391.)

28 (720 ILCS 570/401.5)

29 Sec. 401.5. Chemical breakdown of illicit controlled  
30 substance.

31 (a) It is unlawful for any person to manufacture a  
32 controlled substance other than methamphetamine prohibited by  
33 this Act by chemically deriving the controlled substance from  
34 one or more other controlled substances prohibited by this Act.

1 (a-5) It is unlawful for any person to possess any  
2 substance with the intent to use the substance to facilitate  
3 the manufacture of any controlled substance other than  
4 methamphetamine, any ~~or~~ counterfeit substance, or any  
5 controlled substance analog other than as authorized by this  
6 Act.

7 (b) A violation of this Section is a Class 4 felony.

8 (c) (Blank). ~~This Section does not apply to the possession~~  
9 ~~of any methamphetamine manufacturing chemicals with the intent~~  
10 ~~to manufacture methamphetamine or any salt of an optical isomer~~  
11 ~~of methamphetamine, or an analog of methamphetamine.~~

12 (Source: P.A. 90-775, eff. 1-1-99; 91-403, eff. 1-1-00; 91-825,  
13 eff. 6-13-00.)

14 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

15 Sec. 402. Except as otherwise authorized by this Act, it is  
16 unlawful for any person knowingly to possess a controlled or  
17 counterfeit substance. A violation of this Act with respect to  
18 each of the controlled substances listed herein constitutes a  
19 single and separate violation of this Act.

20 (a) Any person who violates this Section with respect to  
21 the following controlled or counterfeit substances and  
22 amounts, notwithstanding any of the provisions of subsections  
23 (c) and (d) to the contrary, is guilty of a Class 1 felony and  
24 shall, if sentenced to a term of imprisonment, be sentenced as  
25 provided in this subsection (a) and fined as provided in  
26 subsection (b):

27 (1) (A) not less than 4 years and not more than 15  
28 years with respect to 15 grams or more but less than  
29 100 grams of a substance containing heroin;

30 (B) not less than 6 years and not more than 30  
31 years with respect to 100 grams or more but less than  
32 400 grams of a substance containing heroin;

33 (C) not less than 8 years and not more than 40  
34 years with respect to 400 grams or more but less than  
35 900 grams of any substance containing heroin;

1 (D) not less than 10 years and not more than 50  
2 years with respect to 900 grams or more of any  
3 substance containing heroin;

4 (2) (A) not less than 4 years and not more than 15  
5 years with respect to 15 grams or more but less than  
6 100 grams of any substance containing cocaine;

7 (B) not less than 6 years and not more than 30  
8 years with respect to 100 grams or more but less than  
9 400 grams of any substance containing cocaine;

10 (C) not less than 8 years and not more than 40  
11 years with respect to 400 grams or more but less than  
12 900 grams of any substance containing cocaine;

13 (D) not less than 10 years and not more than 50  
14 years with respect to 900 grams or more of any  
15 substance containing cocaine;

16 (3) (A) not less than 4 years and not more than 15  
17 years with respect to 15 grams or more but less than  
18 100 grams of any substance containing morphine;

19 (B) not less than 6 years and not more than 30  
20 years with respect to 100 grams or more but less than  
21 400 grams of any substance containing morphine;

22 (C) not less than 6 years and not more than 40  
23 years with respect to 400 grams or more but less than  
24 900 grams of any substance containing morphine;

25 (D) not less than 10 years and not more than 50  
26 years with respect to 900 grams or more of any  
27 substance containing morphine;

28 (4) 200 grams or more of any substance containing  
29 peyote;

30 (5) 200 grams or more of any substance containing a  
31 derivative of barbituric acid or any of the salts of a  
32 derivative of barbituric acid;

33 (6) 200 grams or more of any substance containing  
34 amphetamine or any salt of an optical isomer of

1 amphetamine;

2 (6.5) (blank); ~~(A) not less than 4 years and not more~~  
3 ~~than 15 years with respect to 15 grams or more but less~~  
4 ~~than 100 grams of a substance containing~~  
5 ~~methamphetamine or any salt of an optical isomer of~~  
6 ~~methamphetamine;~~

7 ~~(B) not less than 6 years and not more than 30~~  
8 ~~years with respect to 100 grams or more but less than~~  
9 ~~400 grams of a substance containing methamphetamine or~~  
10 ~~any salt of an optical isomer of methamphetamine;~~

11 ~~(C) not less than 8 years and not more than 40~~  
12 ~~years with respect to 400 grams or more but less than~~  
13 ~~900 grams of a substance containing methamphetamine or~~  
14 ~~any salt of an optical isomer of methamphetamine;~~

15 ~~(D) not less than 10 years and not more than 50~~  
16 ~~years with respect to 900 grams or more of any~~  
17 ~~substance containing methamphetamine or any salt of an~~  
18 ~~optical isomer of methamphetamine;~~

19 (7) (A) not less than 4 years and not more than 15  
20 years with respect to: (i) 15 grams or more but less  
21 than 100 grams of any substance containing lysergic  
22 acid diethylamide (LSD), or an analog thereof, or (ii)  
23 15 or more objects or 15 or more segregated parts of an  
24 object or objects but less than 200 objects or 200  
25 segregated parts of an object or objects containing in  
26 them or having upon them any amount of any substance  
27 containing lysergic acid diethylamide (LSD), or an  
28 analog thereof;

29 (B) not less than 6 years and not more than 30  
30 years with respect to: (i) 100 grams or more but less  
31 than 400 grams of any substance containing lysergic  
32 acid diethylamide (LSD), or an analog thereof, or (ii)  
33 200 or more objects or 200 or more segregated parts of  
34 an object or objects but less than 600 objects or less  
35 than 600 segregated parts of an object or objects  
36 containing in them or having upon them any amount of

1 any substance containing lysergic acid diethylamide  
2 (LSD), or an analog thereof;

3 (C) not less than 8 years and not more than 40  
4 years with respect to: (i) 400 grams or more but less  
5 than 900 grams of any substance containing lysergic  
6 acid diethylamide (LSD), or an analog thereof, or (ii)  
7 600 or more objects or 600 or more segregated parts of  
8 an object or objects but less than 1500 objects or 1500  
9 segregated parts of an object or objects containing in  
10 them or having upon them any amount of any substance  
11 containing lysergic acid diethylamide (LSD), or an  
12 analog thereof;

13 (D) not less than 10 years and not more than 50  
14 years with respect to: (i) 900 grams or more of any  
15 substance containing lysergic acid diethylamide (LSD),  
16 or an analog thereof, or (ii) 1500 or more objects or  
17 1500 or more segregated parts of an object or objects  
18 containing in them or having upon them any amount of a  
19 substance containing lysergic acid diethylamide (LSD),  
20 or an analog thereof;

21 (7.5) (A) not less than 4 years and not more than 15  
22 years with respect to: (i) 15 grams or more but less  
23 than 100 grams of any substance listed in paragraph  
24 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
25 (25), or (26) of subsection (d) of Section 204, or an  
26 analog or derivative thereof, or (ii) 15 or more pills,  
27 tablets, caplets, capsules, or objects but less than  
28 200 pills, tablets, caplets, capsules, or objects  
29 containing in them or having upon them any amount of  
30 any substance listed in paragraph (1), (2), (2.1), (3),  
31 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
32 subsection (d) of Section 204, or an analog or  
33 derivative thereof;

34 (B) not less than 6 years and not more than 30  
35 years with respect to: (i) 100 grams or more but less  
36 than 400 grams of any substance listed in paragraph

1 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
2 (25), or (26) of subsection (d) of Section 204, or an  
3 analog or derivative thereof, or (ii) 200 or more  
4 pills, tablets, caplets, capsules, or objects but less  
5 than 600 pills, tablets, caplets, capsules, or objects  
6 containing in them or having upon them any amount of  
7 any substance listed in paragraph (1), (2), (2.1), (3),  
8 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
9 subsection (d) of Section 204, or an analog or  
10 derivative thereof;

11 (C) not less than 8 years and not more than 40  
12 years with respect to: (i) 400 grams or more but less  
13 than 900 grams of any substance listed in paragraph  
14 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),  
15 (25), or (26) of subsection (d) of Section 204, or an  
16 analog or derivative thereof, or (ii) 600 or more  
17 pills, tablets, caplets, capsules, or objects but less  
18 than 1,500 pills, tablets, caplets, capsules, or  
19 objects containing in them or having upon them any  
20 amount of any substance listed in paragraph (1), (2),  
21 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or  
22 (26) of subsection (d) of Section 204, or an analog or  
23 derivative thereof;

24 (D) not less than 10 years and not more than 50  
25 years with respect to: (i) 900 grams or more of any  
26 substance listed in paragraph (1), (2), (2.1), (3),  
27 (14.1), (19), (20), (20.1), (21), (25), or (26) of  
28 subsection (d) of Section 204, or an analog or  
29 derivative thereof, or (ii) 1,500 or more pills,  
30 tablets, caplets, capsules, or objects containing in  
31 them or having upon them any amount of a substance  
32 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),  
33 (20), (20.1), (21), (25), or (26) of subsection (d) of  
34 Section 204, or an analog or derivative thereof;

35 (8) 30 grams or more of any substance containing  
36 pentazocine or any of the salts, isomers and salts of

1 isomers of pentazocine, or an analog thereof;

2 (9) 30 grams or more of any substance containing  
3 methaqualone or any of the salts, isomers and salts of  
4 isomers of methaqualone;

5 (10) 30 grams or more of any substance containing  
6 phencyclidine or any of the salts, isomers and salts of  
7 isomers of phencyclidine (PCP);

8 (10.5) 30 grams or more of any substance containing  
9 ketamine or any of the salts, isomers and salts of isomers  
10 of ketamine;

11 (11) 200 grams or more of any substance containing any  
12 substance classified as a narcotic drug in Schedules I or  
13 II which is not otherwise included in this subsection.

14 (b) Any person sentenced with respect to violations of  
15 paragraph (1), (2), (3), ~~(6.5)~~, (7), or (7.5) of subsection (a)  
16 involving 100 grams or more of the controlled substance named  
17 therein, may in addition to the penalties provided therein, be  
18 fined an amount not to exceed \$200,000 or the full street value  
19 of the controlled or counterfeit substances, whichever is  
20 greater. The term "street value" shall have the meaning  
21 ascribed in Section 110-5 of the Code of Criminal Procedure of  
22 1963. Any person sentenced with respect to any other provision  
23 of subsection (a), may in addition to the penalties provided  
24 therein, be fined an amount not to exceed \$200,000.

25 (c) Any person who violates this Section with regard to an  
26 amount of a controlled substance other than methamphetamine or  
27 counterfeit substance not set forth in subsection (a) or (d) is  
28 guilty of a Class 4 felony. The fine for a violation punishable  
29 under this subsection (c) shall not be more than \$25,000.

30 (d) Any person who violates this Section with regard to any  
31 amount of anabolic steroid is guilty of a Class C misdemeanor  
32 for the first offense and a Class B misdemeanor for a  
33 subsequent offense committed within 2 years of a prior  
34 conviction.

35 (Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99;  
36 92-256, eff. 1-1-02.)

1 (720 ILCS 570/405.2)

2 Sec. 405.2. Streetgang criminal drug conspiracy.

3 (a) Any person who engages in a streetgang criminal drug  
4 conspiracy, as defined in this Section, is guilty of a Class X  
5 felony for which the offender shall be sentenced to a term of  
6 imprisonment as follows:

7 (1) not less than 15 years and not more than 60 years  
8 for a violation of subsection (a) of Section 401;

9 (2) not less than 10 years and not more than 30 years  
10 for a violation of subsection (c) of Section 401.

11 For the purposes of this Section, a person engages in a  
12 streetgang criminal drug conspiracy when:

13 (i) he or she violates any of the provisions of  
14 subsection (a) or (c) of Section 401 of this Act or any  
15 provision of the Methamphetamine Control and Community  
16 Protection Act; and

17 (ii) such violation is part of a conspiracy undertaken  
18 or carried out with 2 or more other persons; and

19 (iii) such conspiracy is in furtherance of the  
20 activities of an organized gang as defined in the Illinois  
21 Streetgang Terrorism Omnibus Prevention Act; and

22 (iv) he or she occupies a position of organizer, a  
23 supervising person, or any other position of management  
24 with those persons identified in clause (ii) of this  
25 subsection (a).

26 The fine for a violation of this Section shall not be more  
27 than \$500,000, and the offender shall be subject to the  
28 forfeitures prescribed in subsection (b).

29 (b) Subject to the provisions of Section 8 of the Drug  
30 Asset Forfeiture Procedure Act, any person who is convicted  
31 under this Section of engaging in a streetgang criminal drug  
32 conspiracy shall forfeit to the State of Illinois:

33 (1) the receipts obtained by him or her in such  
34 conspiracy; and

35 (2) any of his or her interests in, claims against,

1 receipts from, or property or rights of any kind affording  
2 a source of influence over, such conspiracy.

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

9 (Source: P.A. 89-498, eff. 6-27-96.)

10 (720 ILCS 570/406.1) (from Ch. 56 1/2, par. 1406.1)

11 Sec. 406.1. (a) Any person who controls any building and  
12 who performs the following act commits the offense of  
13 permitting unlawful use of a building:

14 Knowingly grants, permits or makes the building available  
15 for use for the purpose of unlawfully manufacturing or  
16 delivering a controlled substance other than methamphetamine.

17 (b) Permitting unlawful use of a building is a Class 4  
18 felony.

19 (Source: P.A. 85-537.)

20 (720 ILCS 570/407) (from Ch. 56 1/2, par. 1407)

21 Sec. 407. (a) (1) (A) Any person 18 years of age or over who  
22 violates any subsection of Section 401 or subsection (b) of  
23 Section 404 by delivering a controlled, counterfeit or  
24 look-alike substance to a person under 18 years of age may be  
25 sentenced to imprisonment for a term up to twice the maximum  
26 term and fined an amount up to twice that amount otherwise  
27 authorized by the pertinent subsection of Section 401 and  
28 Subsection (b) of Section 404.

29 (B) (Blank). ~~Any person 18 years of age or over who~~  
30 ~~violates subdivision (a)(6.5), subdivision (a)(6.6),~~  
31 ~~subdivision (c)(6.5), subsection (c-5), subsection (d), or~~  
32 ~~subsection (d-5) of Section 401 by manufacturing~~  
33 ~~methamphetamine, preparing to manufacture methamphetamine, or~~  
34 ~~storing methamphetamine, methamphetamine ingredients, or~~

~~methamphetamine waste in any vehicle or real property where a child under 18 years of age resides, is present, or is otherwise endangered by exposure to the methamphetamine, methamphetamine ingredients, methamphetamine waste, or methamphetamine manufacturing process may be sentenced to imprisonment for a term up to twice the maximum term and fined an amount up to twice that amount otherwise authorized by the pertinent subsection of Section 401 and subsection (b) of Section 404.~~

(2) Except as provided in paragraph (3) of this subsection, any person who violates:

(A) subsection (c) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 1 felony, the fine for which shall not exceed \$250,000;

(B) subsection (d) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 2 felony, the fine for which shall not exceed \$200,000;

(C) subsection (e) of Section 401 or subsection (b) of Section 404 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 3 felony, the fine for which shall not exceed \$150,000;

(D) subsection (f) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 3 felony, the fine for which shall not exceed \$125,000;

(E) subsection (g) of Section 401 by delivering or

1 possessing with intent to deliver a controlled,  
2 counterfeit, or look-alike substance in or on, or within  
3 1,000 feet of, a truck stop or safety rest area, is guilty  
4 of a Class 3 felony, the fine for which shall not exceed  
5 \$100,000;

6 (F) subsection (h) of Section 401 by delivering or  
7 possessing with intent to deliver a controlled,  
8 counterfeit, or look-alike substance in or on, or within  
9 1,000 feet of, a truck stop or safety rest area, is guilty  
10 of a Class 3 felony, the fine for which shall not exceed  
11 \$75,000;

12 (3) Any person who violates paragraph (2) of this  
13 subsection (a) by delivering or possessing with intent to  
14 deliver a controlled, counterfeit, or look-alike substance in  
15 or on, or within 1,000 feet of a truck stop or a safety rest  
16 area, following a prior conviction or convictions of paragraph  
17 (2) of this subsection (a) may be sentenced to a term of  
18 imprisonment up to 2 times the maximum term and fined an amount  
19 up to 2 times the amount otherwise authorized by Section 401.

20 (4) For the purposes of this subsection (a):

21 (A) "Safety rest area" means a roadside facility  
22 removed from the roadway with parking and facilities  
23 designed for motorists' rest, comfort, and information  
24 needs; and

25 (B) "Truck stop" means any facility (and its parking  
26 areas) used to provide fuel or service, or both, to any  
27 commercial motor vehicle as defined in Section 18b-101 of  
28 the Illinois Vehicle Code.

29 (b) Any person who violates:

30 (1) subsection (c) of Section 401 in any school, or any  
31 conveyance owned, leased or contracted by a school to  
32 transport students to or from school or a school related  
33 activity, or residential property owned, operated or  
34 managed by a public housing agency or leased by a public  
35 housing agency as part of a scattered site or mixed-income  
36 development, or public park, on the real property

1 comprising any school or residential property owned,  
2 operated or managed by a public housing agency or leased by  
3 a public housing agency as part of a scattered site or  
4 mixed-income development, or public park or within 1,000  
5 feet of the real property comprising any school or  
6 residential property owned, operated or managed by a public  
7 housing agency or leased by a public housing agency as part  
8 of a scattered site or mixed-income development, or public  
9 park, on the real property comprising any church,  
10 synagogue, or other building, structure, or place used  
11 primarily for religious worship, or within 1,000 feet of  
12 the real property comprising any church, synagogue, or  
13 other building, structure, or place used primarily for  
14 religious worship, on the real property comprising any of  
15 the following places, buildings, or structures used  
16 primarily for housing or providing space for activities for  
17 senior citizens: nursing homes, assisted-living centers,  
18 senior citizen housing complexes, or senior centers  
19 oriented toward daytime activities, or within 1,000 feet of  
20 the real property comprising any of the following places,  
21 buildings, or structures used primarily for housing or  
22 providing space for activities for senior citizens:  
23 nursing homes, assisted-living centers, senior citizen  
24 housing complexes, or senior centers oriented toward  
25 daytime activities is guilty of a Class X felony, the fine  
26 for which shall not exceed \$500,000;

27 (2) subsection (d) of Section 401 in any school, or any  
28 conveyance owned, leased or contracted by a school to  
29 transport students to or from school or a school related  
30 activity, or residential property owned, operated or  
31 managed by a public housing agency or leased by a public  
32 housing agency as part of a scattered site or mixed-income  
33 development, or public park, on the real property  
34 comprising any school or residential property owned,  
35 operated or managed by a public housing agency or leased by  
36 a public housing agency as part of a scattered site or

1 mixed-income development, or public park or within 1,000  
2 feet of the real property comprising any school or  
3 residential property owned, operated or managed by a public  
4 housing agency or leased by a public housing agency as part  
5 of a scattered site or mixed-income development, or public  
6 park, on the real property comprising any church,  
7 synagogue, or other building, structure, or place used  
8 primarily for religious worship, or within 1,000 feet of  
9 the real property comprising any church, synagogue, or  
10 other building, structure, or place used primarily for  
11 religious worship, on the real property comprising any of  
12 the following places, buildings, or structures used  
13 primarily for housing or providing space for activities for  
14 senior citizens: nursing homes, assisted-living centers,  
15 senior citizen housing complexes, or senior centers  
16 oriented toward daytime activities, or within 1,000 feet of  
17 the real property comprising any of the following places,  
18 buildings, or structures used primarily for housing or  
19 providing space for activities for senior citizens:  
20 nursing homes, assisted-living centers, senior citizen  
21 housing complexes, or senior centers oriented toward  
22 daytime activities is guilty of a Class 1 felony, the fine  
23 for which shall not exceed \$250,000;

24 (3) subsection (e) of Section 401 or Subsection (b) of  
25 Section 404 in any school, or any conveyance owned, leased  
26 or contracted by a school to transport students to or from  
27 school or a school related activity, or residential  
28 property owned, operated or managed by a public housing  
29 agency or leased by a public housing agency as part of a  
30 scattered site or mixed-income development, or public  
31 park, on the real property comprising any school or  
32 residential property owned, operated or managed by a public  
33 housing agency or leased by a public housing agency as part  
34 of a scattered site or mixed-income development, or public  
35 park or within 1,000 feet of the real property comprising  
36 any school or residential property owned, operated or

1 managed by a public housing agency or leased by a public  
2 housing agency as part of a scattered site or mixed-income  
3 development, or public park, on the real property  
4 comprising any church, synagogue, or other building,  
5 structure, or place used primarily for religious worship,  
6 or within 1,000 feet of the real property comprising any  
7 church, synagogue, or other building, structure, or place  
8 used primarily for religious worship, on the real property  
9 comprising any of the following places, buildings, or  
10 structures used primarily for housing or providing space  
11 for activities for senior citizens: nursing homes,  
12 assisted-living centers, senior citizen housing complexes,  
13 or senior centers oriented toward daytime activities, or  
14 within 1,000 feet of the real property comprising any of  
15 the following places, buildings, or structures used  
16 primarily for housing or providing space for activities for  
17 senior citizens: nursing homes, assisted-living centers,  
18 senior citizen housing complexes, or senior centers  
19 oriented toward daytime activities is guilty of a Class 2  
20 felony, the fine for which shall not exceed \$200,000;

21 (4) subsection (f) of Section 401 in any school, or any  
22 conveyance owned, leased or contracted by a school to  
23 transport students to or from school or a school related  
24 activity, or residential property owned, operated or  
25 managed by a public housing agency or leased by a public  
26 housing agency as part of a scattered site or mixed-income  
27 development, or public park, on the real property  
28 comprising any school or residential property owned,  
29 operated or managed by a public housing agency or leased by  
30 a public housing agency as part of a scattered site or  
31 mixed-income development, or public park or within 1,000  
32 feet of the real property comprising any school or  
33 residential property owned, operated or managed by a public  
34 housing agency or leased by a public housing agency as part  
35 of a scattered site or mixed-income development, or public  
36 park, on the real property comprising any church,

1       synagogue, or other building, structure, or place used  
2       primarily for religious worship, or within 1,000 feet of  
3       the real property comprising any church, synagogue, or  
4       other building, structure, or place used primarily for  
5       religious worship, on the real property comprising any of  
6       the following places, buildings, or structures used  
7       primarily for housing or providing space for activities for  
8       senior citizens: nursing homes, assisted-living centers,  
9       senior citizen housing complexes, or senior centers  
10      oriented toward daytime activities, or within 1,000 feet of  
11      the real property comprising any of the following places,  
12      buildings, or structures used primarily for housing or  
13      providing space for activities for senior citizens:  
14      nursing homes, assisted-living centers, senior citizen  
15      housing complexes, or senior centers oriented toward  
16      daytime activities is guilty of a Class 2 felony, the fine  
17      for which shall not exceed \$150,000;

18           (5) subsection (g) of Section 401 in any school, or any  
19      conveyance owned, leased or contracted by a school to  
20      transport students to or from school or a school related  
21      activity, or residential property owned, operated or  
22      managed by a public housing agency or leased by a public  
23      housing agency as part of a scattered site or mixed-income  
24      development, or public park, on the real property  
25      comprising any school or residential property owned,  
26      operated or managed by a public housing agency or leased by  
27      a public housing agency as part of a scattered site or  
28      mixed-income development, or public park or within 1,000  
29      feet of the real property comprising any school or  
30      residential property owned, operated or managed by a public  
31      housing agency or leased by a public housing agency as part  
32      of a scattered site or mixed-income development, or public  
33      park, on the real property comprising any church,  
34      synagogue, or other building, structure, or place used  
35      primarily for religious worship, or within 1,000 feet of  
36      the real property comprising any church, synagogue, or

1 other building, structure, or place used primarily for  
2 religious worship, on the real property comprising any of  
3 the following places, buildings, or structures used  
4 primarily for housing or providing space for activities for  
5 senior citizens: nursing homes, assisted-living centers,  
6 senior citizen housing complexes, or senior centers  
7 oriented toward daytime activities, or within 1,000 feet of  
8 the real property comprising any of the following places,  
9 buildings, or structures used primarily for housing or  
10 providing space for activities for senior citizens:  
11 nursing homes, assisted-living centers, senior citizen  
12 housing complexes, or senior centers oriented toward  
13 daytime activities is guilty of a Class 2 felony, the fine  
14 for which shall not exceed \$125,000;

15 (6) subsection (h) of Section 401 in any school, or any  
16 conveyance owned, leased or contracted by a school to  
17 transport students to or from school or a school related  
18 activity, or residential property owned, operated or  
19 managed by a public housing agency or leased by a public  
20 housing agency as part of a scattered site or mixed-income  
21 development, or public park, on the real property  
22 comprising any school or residential property owned,  
23 operated or managed by a public housing agency or leased by  
24 a public housing agency as part of a scattered site or  
25 mixed-income development, or public park or within 1,000  
26 feet of the real property comprising any school or  
27 residential property owned, operated or managed by a public  
28 housing agency or leased by a public housing agency as part  
29 of a scattered site or mixed-income development, or public  
30 park, on the real property comprising any church,  
31 synagogue, or other building, structure, or place used  
32 primarily for religious worship, or within 1,000 feet of  
33 the real property comprising any church, synagogue, or  
34 other building, structure, or place used primarily for  
35 religious worship, on the real property comprising any of  
36 the following places, buildings, or structures used

1 primarily for housing or providing space for activities for  
2 senior citizens: nursing homes, assisted-living centers,  
3 senior citizen housing complexes, or senior centers  
4 oriented toward daytime activities, or within 1,000 feet of  
5 the real property comprising any of the following places,  
6 buildings, or structures used primarily for housing or  
7 providing space for activities for senior citizens:  
8 nursing homes, assisted-living centers, senior citizen  
9 housing complexes, or senior centers oriented toward  
10 daytime activities is guilty of a Class 2 felony, the fine  
11 for which shall not exceed \$100,000.

12 (c) Regarding penalties prescribed in subsection (b) for  
13 violations committed in a school or on or within 1,000 feet of  
14 school property, the time of day, time of year and whether  
15 classes were currently in session at the time of the offense is  
16 irrelevant.

17 (Source: P.A. 92-16, eff. 6-28-01; 93-223, eff. 1-1-04.)

18 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

19 Sec. 410. (a) Whenever any person who has not previously  
20 been convicted of, or placed on probation or court supervision  
21 for any offense under this Act or any law of the United States  
22 or of any State relating to cannabis or controlled substances,  
23 pleads guilty to or is found guilty of possession of a  
24 controlled or counterfeit substance under subsection (c) of  
25 Section 402, the court, without entering a judgment and with  
26 the consent of such person, may sentence him to probation.

27 (b) When a person is placed on probation, the court shall  
28 enter an order specifying a period of probation of 24 months  
29 and shall defer further proceedings in the case until the  
30 conclusion of the period or until the filing of a petition  
31 alleging violation of a term or condition of probation.

32 (c) The conditions of probation shall be that the person:  
33 (1) not violate any criminal statute of any jurisdiction; (2)  
34 refrain from possessing a firearm or other dangerous weapon;  
35 (3) submit to periodic drug testing at a time and in a manner

1 as ordered by the court, but no less than 3 times during the  
2 period of the probation, with the cost of the testing to be  
3 paid by the probationer; and (4) perform no less than 30 hours  
4 of community service, provided community service is available  
5 in the jurisdiction and is funded and approved by the county  
6 board.

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

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

13 (2) pay a fine and costs;

14 (3) work or pursue a course of study or vocational  
15 training;

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

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

21 (6) support his dependents;

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

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

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

31 (ii) attend school;

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

33 (iv) contribute to his own support at home or in a  
34 foster home.

35 (e) Upon violation of a term or condition of probation, the  
36 court may enter a judgment on its original finding of guilt and

1 proceed as otherwise provided.

2 (f) Upon fulfillment of the terms and conditions of  
3 probation, the court shall discharge the person and dismiss the  
4 proceedings against him.

5 (g) A disposition of probation is considered to be a  
6 conviction for the purposes of imposing the conditions of  
7 probation and for appeal, however, discharge and dismissal  
8 under this Section is not a conviction for purposes of this Act  
9 or for purposes of disqualifications or disabilities imposed by  
10 law upon conviction of a crime.

11 (h) There may be only one discharge and dismissal under  
12 this Section, ~~or~~ Section 10 of the Cannabis Control Act, or  
13 Section 70 of the Methamphetamine Control and Community  
14 Protection Act with respect to any person.

15 (i) If a person is convicted of an offense under this Act, or  
16 ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and  
17 Community Protection Act within 5 years subsequent to a  
18 discharge and dismissal under this Section, the discharge and  
19 dismissal under this Section shall be admissible in the  
20 sentencing proceeding for that conviction as evidence in  
21 aggravation.

22 (Source: P.A. 91-696, eff. 4-13-00.)

23 (720 ILCS 570/413) (from Ch. 56 1/2, par. 1413)

24 Sec. 413. (a) Twelve and one-half percent of all amounts  
25 collected as fines pursuant to the provisions of this Article  
26 shall be paid into the Youth Drug Abuse Prevention Fund, which  
27 is hereby created in the State treasury, to be used by the  
28 Department for the funding of programs and services for  
29 drug-abuse treatment, and prevention and education services,  
30 for juveniles.

31 (b) Eighty-seven and one-half percent of the proceeds of  
32 all fines received under the provisions of this Article shall  
33 be transmitted to and deposited in the treasurer's office at  
34 the level of government as follows:

35 (1) If such seizure was made by a combination of law

1 enforcement personnel representing differing units of  
2 local government, the court levying the fine shall  
3 equitably allocate 50% of the fine among these units of  
4 local government and shall allocate 37 1/2% to the county  
5 general corporate fund. In the event that the seizure was  
6 made by law enforcement personnel representing a unit of  
7 local government from a municipality where the number of  
8 inhabitants exceeds 2 million in population, the court  
9 levying the fine shall allocate 87 1/2% of the fine to that  
10 unit of local government. If the seizure was made by a  
11 combination of law enforcement personnel representing  
12 differing units of local government, and at least one of  
13 those units represents a municipality where the number of  
14 inhabitants exceeds 2 million in population, the court  
15 shall equitably allocate 87 1/2% of the proceeds of the  
16 fines received among the differing units of local  
17 government.

18 (2) If such seizure was made by State law enforcement  
19 personnel, then the court shall allocate 37 1/2% to the  
20 State treasury and 50% to the county general corporate  
21 fund.

22 (3) If a State law enforcement agency in combination  
23 with a law enforcement agency or agencies of a unit or  
24 units of local government conducted the seizure, the court  
25 shall equitably allocate 37 1/2% of the fines to or among  
26 the law enforcement agency or agencies of the unit or units  
27 of local government which conducted the seizure and shall  
28 allocate 50% to the county general corporate fund.

29 (c) The proceeds of all fines allocated to the law  
30 enforcement agency or agencies of the unit or units of local  
31 government pursuant to subsection (b) shall be made available  
32 to that law enforcement agency as expendable receipts for use  
33 in the enforcement of laws regulating cannabis,  
34 methamphetamine, and other controlled substances ~~and cannabis~~.  
35 The proceeds of fines awarded to the State treasury shall be  
36 deposited in a special fund known as the Drug Traffic

1 Prevention Fund, except that amounts distributed to the  
2 Secretary of State shall be deposited into the Secretary of  
3 State Evidence Fund to be used as provided in Section 2-115 of  
4 the Illinois Vehicle Code. Monies from this fund may be used by  
5 the Department of State Police or use in the enforcement of  
6 laws regulating cannabis, methamphetamine, and other  
7 controlled substances ~~and cannabis~~; to satisfy funding  
8 provisions of the Intergovernmental Drug Laws Enforcement Act;  
9 to defray costs and expenses associated with returning  
10 violators of the Cannabis Control Act and this Act only, as  
11 provided in those Acts, when punishment of the crime shall be  
12 confinement of the criminal in the penitentiary; and all other  
13 monies shall be paid into the general revenue fund in the State  
14 treasury.

15 (Source: P.A. 87-342; 87-993.)

16 (720 ILCS 570/405.3 rep.)

17 (720 ILCS 570/411.3 rep.)

18 Section 1066. The Illinois Controlled Substances Act is  
19 amended by repealing Sections 405.3 and 411.3.

20 Section 1070. The Drug Paraphernalia Control Act is amended  
21 by changing Section 2 as follows:

22 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

23 Sec. 2. As used in this Act, unless the context otherwise  
24 requires:

25 (a) The term "cannabis" shall have the meaning ascribed to  
26 it in Section 3 of the "Cannabis Control Act", as if that  
27 definition were incorporated herein.

28 (b) The term "controlled substance" shall have the meaning  
29 ascribed to it in Section 102 of the "Illinois Controlled  
30 Substances Act", as if that definition were incorporated  
31 herein.

32 (c) "Deliver" or "delivery" means the actual, constructive  
33 or attempted transfer of possession, with or without

1 consideration, whether or not there is an agency relationship.

2 (d) "Drug paraphernalia" means all equipment, products and  
3 materials of any kind, other than methamphetamine  
4 manufacturing materials as defined in Section 10 of the  
5 Methamphetamine Control and Community Protection Act, which  
6 are intended to be used unlawfully in planting, propagating,  
7 cultivating, growing, harvesting, manufacturing, compounding,  
8 converting, producing, processing, preparing, testing,  
9 analyzing, packaging, repackaging, storing, containing,  
10 concealing, injecting, ingesting, inhaling or otherwise  
11 introducing into the human body cannabis or a controlled  
12 substance in violation of the "Cannabis Control Act," ~~or~~ the  
13 "Illinois Controlled Substances Act, or the Methamphetamine  
14 Control and Community Protection Act". It includes, but is not  
15 limited to:

16 (1) kits intended to be used unlawfully in  
17 manufacturing, compounding, converting, producing,  
18 processing or preparing cannabis or a controlled  
19 substance;

20 (2) isomerization devices intended to be used  
21 unlawfully in increasing the potency of any species of  
22 plant which is cannabis or a controlled substance;

23 (3) testing equipment intended to be used unlawfully in  
24 a private home for identifying or in analyzing the  
25 strength, effectiveness or purity of cannabis or  
26 controlled substances;

27 (4) diluents and adulterants intended to be used  
28 unlawfully for cutting cannabis or a controlled substance  
29 by private persons;

30 (5) objects intended to be used unlawfully in  
31 ingesting, inhaling, or otherwise introducing cannabis,  
32 cocaine, hashish, or hashish oil into the human body  
33 including, where applicable, the following items:

34 (A) water pipes;

35 (B) carburetion tubes and devices;

36 (C) smoking and carburetion masks;

- 1 (D) miniature cocaine spoons and cocaine vials;  
2 (E) carburetor pipes;  
3 (F) electric pipes;  
4 (G) air-driven pipes;  
5 (H) chillums;  
6 (I) bongs;  
7 (J) ice pipes or chillers;  
8 (6) any item whose purpose, as announced or described  
9 by the seller, is for use in violation of this Act.  
10 (Source: P.A. 93-526, eff. 8-12-03.)

11 Section 1075. The Methamphetamine Manufacturing Chemical  
12 Retail Sale Control Act is amended by changing Sections 1, 5,  
13 10, 15, 30, 45, 50, and 60 as follows:

14 (720 ILCS 647/1)

15 Sec. 1. Short title. This Act may be cited as the  
16 Methamphetamine Precursor ~~Methamphetamine Manufacturing~~  
17 ~~Chemical~~ Retail Sale Control Act.  
18 (Source: P.A. 93-1008, eff. 1-1-05.)

19 (720 ILCS 647/5)

20 Sec. 5. Purpose. The purpose of this Act is to reduce the  
21 harm that methamphetamine is inflicting on individuals,  
22 families, communities, the economy, and the environment in  
23 Illinois by making it more difficult for persons engaged in the  
24 unlawful manufacture of methamphetamine to obtain  
25 methamphetamine precursor ~~methamphetamine manufacturing~~  
26 ~~chemicals~~.  
27 (Source: P.A. 93-1008, eff. 1-1-05.)

28 (720 ILCS 647/10)

29 Sec. 10. Definitions. In this Act:  
30 "Methamphetamine precursor" has the meaning ascribed to it  
31 in Section 10 of the Methamphetamine Control and Community  
32 Protection Act. ~~"Methamphetamine manufacturing chemical"~~ has

1 ~~the meaning ascribed to it in subsection (z-1) of Section 102~~  
2 ~~of the Illinois Controlled Substances Act.~~

3 "Targeted methamphetamine precursor ~~methamphetamine~~  
4 ~~manufacturing chemical~~" and "targeted medications" mean a  
5 subset of "methamphetamine precursor ~~methamphetamine~~  
6 ~~manufacturing chemicals~~". "Targeted methamphetamine precursor  
7 ~~methamphetamine manufacturing chemical~~" means any medication  
8 in the form of a tablet, capsule, caplet, or similar product  
9 that is sold over the counter, without a prescription, and that  
10 contains either (A) more than 15 milligrams of ephedrine or its  
11 salts, optical isomers, or salts of optical isomers or (B) more  
12 than 15 milligrams of pseudoephedrine or its salts, optical  
13 isomers, or salts of optical isomers. "Targeted  
14 methamphetamine precursor ~~methamphetamine manufacturing~~  
15 ~~chemical~~" does not include any medication in the form of a  
16 liquid, liquid cap, gel cap, or other similar substance, or any  
17 medication dispensed by a licensed pharmacist pursuant to a  
18 valid prescription.

19 "Package" means an item packaged and marked for retail sale  
20 that is not designed to be further broken down or subdivided  
21 for the purpose of retail sale.

22 "Targeted package" means a package containing any amount of  
23 a targeted methamphetamine precursor ~~methamphetamine~~  
24 ~~manufacturing chemical~~.

25 "Single active ingredient targeted methamphetamine  
26 precursor ~~methamphetamine manufacturing chemical~~" means a  
27 targeted methamphetamine precursor ~~methamphetamine~~  
28 ~~manufacturing chemical~~ whose sole active ingredient is  
29 ephedrine or its salts, optical isomers, or salts of optical  
30 isomers; or pseudoephedrine or its salts, optical isomers, or  
31 salts of optical isomers.

32 "Single active ingredient targeted package" means a  
33 package containing any amount of single active ingredient  
34 targeted methamphetamine precursor ~~methamphetamine~~  
35 ~~manufacturing chemical~~.

36 "Multiple active ingredient targeted methamphetamine

1 precursor ~~methamphetamine manufacturing chemical~~" means a  
2 targeted methamphetamine precursor ~~methamphetamine~~  
3 ~~manufacturing chemical~~ that contains at least one active  
4 ingredient other than ephedrine or its salts, optical isomers,  
5 or salts of optical isomers; or pseudoephedrine or its salts,  
6 optical isomers, or salts of optical isomers.

7 "Multiple active ingredient targeted package" means a  
8 package containing any amount of multiple active ingredient  
9 targeted methamphetamine precursor ~~methamphetamine~~  
10 ~~manufacturing chemical~~.

11 "Stock keeping unit" or "SKU" means the primary or basic  
12 unit of measure assigned to an item sold by a retail  
13 distributor and the smallest unit of an item that may be  
14 dispensed from a retail distributor's inventory.

15 "Targeted stock keeping unit" means a stock keeping unit  
16 assigned to a targeted package.

17 "Blister pack" means a unit dose package commonly  
18 constructed from a formed cavity containing one or more  
19 individual doses.

20 "Capsule" means a solid dosage form in which a medicinal  
21 substance is enclosed and consisting of either a hard or soft  
22 soluble outer shell.

23 "Customer" means a person who buys goods from a retail  
24 distributor.

25 "Distribute" means to sell, give, provide or otherwise  
26 transfer.

27 "Dosage unit" means an exact amount of a drug's treatment  
28 pre-packaged by the manufacturer or pharmacist in standardized  
29 amounts.

30 "Sales employee" means any employee who at any time (a)  
31 operates a cash register at which targeted packages may be  
32 sold, (b) works at or behind a pharmacy counter, (c) stocks  
33 shelves containing targeted packages, or (d) trains or  
34 supervises other employees who engage in any of the preceding  
35 activities.

36 "Tablet" means a solid dosage form of varying weight, size,

1 and shape that may be molded or compressed and that contains a  
2 medicinal substance in pure or diluted form.

3 "Single retail transaction" means a sale by a retail  
4 distributor to a specific customer at a specific time.

5 "Retail distributor" means a grocery store, general  
6 merchandise store, drug store, other merchandise store, or  
7 other entity or person whose activities as a distributor  
8 relating to drug products containing targeted methamphetamine  
9 precursor ~~methamphetamine manufacturing chemicals~~ are limited  
10 exclusively or almost exclusively to sales for personal use,  
11 both in number of sales and volume of sales, either directly to  
12 walk-in customers or in face-to-face transactions by direct  
13 sales.

14 (Source: P.A. 93-1008, eff. 1-1-05.)

15 (720 ILCS 647/15)

16 Sec. 15. Package sale restrictions.

17 (a) Any targeted methamphetamine precursor ~~methamphetamine~~  
18 ~~manufacturing chemical~~ displayed or distributed by any retail  
19 distributor in Illinois shall be packaged in blister packs,  
20 with each blister containing not more than 2 dosage units, or  
21 when the use of blister packs is technically infeasible, in  
22 unit dose packets or pouches.

23 (b) Any targeted package displayed or distributed by any  
24 retail distributor in Illinois shall contain no more than 3  
25 grams of ephedrine or its salts, optical isomers, or salts of  
26 optical isomers; or pseudoephedrine or its salts, optical  
27 isomers, or salts of optical isomers.

28 (c) A retail distributor may not distribute more than 2  
29 targeted packages in a single retail transaction.

30 (d) A retail distributor may not permit the purchase of any  
31 targeted package by means of a self-service checkout station,  
32 unless the self-service checkout station is programmed in a  
33 manner that satisfies all of the following conditions for each  
34 retail transaction:

35 (1) When a particular customer seeks to purchase a

1 single targeted package, the self-service checkout station  
2 may allow him or her to do so without any special prompts  
3 or actions.

4 (2) If the customer seeks to purchase a second targeted  
5 package, the self-service checkout station shall not allow  
6 him or her to purchase the second targeted package without  
7 the assistance of a sales employee. If the customer then  
8 seeks the assistance of a sales employee, the sales  
9 employee may instruct the self-service checkout station to  
10 allow the sale of the second targeted package.

11 (3) If the customer seeks to purchase a third targeted  
12 package, neither the self-service checkout station nor the  
13 store employee shall allow him or her to do so.

14 (e) A retail distributor, its employees, or its agents may  
15 not distribute any targeted package or packages with knowledge  
16 that they will be used to manufacture methamphetamine or with  
17 reckless disregard of the likely use of such package or  
18 packages to manufacture methamphetamine.

19 (Source: P.A. 93-1008, eff. 1-1-05.)

20 (720 ILCS 647/30)

21 Sec. 30. Training and certification.

22 (a) Every retail distributor of any targeted  
23 methamphetamine precursor ~~methamphetamine manufacturing~~  
24 ~~chemical~~ shall train each sales employee on the topics listed  
25 on the certification form described in subsection (b) of this  
26 Section. This training may be conducted by a live trainer or by  
27 means of a computer-based training program. This training shall  
28 be completed by the effective date of this Act or within 30  
29 days of the date that each sales employee begins working for  
30 the retail distributor, whichever of these 2 dates comes later.

31 (b) Immediately after training each sales employee as  
32 required in subsection (a) of this Section, every retail  
33 distributor of any targeted methamphetamine precursor  
34 ~~methamphetamine manufacturing chemical~~ shall have each sales  
35 employee read, sign, and date a certification form containing

1 the following language:

2 (1) My name is (insert name of employee) and I am an  
3 employee of (insert name of business) at (insert street  
4 address).

5 (2) I understand that in Illinois there are laws  
6 governing the sale of certain over-the-counter medications  
7 that contain a chemical called ephedrine or a second  
8 chemical called pseudoephedrine. Medications that are  
9 subject to these laws are called "targeted medications" and  
10 they are sold in "targeted packages".

11 (3) I understand that "targeted medications" can be  
12 used to manufacture the illegal and dangerous drug  
13 methamphetamine and that methamphetamine is causing great  
14 harm to individuals, families, communities, the economy,  
15 and the environment throughout Illinois.

16 (4) I understand that under Illinois law, the store  
17 where I work is not allowed to sell more than 2 "targeted  
18 packages" in a single retail transaction. That means the  
19 store cannot sell more than 2 "targeted packages" to a  
20 single customer at one time.

21 (5) I understand that under Illinois law, the store  
22 where I work cannot allow customers to buy "targeted  
23 packages" at self-service check-out lanes, except under  
24 certain conditions which have been described to me.

25 (6) I understand that under Illinois law, I cannot sell  
26 "targeted medications" to a person if I know that the  
27 person is going to use them to make methamphetamine.

28 (7) I understand that there are a number of ingredients  
29 that are used to make the illegal drug methamphetamine,  
30 including "targeted medications" sold in "targeted  
31 packages". My employer has shown me a list of these various  
32 ingredients, and I have reviewed the list.

33 (8) I understand that there are certain procedures that  
34 I should follow if I suspect that a store customer is  
35 purchasing "targeted medications" or other products for  
36 the purpose of manufacturing methamphetamine. These

1 procedures have been described to me, and I understand  
2 them.

3 (c) A certification form of the type described in  
4 subsection (b) of this Section may be signed with a handwritten  
5 signature or a reliable electronic signature that includes, a  
6 unique identifier for each employee. The certification shall be  
7 retained by the retail distributor for each sales employee for  
8 the duration of his or her employment and for at least 30 days  
9 following the end of his or her employment. Any such form shall  
10 be made available for inspection and copying by any law  
11 enforcement officer upon request.

12 (d) The office of the Illinois Attorney General shall make  
13 available to retail distributors the list of methamphetamine  
14 ingredients referred to in subsection (b) of this Section.

15 (Source: P.A. 93-1008, eff. 1-1-05.)

16 (720 ILCS 647/45)

17 Sec. 45. Immunity from civil liability. In the event that  
18 any agent or employee of a retail distributor reports to any  
19 law-enforcement agency any suspicious activity concerning a  
20 targeted methamphetamine precursor ~~methamphetamine~~  
21 ~~manufacturing chemical~~ or other methamphetamine ingredient or  
22 ingredients, the agent or employee and the retail distributor  
23 itself are immune from civil liability based on allegations of  
24 defamation, libel, slander, false arrest, or malicious  
25 prosecution, or similar allegations, except in cases of willful  
26 or wanton misconduct.

27 (Source: P.A. 93-1008, eff. 1-1-05.)

28 (720 ILCS 647/50)

29 Sec. 50. Special exclusion. If the United States Drug  
30 Enforcement Administration has formally certified that a  
31 targeted methamphetamine precursor ~~methamphetamine~~  
32 ~~manufacturing chemical~~ has been produced in a manner that  
33 prevents its use for the manufacture of methamphetamine, this  
34 Act does not apply to the sale of the targeted methamphetamine

1 precursor ~~methamphetamine manufacturing chemical~~ produced in  
2 that manner.

3 (Source: P.A. 93-1008, eff. 1-1-05.)

4 (720 ILCS 647/60)

5 Sec. 60. Preemption and home rule powers.

6 (a) Except as provided in subsection (b) of this Section, a  
7 county or municipality, including a home rule unit, may  
8 regulate the sale of targeted methamphetamine precursor  
9 ~~methamphetamine manufacturing chemicals~~ and targeted packages  
10 in a manner that is not more or less restrictive than the  
11 regulation by the State under this Act. This Section is a  
12 limitation under subsection (i) of Section 6 of Article VII of  
13 the Illinois Constitution on the concurrent exercise by home  
14 rule units of the powers and functions exercised by the State.

15 (b) Any regulation of the sale of targeted methamphetamine  
16 precursor ~~methamphetamine manufacturing chemicals~~ and targeted  
17 packages by a home rule unit that took effect on or before May  
18 1, 2004, is exempt from the provisions of subsection (a) of  
19 this Section.

20 (Source: P.A. 93-1008, eff. 1-1-05.)

21 Section 1080. The Code of Criminal Procedure of 1963 is  
22 amended by changing Sections 108B-3, 110-5, 110-6, 110-6.1,  
23 110-7, 110-10, 115-10.5, and 115-15 as follows:

24 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

25 Sec. 108B-3. Authorization for the interception of private  
26 communication.

27 (a) The State's Attorney, or a person designated in writing  
28 or by law to act for him and to perform his duties during his  
29 absence or disability, may authorize, in writing, an ex parte  
30 application to the chief judge of a court of competent  
31 jurisdiction for an order authorizing the interception of a  
32 private oral communication when no party has consented to the  
33 interception and (i) the interception may provide evidence of,

1 or may assist in the apprehension of a person who has  
2 committed, is committing or is about to commit, a violation of  
3 Section 8-1.1 (solicitation of murder), 8-1.2 (solicitation of  
4 murder for hire), 9-1 (first degree murder), or 29B-1 (money  
5 laundering) of the Criminal Code of 1961, Section 401, 401.1  
6 (controlled substance trafficking), 405, 405.1 (criminal drug  
7 conspiracy) or 407 of the Illinois Controlled Substances Act or  
8 any Section of the Methamphetamine Control and Community  
9 Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3,  
10 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a) (4),  
11 24-1(a) (6), 24-1(a) (7), 24-1(a) (9), 24-1(a) (10), or 24-1(c) of  
12 the Criminal Code of 1961 or conspiracy to commit money  
13 laundering or conspiracy to commit first degree murder; (ii) in  
14 response to a clear and present danger of imminent death or  
15 great bodily harm to persons resulting from: (1) a kidnapping  
16 or the holding of a hostage by force or the threat of the  
17 imminent use of force; or (2) the occupation by force or the  
18 threat of the imminent use of force of any premises, place,  
19 vehicle, vessel or aircraft; (iii) to aid an investigation or  
20 prosecution of a civil action brought under the Illinois  
21 Streetgang Terrorism Omnibus Prevention Act when there is  
22 probable cause to believe the interception of the private oral  
23 communication will provide evidence that a streetgang is  
24 committing, has committed, or will commit a second or  
25 subsequent gang-related offense or that the interception of the  
26 private oral communication will aid in the collection of a  
27 judgment entered under that Act; or (iv) upon information and  
28 belief that a streetgang has committed, is committing, or is  
29 about to commit a felony.

30 (b) The State's Attorney or a person designated in writing  
31 or by law to act for the State's Attorney and to perform his or  
32 her duties during his or her absence or disability, may  
33 authorize, in writing, an ex parte application to the chief  
34 judge of a circuit court for an order authorizing the  
35 interception of a private communication when no party has  
36 consented to the interception and the interception may provide

1 evidence of, or may assist in the apprehension of a person who  
2 has committed, is committing or is about to commit, a violation  
3 of an offense under Article 29D of the Criminal Code of 1961.

4 (b-1) Subsection (b) is inoperative on and after January 1,  
5 2005.

6 (b-2) No conversations recorded or monitored pursuant to  
7 subsection (b) shall be made inadmissible in a court of law by  
8 virtue of subsection (b-1).

9 (c) As used in this Section, "streetgang" and  
10 "gang-related" have the meanings ascribed to them in Section 10  
11 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

12 (Source: P.A. 92-854, eff. 12-5-02.)

13 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

14 Sec. 110-5. Determining the amount of bail and conditions  
15 of release.

16 (a) In determining the amount of monetary bail or  
17 conditions of release, if any, which will reasonably assure the  
18 appearance of a defendant as required or the safety of any  
19 other person or the community and the likelihood of compliance  
20 by the defendant with all the conditions of bail, the court  
21 shall, on the basis of available information, take into account  
22 such matters as the nature and circumstances of the offense  
23 charged, whether the evidence shows that as part of the offense  
24 there was a use of violence or threatened use of violence,  
25 whether the offense involved corruption of public officials or  
26 employees, whether there was physical harm or threats of  
27 physical harm to any public official, public employee, judge,  
28 prosecutor, juror or witness, senior citizen, child or  
29 handicapped person, whether evidence shows that during the  
30 offense or during the arrest the defendant possessed or used a  
31 firearm, machine gun, explosive or metal piercing ammunition or  
32 explosive bomb device or any military or paramilitary armament,  
33 whether the evidence shows that the offense committed was  
34 related to or in furtherance of the criminal activities of an  
35 organized gang or was motivated by the defendant's membership

1 in or allegiance to an organized gang, the condition of the  
2 victim, any written statement submitted by the victim or  
3 proffer or representation by the State regarding the impact  
4 which the alleged criminal conduct has had on the victim and  
5 the victim's concern, if any, with further contact with the  
6 defendant if released on bail, whether the offense was based on  
7 racial, religious, sexual orientation or ethnic hatred, the  
8 likelihood of the filing of a greater charge, the likelihood of  
9 conviction, the sentence applicable upon conviction, the  
10 weight of the evidence against such defendant, whether there  
11 exists motivation or ability to flee, whether there is any  
12 verification as to prior residence, education, or family ties  
13 in the local jurisdiction, in another county, state or foreign  
14 country, the defendant's employment, financial resources,  
15 character and mental condition, past conduct, prior use of  
16 alias names or dates of birth, and length of residence in the  
17 community, the consent of the defendant to periodic drug  
18 testing in accordance with Section 110-6.5, whether a foreign  
19 national defendant is lawfully admitted in the United States of  
20 America, whether the government of the foreign national  
21 maintains an extradition treaty with the United States by which  
22 the foreign government will extradite to the United States its  
23 national for a trial for a crime allegedly committed in the  
24 United States, whether the defendant is currently subject to  
25 deportation or exclusion under the immigration laws of the  
26 United States, whether the defendant, although a United States  
27 citizen, is considered under the law of any foreign state a  
28 national of that state for the purposes of extradition or  
29 non-extradition to the United States, the amount of unrecovered  
30 proceeds lost as a result of the alleged offense, the source of  
31 bail funds tendered or sought to be tendered for bail, whether  
32 from the totality of the court's consideration, the loss of  
33 funds posted or sought to be posted for bail will not deter the  
34 defendant from flight, whether the evidence shows that the  
35 defendant is engaged in significant possession, manufacture,  
36 or delivery of a controlled substance or cannabis, either

1 individually or in consort with others, whether at the time of  
2 the offense charged he was on bond or pre-trial release pending  
3 trial, probation, periodic imprisonment or conditional  
4 discharge pursuant to this Code or the comparable Code of any  
5 other state or federal jurisdiction, whether the defendant is  
6 on bond or pre-trial release pending the imposition or  
7 execution of sentence or appeal of sentence for any offense  
8 under the laws of Illinois or any other state or federal  
9 jurisdiction, whether the defendant is under parole or  
10 mandatory supervised release or work release from the Illinois  
11 Department of Corrections or any penal institution or  
12 corrections department of any state or federal jurisdiction,  
13 the defendant's record of convictions, whether the defendant  
14 has been convicted of a misdemeanor or ordinance offense in  
15 Illinois or similar offense in other state or federal  
16 jurisdiction within the 10 years preceding the current charge  
17 or convicted of a felony in Illinois, whether the defendant was  
18 convicted of an offense in another state or federal  
19 jurisdiction that would be a felony if committed in Illinois  
20 within the 20 years preceding the current charge or has been  
21 convicted of such felony and released from the penitentiary  
22 within 20 years preceding the current charge if a penitentiary  
23 sentence was imposed in Illinois or other state or federal  
24 jurisdiction, the defendant's records of juvenile adjudication  
25 of delinquency in any jurisdiction, any record of appearance or  
26 failure to appear by the defendant at court proceedings,  
27 whether there was flight to avoid arrest or prosecution,  
28 whether the defendant escaped or attempted to escape to avoid  
29 arrest, whether the defendant refused to identify himself, or  
30 whether there was a refusal by the defendant to be  
31 fingerprinted as required by law. Information used by the court  
32 in its findings or stated in or offered in connection with this  
33 Section may be by way of proffer based upon reliable  
34 information offered by the State or defendant. All evidence  
35 shall be admissible if it is relevant and reliable regardless  
36 of whether it would be admissible under the rules of evidence

1 applicable at criminal trials. If the State presents evidence  
2 that the offense committed by the defendant was related to or  
3 in furtherance of the criminal activities of an organized gang  
4 or was motivated by the defendant's membership in or allegiance  
5 to an organized gang, and if the court determines that the  
6 evidence may be substantiated, the court shall prohibit the  
7 defendant from associating with other members of the organized  
8 gang as a condition of bail or release. For the purposes of  
9 this Section, "organized gang" has the meaning ascribed to it  
10 in Section 10 of the Illinois Streetgang Terrorism Omnibus  
11 Prevention Act.

12 (b) The amount of bail shall be:

13 (1) Sufficient to assure compliance with the  
14 conditions set forth in the bail bond, which shall include  
15 the defendant's current address with a written  
16 admonishment to the defendant that he or she must comply  
17 with the provisions of Section 110-12 regarding any change  
18 in his or her address. The defendant's address shall at all  
19 times remain a matter of public record with the clerk of  
20 the court.

21 (2) Not oppressive.

22 (3) Considerate of the financial ability of the  
23 accused.

24 (4) When a person is charged with a drug related  
25 offense involving possession or delivery of cannabis or  
26 possession or delivery of a controlled substance as defined  
27 in the Cannabis Control Act, ~~as amended, or~~ the Illinois  
28 Controlled Substances Act, or the Methamphetamine Control  
29 and Community Protection Act as amended, the full street  
30 value of the drugs seized shall be considered. "Street  
31 value" shall be determined by the court on the basis of a  
32 proffer by the State based upon reliable information of a  
33 law enforcement official contained in a written report as  
34 to the amount seized and such proffer may be used by the  
35 court as to the current street value of the smallest unit  
36 of the drug seized.

1 (b-5) Upon the filing of a written request demonstrating  
2 reasonable cause, the State's Attorney may request a source of  
3 bail hearing either before or after the posting of any funds.  
4 If the hearing is granted, before the posting of any bail, the  
5 accused must file a written notice requesting that the court  
6 conduct a source of bail hearing. The notice must be  
7 accompanied by justifying affidavits stating the legitimate  
8 and lawful source of funds for bail. At the hearing, the court  
9 shall inquire into any matters stated in any justifying  
10 affidavits, and may also inquire into matters appropriate to  
11 the determination which shall include, but are not limited to,  
12 the following:

13 (1) the background, character, reputation, and  
14 relationship to the accused of any surety; and

15 (2) the source of any money or property deposited by  
16 any surety, and whether any such money or property  
17 constitutes the fruits of criminal or unlawful conduct; and

18 (3) the source of any money posted as cash bail, and  
19 whether any such money constitutes the fruits of criminal  
20 or unlawful conduct; and

21 (4) the background, character, reputation, and  
22 relationship to the accused of the person posting cash  
23 bail.

24 Upon setting the hearing, the court shall examine, under  
25 oath, any persons who may possess material information.

26 The State's Attorney has a right to attend the hearing, to  
27 call witnesses and to examine any witness in the proceeding.  
28 The court shall, upon request of the State's Attorney, continue  
29 the proceedings for a reasonable period to allow the State's  
30 Attorney to investigate the matter raised in any testimony or  
31 affidavit. If the hearing is granted after the accused has  
32 posted bail, the court shall conduct a hearing consistent with  
33 this subsection (b-5). At the conclusion of the hearing, the  
34 court must issue an order either approving or disapproving the  
35 bail.

36 (c) When a person is charged with an offense punishable by

1 fine only the amount of the bail shall not exceed double the  
2 amount of the maximum penalty.

3 (d) When a person has been convicted of an offense and only  
4 a fine has been imposed the amount of the bail shall not exceed  
5 double the amount of the fine.

6 (e) The State may appeal any order granting bail or setting  
7 a given amount for bail.

8 (Source: P.A. 93-254, eff. 1-1-04; 93-817, eff. 7-27-04.)

9 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

10 Sec. 110-6. (a) Upon verified application by the State or  
11 the defendant or on its own motion the court before which the  
12 proceeding is pending may increase or reduce the amount of bail  
13 or may alter the conditions of the bail bond or grant bail  
14 where it has been previously revoked or denied. If bail has  
15 been previously revoked pursuant to subsection (f) of this  
16 Section or if bail has been denied to the defendant pursuant to  
17 subsection (e) of Section 110-6.1 or subsection (e) of Section  
18 110-6.3, the defendant shall be required to present a verified  
19 application setting forth in detail any new facts not known or  
20 obtainable at the time of the previous revocation or denial of  
21 bail proceedings. If the court grants bail where it has been  
22 previously revoked or denied, the court shall state on the  
23 record of the proceedings the findings of facts and conclusion  
24 of law upon which such order is based.

25 (b) Violation of the conditions of Section 110-10 of this  
26 Code or any special conditions of bail as ordered by the court  
27 shall constitute grounds for the court to increase the amount  
28 of bail, or otherwise alter the conditions of bail, or, where  
29 the alleged offense committed on bail is a forcible felony in  
30 Illinois or a Class 2 or greater offense under the Illinois  
31 Controlled Substances Act, the ~~or~~ Cannabis Control Act, or the  
32 Methamphetamine Control and Community Protection Act, revoke  
33 bail pursuant to the appropriate provisions of subsection (e)  
34 of this Section.

35 (c) Reasonable notice of such application by the defendant

1 shall be given to the State.

2 (d) Reasonable notice of such application by the State  
3 shall be given to the defendant, except as provided in  
4 subsection (e).

5 (e) Upon verified application by the State stating facts or  
6 circumstances constituting a violation or a threatened  
7 violation of any of the conditions of the bail bond the court  
8 may issue a warrant commanding any peace officer to bring the  
9 defendant without unnecessary delay before the court for a  
10 hearing on the matters set forth in the application. If the  
11 actual court before which the proceeding is pending is absent  
12 or otherwise unavailable another court may issue a warrant  
13 pursuant to this Section. When the defendant is charged with a  
14 felony offense and while free on bail is charged with a  
15 subsequent felony offense and is the subject of a proceeding  
16 set forth in Section 109-1 or 109-3 of this Code, upon the  
17 filing of a verified petition by the State alleging a violation  
18 of Section 110-10 (a) (4) of this Code, the court shall without  
19 prior notice to the defendant, grant leave to file such  
20 application and shall order the transfer of the defendant and  
21 the application without unnecessary delay to the court before  
22 which the previous felony matter is pending for a hearing as  
23 provided in subsection (b) or this subsection of this Section.  
24 The defendant shall be held without bond pending transfer to  
25 and a hearing before such court. At the conclusion of the  
26 hearing based on a violation of the conditions of Section  
27 110-10 of this Code or any special conditions of bail as  
28 ordered by the court the court may enter an order increasing  
29 the amount of bail or alter the conditions of bail as deemed  
30 appropriate.

31 (f) Where the alleged violation consists of the violation  
32 of one or more felony statutes of any jurisdiction which would  
33 be a forcible felony in Illinois or a Class 2 or greater  
34 offense under the Illinois Controlled Substances Act, the ~~or~~  
35 Cannabis Control Act, or the Methamphetamine Control and  
36 Community Protection Act and the defendant is on bail for the

1 alleged commission of a felony, or where the defendant is on  
2 bail for a felony domestic battery (enhanced pursuant to  
3 subsection (b) of Section 12-3.2 of the Criminal Code of 1961),  
4 aggravated domestic battery, aggravated battery, unlawful  
5 restraint, aggravated unlawful restraint or domestic battery  
6 in violation of item (1) of subsection (a) of Section 12-3.2 of  
7 the Criminal Code of 1961 against a family or household member  
8 as defined in Section 112A-3 of this Code and the violation is  
9 an offense of domestic battery against the same victim the  
10 court shall, on the motion of the State or its own motion,  
11 revoke bail in accordance with the following provisions:

12 (1) The court shall hold the defendant without bail  
13 pending the hearing on the alleged breach; however, if the  
14 defendant is not admitted to bail the hearing shall be  
15 commenced within 10 days from the date the defendant is  
16 taken into custody or the defendant may not be held any  
17 longer without bail, unless delay is occasioned by the  
18 defendant. Where defendant occasions the delay, the  
19 running of the 10 day period is temporarily suspended and  
20 resumes at the termination of the period of delay. Where  
21 defendant occasions the delay with 5 or fewer days  
22 remaining in the 10 day period, the court may grant a  
23 period of up to 5 additional days to the State for good  
24 cause shown. The State, however, shall retain the right to  
25 proceed to hearing on the alleged violation at any time,  
26 upon reasonable notice to the defendant and the court.

27 (2) At a hearing on the alleged violation the State has  
28 the burden of going forward and proving the violation by  
29 clear and convincing evidence. The evidence shall be  
30 presented in open court with the opportunity to testify, to  
31 present witnesses in his behalf, and to cross-examine  
32 witnesses if any are called by the State, and  
33 representation by counsel and if the defendant is indigent  
34 to have counsel appointed for him. The rules of evidence  
35 applicable in criminal trials in this State shall not  
36 govern the admissibility of evidence at such hearing.

1 Information used by the court in its findings or stated in  
2 or offered in connection with hearings for increase or  
3 revocation of bail may be by way of proffer based upon  
4 reliable information offered by the State or defendant. All  
5 evidence shall be admissible if it is relevant and reliable  
6 regardless of whether it would be admissible under the  
7 rules of evidence applicable at criminal trials. A motion  
8 by the defendant to suppress evidence or to suppress a  
9 confession shall not be entertained at such a hearing.  
10 Evidence that proof may have been obtained as a result of  
11 an unlawful search and seizure or through improper  
12 interrogation is not relevant to this hearing.

13 (3) Upon a finding by the court that the State has  
14 established by clear and convincing evidence that the  
15 defendant has committed a forcible felony or a Class 2 or  
16 greater offense under the Illinois Controlled Substances  
17 Act, the ~~or~~ Cannabis Control Act, or the Methamphetamine  
18 Control and Community Protection Act while admitted to  
19 bail, or where the defendant is on bail for a felony  
20 domestic battery (enhanced pursuant to subsection (b) of  
21 Section 12-3.2 of the Criminal Code of 1961), aggravated  
22 domestic battery, aggravated battery, unlawful restraint,  
23 aggravated unlawful restraint or domestic battery in  
24 violation of item (1) of subsection (a) of Section 12-3.2  
25 of the Criminal Code of 1961 against a family or household  
26 member as defined in Section 112A-3 of this Code and the  
27 violation is an offense of domestic battery, against the  
28 same victim, the court shall revoke the bail of the  
29 defendant and hold the defendant for trial without bail.  
30 Neither the finding of the court nor any transcript or  
31 other record of the hearing shall be admissible in the  
32 State's case in chief, but shall be admissible for  
33 impeachment, or as provided in Section 115-10.1 of this  
34 Code or in a perjury proceeding.

35 (4) If the bail of any defendant is revoked pursuant to  
36 paragraph (f) (3) of this Section, the defendant may demand

1 and shall be entitled to be brought to trial on the offense  
2 with respect to which he was formerly released on bail  
3 within 90 days after the date on which his bail was  
4 revoked. If the defendant is not brought to trial within  
5 the 90 day period required by the preceding sentence, he  
6 shall not be held longer without bail. In computing the 90  
7 day period, the court shall omit any period of delay  
8 resulting from a continuance granted at the request of the  
9 defendant.

10 (5) If the defendant either is arrested on a warrant  
11 issued pursuant to this Code or is arrested for an  
12 unrelated offense and it is subsequently discovered that  
13 the defendant is a subject of another warrant or warrants  
14 issued pursuant to this Code, the defendant shall be  
15 transferred promptly to the court which issued such  
16 warrant. If, however, the defendant appears initially  
17 before a court other than the court which issued such  
18 warrant, the non-issuing court shall not alter the amount  
19 of bail heretofore set on such warrant unless the court  
20 sets forth on the record of proceedings the conclusions of  
21 law and facts which are the basis for such altering of  
22 another court's bond. The non-issuing court shall not alter  
23 another courts bail set on a warrant unless the interests  
24 of justice and public safety are served by such action.

25 (g) The State may appeal any order where the court has  
26 increased or reduced the amount of bail or altered the  
27 conditions of the bail bond or granted bail where it has  
28 previously been revoked.

29 (Source: P.A. 93-417, eff. 8-5-03.)

30 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

31 Sec. 110-6.1. Denial of bail in non-probationable felony  
32 offenses.

33 (a) Upon verified petition by the State, the court shall  
34 hold a hearing to determine whether bail should be denied to a  
35 defendant who is charged with a felony offense for which a

1 sentence of imprisonment, without probation, periodic  
2 imprisonment or conditional discharge, is required by law upon  
3 conviction, when it is alleged that the defendant's admission  
4 to bail poses a real and present threat to the physical safety  
5 of any person or persons.

6 (1) A petition may be filed without prior notice to the  
7 defendant at the first appearance before a judge, or within  
8 the 21 calendar days, except as provided in Section 110-6,  
9 after arrest and release of the defendant upon reasonable  
10 notice to defendant; provided that while such petition is  
11 pending before the court, the defendant if previously  
12 released shall not be detained.

13 (2) The hearing shall be held immediately upon the  
14 defendant's appearance before the court, unless for good  
15 cause shown the defendant or the State seeks a continuance.  
16 A continuance on motion of the defendant may not exceed 5  
17 calendar days, and a continuance on the motion of the State  
18 may not exceed 3 calendar days. The defendant may be held  
19 in custody during such continuance.

20 (b) The court may deny bail to the defendant where, after  
21 the hearing, it is determined that:

22 (1) the proof is evident or the presumption great that  
23 the defendant has committed an offense for which a sentence  
24 of imprisonment, without probation, periodic imprisonment  
25 or conditional discharge, must be imposed by law as a  
26 consequence of conviction, and

27 (2) the defendant poses a real and present threat to  
28 the physical safety of any person or persons, by conduct  
29 which may include, but is not limited to, a forcible  
30 felony, the obstruction of justice, intimidation, injury,  
31 physical harm, ~~or~~ an offense under the Illinois Controlled  
32 Substances Act which is a Class X felony, or an offense  
33 under the Methamphetamine Control and Community Protection  
34 Act which is a Class X felony, and

35 (3) the court finds that no condition or combination of  
36 conditions set forth in subsection (b) of Section 110-10 of

1           this Article, can reasonably assure the physical safety of  
2           any other person or persons.

3           (c) Conduct of the hearings.

4           (1) The hearing on the defendant's culpability and  
5           dangerousness shall be conducted in accordance with the  
6           following provisions:

7           (A) Information used by the court in its findings  
8           or stated in or offered at such hearing may be by way  
9           of proffer based upon reliable information offered by  
10          the State or by defendant. Defendant has the right to  
11          be represented by counsel, and if he is indigent, to  
12          have counsel appointed for him. Defendant shall have  
13          the opportunity to testify, to present witnesses in his  
14          own behalf, and to cross-examine witnesses if any are  
15          called by the State. The defendant has the right to  
16          present witnesses in his favor. When the ends of  
17          justice so require, the court may exercise its  
18          discretion and compel the appearance of a complaining  
19          witness. The court shall state on the record reasons  
20          for granting a defense request to compel the presence  
21          of a complaining witness. Cross-examination of a  
22          complaining witness at the pretrial detention hearing  
23          for the purpose of impeaching the witness' credibility  
24          is insufficient reason to compel the presence of the  
25          witness. In deciding whether to compel the appearance  
26          of a complaining witness, the court shall be  
27          considerate of the emotional and physical well-being  
28          of the witness. The pre-trial detention hearing is not  
29          to be used for purposes of discovery, and the post  
30          arraignment rules of discovery do not apply. The State  
31          shall tender to the defendant, prior to the hearing,  
32          copies of defendant's criminal history, if any, if  
33          available, and any written or recorded statements and  
34          the substance of any oral statements made by any  
35          person, if relied upon by the State in its petition.  
36          The rules concerning the admissibility of evidence in

1 criminal trials do not apply to the presentation and  
2 consideration of information at the hearing. At the  
3 trial concerning the offense for which the hearing was  
4 conducted neither the finding of the court nor any  
5 transcript or other record of the hearing shall be  
6 admissible in the State's case in chief, but shall be  
7 admissible for impeachment, or as provided in Section  
8 115-10.1 of this Code, or in a perjury proceeding.

9 (B) A motion by the defendant to suppress evidence  
10 or to suppress a confession shall not be entertained.  
11 Evidence that proof may have been obtained as the  
12 result of an unlawful search and seizure or through  
13 improper interrogation is not relevant to this state of  
14 the prosecution.

15 (2) The facts relied upon by the court to support a  
16 finding that the defendant poses a real and present threat  
17 to the physical safety of any person or persons shall be  
18 supported by clear and convincing evidence presented by the  
19 State.

20 (d) Factors to be considered in making a determination of  
21 dangerousness. The court may, in determining whether the  
22 defendant poses a real and present threat to the physical  
23 safety of any person or persons, consider but shall not be  
24 limited to evidence or testimony concerning:

25 (1) The nature and circumstances of any offense  
26 charged, including whether the offense is a crime of  
27 violence, involving a weapon.

28 (2) The history and characteristics of the defendant  
29 including:

30 (A) Any evidence of the defendant's prior criminal  
31 history indicative of violent, abusive or assaultive  
32 behavior, or lack of such behavior. Such evidence may  
33 include testimony or documents received in juvenile  
34 proceedings, criminal, quasi-criminal, civil  
35 commitment, domestic relations or other proceedings.

36 (B) Any evidence of the defendant's psychological,

1 psychiatric or other similar social history which  
2 tends to indicate a violent, abusive, or assaultive  
3 nature, or lack of any such history.

4 (3) The identity of any person or persons to whose  
5 safety the defendant is believed to pose a threat, and the  
6 nature of the threat;

7 (4) Any statements made by, or attributed to the  
8 defendant, together with the circumstances surrounding  
9 them;

10 (5) The age and physical condition of any person  
11 assaulted by the defendant;

12 (6) Whether the defendant is known to possess or have  
13 access to any weapon or weapons;

14 (7) Whether, at the time of the current offense or any  
15 other offense or arrest, the defendant was on probation,  
16 parole, mandatory supervised release or other release from  
17 custody pending trial, sentencing, appeal or completion of  
18 sentence for an offense under federal or state law;

19 (8) Any other factors, including those listed in  
20 Section 110-5 of this Article deemed by the court to have a  
21 reasonable bearing upon the defendant's propensity or  
22 reputation for violent, abusive or assaultive behavior, or  
23 lack of such behavior.

24 (e) Detention order. The court shall, in any order for  
25 detention:

26 (1) briefly summarize the evidence of the defendant's  
27 culpability and its reasons for concluding that the  
28 defendant should be held without bail;

29 (2) direct that the defendant be committed to the  
30 custody of the sheriff for confinement in the county jail  
31 pending trial;

32 (3) direct that the defendant be given a reasonable  
33 opportunity for private consultation with counsel, and for  
34 communication with others of his choice by visitation, mail  
35 and telephone; and

36 (4) direct that the sheriff deliver the defendant as

1 required for appearances in connection with court  
2 proceedings.

3 (f) If the court enters an order for the detention of the  
4 defendant pursuant to subsection (e) of this Section, the  
5 defendant shall be brought to trial on the offense for which he  
6 is detained within 90 days after the date on which the order  
7 for detention was entered. If the defendant is not brought to  
8 trial within the 90 day period required by the preceding  
9 sentence, he shall not be held longer without bail. In  
10 computing the 90 day period, the court shall omit any period of  
11 delay resulting from a continuance granted at the request of  
12 the defendant.

13 (g) Rights of the defendant. Any person shall be entitled  
14 to appeal any order entered under this Section denying bail to  
15 the defendant.

16 (h) The State may appeal any order entered under this  
17 Section denying any motion for denial of bail.

18 (i) Nothing in this Section shall be construed as modifying  
19 or limiting in any way the defendant's presumption of innocence  
20 in further criminal proceedings.

21 (Source: P.A. 85-1209.)

22 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

23 Sec. 110-7. Deposit of Bail Security.

24 (a) The person for whom bail has been set shall execute the  
25 bail bond and deposit with the clerk of the court before which  
26 the proceeding is pending a sum of money equal to 10% of the  
27 bail, but in no event shall such deposit be less than \$25. The  
28 clerk of the court shall provide a space on each form for a  
29 person other than the accused who has provided the money for  
30 the posting of bail to so indicate and a space signed by an  
31 accused who has executed the bail bond indicating whether a  
32 person other than the accused has provided the money for the  
33 posting of bail. The form shall also include a written notice  
34 to such person who has provided the defendant with the money  
35 for the posting of bail indicating that the bail may be used to

1 pay costs, attorney's fees, fines, or other purposes authorized  
2 by the court and if the defendant fails to comply with the  
3 conditions of the bail bond, the court shall enter an order  
4 declaring the bail to be forfeited. The written notice must be:  
5 (1) distinguishable from the surrounding text; (2) in bold type  
6 or underscored; and (3) in a type size at least 2 points larger  
7 than the surrounding type. When a person for whom bail has been  
8 set is charged with an offense under the Illinois Controlled  
9 Substances Act or the Methamphetamine Control and Community  
10 Protection Act which is a Class X felony, the court may  
11 require the defendant to deposit a sum equal to 100% of the  
12 bail. Where any person is charged with a forcible felony while  
13 free on bail and is the subject of proceedings under Section  
14 109-3 of this Code the judge conducting the preliminary  
15 examination may also conduct a hearing upon the application of  
16 the State pursuant to the provisions of Section 110-6 of this  
17 Code to increase or revoke the bail for that person's prior  
18 alleged offense.

19 (b) Upon depositing this sum and any bond fee authorized by  
20 law, the person shall be released from custody subject to the  
21 conditions of the bail bond.

22 (c) Once bail has been given and a charge is pending or is  
23 thereafter filed in or transferred to a court of competent  
24 jurisdiction the latter court shall continue the original bail  
25 in that court subject to the provisions of Section 110-6 of  
26 this Code.

27 (d) After conviction the court may order that the original  
28 bail stand as bail pending appeal or deny, increase or reduce  
29 bail subject to the provisions of Section 110-6.2.

30 (e) After the entry of an order by the trial court allowing  
31 or denying bail pending appeal either party may apply to the  
32 reviewing court having jurisdiction or to a justice thereof  
33 sitting in vacation for an order increasing or decreasing the  
34 amount of bail or allowing or denying bail pending appeal  
35 subject to the provisions of Section 110-6.2.

36 (f) When the conditions of the bail bond have been

1 performed and the accused has been discharged from all  
2 obligations in the cause the clerk of the court shall return to  
3 the accused or to the defendant's designee by an assignment  
4 executed at the time the bail amount is deposited, unless the  
5 court orders otherwise, 90% of the sum which had been deposited  
6 and shall retain as bail bond costs 10% of the amount  
7 deposited. However, in no event shall the amount retained by  
8 the clerk as bail bond costs be less than \$5. Bail bond  
9 deposited by or on behalf of a defendant in one case may be  
10 used, in the court's discretion, to satisfy financial  
11 obligations of that same defendant incurred in a different case  
12 due to a fine, court costs, restitution or fees of the  
13 defendant's attorney of record. In counties with a population  
14 of 3,000,000 or more, the court shall not order bail bond  
15 deposited by or on behalf of a defendant in one case to be used  
16 to satisfy financial obligations of that same defendant in a  
17 different case until the bail bond is first used to satisfy  
18 court costs and attorney's fees in the case in which the bail  
19 bond has been deposited and any other unpaid child support  
20 obligations are satisfied. In counties with a population of  
21 less than 3,000,000, the court shall not order bail bond  
22 deposited by or on behalf of a defendant in one case to be used  
23 to satisfy financial obligations of that same defendant in a  
24 different case until the bail bond is first used to satisfy  
25 court costs in the case in which the bail bond has been  
26 deposited.

27 At the request of the defendant the court may order such  
28 90% of defendant's bail deposit, or whatever amount is  
29 repayable to defendant from such deposit, to be paid to  
30 defendant's attorney of record.

31 (g) If the accused does not comply with the conditions of  
32 the bail bond the court having jurisdiction shall enter an  
33 order declaring the bail to be forfeited. Notice of such order  
34 of forfeiture shall be mailed forthwith to the accused at his  
35 last known address. If the accused does not appear and  
36 surrender to the court having jurisdiction within 30 days from

1 the date of the forfeiture or within such period satisfy the  
2 court that appearance and surrender by the accused is  
3 impossible and without his fault the court shall enter judgment  
4 for the State if the charge for which the bond was given was a  
5 felony or misdemeanor, or if the charge was quasi-criminal or  
6 traffic, judgment for the political subdivision of the State  
7 which prosecuted the case, against the accused for the amount  
8 of the bail and costs of the court proceedings; however, in  
9 counties with a population of less than 3,000,000, instead of  
10 the court entering a judgment for the full amount of the bond  
11 the court may, in its discretion, enter judgment for the cash  
12 deposit on the bond, less costs, retain the deposit for further  
13 disposition or, if a cash bond was posted for failure to appear  
14 in a matter involving enforcement of child support or  
15 maintenance, the amount of the cash deposit on the bond, less  
16 outstanding costs, may be awarded to the person or entity to  
17 whom the child support or maintenance is due. The deposit made  
18 in accordance with paragraph (a) shall be applied to the  
19 payment of costs. If judgment is entered and any amount of such  
20 deposit remains after the payment of costs it shall be applied  
21 to payment of the judgment and transferred to the treasury of  
22 the municipal corporation wherein the bond was taken if the  
23 offense was a violation of any penal ordinance of a political  
24 subdivision of this State, or to the treasury of the county  
25 wherein the bond was taken if the offense was a violation of  
26 any penal statute of this State. The balance of the judgment  
27 may be enforced and collected in the same manner as a judgment  
28 entered in a civil action.

29 (h) After a judgment for a fine and court costs or either  
30 is entered in the prosecution of a cause in which a deposit had  
31 been made in accordance with paragraph (a) the balance of such  
32 deposit, after deduction of bail bond costs, shall be applied  
33 to the payment of the judgment.

34 (Source: P.A. 92-16, eff. 6-28-01; 93-371, eff. 1-1-04; 93-760,  
35 eff. 1-1-05.)

1 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

2 Sec. 110-10. Conditions of bail bond.

3 (a) If a person is released prior to conviction, either  
4 upon payment of bail security or on his or her own  
5 recognizance, the conditions of the bail bond shall be that he  
6 or she will:

7 (1) Appear to answer the charge in the court having  
8 jurisdiction on a day certain and thereafter as ordered by  
9 the court until discharged or final order of the court;

10 (2) Submit himself or herself to the orders and process  
11 of the court;

12 (3) Not depart this State without leave of the court;

13 (4) Not violate any criminal statute of any  
14 jurisdiction;

15 (5) At a time and place designated by the court,  
16 surrender all firearms in his or her possession to a law  
17 enforcement officer designated by the court to take custody  
18 of and impound the firearms and physically surrender his or  
19 her Firearm Owner's Identification Card to the clerk of the  
20 circuit court when the offense the person has been charged  
21 with is a forcible felony, stalking, aggravated stalking,  
22 domestic battery, any violation of ~~either~~ the Illinois  
23 Controlled Substances Act, the Methamphetamine Control and  
24 Community Protection Act, or the Cannabis Control Act that  
25 is classified as a Class 2 or greater felony, or any felony  
26 violation of Article 24 of the Criminal Code of 1961; the  
27 court may, however, forgo the imposition of this condition  
28 when the circumstances of the case clearly do not warrant  
29 it or when its imposition would be impractical; all legally  
30 possessed firearms shall be returned to the person upon  
31 that person completing a sentence for a conviction on a  
32 misdemeanor domestic battery, upon the charges being  
33 dismissed, or if the person is found not guilty, unless the  
34 finding of not guilty is by reason of insanity; and

35 (6) At a time and place designated by the court, submit  
36 to a psychological evaluation when the person has been

1 charged with a violation of item (4) of subsection (a) of  
2 Section 24-1 of the Criminal Code of 1961 and that  
3 violation occurred in a school or in any conveyance owned,  
4 leased, or contracted by a school to transport students to  
5 or from school or a school-related activity, or on any  
6 public way within 1,000 feet of real property comprising  
7 any school.

8 Psychological evaluations ordered pursuant to this Section  
9 shall be completed promptly and made available to the State,  
10 the defendant, and the court. As a further condition of bail  
11 under these circumstances, the court shall order the defendant  
12 to refrain from entering upon the property of the school,  
13 including any conveyance owned, leased, or contracted by a  
14 school to transport students to or from school or a  
15 school-related activity, or on any public way within 1,000 feet  
16 of real property comprising any school. Upon receipt of the  
17 psychological evaluation, either the State or the defendant may  
18 request a change in the conditions of bail, pursuant to Section  
19 110-6 of this Code. The court may change the conditions of bail  
20 to include a requirement that the defendant follow the  
21 recommendations of the psychological evaluation, including  
22 undergoing psychiatric treatment. The conclusions of the  
23 psychological evaluation and any statements elicited from the  
24 defendant during its administration are not admissible as  
25 evidence of guilt during the course of any trial on the charged  
26 offense, unless the defendant places his or her mental  
27 competency in issue.

28 (b) The court may impose other conditions, such as the  
29 following, if the court finds that such conditions are  
30 reasonably necessary to assure the defendant's appearance in  
31 court, protect the public from the defendant, or prevent the  
32 defendant's unlawful interference with the orderly  
33 administration of justice:

34 (1) Report to or appear in person before such person or  
35 agency as the court may direct;

36 (2) Refrain from possessing a firearm or other

1 dangerous weapon;

2 (3) Refrain from approaching or communicating with  
3 particular persons or classes of persons;

4 (4) Refrain from going to certain described  
5 geographical areas or premises;

6 (5) Refrain from engaging in certain activities or  
7 indulging in intoxicating liquors or in certain drugs;

8 (6) Undergo treatment for drug addiction or  
9 alcoholism;

10 (7) Undergo medical or psychiatric treatment;

11 (8) Work or pursue a course of study or vocational  
12 training;

13 (9) Attend or reside in a facility designated by the  
14 court;

15 (10) Support his or her dependents;

16 (11) If a minor resides with his or her parents or in a  
17 foster home, attend school, attend a non-residential  
18 program for youths, and contribute to his or her own  
19 support at home or in a foster home;

20 (12) Observe any curfew ordered by the court;

21 (13) Remain in the custody of such designated person or  
22 organization agreeing to supervise his release. Such third  
23 party custodian shall be responsible for notifying the  
24 court if the defendant fails to observe the conditions of  
25 release which the custodian has agreed to monitor, and  
26 shall be subject to contempt of court for failure so to  
27 notify the court;

28 (14) Be placed under direct supervision of the Pretrial  
29 Services Agency, Probation Department or Court Services  
30 Department in a pretrial bond home supervision capacity  
31 with or without the use of an approved electronic  
32 monitoring device subject to Article 8A of Chapter V of the  
33 Unified Code of Corrections;

34 (14.1) The court shall impose upon a defendant who is  
35 charged with any alcohol, cannabis, methamphetamine, or  
36 controlled substance violation and is placed under direct

1 supervision of the Pretrial Services Agency, Probation  
2 Department or Court Services Department in a pretrial bond  
3 home supervision capacity with the use of an approved  
4 monitoring device, as a condition of such bail bond, a fee  
5 that represents costs incidental to the electronic  
6 monitoring for each day of such bail supervision ordered by  
7 the court, unless after determining the inability of the  
8 defendant to pay the fee, the court assesses a lesser fee  
9 or no fee as the case may be. The fee shall be collected by  
10 the clerk of the circuit court. The clerk of the circuit  
11 court shall pay all monies collected from this fee to the  
12 county treasurer for deposit in the substance abuse  
13 services fund under Section 5-1086.1 of the Counties Code;

14 (14.2) The court shall impose upon all defendants,  
15 including those defendants subject to paragraph (14.1)  
16 above, placed under direct supervision of the Pretrial  
17 Services Agency, Probation Department or Court Services  
18 Department in a pretrial bond home supervision capacity  
19 with the use of an approved monitoring device, as a  
20 condition of such bail bond, a fee which shall represent  
21 costs incidental to such electronic monitoring for each day  
22 of such bail supervision ordered by the court, unless after  
23 determining the inability of the defendant to pay the fee,  
24 the court assesses a lesser fee or no fee as the case may  
25 be. The fee shall be collected by the clerk of the circuit  
26 court. The clerk of the circuit court shall pay all monies  
27 collected from this fee to the county treasurer who shall  
28 use the monies collected to defray the costs of  
29 corrections. The county treasurer shall deposit the fee  
30 collected in the county working cash fund under Section  
31 6-27001 or Section 6-29002 of the Counties Code, as the  
32 case may be;

33 (14.3) The Chief Judge of the Judicial Circuit may  
34 establish reasonable fees to be paid by a person receiving  
35 pretrial services while under supervision of a pretrial  
36 services agency, probation department, or court services

1 department. Reasonable fees may be charged for pretrial  
2 services including, but not limited to, pretrial  
3 supervision, diversion programs, electronic monitoring,  
4 victim impact services, drug and alcohol testing, and  
5 victim mediation services. The person receiving pretrial  
6 services may be ordered to pay all costs incidental to  
7 pretrial services in accordance with his or her ability to  
8 pay those costs;

9 (14.4) For persons charged with violating Section  
10 11-501 of the Illinois Vehicle Code, refrain from operating  
11 a motor vehicle not equipped with an ignition interlock  
12 device, as defined in Section 1-129.1 of the Illinois  
13 Vehicle Code, pursuant to the rules promulgated by the  
14 Secretary of State for the installation of ignition  
15 interlock devices. Under this condition the court may allow  
16 a defendant who is not self-employed to operate a vehicle  
17 owned by the defendant's employer that is not equipped with  
18 an ignition interlock device in the course and scope of the  
19 defendant's employment;

20 (15) Comply with the terms and conditions of an order  
21 of protection issued by the court under the Illinois  
22 Domestic Violence Act of 1986 or an order of protection  
23 issued by the court of another state, tribe, or United  
24 States territory;

25 (16) Under Section 110-6.5 comply with the conditions  
26 of the drug testing program; and

27 (17) Such other reasonable conditions as the court may  
28 impose.

29 (c) When a person is charged with an offense under Section  
30 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of  
31 1961", involving a victim who is a minor under 18 years of age  
32 living in the same household with the defendant at the time of  
33 the offense, in granting bail or releasing the defendant on his  
34 own recognizance, the judge shall impose conditions to restrict  
35 the defendant's access to the victim which may include, but are  
36 not limited to conditions that he will:

- 1           1. Vacate the Household.
- 2           2. Make payment of temporary support to his dependents.
- 3           3. Refrain from contact or communication with the child
- 4           victim, except as ordered by the court.

5           (d) When a person is charged with a criminal offense and  
6           the victim is a family or household member as defined in  
7           Article 112A, conditions shall be imposed at the time of the  
8           defendant's release on bond that restrict the defendant's  
9           access to the victim. Unless provided otherwise by the court,  
10          the restrictions shall include requirements that the defendant  
11          do the following:

12                 (1) refrain from contact or communication with the  
13                 victim for a minimum period of 72 hours following the  
14                 defendant's release; and

15                 (2) refrain from entering or remaining at the victim's  
16                 residence for a minimum period of 72 hours following the  
17                 defendant's release.

18          (e) Local law enforcement agencies shall develop  
19          standardized bond forms for use in cases involving family or  
20          household members as defined in Article 112A, including  
21          specific conditions of bond as provided in subsection (d).  
22          Failure of any law enforcement department to develop or use  
23          those forms shall in no way limit the applicability and  
24          enforcement of subsections (d) and (f).

25          (f) If the defendant is admitted to bail after conviction  
26          the conditions of the bail bond shall be that he will, in  
27          addition to the conditions set forth in subsections (a) and (b)  
28          hereof:

29                 (1) Duly prosecute his appeal;

30                 (2) Appear at such time and place as the court may  
31                 direct;

32                 (3) Not depart this State without leave of the court;

33                 (4) Comply with such other reasonable conditions as the  
34                 court may impose; and

35                 (5) If the judgment is affirmed or the cause reversed  
36                 and remanded for a new trial, forthwith surrender to the

1 officer from whose custody he was bailed.

2 (g) Upon a finding of guilty for any felony offense, the  
3 defendant shall physically surrender, at a time and place  
4 designated by the court, any and all firearms in his or her  
5 possession and his or her Firearm Owner's Identification Card  
6 as a condition of remaining on bond pending sentencing.

7 (Source: P.A. 92-329, eff. 8-9-01; 92-442, eff. 8-17-01;  
8 92-651, eff. 7-11-02; 93-184, eff. 1-1-04.)

9 (725 ILCS 5/115-10.5)

10 Sec. 115-10.5. Hearsay exception regarding safe zone  
11 testimony.

12 (a) In any prosecution for any offense charged as a  
13 violation of Section 407 of the Illinois Controlled Substances  
14 Act, Section 55 of the Methamphetamine Control and Community  
15 Protection Act, or Section 5-130 of the Juvenile Court Act of  
16 1987 the following evidence shall be admitted as an exception  
17 to the hearsay rule any testimony by any qualified individual  
18 regarding the status of any property as:

19 (1) a truck stop or safety rest area, or

20 (2) a school or conveyance owned, leased or contracted  
21 by a school to transport students to or from school, or

22 (3) residential property owned, operated, and managed  
23 by a public housing agency, or

24 (4) a public park, or

25 (5) the real property comprising any church,  
26 synagogue, or other building, structure, or place used  
27 primarily for religious worship, or

28 (6) the real property comprising any of the following  
29 places, buildings, or structures used primarily for  
30 housing or providing space for activities for senior  
31 citizens: nursing homes, assisted-living centers, senior  
32 citizen housing complexes, or senior centers oriented  
33 toward daytime activities.

34 (b) As used in this Section, "qualified individual" means  
35 any person who (i) lived or worked within the territorial

1 jurisdiction where the offense took place when the offense took  
2 place; and (ii) is familiar with various public places within  
3 the territorial jurisdiction where the offense took place when  
4 the offense took place.

5 (c) For the purposes of this Section, "qualified  
6 individual" includes any peace officer, or any member of any  
7 duly organized State, county, or municipal peace unit, assigned  
8 to the territorial jurisdiction where the offense took place  
9 when the offense took place.

10 (d) This Section applies to all prosecutions pending at the  
11 time this amendatory Act of the 91st General Assembly takes  
12 effect and to all prosecutions commencing on or after its  
13 effective date.

14 (Source: P.A. 91-899, eff. 1-1-01.)

15 (725 ILCS 5/115-15)

16 Sec. 115-15. Laboratory reports.

17 (a) In any criminal prosecution for a violation of ~~either~~  
18 the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances  
19 Act, or the Methamphetamine Control and Community Protection  
20 Act, a laboratory report from the Department of State Police,  
21 Division of Forensic Services, that is signed and sworn to by  
22 the person performing an analysis and that states (1) that the  
23 substance that is the basis of the alleged violation has been  
24 weighed and analyzed, and (2) the person's findings as to the  
25 contents, weight and identity of the substance, and (3) that it  
26 contains any amount of a controlled substance or cannabis is  
27 prima facie evidence of the contents, identity and weight of  
28 the substance. Attached to the report shall be a copy of a  
29 notarized statement by the signer of the report giving the name  
30 of the signer and stating (i) that he or she is an employee of  
31 the Department of State Police, Division of Forensic Services,  
32 (ii) the name and location of the laboratory where the analysis  
33 was performed, (iii) that performing the analysis is a part of  
34 his or her regular duties, and (iv) that the signer is  
35 qualified by education, training and experience to perform the

1 analysis. The signer shall also allege that scientifically  
2 accepted tests were performed with due caution and that the  
3 evidence was handled in accordance with established and  
4 accepted procedures while in the custody of the laboratory.

5 (a-5) In any criminal prosecution for reckless homicide  
6 under Section 9-3 of the Criminal Code of 1961 or driving under  
7 the influence of alcohol, other drug, or combination of both,  
8 in violation of Section 11-501 of the Illinois Vehicle Code or  
9 in any civil action held under a statutory summary suspension  
10 hearing under Section 2-118.1 of the Illinois Vehicle Code, a  
11 laboratory report from the Department of State Police, Division  
12 of Forensic Services, that is signed and sworn to by the person  
13 performing an analysis, and that states that the sample of  
14 blood or urine was tested for alcohol or drugs, and contains  
15 the person's findings as to the presence and amount of alcohol  
16 or drugs and type of drug is prima facie evidence of the  
17 presence, content, and amount of the alcohol or drugs analyzed  
18 in the blood or urine. Attached to the report must be a copy of  
19 a notarized statement by the signer of the report giving the  
20 name of the signer and stating (1) that he or she is an  
21 employee of the Department of State Police, Division of  
22 Forensic Services, (2) the name and location of the laboratory  
23 where the analysis was performed, (3) that performing the  
24 analysis is a part of his or her regular duties, (4) that the  
25 signer is qualified by education, training, and experience to  
26 perform the analysis, and (5) that scientifically accepted  
27 tests were performed with due caution and that the evidence was  
28 handled in accordance with established and accepted procedures  
29 while in the custody of the laboratory.

30 (b) The State's Attorney shall serve a copy of the report  
31 on the attorney of record for the accused, or on the accused if  
32 he or she has no attorney, before any proceeding in which the  
33 report is to be used against the accused other than at a  
34 preliminary hearing or grand jury hearing when the report may  
35 be used without having been previously served upon the accused.

36 (c) The report shall not be prima facie evidence if the

1 accused or his or her attorney demands the testimony of the  
2 person signing the report by serving the demand upon the  
3 State's Attorney within 7 days from the accused or his or her  
4 attorney's receipt of the report.

5 (Source: P.A. 90-130, eff. 1-1-98; 91-563, eff. 1-1-00.)

6 Section 1085. The Drug Asset Forfeiture Procedure Act is  
7 amended by changing Sections 2, 3, 5, 6, 7, and 9 as follows:

8 (725 ILCS 150/2) (from Ch. 56 1/2, par. 1672)

9 Sec. 2. Legislative Declaration. The General Assembly  
10 finds that the civil forfeiture of property which is used or  
11 intended to be used in, is attributable to or facilitates the  
12 manufacture, sale, transportation, distribution, possession or  
13 use of substances in certain violations of the Illinois  
14 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the  
15 Methamphetamine Control and Community Protection Act will have  
16 a significant beneficial effect in deterring the rising  
17 incidence of the abuse and trafficking of such substances  
18 within this State. While forfeiture may secure for State and  
19 local units of government some resources for deterring drug  
20 abuse and drug trafficking, forfeiture is not intended to be an  
21 alternative means of funding the administration of criminal  
22 justice. The General Assembly further finds that the federal  
23 narcotics civil forfeiture statute upon which this Act is based  
24 has been very successful in deterring the use and distribution  
25 of controlled substances within this State and throughout the  
26 country. It is therefore the intent of the General Assembly  
27 that the forfeiture provisions of this Act be construed in  
28 light of the federal forfeiture provisions contained in 21  
29 U.S.C. 881 as interpreted by the federal courts, except to the  
30 extent that the provisions of this Act expressly differ  
31 therefrom.

32 (Source: P.A. 86-1382; 87-614.)

33 (725 ILCS 150/3) (from Ch. 56 1/2, par. 1673)

1           Sec. 3. Applicability. The provisions of this Act are  
2 applicable to all property forfeitable under the Illinois  
3 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the  
4 Methamphetamine Control and Community Protection Act.

5           (Source: P.A. 86-1382.)

6           (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

7           Sec. 5. Notice to State's Attorney. The law enforcement  
8 agency seizing property for forfeiture under the Illinois  
9 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the  
10 Methamphetamine Control and Community Protection Act shall,  
11 within 52 days of seizure, notify the State's Attorney for the  
12 county in which an act or omission giving rise to the  
13 forfeiture occurred or in which the property was seized of the  
14 seizure of the property and the facts and circumstances giving  
15 rise to the seizure and shall provide the State's Attorney with  
16 the inventory of the property and its estimated value. When the  
17 property seized for forfeiture is a vehicle, the law  
18 enforcement agency seizing the property shall immediately  
19 notify the Secretary of State that forfeiture proceedings are  
20 pending regarding such vehicle.

21           (Source: P.A. 86-1382.)

22           (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

23           Sec. 6. Non-Judicial Forfeiture. If non-real property that  
24 exceeds \$20,000 in value excluding the value of any conveyance,  
25 or if real property is seized under the provisions of the  
26 Illinois Controlled Substances Act, ~~or~~ the Cannabis Control  
27 Act, or the Methamphetamine Control and Community Protection  
28 Act, the State's Attorney shall institute judicial in rem  
29 forfeiture proceedings as described in Section 9 of this Act  
30 within 45 days from receipt of notice of seizure from the  
31 seizing agency under Section 5 of this Act. However, if  
32 non-real property that does not exceed \$20,000 in value  
33 excluding the value of any conveyance is seized, the following  
34 procedure shall be used:

1 (A) If, after review of the facts surrounding the seizure,  
2 the State's Attorney is of the opinion that the seized property  
3 is subject to forfeiture, then within 45 days of the receipt of  
4 notice of seizure from the seizing agency, the State's Attorney  
5 shall cause notice of pending forfeiture to be given to the  
6 owner of the property and all known interest holders of the  
7 property in accordance with Section 4 of this Act.

8 (B) The notice of pending forfeiture must include a  
9 description of the property, the estimated value of the  
10 property, the date and place of seizure, the conduct giving  
11 rise to forfeiture or the violation of law alleged, and a  
12 summary of procedures and procedural rights applicable to the  
13 forfeiture action.

14 (C) (1) Any person claiming an interest in property which  
15 is the subject of notice under subsection (A) of Section 6  
16 of this Act, may, within 45 days after the effective date  
17 of notice as described in Section 4 of this Act, file a  
18 verified claim with the State's Attorney expressing his or  
19 her interest in the property. The claim must set forth:

20 (i) the caption of the proceedings as set forth on  
21 the notice of pending forfeiture and the name of the  
22 claimant;

23 (ii) the address at which the claimant will accept  
24 mail;

25 (iii) the nature and extent of the claimant's  
26 interest in the property;

27 (iv) the date, identity of the transferor, and  
28 circumstances of the claimant's acquisition of the  
29 interest in the property;

30 (v) the name and address of all other persons known  
31 to have an interest in the property;

32 (vi) the specific provision of law relied on in  
33 asserting the property is not subject to forfeiture;

34 (vii) all essential facts supporting each  
35 assertion; and

36 (viii) the relief sought.

1           (2) If a claimant files the claim and deposits with the  
2           State's Attorney a cost bond, in the form of a cashier's  
3           check payable to the clerk of the court, in the sum of 10  
4           percent of the reasonable value of the property as alleged  
5           by the State's Attorney or the sum of \$100, whichever is  
6           greater, upon condition that, in the case of forfeiture,  
7           the claimant must pay all costs and expenses of forfeiture  
8           proceedings, then the State's Attorney shall institute  
9           judicial in rem forfeiture proceedings and deposit the cost  
10          bond with the clerk of the court as described in Section 9  
11          of this Act within 45 days after receipt of the claim and  
12          cost bond. In lieu of a cost bond, a person claiming  
13          interest in the seized property may file, under penalty of  
14          perjury, an indigency affidavit.

15          (3) If none of the seized property is forfeited in the  
16          judicial in rem proceeding, the clerk of the court shall  
17          return to the claimant, unless the court orders otherwise,  
18          90% of the sum which has been deposited and shall retain as  
19          costs 10% of the money deposited. If any of the seized  
20          property is forfeited under the judicial forfeiture  
21          proceeding, the clerk of the court shall transfer 90% of  
22          the sum which has been deposited to the State's Attorney  
23          prosecuting the civil forfeiture to be applied to the costs  
24          of prosecution and the clerk shall retain as costs 10% of  
25          the sum deposited.

26          (D) If no claim is filed or bond given within the 45 day  
27          period as described in subsection (C) of Section 6 of this Act,  
28          the State's Attorney shall declare the property forfeited and  
29          shall promptly notify the owner and all known interest holders  
30          of the property and the Director of the Illinois Department of  
31          State Police of the declaration of forfeiture and the Director  
32          shall dispose of the property in accordance with law.

33          (Source: P.A. 86-1382; 87-614.)

34                 (725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

35          Sec. 7. Presumptions. The following situations shall give

1 rise to a presumption that the property described therein was  
2 furnished or intended to be furnished in exchange for a  
3 substance in violation of the Illinois Controlled Substances  
4 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine  
5 Control and Community Protection Act, or is the proceeds of  
6 such an exchange, and therefore forfeitable under this Act,  
7 such presumptions being rebuttable by a preponderance of the  
8 evidence:

9 (1) All moneys, coin, or currency found in close proximity  
10 to forfeitable substances, to forfeitable drug manufacturing  
11 or distributing paraphernalia, or to forfeitable records of the  
12 importation, manufacture or distribution of substances;

13 (2) All property acquired or caused to be acquired by a  
14 person either between the dates of occurrence of two or more  
15 acts in felony violation of the Illinois Controlled Substances  
16 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine  
17 Control and Community Protection Act, or an act committed in  
18 another state, territory or country which would be punishable  
19 as a felony under ~~either~~ the Illinois Controlled Substances  
20 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine  
21 Control and Community Protection Act, committed by that person  
22 within 5 years of each other, or all property acquired by such  
23 person within a reasonable amount of time after the commission  
24 of such acts if:

25 (a) At least one of the above acts was committed after  
26 the effective date of this Act; and

27 (b) At least one of the acts is or was punishable as a  
28 Class X, Class 1, or Class 2 felony; and

29 (c) There was no likely source for such property other  
30 than a violation of the above Acts.

31 (Source: P.A. 86-1382.)

32 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

33 Sec. 9. Judicial in rem procedures. If property seized  
34 under the provisions of the Illinois Controlled Substances Act, ~~or~~  
35 the Cannabis Control Act, or the Methamphetamine Control and

1 Community Protection Act is non-real property that exceeds  
2 \$20,000 in value excluding the value of any conveyance, or is  
3 real property, or a claimant has filed a claim and a cost bond  
4 under subsection (C) of Section 6 of this Act, the following  
5 judicial in rem procedures shall apply:

6 (A) If, after a review of the facts surrounding the  
7 seizure, the State's Attorney is of the opinion that the seized  
8 property is subject to forfeiture, then within 45 days of the  
9 receipt of notice of seizure by the seizing agency or the  
10 filing of the claim and cost bond, whichever is later, the  
11 State's Attorney shall institute judicial forfeiture  
12 proceedings by filing a verified complaint for forfeiture and,  
13 if the claimant has filed a claim and cost bond, by depositing  
14 the cost bond with the clerk of the court. When authorized by  
15 law, a forfeiture must be ordered by a court on an action in  
16 rem brought by a State's Attorney under a verified complaint  
17 for forfeiture.

18 (B) During the probable cause portion of the judicial in  
19 rem proceeding wherein the State presents its case-in-chief,  
20 the court must receive and consider, among other things, all  
21 relevant hearsay evidence and information. The laws of evidence  
22 relating to civil actions shall apply to all other portions of  
23 the judicial in rem proceeding.

24 (C) Only an owner of or interest holder in the property may  
25 file an answer asserting a claim against the property in the  
26 action in rem. For purposes of this Section, the owner or  
27 interest holder shall be referred to as claimant.

28 (D) The answer must be signed by the owner or interest  
29 holder under penalty of perjury and must set forth:

30 (i) the caption of the proceedings as set forth on the  
31 notice of pending forfeiture and the name of the claimant;

32 (ii) the address at which the claimant will accept  
33 mail;

34 (iii) the nature and extent of the claimant's interest  
35 in the property;

36 (iv) the date, identity of transferor, and

1           circumstances of the claimant's acquisition of the  
2           interest in the property;

3           (v) the name and address of all other persons known to  
4           have an interest in the property;

5           (vi) the specific provisions of Section 8 of this Act  
6           relied on in asserting it is not subject to forfeiture;

7           (vii) all essential facts supporting each assertion;  
8           and

9           (viii) the precise relief sought.

10          (E) The answer must be filed with the court within 45 days  
11          after service of the civil in rem complaint.

12          (F) The hearing must be held within 60 days after filing of  
13          the answer unless continued for good cause.

14          (G) The State shall show the existence of probable cause  
15          for forfeiture of the property. If the State shows probable  
16          cause, the claimant has the burden of showing by a  
17          preponderance of the evidence that the claimant's interest in  
18          the property is not subject to forfeiture.

19          (H) If the State does not show existence of probable cause  
20          or a claimant has established by a preponderance of evidence  
21          that the claimant has an interest that is exempt under Section  
22          8 of this Act, the court shall order the interest in the  
23          property returned or conveyed to the claimant and shall order  
24          all other property forfeited to the State. If the State does  
25          show existence of probable cause and the claimant does not  
26          establish by a preponderance of evidence that the claimant has  
27          an interest that is exempt under Section 8 of this Act, the  
28          court shall order all property forfeited to the State.

29          (I) A defendant convicted in any criminal proceeding is  
30          precluded from later denying the essential allegations of the  
31          criminal offense of which the defendant was convicted in any  
32          proceeding under this Act regardless of the pendency of an  
33          appeal from that conviction. However, evidence of the pendency  
34          of an appeal is admissible.

35          (J) An acquittal or dismissal in a criminal proceeding  
36          shall not preclude civil proceedings under this Act; however,

1 for good cause shown, on a motion by the State's Attorney, the  
2 court may stay civil forfeiture proceedings during the criminal  
3 trial for a related criminal indictment or information alleging  
4 a violation of the Illinois Controlled Substances Act, ~~or~~ the  
5 Cannabis Control Act, or the Methamphetamine Control and  
6 Community Protection Act. Such a stay shall not be available  
7 pending an appeal. Property subject to forfeiture under the  
8 Illinois Controlled Substances Act, ~~or~~ the Cannabis Control  
9 Act, or the Methamphetamine Control and Community Protection  
10 Act shall not be subject to return or release by a court  
11 exercising jurisdiction over a criminal case involving the  
12 seizure of such property unless such return or release is  
13 consented to by the State's Attorney.

14 (K) All property declared forfeited under this Act vests in  
15 this State on the commission of the conduct giving rise to  
16 forfeiture together with the proceeds of the property after  
17 that time. Any such property or proceeds subsequently  
18 transferred to any person remain subject to forfeiture and  
19 thereafter shall be ordered forfeited unless the transferee  
20 claims and establishes in a hearing under the provisions of  
21 this Act that the transferee's interest is exempt under Section  
22 8 of this Act.

23 (L) A civil action under this Act must be commenced within  
24 5 years after the last conduct giving rise to forfeiture became  
25 known or should have become known or 5 years after the  
26 forfeitable property is discovered, whichever is later,  
27 excluding any time during which either the property or claimant  
28 is out of the State or in confinement or during which criminal  
29 proceedings relating to the same conduct are in progress.

30 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

31 Section 1090. The Narcotics Profit Forfeiture Act is  
32 amended by changing Section 3 as follows:

33 (725 ILCS 175/3) (from Ch. 56 1/2, par. 1653)

34 Sec. 3. Definitions. (a) "Narcotics activity" means:

1           1. Any conduct punishable as a felony under the Cannabis  
2 Control Act or the Illinois Controlled Substances Act, or

3           2. Any conduct punishable, by imprisonment for more than  
4 one year, as an offense against the law of the United States or  
5 any State, concerning narcotics, controlled substances,  
6 dangerous drugs, or any substance or things scheduled or listed  
7 under the Cannabis Control Act, ~~or~~ the Illinois Controlled  
8 Substances Act, or the Methamphetamine Control and Community  
9 Protection Act.

10           (b) "Pattern of narcotics activity" means 2 or more acts of  
11 narcotics activity of which at least 2 such acts were committed  
12 within 5 years of each other. At least one of those acts of  
13 narcotics activity must have been committed after the effective  
14 date of this Act and at least one of such acts shall be or shall  
15 have been punishable as a Class X, Class 1 or Class 2 felony.

16           (c) "Person" includes any individual or entity capable of  
17 holding a legal or beneficial interest in property.

18           (d) "Enterprise" includes any individual, partnership,  
19 corporation, association, or other entity, or group of  
20 individuals associated in fact, although not a legal entity.

21           (Source: P.A. 82-940.)

22           Section 1095. The Sexually Violent Persons Commitment Act  
23 is amended by changing Section 40 as follows:

24           (725 ILCS 207/40)

25           Sec. 40. Commitment.

26           (a) If a court or jury determines that the person who is  
27 the subject of a petition under Section 15 of this Act is a  
28 sexually violent person, the court shall order the person to be  
29 committed to the custody of the Department for control, care  
30 and treatment until such time as the person is no longer a  
31 sexually violent person.

32           (b) (1) The court shall enter an initial commitment order  
33 under this Section pursuant to a hearing held as soon as  
34 practicable after the judgment is entered that the person

1 who is the subject of a petition under Section 15 is a  
2 sexually violent person. If the court lacks sufficient  
3 information to make the determination required by  
4 paragraph (b)(2) of this Section immediately after trial,  
5 it may adjourn the hearing and order the Department to  
6 conduct a predisposition investigation or a supplementary  
7 mental examination, or both, to assist the court in framing  
8 the commitment order. A supplementary mental examination  
9 under this Section shall be conducted in accordance with  
10 Section 3-804 of the Mental Health and Developmental  
11 Disabilities Code.

12 (2) An order for commitment under this Section shall  
13 specify either institutional care in a secure facility, as  
14 provided under Section 50 of this Act, or conditional  
15 release. In determining whether commitment shall be for  
16 institutional care in a secure facility or for conditional  
17 release, the court shall consider the nature and  
18 circumstances of the behavior that was the basis of the  
19 allegation in the petition under paragraph (b)(1) of  
20 Section 15, the person's mental history and present mental  
21 condition, where the person will live, how the person will  
22 support himself or herself, and what arrangements are  
23 available to ensure that the person has access to and will  
24 participate in necessary treatment. All treatment, whether  
25 in institutional care, in a secure facility, or while on  
26 conditional release, shall be conducted in conformance  
27 with the standards developed under the Sex Offender  
28 Management Board Act and conducted by a treatment provider  
29 approved by the Board. The Department shall arrange for  
30 control, care and treatment of the person in the least  
31 restrictive manner consistent with the requirements of the  
32 person and in accordance with the court's commitment order.

33 (3) If the court finds that the person is appropriate  
34 for conditional release, the court shall notify the  
35 Department. The Department shall prepare a plan that  
36 identifies the treatment and services, if any, that the

1 person will receive in the community. The plan shall  
2 address the person's need, if any, for supervision,  
3 counseling, medication, community support services,  
4 residential services, vocational services, and alcohol or  
5 other drug abuse treatment. The Department may contract  
6 with a county health department, with another public agency  
7 or with a private agency to provide the treatment and  
8 services identified in the plan. The plan shall specify who  
9 will be responsible for providing the treatment and  
10 services identified in the plan. The plan shall be  
11 presented to the court for its approval within 60 days  
12 after the court finding that the person is appropriate for  
13 conditional release, unless the Department and the person  
14 to be released request additional time to develop the plan.  
15 The conditional release program operated under this  
16 Section is not subject to the provisions of the Mental  
17 Health and Developmental Disabilities Confidentiality Act.

18 (4) An order for conditional release places the person  
19 in the custody and control of the Department. A person on  
20 conditional release is subject to the conditions set by the  
21 court and to the rules of the Department. Before a person  
22 is placed on conditional release by the court under this  
23 Section, the court shall so notify the municipal police  
24 department and county sheriff for the municipality and  
25 county in which the person will be residing. The  
26 notification requirement under this Section does not apply  
27 if a municipal police department or county sheriff submits  
28 to the court a written statement waiving the right to be  
29 notified. If the Department alleges that a released person  
30 has violated any condition or rule, or that the safety of  
31 others requires that conditional release be revoked, he or  
32 she may be taken into custody under the rules of the  
33 Department.

34 At any time during which the person is on conditional  
35 release, if the Department determines that the person has  
36 violated any condition or rule, or that the safety of

1 others requires that conditional release be revoked, the  
2 Department may request the Attorney General or State's  
3 Attorney to request the court to issue an emergency ex  
4 parte order directing any law enforcement officer to take  
5 the person into custody and transport the person to the  
6 county jail. The Department may request, or the Attorney  
7 General or State's Attorney may request independently of  
8 the Department, that a petition to revoke conditional  
9 release be filed. When a petition is filed, the court may  
10 order the Department to issue a notice to the person to be  
11 present at the Department or other agency designated by the  
12 court, order a summons to the person to be present, or  
13 order a body attachment for all law enforcement officers to  
14 take the person into custody and transport him or her to  
15 the county jail, hospital, or treatment facility. The  
16 Department shall submit a statement showing probable cause  
17 of the detention and a petition to revoke the order for  
18 conditional release to the committing court within 48 hours  
19 after the detention. The court shall hear the petition  
20 within 30 days, unless the hearing or time deadline is  
21 waived by the detained person. Pending the revocation  
22 hearing, the Department may detain the person in a jail, in  
23 a hospital or treatment facility. The State has the burden  
24 of proving by clear and convincing evidence that any rule  
25 or condition of release has been violated, or that the  
26 safety of others requires that the conditional release be  
27 revoked. If the court determines after hearing that any  
28 rule or condition of release has been violated, or that the  
29 safety of others requires that conditional release be  
30 revoked, it may revoke the order for conditional release  
31 and order that the released person be placed in an  
32 appropriate institution until the person is discharged  
33 from the commitment under Section 65 of this Act or until  
34 again placed on conditional release under Section 60 of  
35 this Act.

36 (5) An order for conditional release places the person

1 in the custody, care, and control of the Department. The  
2 court shall order the person be subject to the following  
3 rules of conditional release, in addition to any other  
4 conditions ordered, and the person shall be given a  
5 certificate setting forth the conditions of conditional  
6 release. These conditions shall be that the person:

7 (A) not violate any criminal statute of any  
8 jurisdiction;

9 (B) report to or appear in person before such  
10 person or agency as directed by the court and the  
11 Department;

12 (C) refrain from possession of a firearm or other  
13 dangerous weapon;

14 (D) not leave the State without the consent of the  
15 court or, in circumstances in which the reason for the  
16 absence is of such an emergency nature, that prior  
17 consent by the court is not possible without the prior  
18 notification and approval of the Department;

19 (E) at the direction of the Department, notify  
20 third parties of the risks that may be occasioned by  
21 his or her criminal record or sexual offending history  
22 or characteristics, and permit the supervising officer  
23 or agent to make the notification requirement;

24 (F) attend and fully participate in assessment,  
25 treatment, and behavior monitoring including, but not  
26 limited to, medical, psychological or psychiatric  
27 treatment specific to sexual offending, drug  
28 addiction, or alcoholism, to the extent appropriate to  
29 the person based upon the recommendation and findings  
30 made in the Department evaluation or based upon any  
31 subsequent recommendations by the Department;

32 (G) waive confidentiality allowing the court and  
33 Department access to assessment or treatment results  
34 or both;

35 (H) work regularly at a Department approved  
36 occupation or pursue a course of study or vocational

1 training and notify the Department within 72 hours of  
2 any change in employment, study, or training;

3 (I) not be employed or participate in any volunteer  
4 activity that involves contact with children, except  
5 under circumstances approved in advance and in writing  
6 by the Department officer;

7 (J) submit to the search of his or her person,  
8 residence, vehicle, or any personal or real property  
9 under his or her control at any time by the Department;

10 (K) financially support his or her dependents and  
11 provide the Department access to any requested  
12 financial information;

13 (L) serve a term of home confinement, the  
14 conditions of which shall be that the person:

15 (i) remain within the interior premises of the  
16 place designated for his or her confinement during  
17 the hours designated by the Department;

18 (ii) admit any person or agent designated by  
19 the Department into the offender's place of  
20 confinement at any time for purposes of verifying  
21 the person's compliance with the condition of his  
22 or her confinement;

23 (iii) if deemed necessary by the Department,  
24 be placed on an electronic monitoring device;

25 (M) comply with the terms and conditions of an  
26 order of protection issued by the court pursuant to the  
27 Illinois Domestic Violence Act of 1986. A copy of the  
28 order of protection shall be transmitted to the  
29 Department by the clerk of the court;

30 (N) refrain from entering into a designated  
31 geographic area except upon terms the Department finds  
32 appropriate. The terms may include consideration of  
33 the purpose of the entry, the time of day, others  
34 accompanying the person, and advance approval by the  
35 Department;

36 (O) refrain from having any contact, including

1 written or oral communications, directly or  
2 indirectly, with certain specified persons including,  
3 but not limited to, the victim or the victim's family,  
4 and report any incidental contact with the victim or  
5 the victim's family to the Department within 72 hours;  
6 refrain from entering onto the premises of, traveling  
7 past, or loitering near the victim's residence, place  
8 of employment, or other places frequented by the  
9 victim;

10 (P) refrain from having any contact, including  
11 written or oral communications, directly or  
12 indirectly, with particular types of persons,  
13 including but not limited to members of street gangs,  
14 drug users, drug dealers, or prostitutes;

15 (Q) refrain from all contact, direct or indirect,  
16 personally, by telephone, letter, or through another  
17 person, with minor children without prior  
18 identification and approval of the Department;

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

27 (S) not establish a dating, intimate, or sexual  
28 relationship with a person without prior written  
29 notification to the Department;

30 (T) neither possess or have under his or her  
31 control any material that is pornographic, sexually  
32 oriented, or sexually stimulating, or that depicts or  
33 alludes to sexual activity or depicts minors under the  
34 age of 18, including but not limited to visual,  
35 auditory, telephonic, electronic media, or any matter  
36 obtained through access to any computer or material

1 linked to computer access use;

2 (U) not patronize any business providing sexually  
3 stimulating or sexually oriented entertainment nor  
4 utilize "900" or adult telephone numbers or any other  
5 sex-related telephone numbers;

6 (V) not reside near, visit, or be in or about  
7 parks, schools, day care centers, swimming pools,  
8 beaches, theaters, or any other places where minor  
9 children congregate without advance approval of the  
10 Department and report any incidental contact with  
11 minor children to the Department within 72 hours;

12 (W) not establish any living arrangement or  
13 residence without prior approval of the Department;

14 (X) not publish any materials or print any  
15 advertisements without providing a copy of the  
16 proposed publications to the Department officer and  
17 obtaining permission prior to publication;

18 (Y) not leave the county except with prior  
19 permission of the Department and provide the  
20 Department officer or agent with written travel routes  
21 to and from work and any other designated destinations;

22 (Z) not possess or have under his or her control  
23 certain specified items of contraband related to the  
24 incidence of sexually offending items including video  
25 or still camera items or children's toys;

26 (AA) provide a written daily log of activities as  
27 directed by the Department;

28 (BB) comply with all other special conditions that  
29 the Department may impose that restrict the person from  
30 high-risk situations and limit access or potential  
31 victims.

32 (6) A person placed on conditional release and who  
33 during the term undergoes mandatory drug or alcohol testing  
34 or is assigned to be placed on an approved electronic  
35 monitoring device may be ordered to pay all costs  
36 incidental to the mandatory drug or alcohol testing and all

1 costs incidental to the approved electronic monitoring in  
2 accordance with the person's ability to pay those costs.  
3 The Department may establish reasonable fees for the cost  
4 of maintenance, testing, and incidental expenses related  
5 to the mandatory drug or alcohol testing and all costs  
6 incidental to approved electronic monitoring.

7 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04.)

8 Section 1100. The State's Attorneys Appellate Prosecutor's  
9 Act is amended by changing Section 4.01 as follows:

10 (725 ILCS 210/4.01) (from Ch. 14, par. 204.01)

11 Sec. 4.01. The Office and all attorneys employed thereby  
12 may represent the People of the State of Illinois on appeal in  
13 all cases which emanate from a county containing less than  
14 3,000,000 inhabitants, when requested to do so and at the  
15 direction of the State's Attorney, otherwise responsible for  
16 prosecuting the appeal, and may, with the advice and consent of  
17 the State's Attorney prepare, file and argue such appellate  
18 briefs in the Illinois Appellate Court and, when requested and  
19 authorized to do so by the Attorney General, in the Illinois  
20 Supreme Court. The Office may also assist County State's  
21 Attorneys in the discharge of their duties under the Illinois  
22 Controlled Substances Act, the Cannabis Control Act, the  
23 Methamphetamine Control and Community Protection Act, the Drug  
24 Asset Forfeiture Procedure Act, the Narcotics Profit  
25 Forfeiture Act, and the Illinois Public Labor Relations Act,  
26 including negotiations conducted on behalf of a county or  
27 pursuant to an intergovernmental agreement as well as in the  
28 trial and appeal of said cases and of tax objections, and the  
29 counties which use services relating to labor relations shall  
30 reimburse the Office on pro-rated shares as determined by the  
31 board based upon the population and number of labor relations  
32 cases of the participating counties. In addition, the Office  
33 and all attorneys employed by the Office may also assist  
34 State's Attorneys in the discharge of their duties in the

1 prosecution and trial of other cases when requested to do so  
2 by, and at the direction of, the State's Attorney otherwise  
3 responsible for the case. In addition, the Office and all  
4 attorneys employed by the Office may act as Special Prosecutor  
5 if duly appointed to do so by a court having jurisdiction. To  
6 be effective, the order appointing the Office or its attorneys  
7 as Special Prosecutor must (i) identify the case and its  
8 subject matter and (ii) state that the Special Prosecutor  
9 serves at the pleasure of the Attorney General, who may  
10 substitute himself or herself as the Special Prosecutor when,  
11 in his or her judgment, the interest of the people of the State  
12 so requires. Within 5 days after receiving a copy of an order  
13 from the court appointing the Office or any of its attorneys as  
14 a Special Prosecutor, the Office must forward a copy of the  
15 order to the Springfield office of the Attorney General.

16 (Source: P.A. 92-683, eff. 7-16-02.)

17 Section 1105. The Statewide Grand Jury Act is amended by  
18 changing Section 3 as follows:

19 (725 ILCS 215/3) (from Ch. 38, par. 1703)

20 Sec. 3. Written application for the appointment of a  
21 Circuit Judge to convene and preside over a Statewide Grand  
22 Jury, with jurisdiction extending throughout the State, shall  
23 be made to the Chief Justice of the Supreme Court. Upon such  
24 written application, the Chief Justice of the Supreme Court  
25 shall appoint a Circuit Judge from the circuit where the  
26 Statewide Grand Jury is being sought to be convened, who shall  
27 make a determination that the convening of a Statewide Grand  
28 Jury is necessary.

29 In such application the Attorney General shall state that  
30 the convening of a Statewide Grand Jury is necessary because of  
31 an alleged offense or offenses set forth in this Section  
32 involving more than one county of the State and identifying any  
33 such offense alleged; and

34 (a) that he or she believes that the grand jury

1 function for the investigation and indictment of the  
2 offense or offenses cannot effectively be performed by a  
3 county grand jury together with the reasons for such  
4 belief, and

5 (b) (1) that each State's Attorney with jurisdiction  
6 over an offense or offenses to be investigated has  
7 consented to the impaneling of the Statewide Grand  
8 Jury, or

9 (2) if one or more of the State's Attorneys having  
10 jurisdiction over an offense or offenses to be  
11 investigated fails to consent to the impaneling of the  
12 Statewide Grand Jury, the Attorney General shall set  
13 forth good cause for impaneling the Statewide Grand  
14 Jury.

15 If the Circuit Judge determines that the convening of a  
16 Statewide Grand Jury is necessary, he or she shall convene and  
17 impanel the Statewide Grand Jury with jurisdiction extending  
18 throughout the State to investigate and return indictments:

19 (a) For violations of any of the following or for any  
20 other criminal offense committed in the course of violating  
21 any of the following: Article 29D of the Criminal Code of  
22 1961, the Illinois Controlled Substances Act, the Cannabis  
23 Control Act, the Methamphetamine Control and Community  
24 Protection Act, the Narcotics Profit Forfeiture Act, or the  
25 Cannabis and Controlled Substances Tax Act; a streetgang  
26 related felony offense; Section 24-2.1, 24-2.2, 24-3,  
27 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection  
28 24-1(a) (4), 24-1(a) (6), 24-1(a) (7), 24-1(a) (9),  
29 24-1(a) (10), or 24-1(c) of the Criminal Code of 1961; or a  
30 money laundering offense; provided that the violation or  
31 offense involves acts occurring in more than one county of  
32 this State; and

33 (a-5) For violations facilitated by the use of a  
34 computer, including the use of the Internet, the World Wide  
35 Web, electronic mail, message board, newsgroup, or any  
36 other commercial or noncommercial on-line service, of any

1 of the following offenses: indecent solicitation of a  
2 child, sexual exploitation of a child, soliciting for a  
3 juvenile prostitute, keeping a place of juvenile  
4 prostitution, juvenile pimping, or child pornography; and

5 (b) For the offenses of perjury, subornation of  
6 perjury, communicating with jurors and witnesses, and  
7 harassment of jurors and witnesses, as they relate to  
8 matters before the Statewide Grand Jury.

9 "Streetgang related" has the meaning ascribed to it in  
10 Section 10 of the Illinois Streetgang Terrorism Omnibus  
11 Prevention Act.

12 Upon written application by the Attorney General for the  
13 convening of an additional Statewide Grand Jury, the Chief  
14 Justice of the Supreme Court shall appoint a Circuit Judge from  
15 the circuit for which the additional Statewide Grand Jury is  
16 sought. The Circuit Judge shall determine the necessity for an  
17 additional Statewide Grand Jury in accordance with the  
18 provisions of this Section. No more than 2 Statewide Grand  
19 Juries may be empaneled at any time.

20 (Source: P.A. 91-225, eff. 1-1-00; 91-947, eff. 2-9-01; 92-854,  
21 eff. 12-5-02.)

22 Section 1110. The Unified Code of Corrections is amended by  
23 changing Sections 3-7-2.5, 5-4-1, 5-5-3, 5-5-3.2, 5-6-2,  
24 5-6-3, 5-6-3.1, 5-8-4, 5-9-1, 5-9-1.1, 5-9-1.2, and 5-9-1.4 as  
25 follows:

26 (730 ILCS 5/3-7-2.5)

27 Sec. 3-7-2.5. Zero tolerance drug policy.

28 (a) Any person employed by the Department of Corrections  
29 who tests positive in accordance with established Departmental  
30 drug testing procedures for any substance prohibited by the  
31 Cannabis Control Act, ~~or~~ the Illinois Controlled Substances  
32 Act, or the Methamphetamine Control and Community Protection  
33 Act shall be discharged from employment. Refusal to submit to a  
34 drug test, ordered in accordance with Departmental procedures,

1 by any person employed by the Department shall be construed as  
2 a positive test, and the person shall be discharged from  
3 employment.

4 Testing of employees shall be conducted in accordance with  
5 established Departmental drug testing procedures. Changes to  
6 established drug testing procedures that are inconsistent with  
7 the federal guidelines specified in the Mandatory Guidelines  
8 for Federal Workplace Drug Testing Program, 59 FR 29908, or  
9 that affect terms and conditions of employment, shall be  
10 negotiated with an exclusive bargaining representative in  
11 accordance with the Illinois Public Labor Relations Act.

12 (1) All samples used for the purpose of drug testing  
13 shall be collected by persons who have at least 40 hours of  
14 initial training in the proper collection procedures and at  
15 least 8 hours of annual follow-up training. Proof of this  
16 training shall be available upon request. In order to  
17 ensure that these persons possess the necessary knowledge,  
18 skills, and experience to carry out their duties, their  
19 training must include guidelines and procedures used for  
20 the collection process and must also incorporate training  
21 on the appropriate interpersonal skills required during  
22 the collection process.

23 (2) With respect to any bargaining unit employee, the  
24 Department shall not initiate discipline of any employee  
25 who authorizes the testing of a split urine sample in  
26 accordance with established Departmental drug testing  
27 procedures until receipt by the Department of the test  
28 results from the split urine sample evidencing a positive  
29 test for any substance prohibited by the Cannabis Control  
30 Act, ~~or~~ the Illinois Controlled Substances Act, or the  
31 Methamphetamine Control and Community Protection Act.

32 (b) Any employee discharged in accordance with the  
33 provisions of subsection (a) shall not be eligible for rehire  
34 by the Department.

35 (Source: P.A. 92-80, eff. 1-1-02.)

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

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

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

20 (1) consider the evidence, if any, received upon the  
21 trial;

22 (2) consider any presentence reports;

23 (3) consider the financial impact of incarceration  
24 based on the financial impact statement filed with the  
25 clerk of the court by the Department of Corrections;

26 (4) consider evidence and information offered by the  
27 parties in aggravation and mitigation;

28 (5) hear arguments as to sentencing alternatives;

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

31 (7) afford the victim of a violent crime or a violation  
32 of Section 11-501 of the Illinois Vehicle Code, or a  
33 similar provision of a local ordinance, or a qualified  
34 individual affected by: (i) a violation of Section 405,  
35 405.1, 405.2, or 407 of the Illinois Controlled Substances  
36 Act or a violation of Section 55 or Section 65 of the

1 Methamphetamine Control and Community Protection Act, or  
2 (ii) a Class 4 felony violation of Section 11-14, 11-15,  
3 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of  
4 1961, committed by the defendant the opportunity to make a  
5 statement concerning the impact on the victim and to offer  
6 evidence in aggravation or mitigation; provided that the  
7 statement and evidence offered in aggravation or  
8 mitigation must first be prepared in writing in conjunction  
9 with the State's Attorney before it may be presented orally  
10 at the hearing. Any sworn testimony offered by the victim  
11 is subject to the defendant's right to cross-examine. All  
12 statements and evidence offered under this paragraph (7)  
13 shall become part of the record of the court. For the  
14 purpose of this paragraph (7), "qualified individual"  
15 means any person who (i) lived or worked within the  
16 territorial jurisdiction where the offense took place when  
17 the offense took place; and (ii) is familiar with various  
18 public places within the territorial jurisdiction where  
19 the offense took place when the offense took place. For the  
20 purposes of this paragraph (7), "qualified individual"  
21 includes any peace officer, or any member of any duly  
22 organized State, county, or municipal peace unit assigned  
23 to the territorial jurisdiction where the offense took  
24 place when the offense took place;

25 (8) in cases of reckless homicide afford the victim's  
26 spouse, guardians, parents or other immediate family  
27 members an opportunity to make oral statements; and

28 (9) in cases involving a felony sex offense as defined  
29 under the Sex Offender Management Board Act, consider the  
30 results of the sex offender evaluation conducted pursuant  
31 to Section 5-3-2 of this Act.

32 (b) All sentences shall be imposed by the judge based upon  
33 his independent assessment of the elements specified above and  
34 any agreement as to sentence reached by the parties. The judge  
35 who presided at the trial or the judge who accepted the plea of  
36 guilty shall impose the sentence unless he is no longer sitting

1 as a judge in that court. Where the judge does not impose  
2 sentence at the same time on all defendants who are convicted  
3 as a result of being involved in the same offense, the  
4 defendant or the State's Attorney may advise the sentencing  
5 court of the disposition of any other defendants who have been  
6 sentenced.

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

18 (c-1) In imposing a sentence for the offense of aggravated  
19 kidnapping for ransom, home invasion, armed robbery,  
20 aggravated vehicular hijacking, aggravated discharge of a  
21 firearm, or armed violence with a category I weapon or category  
22 II weapon, the trial judge shall make a finding as to whether  
23 the conduct leading to conviction for the offense resulted in  
24 great bodily harm to a victim, and shall enter that finding and  
25 the basis for that finding in the record.

26 (c-2) If the defendant is sentenced to prison, other than  
27 when a sentence of natural life imprisonment or a sentence of  
28 death is imposed, at the time the sentence is imposed the judge  
29 shall state on the record in open court the approximate period  
30 of time the defendant will serve in custody according to the  
31 then current statutory rules and regulations for early release  
32 found in Section 3-6-3 and other related provisions of this  
33 Code. This statement is intended solely to inform the public,  
34 has no legal effect on the defendant's actual release, and may  
35 not be relied on by the defendant on appeal.

36 The judge's statement, to be given after pronouncing the

1 sentence, other than when the sentence is imposed for one of  
2 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,  
3 shall include the following:

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

21 When the sentence is imposed for one of the offenses  
22 enumerated in paragraph (a)(3) of Section 3-6-3, other than  
23 when the sentence is imposed for one of the offenses enumerated  
24 in paragraph (a)(2) of Section 3-6-3 committed on or after June  
25 19, 1998, and other than when the sentence is imposed for  
26 reckless homicide as defined in subsection (e) of Section 9-3  
27 of the Criminal Code of 1961 if the offense was committed on or  
28 after January 1, 1999, and other than when the sentence is  
29 imposed for aggravated arson if the offense was committed on or  
30 after July 27, 2001 (the effective date of Public Act 92-176)  
31 ~~this amendatory Act of the 92nd-93rd General Assembly~~, the  
32 judge's statement, to be given after pronouncing the sentence,  
33 shall include the following:

34 "The purpose of this statement is to inform the public of  
35 the actual period of time this defendant is likely to spend in  
36 prison as a result of this sentence. The actual period of

1 prison time served is determined by the statutes of Illinois as  
2 applied to this sentence by the Illinois Department of  
3 Corrections and the Illinois Prisoner Review Board. In this  
4 case, assuming the defendant receives all of his or her good  
5 conduct credit, the period of estimated actual custody is ...  
6 years and ... months, less up to 90 days additional good  
7 conduct credit for meritorious service. If the defendant,  
8 because of his or her own misconduct or failure to comply with  
9 the institutional regulations, does not receive those credits,  
10 the actual time served in prison will be longer. The defendant  
11 may also receive an additional one-half day good conduct credit  
12 for each day of participation in vocational, industry,  
13 substance abuse, and educational programs as provided for by  
14 Illinois statute."

15 When the sentence is imposed for one of the offenses  
16 enumerated in paragraph (a)(2) of Section 3-6-3, other than  
17 first degree murder, and the offense was committed on or after  
18 June 19, 1998, and when the sentence is imposed for reckless  
19 homicide as defined in subsection (e) of Section 9-3 of the  
20 Criminal Code of 1961 if the offense was committed on or after  
21 January 1, 1999, and when the sentence is imposed for  
22 aggravated driving under the influence of alcohol, other drug  
23 or drugs, or intoxicating compound or compounds, or any  
24 combination thereof as defined in subparagraph (F) of paragraph  
25 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle  
26 Code, and when the sentence is imposed for aggravated arson if  
27 the offense was committed on or after July 27, 2001 (the  
28 effective date of Public Act 92-176) ~~this amendatory Act of the~~  
29 ~~92nd 93rd General Assembly~~, the judge's statement, to be given  
30 after pronouncing the sentence, shall include the following:

31 "The purpose of this statement is to inform the public of  
32 the actual period of time this defendant is likely to spend in  
33 prison as a result of this sentence. The actual period of  
34 prison time served is determined by the statutes of Illinois as  
35 applied to this sentence by the Illinois Department of  
36 Corrections and the Illinois Prisoner Review Board. In this

1 case, the defendant is entitled to no more than 4 1/2 days of  
2 good conduct credit for each month of his or her sentence of  
3 imprisonment. Therefore, this defendant will serve at least 85%  
4 of his or her sentence. Assuming the defendant receives 4 1/2  
5 days credit for each month of his or her sentence, the period  
6 of estimated actual custody is ... years and ... months. If the  
7 defendant, because of his or her own misconduct or failure to  
8 comply with the institutional regulations receives lesser  
9 credit, the actual time served in prison will be longer."

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

14 "The purpose of this statement is to inform the public of  
15 the actual period of time this defendant is likely to spend in  
16 prison as a result of this sentence. The actual period of  
17 prison time served is determined by the statutes of Illinois as  
18 applied to this sentence by the Illinois Department of  
19 Corrections and the Illinois Prisoner Review Board. In this  
20 case, the defendant is not entitled to good conduct credit.  
21 Therefore, this defendant will serve 100% of his or her  
22 sentence."

23 When the sentence is imposed for any offense that results  
24 in incarceration in a Department of Corrections facility  
25 committed as a result of the use of, abuse of, or addiction to  
26 alcohol or a controlled substance and the crime was committed  
27 on or after September 1, 2003 (the effective date of Public Act  
28 93-354) ~~this amendatory Act of the 93rd General Assembly~~, the  
29 judge's statement, in addition to any other judge's statement  
30 required under this Section, to be given after pronouncing the  
31 sentence, shall include the following:

32 "The purpose of this statement is to inform the public of  
33 the actual period of time this defendant is likely to spend in  
34 prison as a result of this sentence. The actual period of  
35 prison time served is determined by the statutes of Illinois as  
36 applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this  
2 case, the defendant shall receive no good conduct credit until  
3 he or she participates in and completes a substance abuse  
4 treatment program."

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

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

- 25 (1) the sentence imposed;
- 26 (2) any statement by the court of the basis for  
27 imposing the sentence;
- 28 (3) any presentence reports;
- 29 (3.5) any sex offender evaluations;
- 30 (4) the number of days, if any, which the defendant has  
31 been in custody and for which he is entitled to credit  
32 against the sentence, which information shall be provided  
33 to the clerk by the sheriff;
- 34 (4.1) any finding of great bodily harm made by the  
35 court with respect to an offense enumerated in subsection  
36 (c-1);

1 (5) all statements filed under subsection (d) of this  
2 Section;

3 (6) any medical or mental health records or summaries  
4 of the defendant;

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

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

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

12 (Source: P.A. 92-176, eff. 7-27-01; 92-806, eff. 1-1-03;  
13 93-213, eff. 7-18-03; 93-317, eff. 1-1-04; 93-354, eff. 9-1-03;  
14 93-616, eff. 1-1-04; revised 12-9-03.)

15 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

16 Sec. 5-5-3. Disposition.

17 (a) Except as provided in Section 11-501 of the Illinois  
18 Vehicle Code, every person convicted of an offense shall be  
19 sentenced as provided in this Section.

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

24 (1) A period of probation.

25 (2) A term of periodic imprisonment.

26 (3) A term of conditional discharge.

27 (4) A term of imprisonment.

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

32 (6) A fine.

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

35 (8) A sentence of participation in a county impact

1 incarceration program under Section 5-8-1.2 of this Code.

2 (9) A term of imprisonment in combination with a term  
3 of probation when the offender has been admitted into a  
4 drug court program under Section 20 of the Drug Court  
5 Treatment Act.

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

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

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

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

23 (B) Attempted first degree murder.

24 (C) A Class X felony.

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

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

32 (F) A Class 2 or greater felony if the offender had  
33 been convicted of a Class 2 or greater felony within 10  
34 years of the date on which the offender committed the  
35 offense for which he or she is being sentenced, except  
36 as otherwise provided in Section 40-10 of the

1 Alcoholism and Other Drug Abuse and Dependency Act.

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

5 (H) Criminal sexual assault.

6 (I) Aggravated battery of a senior citizen.

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

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

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

19 (K) Vehicular hijacking.

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

24 (M) A second or subsequent conviction for the  
25 offense of institutional vandalism if the damage to the  
26 property exceeds \$300.

27 (N) A Class 3 felony violation of paragraph (1) of  
28 subsection (a) of Section 2 of the Firearm Owners  
29 Identification Card Act.

30 (O) A violation of Section 12-6.1 of the Criminal  
31 Code of 1961.

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

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

1 (R) A violation of Section 24-3A of the Criminal  
2 Code of 1961.

3 (S) (Blank).

4 (T) A second or subsequent violation of the  
5 Methamphetamine Control and Community Protection Act  
6 ~~paragraph (6.6) of subsection (a), subsection (c 5),~~  
7 ~~or subsection (d 5) of Section 401 of the Illinois~~  
8 ~~Controlled Substances Act.~~

9 (3) (Blank).

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

14 (4.1) (Blank).

15 (4.2) Except as provided in paragraph (4.3) of this  
16 subsection (c), a minimum of 100 hours of community service  
17 shall be imposed for a second violation of Section 6-303 of  
18 the Illinois Vehicle Code.

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

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

29 (4.5) A minimum term of imprisonment of 30 days shall  
30 be imposed for a third violation of subsection (c) of  
31 Section 6-303 of the Illinois Vehicle Code.

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

36 (5) The court may sentence an offender convicted of a

1 business offense or a petty offense or a corporation or  
2 unincorporated association convicted of any offense to:

3 (A) a period of conditional discharge;

4 (B) a fine;

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

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

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

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

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

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

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

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

20           (10) (Blank).

21           (11) The court shall impose a minimum fine of \$1,000  
22 for a first offense and \$2,000 for a second or subsequent  
23 offense upon a person convicted of or placed on supervision  
24 for battery when the individual harmed was a sports  
25 official or coach at any level of competition and the act  
26 causing harm to the sports official or coach occurred  
27 within an athletic facility or within the immediate  
28 vicinity of the athletic facility at which the sports  
29 official or coach was an active participant of the athletic  
30 contest held at the athletic facility. For the purposes of  
31 this paragraph (11), "sports official" means a person at an  
32 athletic contest who enforces the rules of the contest,  
33 such as an umpire or referee; "athletic facility" means an  
34 indoor or outdoor playing field or recreational area where  
35 sports activities are conducted; and "coach" means a person  
36 recognized as a coach by the sanctioning authority that

1 conducted the sporting event.

2 (12) ~~(11)~~ A person may not receive a disposition of  
3 court supervision for a violation of Section 5-16 of the  
4 Boat Registration and Safety Act if that person has  
5 previously received a disposition of court supervision for  
6 a violation of that Section.

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

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

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

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

35 (B) the defendant is willing to participate in a  
36 court approved plan including but not limited to the

1 defendant's:

2 (i) removal from the household;

3 (ii) restricted contact with the victim;

4 (iii) continued financial support of the  
5 family;

6 (iv) restitution for harm done to the victim;

7 and

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

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

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

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

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

31 (g) Whenever a defendant is convicted of an offense under  
32 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,  
33 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16  
34 of the Criminal Code of 1961, the defendant shall undergo  
35 medical testing to determine whether the defendant has any  
36 sexually transmissible disease, including a test for infection

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

32 (g-5) When an inmate is tested for an airborne communicable  
33 disease, as determined by the Illinois Department of Public  
34 Health including but not limited to tuberculosis, the results  
35 of the test shall be personally delivered by the warden or his  
36 or her designee in a sealed envelope to the judge of the court

1 in which the inmate must appear for the judge's inspection in  
2 camera if requested by the judge. Acting in accordance with the  
3 best interests of those in the courtroom, the judge shall have  
4 the discretion to determine what if any precautions need to be  
5 taken to prevent transmission of the disease in the courtroom.

6 (h) Whenever a defendant is convicted of an offense under  
7 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the  
8 defendant shall undergo medical testing to determine whether  
9 the defendant has been exposed to human immunodeficiency virus  
10 (HIV) or any other identified causative agent of acquired  
11 immunodeficiency syndrome (AIDS). Except as otherwise provided  
12 by law, the results of such test shall be kept strictly  
13 confidential by all medical personnel involved in the testing  
14 and must be personally delivered in a sealed envelope to the  
15 judge of the court in which the conviction was entered for the  
16 judge's inspection in camera. Acting in accordance with the  
17 best interests of the public, the judge shall have the  
18 discretion to determine to whom, if anyone, the results of the  
19 testing may be revealed. The court shall notify the defendant  
20 of a positive test showing an infection with the human  
21 immunodeficiency virus (HIV). The court shall provide  
22 information on the availability of HIV testing and counseling  
23 at Department of Public Health facilities to all parties to  
24 whom the results of the testing are revealed and shall direct  
25 the State's Attorney to provide the information to the victim  
26 when possible. A State's Attorney may petition the court to  
27 obtain the results of any HIV test administered under this  
28 Section, and the court shall grant the disclosure if the  
29 State's Attorney shows it is relevant in order to prosecute a  
30 charge of criminal transmission of HIV under Section 12-16.2 of  
31 the Criminal Code of 1961 against the defendant. The court  
32 shall order that the cost of any such test shall be paid by the  
33 county and may be taxed as costs against the convicted  
34 defendant.

35 (i) All fines and penalties imposed under this Section for  
36 any violation of Chapters 3, 4, 6, and 11 of the Illinois

1 Vehicle Code, or a similar provision of a local ordinance, and  
2 any violation of the Child Passenger Protection Act, or a  
3 similar provision of a local ordinance, shall be collected and  
4 disbursed by the circuit clerk as provided under Section 27.5  
5 of the Clerks of Courts Act.

6 (j) In cases when prosecution for any violation of Section  
7 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,  
8 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,  
9 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal  
10 Code of 1961, any violation of the Illinois Controlled  
11 Substances Act, ~~or~~ any violation of the Cannabis Control Act,  
12 or any violation of the Methamphetamine Control and Community  
13 Protection Act results in conviction, a disposition of court  
14 supervision, or an order of probation granted under Section 10  
15 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois  
16 Controlled Substance Act, or Section 70 of the Methamphetamine  
17 Control and Community Protection Act of a defendant, the court  
18 shall determine whether the defendant is employed by a facility  
19 or center as defined under the Child Care Act of 1969, a public  
20 or private elementary or secondary school, or otherwise works  
21 with children under 18 years of age on a daily basis. When a  
22 defendant is so employed, the court shall order the Clerk of  
23 the Court to send a copy of the judgment of conviction or order  
24 of supervision or probation to the defendant's employer by  
25 certified mail. If the employer of the defendant is a school,  
26 the Clerk of the Court shall direct the mailing of a copy of  
27 the judgment of conviction or order of supervision or probation  
28 to the appropriate regional superintendent of schools. The  
29 regional superintendent of schools shall notify the State Board  
30 of Education of any notification under this subsection.

31 (j-5) A defendant at least 17 years of age who is convicted  
32 of a felony and who has not been previously convicted of a  
33 misdemeanor or felony and who is sentenced to a term of  
34 imprisonment in the Illinois Department of Corrections shall as  
35 a condition of his or her sentence be required by the court to  
36 attend educational courses designed to prepare the defendant

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

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

30 (l) (A) Except as provided in paragraph (C) of subsection  
31 (l), whenever a defendant, who is an alien as defined by  
32 the Immigration and Nationality Act, is convicted of any  
33 felony or misdemeanor offense, the court after sentencing  
34 the defendant may, upon motion of the State's Attorney,  
35 hold sentence in abeyance and remand the defendant to the  
36 custody of the Attorney General of the United States or his

1 or her designated agent to be deported when:

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

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

8 Otherwise, the defendant shall be sentenced as  
9 provided in this Chapter V.

10 (B) If the defendant has already been sentenced for a  
11 felony or misdemeanor offense, or has been placed on  
12 probation under Section 10 of the Cannabis Control Act, ~~or~~  
13 Section 410 of the Illinois Controlled Substances Act, or  
14 Section 70 of the Methamphetamine Control and Community  
15 Protection Act, the court may, upon motion of the State's  
16 Attorney to suspend the sentence imposed, commit the  
17 defendant to the custody of the Attorney General of the  
18 United States or his or her designated agent when:

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

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

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

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

1 meritorious service as provided under Section 3-6-6.

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

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

16 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;  
17 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.  
18 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,  
19 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,  
20 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,  
21 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,  
22 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

23 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

24 Sec. 5-5-3.2. Factors in Aggravation.

25 (a) The following factors shall be accorded weight in favor  
26 of imposing a term of imprisonment or may be considered by the  
27 court as reasons to impose a more severe sentence under Section  
28 5-8-1:

29 (1) the defendant's conduct caused or threatened  
30 serious harm;

31 (2) the defendant received compensation for committing  
32 the offense;

33 (3) the defendant has a history of prior delinquency or  
34 criminal activity;

35 (4) the defendant, by the duties of his office or by

1 his position, was obliged to prevent the particular offense  
2 committed or to bring the offenders committing it to  
3 justice;

4 (5) the defendant held public office at the time of the  
5 offense, and the offense related to the conduct of that  
6 office;

7 (6) the defendant utilized his professional reputation  
8 or position in the community to commit the offense, or to  
9 afford him an easier means of committing it;

10 (7) the sentence is necessary to deter others from  
11 committing the same crime;

12 (8) the defendant committed the offense against a  
13 person 60 years of age or older or such person's property;

14 (9) the defendant committed the offense against a  
15 person who is physically handicapped or such person's  
16 property;

17 (10) by reason of another individual's actual or  
18 perceived race, color, creed, religion, ancestry, gender,  
19 sexual orientation, physical or mental disability, or  
20 national origin, the defendant committed the offense  
21 against (i) the person or property of that individual; (ii)  
22 the person or property of a person who has an association  
23 with, is married to, or has a friendship with the other  
24 individual; or (iii) the person or property of a relative  
25 (by blood or marriage) of a person described in clause (i)  
26 or (ii). For the purposes of this Section, "sexual  
27 orientation" means heterosexuality, homosexuality, or  
28 bisexuality;

29 (11) the offense took place in a place of worship or on  
30 the grounds of a place of worship, immediately prior to,  
31 during or immediately following worship services. For  
32 purposes of this subparagraph, "place of worship" shall  
33 mean any church, synagogue or other building, structure or  
34 place used primarily for religious worship;

35 (12) the defendant was convicted of a felony committed  
36 while he was released on bail or his own recognizance

1 pending trial for a prior felony and was convicted of such  
2 prior felony, or the defendant was convicted of a felony  
3 committed while he was serving a period of probation,  
4 conditional discharge, or mandatory supervised release  
5 under subsection (d) of Section 5-8-1 for a prior felony;

6 (13) the defendant committed or attempted to commit a  
7 felony while he was wearing a bulletproof vest. For the  
8 purposes of this paragraph (13), a bulletproof vest is any  
9 device which is designed for the purpose of protecting the  
10 wearer from bullets, shot or other lethal projectiles;

11 (14) the defendant held a position of trust or  
12 supervision such as, but not limited to, family member as  
13 defined in Section 12-12 of the Criminal Code of 1961,  
14 teacher, scout leader, baby sitter, or day care worker, in  
15 relation to a victim under 18 years of age, and the  
16 defendant committed an offense in violation of Section  
17 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
18 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
19 against that victim;

20 (15) the defendant committed an offense related to the  
21 activities of an organized gang. For the purposes of this  
22 factor, "organized gang" has the meaning ascribed to it in  
23 Section 10 of the Streetgang Terrorism Omnibus Prevention  
24 Act;

25 (16) the defendant committed an offense in violation of  
26 one of the following Sections while in a school, regardless  
27 of the time of day or time of year; on any conveyance  
28 owned, leased, or contracted by a school to transport  
29 students to or from school or a school related activity; on  
30 the real property of a school; or on a public way within  
31 1,000 feet of the real property comprising any school:  
32 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
33 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
34 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
35 33A-2 of the Criminal Code of 1961;

36 (16.5) the defendant committed an offense in violation

1 of one of the following Sections while in a day care  
2 center, regardless of the time of day or time of year; on  
3 the real property of a day care center, regardless of the  
4 time of day or time of year; or on a public way within  
5 1,000 feet of the real property comprising any day care  
6 center, regardless of the time of day or time of year:  
7 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
8 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
9 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
10 33A-2 of the Criminal Code of 1961;

11 (17) the defendant committed the offense by reason of  
12 any person's activity as a community policing volunteer or  
13 to prevent any person from engaging in activity as a  
14 community policing volunteer. For the purpose of this  
15 Section, "community policing volunteer" has the meaning  
16 ascribed to it in Section 2-3.5 of the Criminal Code of  
17 1961;

18 (18) the defendant committed the offense in a nursing  
19 home or on the real property comprising a nursing home. For  
20 the purposes of this paragraph (18), "nursing home" means a  
21 skilled nursing or intermediate long term care facility  
22 that is subject to license by the Illinois Department of  
23 Public Health under the Nursing Home Care Act; or

24 (19) the defendant was a federally licensed firearm  
25 dealer and was previously convicted of a violation of  
26 subsection (a) of Section 3 of the Firearm Owners  
27 Identification Card Act and has now committed either a  
28 felony violation of the Firearm Owners Identification Card  
29 Act or an act of armed violence while armed with a firearm.  
30 For the purposes of this Section:

31 "School" is defined as a public or private elementary or  
32 secondary school, community college, college, or university.

33 "Day care center" means a public or private State certified  
34 and licensed day care center as defined in Section 2.09 of the  
35 Child Care Act of 1969 that displays a sign in plain view  
36 stating that the property is a day care center.

1 (b) The following factors may be considered by the court as  
2 reasons to impose an extended term sentence under Section 5-8-2  
3 upon any offender:

4 (1) When a defendant is convicted of any felony, after  
5 having been previously convicted in Illinois or any other  
6 jurisdiction of the same or similar class felony or greater  
7 class felony, when such conviction has occurred within 10  
8 years after the previous conviction, excluding time spent  
9 in custody, and such charges are separately brought and  
10 tried and arise out of different series of acts; or

11 (2) When a defendant is convicted of any felony and the  
12 court finds that the offense was accompanied by  
13 exceptionally brutal or heinous behavior indicative of  
14 wanton cruelty; or

15 (3) When a defendant is convicted of voluntary  
16 manslaughter, second degree murder, involuntary  
17 manslaughter or reckless homicide in which the defendant  
18 has been convicted of causing the death of more than one  
19 individual; or

20 (4) When a defendant is convicted of any felony  
21 committed against:

22 (i) a person under 12 years of age at the time of  
23 the offense or such person's property;

24 (ii) a person 60 years of age or older at the time  
25 of the offense or such person's property; or

26 (iii) a person physically handicapped at the time  
27 of the offense or such person's property; or

28 (5) In the case of a defendant convicted of aggravated  
29 criminal sexual assault or criminal sexual assault, when  
30 the court finds that aggravated criminal sexual assault or  
31 criminal sexual assault was also committed on the same  
32 victim by one or more other individuals, and the defendant  
33 voluntarily participated in the crime with the knowledge of  
34 the participation of the others in the crime, and the  
35 commission of the crime was part of a single course of  
36 conduct during which there was no substantial change in the

1 nature of the criminal objective; or

2 (6) When a defendant is convicted of any felony and the  
3 offense involved any of the following types of specific  
4 misconduct committed as part of a ceremony, rite,  
5 initiation, observance, performance, practice or activity  
6 of any actual or ostensible religious, fraternal, or social  
7 group:

8 (i) the brutalizing or torturing of humans or  
9 animals;

10 (ii) the theft of human corpses;

11 (iii) the kidnapping of humans;

12 (iv) the desecration of any cemetery, religious,  
13 fraternal, business, governmental, educational, or  
14 other building or property; or

15 (v) ritualized abuse of a child; or

16 (7) When a defendant is convicted of first degree  
17 murder, after having been previously convicted in Illinois  
18 of any offense listed under paragraph (c)(2) of Section  
19 5-5-3, when such conviction has occurred within 10 years  
20 after the previous conviction, excluding time spent in  
21 custody, and such charges are separately brought and tried  
22 and arise out of different series of acts; or

23 (8) When a defendant is convicted of a felony other  
24 than conspiracy and the court finds that the felony was  
25 committed under an agreement with 2 or more other persons  
26 to commit that offense and the defendant, with respect to  
27 the other individuals, occupied a position of organizer,  
28 supervisor, financier, or any other position of management  
29 or leadership, and the court further finds that the felony  
30 committed was related to or in furtherance of the criminal  
31 activities of an organized gang or was motivated by the  
32 defendant's leadership in an organized gang; or

33 (9) When a defendant is convicted of a felony violation  
34 of Section 24-1 of the Criminal Code of 1961 and the court  
35 finds that the defendant is a member of an organized gang;  
36 or

1           (10) When a defendant committed the offense using a  
2 firearm with a laser sight attached to it. For purposes of  
3 this paragraph (10), "laser sight" has the meaning ascribed  
4 to it in Section 24.6-5 of the Criminal Code of 1961; or

5           (11) When a defendant who was at least 17 years of age  
6 at the time of the commission of the offense is convicted  
7 of a felony and has been previously adjudicated a  
8 delinquent minor under the Juvenile Court Act of 1987 for  
9 an act that if committed by an adult would be a Class X or  
10 Class 1 felony when the conviction has occurred within 10  
11 years after the previous adjudication, excluding time  
12 spent in custody; or

13           (12) When a defendant commits an offense involving the  
14 illegal manufacture of a controlled substance under  
15 Section 401 of the Illinois Controlled Substances Act, the  
16 illegal manufacture of methamphetamine under Section 25 of  
17 the Methamphetamine Control and Community Protection Act,  
18 or the illegal possession of explosives and an emergency  
19 response officer in the performance of his or her duties is  
20 killed or injured at the scene of the offense while  
21 responding to the emergency caused by the commission of the  
22 offense. In this paragraph (12), "emergency" means a  
23 situation in which a person's life, health, or safety is in  
24 jeopardy; and "emergency response officer" means a peace  
25 officer, community policing volunteer, fireman, emergency  
26 medical technician-ambulance, emergency medical  
27 technician-intermediate, emergency medical  
28 technician-paramedic, ambulance driver, other medical  
29 assistance or first aid personnel, or hospital emergency  
30 room personnel.

31           (b-1) For the purposes of this Section, "organized gang"  
32 has the meaning ascribed to it in Section 10 of the Illinois  
33 Streetgang Terrorism Omnibus Prevention Act.

34           (c) The court may impose an extended term sentence under  
35 Section 5-8-2 upon any offender who was convicted of aggravated  
36 criminal sexual assault or predatory criminal sexual assault of

1 a child under subsection (a)(1) of Section 12-14.1 of the  
2 Criminal Code of 1961 where the victim was under 18 years of  
3 age at the time of the commission of the offense.

4 (d) The court may impose an extended term sentence under  
5 Section 5-8-2 upon any offender who was convicted of unlawful  
6 use of weapons under Section 24-1 of the Criminal Code of 1961  
7 for possessing a weapon that is not readily distinguishable as  
8 one of the weapons enumerated in Section 24-1 of the Criminal  
9 Code of 1961.

10 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;  
11 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00;  
12 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696, eff.  
13 4-13-00; 92-266, eff. 1-1-02.)

14 (730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)

15 Sec. 5-6-2. Incidents of Probation and of Conditional  
16 Discharge.

17 (a) When an offender is sentenced to probation or  
18 conditional discharge, the court shall impose a period under  
19 paragraph (b) of this Section, and shall specify the conditions  
20 under Section 5-6-3.

21 (b) Unless terminated sooner as provided in paragraph (c)  
22 of this Section or extended pursuant to paragraph (e) of this  
23 Section, the period of probation or conditional discharge shall  
24 be as follows:

25 (1) for a Class 1 or Class 2 felony, not to exceed 4  
26 years;

27 (2) for a Class 3 or Class 4 felony, not to exceed 30  
28 months;

29 (3) for a misdemeanor, not to exceed 2 years;

30 (4) for a petty offense, not to exceed 6 months.

31 Multiple terms of probation imposed at the same time shall  
32 run concurrently.

33 (c) The court may at any time terminate probation or  
34 conditional discharge if warranted by the conduct of the  
35 offender and the ends of justice, as provided in Section 5-6-4.

1 (d) Upon the expiration or termination of the period of  
2 probation or of conditional discharge, the court shall enter an  
3 order discharging the offender.

4 (e) The court may extend any period of probation or  
5 conditional discharge beyond the limits set forth in paragraph  
6 (b) of this Section upon a violation of a condition of the  
7 probation or conditional discharge, for the payment of an  
8 assessment required by Section 10.3 of the Cannabis Control  
9 Act, ~~or~~ Section 411.2 of the Illinois Controlled Substances  
10 Act, or Section 80 of the Methamphetamine Control and Community  
11 Protection Act, or for the payment of restitution as provided  
12 by an order of restitution under Section 5-5-6 of this Code.

13 (f) The court may impose a term of probation that is  
14 concurrent or consecutive to a term of imprisonment so long as  
15 the maximum term imposed does not exceed the maximum term  
16 provided under Article 8 of this Chapter. The court may provide  
17 that probation may commence while an offender is on mandatory  
18 supervised release, participating in a day release program, or  
19 being monitored by an electronic monitoring device.

20 (Source: P.A. 93-1014, eff. 1-1-05.)

21 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

22 Sec. 5-6-3. Conditions of Probation and of Conditional  
23 Discharge.

24 (a) The conditions of probation and of conditional  
25 discharge shall be that the person:

26 (1) not violate any criminal statute of any  
27 jurisdiction;

28 (2) report to or appear in person before such person or  
29 agency as directed by the court;

30 (3) refrain from possessing a firearm or other  
31 dangerous weapon;

32 (4) not leave the State without the consent of the  
33 court or, in circumstances in which the reason for the  
34 absence is of such an emergency nature that prior consent  
35 by the court is not possible, without the prior

1 notification and approval of the person's probation  
2 officer. Transfer of a person's probation or conditional  
3 discharge supervision to another state is subject to  
4 acceptance by the other state pursuant to the Interstate  
5 Compact for Adult Offender Supervision;

6 (5) permit the probation officer to visit him at his  
7 home or elsewhere to the extent necessary to discharge his  
8 duties;

9 (6) perform no less than 30 hours of community service  
10 and not more than 120 hours of community service, if  
11 community service is available in the jurisdiction and is  
12 funded and approved by the county board where the offense  
13 was committed, where the offense was related to or in  
14 furtherance of the criminal activities of an organized gang  
15 and was motivated by the offender's membership in or  
16 allegiance to an organized gang. The community service  
17 shall include, but not be limited to, the cleanup and  
18 repair of any damage caused by a violation of Section  
19 21-1.3 of the Criminal Code of 1961 and similar damage to  
20 property located within the municipality or county in which  
21 the violation occurred. When possible and reasonable, the  
22 community service should be performed in the offender's  
23 neighborhood. For purposes of this Section, "organized  
24 gang" has the meaning ascribed to it in Section 10 of the  
25 Illinois Streetgang Terrorism Omnibus Prevention Act;

26 (7) if he or she is at least 17 years of age and has  
27 been sentenced to probation or conditional discharge for a  
28 misdemeanor or felony in a county of 3,000,000 or more  
29 inhabitants and has not been previously convicted of a  
30 misdemeanor or felony, may be required by the sentencing  
31 court to attend educational courses designed to prepare the  
32 defendant for a high school diploma and to work toward a  
33 high school diploma or to work toward passing the high  
34 school level Test of General Educational Development (GED)  
35 or to work toward completing a vocational training program  
36 approved by the court. The person on probation or

1 conditional discharge must attend a public institution of  
2 education to obtain the educational or vocational training  
3 required by this clause (7). The court shall revoke the  
4 probation or conditional discharge of a person who wilfully  
5 fails to comply with this clause (7). The person on  
6 probation or conditional discharge shall be required to pay  
7 for the cost of the educational courses or GED test, if a  
8 fee is charged for those courses or test. The court shall  
9 resentence the offender whose probation or conditional  
10 discharge has been revoked as provided in Section 5-6-4.  
11 This clause (7) does not apply to a person who has a high  
12 school diploma or has successfully passed the GED test.  
13 This clause (7) does not apply to a person who is  
14 determined by the court to be developmentally disabled or  
15 otherwise mentally incapable of completing the educational  
16 or vocational program;

17 (8) if convicted of possession of a substance  
18 prohibited by the Cannabis Control Act, the ~~or~~ Illinois  
19 Controlled Substances Act, or the Methamphetamine Control  
20 and Community Protection Act after a previous conviction or  
21 disposition of supervision for possession of a substance  
22 prohibited by the Cannabis Control Act or Illinois  
23 Controlled Substances Act or after a sentence of probation  
24 under Section 10 of the Cannabis Control Act, ~~or~~ Section  
25 410 of the Illinois Controlled Substances Act, or Section  
26 70 of the Methamphetamine Control and Community Protection  
27 Act and upon a finding by the court that the person is  
28 addicted, undergo treatment at a substance abuse program  
29 approved by the court;

30 (8.5) if convicted of a felony sex offense as defined  
31 in the Sex Offender Management Board Act, the person shall  
32 undergo and successfully complete sex offender treatment  
33 by a treatment provider approved by the Board and conducted  
34 in conformance with the standards developed under the Sex  
35 Offender Management Board Act; and

36 (9) if convicted of a felony, physically surrender at a

1 time and place designated by the court, his or her Firearm  
2 Owner's Identification Card and any and all firearms in his  
3 or her possession.

4 (b) The Court may in addition to other reasonable  
5 conditions relating to the nature of the offense or the  
6 rehabilitation of the defendant as determined for each  
7 defendant in the proper discretion of the Court require that  
8 the person:

9 (1) serve a term of periodic imprisonment under Article  
10 7 for a period not to exceed that specified in paragraph  
11 (d) of Section 5-7-1;

12 (2) pay a fine and costs;

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

15 (4) undergo medical, psychological or psychiatric  
16 treatment; or treatment for drug addiction or alcoholism;

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

19 (6) support his dependents;

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

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

22 (ii) attend school;

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

24 (iv) contribute to his own support at home or in a  
25 foster home;

26 (v) with the consent of the superintendent of the  
27 facility, attend an educational program at a facility  
28 other than the school in which the offense was  
29 committed if he or she is convicted of a crime of  
30 violence as defined in Section 2 of the Crime Victims  
31 Compensation Act committed in a school, on the real  
32 property comprising a school, or within 1,000 feet of  
33 the real property comprising a school;

34 (8) make restitution as provided in Section 5-5-6 of  
35 this Code;

36 (9) perform some reasonable public or community

1 service;

2 (10) serve a term of home confinement. In addition to  
3 any other applicable condition of probation or conditional  
4 discharge, the conditions of home confinement shall be that  
5 the offender:

6 (i) remain within the interior premises of the  
7 place designated for his confinement during the hours  
8 designated by the court;

9 (ii) admit any person or agent designated by the  
10 court into the offender's place of confinement at any  
11 time for purposes of verifying the offender's  
12 compliance with the conditions of his confinement; and

13 (iii) if further deemed necessary by the court or  
14 the Probation or Court Services Department, be placed  
15 on an approved electronic monitoring device, subject  
16 to Article 8A of Chapter V;

17 (iv) for persons convicted of any alcohol,  
18 cannabis or controlled substance violation who are  
19 placed on an approved monitoring device as a condition  
20 of probation or conditional discharge, the court shall  
21 impose a reasonable fee for each day of the use of the  
22 device, as established by the county board in  
23 subsection (g) of this Section, unless after  
24 determining the inability of the offender to pay the  
25 fee, the court assesses a lesser fee or no fee as the  
26 case may be. This fee shall be imposed in addition to  
27 the fees imposed under subsections (g) and (i) of this  
28 Section. The fee shall be collected by the clerk of the  
29 circuit court. The clerk of the circuit court shall pay  
30 all monies collected from this fee to the county  
31 treasurer for deposit in the substance abuse services  
32 fund under Section 5-1086.1 of the Counties Code; and

33 (v) for persons convicted of offenses other than  
34 those referenced in clause (iv) above and who are  
35 placed on an approved monitoring device as a condition  
36 of probation or conditional discharge, the court shall

1           impose a reasonable fee for each day of the use of the  
2           device, as established by the county board in  
3           subsection (g) of this Section, unless after  
4           determining the inability of the defendant to pay the  
5           fee, the court assesses a lesser fee or no fee as the  
6           case may be. This fee shall be imposed in addition to  
7           the fees imposed under subsections (g) and (i) of this  
8           Section. The fee shall be collected by the clerk of the  
9           circuit court. The clerk of the circuit court shall pay  
10          all monies collected from this fee to the county  
11          treasurer who shall use the monies collected to defray  
12          the costs of corrections. The county treasurer shall  
13          deposit the fee collected in the county working cash  
14          fund under Section 6-27001 or Section 6-29002 of the  
15          Counties Code, as the case may be.

16          (11) comply with the terms and conditions of an order  
17          of protection issued by the court pursuant to the Illinois  
18          Domestic Violence Act of 1986, as now or hereafter amended,  
19          or an order of protection issued by the court of another  
20          state, tribe, or United States territory. A copy of the  
21          order of protection shall be transmitted to the probation  
22          officer or agency having responsibility for the case;

23          (12) reimburse any "local anti-crime program" as  
24          defined in Section 7 of the Anti-Crime Advisory Council Act  
25          for any reasonable expenses incurred by the program on the  
26          offender's case, not to exceed the maximum amount of the  
27          fine authorized for the offense for which the defendant was  
28          sentenced;

29          (13) contribute a reasonable sum of money, not to  
30          exceed the maximum amount of the fine authorized for the  
31          offense for which the defendant was sentenced, to a "local  
32          anti-crime program", as defined in Section 7 of the  
33          Anti-Crime Advisory Council Act;

34          (14) refrain from entering into a designated  
35          geographic area except upon such terms as the court finds  
36          appropriate. Such terms may include consideration of the

1 purpose of the entry, the time of day, other persons  
2 accompanying the defendant, and advance approval by a  
3 probation officer, if the defendant has been placed on  
4 probation or advance approval by the court, if the  
5 defendant was placed on conditional discharge;

6 (15) refrain from having any contact, directly or  
7 indirectly, with certain specified persons or particular  
8 types of persons, including but not limited to members of  
9 street gangs and drug users or dealers;

10 (16) refrain from having in his or her body the  
11 presence of any illicit drug prohibited by the Cannabis  
12 Control Act, ~~or~~ the Illinois Controlled Substances Act, or  
13 the Methamphetamine Control and Community Protection Act,  
14 unless prescribed by a physician, and submit samples of his  
15 or her blood or urine or both for tests to determine the  
16 presence of any illicit drug.

17 (c) The court may as a condition of probation or of  
18 conditional discharge require that a person under 18 years of  
19 age found guilty of any alcohol, cannabis or controlled  
20 substance violation, refrain from acquiring a driver's license  
21 during the period of probation or conditional discharge. If  
22 such person is in possession of a permit or license, the court  
23 may require that the minor refrain from driving or operating  
24 any motor vehicle during the period of probation or conditional  
25 discharge, except as may be necessary in the course of the  
26 minor's lawful employment.

27 (d) An offender sentenced to probation or to conditional  
28 discharge shall be given a certificate setting forth the  
29 conditions thereof.

30 (e) Except where the offender has committed a fourth or  
31 subsequent violation of subsection (c) of Section 6-303 of the  
32 Illinois Vehicle Code, the court shall not require as a  
33 condition of the sentence of probation or conditional discharge  
34 that the offender be committed to a period of imprisonment in  
35 excess of 6 months. This 6 month limit shall not include  
36 periods of confinement given pursuant to a sentence of county

1 impact incarceration under Section 5-8-1.2. This 6 month limit  
2 does not apply to a person sentenced to probation as a result  
3 of a conviction of a fourth or subsequent violation of  
4 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code  
5 or a similar provision of a local ordinance.

6 Persons committed to imprisonment as a condition of  
7 probation or conditional discharge shall not be committed to  
8 the Department of Corrections.

9 (f) The court may combine a sentence of periodic  
10 imprisonment under Article 7 or a sentence to a county impact  
11 incarceration program under Article 8 with a sentence of  
12 probation or conditional discharge.

13 (g) An offender sentenced to probation or to conditional  
14 discharge and who during the term of either undergoes mandatory  
15 drug or alcohol testing, or both, or is assigned to be placed  
16 on an approved electronic monitoring device, shall be ordered  
17 to pay all costs incidental to such mandatory drug or alcohol  
18 testing, or both, and all costs incidental to such approved  
19 electronic monitoring in accordance with the defendant's  
20 ability to pay those costs. The county board with the  
21 concurrence of the Chief Judge of the judicial circuit in which  
22 the county is located shall establish reasonable fees for the  
23 cost of maintenance, testing, and incidental expenses related  
24 to the mandatory drug or alcohol testing, or both, and all  
25 costs incidental to approved electronic monitoring, involved  
26 in a successful probation program for the county. The  
27 concurrence of the Chief Judge shall be in the form of an  
28 administrative order. The fees shall be collected by the clerk  
29 of the circuit court. The clerk of the circuit court shall pay  
30 all moneys collected from these fees to the county treasurer  
31 who shall use the moneys collected to defray the costs of drug  
32 testing, alcohol testing, and electronic monitoring. The  
33 county treasurer shall deposit the fees collected in the county  
34 working cash fund under Section 6-27001 or Section 6-29002 of  
35 the Counties Code, as the case may be.

36 (h) Jurisdiction over an offender may be transferred from

1 the sentencing court to the court of another circuit with the  
2 concurrence of both courts. Further transfers or retransfers of  
3 jurisdiction are also authorized in the same manner. The court  
4 to which jurisdiction has been transferred shall have the same  
5 powers as the sentencing court.

6 (i) The court shall impose upon an offender sentenced to  
7 probation after January 1, 1989 or to conditional discharge  
8 after January 1, 1992 or to community service under the  
9 supervision of a probation or court services department after  
10 January 1, 2004, as a condition of such probation or  
11 conditional discharge or supervised community service, a fee of  
12 \$50 for each month of probation or conditional discharge  
13 supervision or supervised community service ordered by the  
14 court, unless after determining the inability of the person  
15 sentenced to probation or conditional discharge or supervised  
16 community service to pay the fee, the court assesses a lesser  
17 fee. The court may not impose the fee on a minor who is made a  
18 ward of the State under the Juvenile Court Act of 1987 while  
19 the minor is in placement. The fee shall be imposed only upon  
20 an offender who is actively supervised by the probation and  
21 court services department. The fee shall be collected by the  
22 clerk of the circuit court. The clerk of the circuit court  
23 shall pay all monies collected from this fee to the county  
24 treasurer for deposit in the probation and court services fund  
25 under Section 15.1 of the Probation and Probation Officers Act.

26 A circuit court may not impose a probation fee under this  
27 subsection (i) in excess of \$25 per month unless: (1) the  
28 circuit court has adopted, by administrative order issued by  
29 the chief judge, a standard probation fee guide determining an  
30 offender's ability to pay, under guidelines developed by the  
31 Administrative Office of the Illinois Courts; and (2) the  
32 circuit court has authorized, by administrative order issued by  
33 the chief judge, the creation of a Crime Victim's Services  
34 Fund, to be administered by the Chief Judge or his or her  
35 designee, for services to crime victims and their families. Of  
36 the amount collected as a probation fee, up to \$5 of that fee

1 collected per month may be used to provide services to crime  
2 victims and their families.

3 This amendatory Act of the 93rd General Assembly deletes  
4 the \$10 increase in the fee under this subsection that was  
5 imposed by Public Act 93-616. This deletion is intended to  
6 control over any other Act of the 93rd General Assembly that  
7 retains or incorporates that fee increase.

8 (i-5) In addition to the fees imposed under subsection (i)  
9 of this Section, in the case of an offender convicted of a  
10 felony sex offense (as defined in the Sex Offender Management  
11 Board Act) or an offense that the court or probation department  
12 has determined to be sexually motivated (as defined in the Sex  
13 Offender Management Board Act), the court or the probation  
14 department shall assess additional fees to pay for all costs of  
15 treatment, assessment, evaluation for risk and treatment, and  
16 monitoring the offender, based on that offender's ability to  
17 pay those costs either as they occur or under a payment plan.

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

25 (k) Any offender who is sentenced to probation or  
26 conditional discharge for a felony sex offense as defined in  
27 the Sex Offender Management Board Act or any offense that the  
28 court or probation department has determined to be sexually  
29 motivated as defined in the Sex Offender Management Board Act  
30 shall be required to refrain from any contact, directly or  
31 indirectly, with any persons specified by the court and shall  
32 be available for all evaluations and treatment programs  
33 required by the court or the probation department.

34 (Source: P.A. 92-282, eff. 8-7-01; 92-340, eff. 8-10-01;  
35 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571, eff.  
36 6-26-02; 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-616,

1 eff. 1-1-04; 93-970, eff. 8-20-04.)

2 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

3 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

4 (a) When a defendant is placed on supervision, the court  
5 shall enter an order for supervision specifying the period of  
6 such supervision, and shall defer further proceedings in the  
7 case until the conclusion of the period.

8 (b) The period of supervision shall be reasonable under all  
9 of the circumstances of the case, but may not be longer than 2  
10 years, unless the defendant has failed to pay the assessment  
11 required by Section 10.3 of the Cannabis Control Act, ~~or~~  
12 Section 411.2 of the Illinois Controlled Substances Act, or  
13 Section 80 of the Methamphetamine Control and Community  
14 Protection Act, in which case the court may extend supervision  
15 beyond 2 years. Additionally, the court shall order the  
16 defendant to perform no less than 30 hours of community service  
17 and not more than 120 hours of community service, if community  
18 service is available in the jurisdiction and is funded and  
19 approved by the county board where the offense was committed,  
20 when the offense (1) was related to or in furtherance of the  
21 criminal activities of an organized gang or was motivated by  
22 the defendant's membership in or allegiance to an organized  
23 gang; or (2) is a violation of any Section of Article 24 of the  
24 Criminal Code of 1961 where a disposition of supervision is not  
25 prohibited by Section 5-6-1 of this Code. The community service  
26 shall include, but not be limited to, the cleanup and repair of  
27 any damage caused by violation of Section 21-1.3 of the  
28 Criminal Code of 1961 and similar damages to property located  
29 within the municipality or county in which the violation  
30 occurred. Where possible and reasonable, the community service  
31 should be performed in the offender's neighborhood.

32 For the purposes of this Section, "organized gang" has the  
33 meaning ascribed to it in Section 10 of the Illinois Streetgang  
34 Terrorism Omnibus Prevention Act.

35 (c) The court may in addition to other reasonable

1 conditions relating to the nature of the offense or the  
2 rehabilitation of the defendant as determined for each  
3 defendant in the proper discretion of the court require that  
4 the person:

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

9 (2) pay a fine and costs;

10 (3) work or pursue a course of study or vocational  
11 training;

12 (4) undergo medical, psychological or psychiatric  
13 treatment; or treatment for drug addiction or alcoholism;

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

16 (6) support his dependents;

17 (7) refrain from possessing a firearm or other  
18 dangerous weapon;

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

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

21 (ii) attend school;

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

23 (iv) contribute to his own support at home or in a  
24 foster home; or

25 (v) with the consent of the superintendent of the  
26 facility, attend an educational program at a facility  
27 other than the school in which the offense was  
28 committed if he or she is placed on supervision for a  
29 crime of violence as defined in Section 2 of the Crime  
30 Victims Compensation Act committed in a school, on the  
31 real property comprising a school, or within 1,000 feet  
32 of the real property comprising a school;

33 (9) make restitution or reparation in an amount not to  
34 exceed actual loss or damage to property and pecuniary loss  
35 or make restitution under Section 5-5-6 to a domestic  
36 violence shelter. The court shall determine the amount and

1 conditions of payment;

2 (10) perform some reasonable public or community  
3 service;

4 (11) comply with the terms and conditions of an order  
5 of protection issued by the court pursuant to the Illinois  
6 Domestic Violence Act of 1986 or an order of protection  
7 issued by the court of another state, tribe, or United  
8 States territory. If the court has ordered the defendant to  
9 make a report and appear in person under paragraph (1) of  
10 this subsection, a copy of the order of protection shall be  
11 transmitted to the person or agency so designated by the  
12 court;

13 (12) reimburse any "local anti-crime program" as  
14 defined in Section 7 of the Anti-Crime Advisory Council Act  
15 for any reasonable expenses incurred by the program on the  
16 offender's case, not to exceed the maximum amount of the  
17 fine authorized for the offense for which the defendant was  
18 sentenced;

19 (13) contribute a reasonable sum of money, not to  
20 exceed the maximum amount of the fine authorized for the  
21 offense for which the defendant was sentenced, to a "local  
22 anti-crime program", as defined in Section 7 of the  
23 Anti-Crime Advisory Council Act;

24 (14) refrain from entering into a designated  
25 geographic area except upon such terms as the court finds  
26 appropriate. Such terms may include consideration of the  
27 purpose of the entry, the time of day, other persons  
28 accompanying the defendant, and advance approval by a  
29 probation officer;

30 (15) refrain from having any contact, directly or  
31 indirectly, with certain specified persons or particular  
32 types of person, including but not limited to members of  
33 street gangs and drug users or dealers;

34 (16) refrain from having in his or her body the  
35 presence of any illicit drug prohibited by the Cannabis  
36 Control Act, ~~or~~ the Illinois Controlled Substances Act, or

1       the Methamphetamine Control and Community Protection Act,  
2       unless prescribed by a physician, and submit samples of his  
3       or her blood or urine or both for tests to determine the  
4       presence of any illicit drug;

5           (17) refrain from operating any motor vehicle not  
6       equipped with an ignition interlock device as defined in  
7       Section 1-129.1 of the Illinois Vehicle Code. Under this  
8       condition the court may allow a defendant who is not  
9       self-employed to operate a vehicle owned by the defendant's  
10      employer that is not equipped with an ignition interlock  
11      device in the course and scope of the defendant's  
12      employment.

13      (d) The court shall defer entering any judgment on the  
14      charges until the conclusion of the supervision.

15      (e) At the conclusion of the period of supervision, if the  
16      court determines that the defendant has successfully complied  
17      with all of the conditions of supervision, the court shall  
18      discharge the defendant and enter a judgment dismissing the  
19      charges.

20      (f) Discharge and dismissal upon a successful conclusion of  
21      a disposition of supervision shall be deemed without  
22      adjudication of guilt and shall not be termed a conviction for  
23      purposes of disqualification or disabilities imposed by law  
24      upon conviction of a crime. Two years after the discharge and  
25      dismissal under this Section, unless the disposition of  
26      supervision was for a violation of Sections 3-707, 3-708,  
27      3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a  
28      similar provision of a local ordinance, or for a violation of  
29      Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which  
30      case it shall be 5 years after discharge and dismissal, a  
31      person may have his record of arrest sealed or expunged as may  
32      be provided by law. However, any defendant placed on  
33      supervision before January 1, 1980, may move for sealing or  
34      expungement of his arrest record, as provided by law, at any  
35      time after discharge and dismissal under this Section. A person  
36      placed on supervision for a sexual offense committed against a

1 minor as defined in subsection (g) of Section 5 of the Criminal  
2 Identification Act or for a violation of Section 11-501 of the  
3 Illinois Vehicle Code or a similar provision of a local  
4 ordinance shall not have his or her record of arrest sealed or  
5 expunged.

6 (g) A defendant placed on supervision and who during the  
7 period of supervision undergoes mandatory drug or alcohol  
8 testing, or both, or is assigned to be placed on an approved  
9 electronic monitoring device, shall be ordered to pay the costs  
10 incidental to such mandatory drug or alcohol testing, or both,  
11 and costs incidental to such approved electronic monitoring in  
12 accordance with the defendant's ability to pay those costs. The  
13 county board with the concurrence of the Chief Judge of the  
14 judicial circuit in which the county is located shall establish  
15 reasonable fees for the cost of maintenance, testing, and  
16 incidental expenses related to the mandatory drug or alcohol  
17 testing, or both, and all costs incidental to approved  
18 electronic monitoring, of all defendants placed on  
19 supervision. The concurrence of the Chief Judge shall be in the  
20 form of an administrative order. The fees shall be collected by  
21 the clerk of the circuit court. The clerk of the circuit court  
22 shall pay all moneys collected from these fees to the county  
23 treasurer who shall use the moneys collected to defray the  
24 costs of drug testing, alcohol testing, and electronic  
25 monitoring. The county treasurer shall deposit the fees  
26 collected in the county working cash fund under Section 6-27001  
27 or Section 6-29002 of the Counties Code, as the case may be.

28 (h) A disposition of supervision is a final order for the  
29 purposes of appeal.

30 (i) The court shall impose upon a defendant placed on  
31 supervision after January 1, 1992 or to community service under  
32 the supervision of a probation or court services department  
33 after January 1, 2004, as a condition of supervision or  
34 supervised community service, a fee of \$50 for each month of  
35 supervision or supervised community service ordered by the  
36 court, unless after determining the inability of the person

1 placed on supervision or supervised community service to pay  
2 the fee, the court assesses a lesser fee. The court may not  
3 impose the fee on a minor who is made a ward of the State under  
4 the Juvenile Court Act of 1987 while the minor is in placement.  
5 The fee shall be imposed only upon a defendant who is actively  
6 supervised by the probation and court services department. The  
7 fee shall be collected by the clerk of the circuit court. The  
8 clerk of the circuit court shall pay all monies collected from  
9 this fee to the county treasurer for deposit in the probation  
10 and court services fund pursuant to Section 15.1 of the  
11 Probation and Probation Officers Act.

12 A circuit court may not impose a probation fee in excess of  
13 \$25 per month unless: (1) the circuit court has adopted, by  
14 administrative order issued by the chief judge, a standard  
15 probation fee guide determining an offender's ability to pay,  
16 under guidelines developed by the Administrative Office of the  
17 Illinois Courts; and (2) the circuit court has authorized, by  
18 administrative order issued by the chief judge, the creation of  
19 a Crime Victim's Services Fund, to be administered by the Chief  
20 Judge or his or her designee, for services to crime victims and  
21 their families. Of the amount collected as a probation fee, not  
22 to exceed \$5 of that fee collected per month may be used to  
23 provide services to crime victims and their families.

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

31 (k) A defendant at least 17 years of age who is placed on  
32 supervision for a misdemeanor in a county of 3,000,000 or more  
33 inhabitants and who has not been previously convicted of a  
34 misdemeanor or felony may as a condition of his or her  
35 supervision be required by the court to attend educational  
36 courses designed to prepare the defendant for a high school

1 diploma and to work toward a high school diploma or to work  
2 toward passing the high school level Test of General  
3 Educational Development (GED) or to work toward completing a  
4 vocational training program approved by the court. The  
5 defendant placed on supervision must attend a public  
6 institution of education to obtain the educational or  
7 vocational training required by this subsection (k). The  
8 defendant placed on supervision shall be required to pay for  
9 the cost of the educational courses or GED test, if a fee is  
10 charged for those courses or test. The court shall revoke the  
11 supervision of a person who wilfully fails to comply with this  
12 subsection (k). The court shall resentence the defendant upon  
13 revocation of supervision as provided in Section 5-6-4. This  
14 subsection (k) does not apply to a defendant who has a high  
15 school diploma or has successfully passed the GED test. This  
16 subsection (k) does not apply to a defendant who is determined  
17 by the court to be developmentally disabled or otherwise  
18 mentally incapable of completing the educational or vocational  
19 program.

20 (l) The court shall require a defendant placed on  
21 supervision for possession of a substance prohibited by the  
22 Cannabis Control Act, the ~~or~~ Illinois Controlled Substances  
23 Act, or the Methamphetamine Control and Community Protection  
24 Act after a previous conviction or disposition of supervision  
25 for possession of a substance prohibited by the Cannabis  
26 Control Act, the ~~or~~ Illinois Controlled Substances Act, or the  
27 Methamphetamine Control and Community Protection Act or a  
28 sentence of probation under Section 10 of the Cannabis Control  
29 Act or Section 410 of the Illinois Controlled Substances Act  
30 and after a finding by the court that the person is addicted,  
31 to undergo treatment at a substance abuse program approved by  
32 the court.

33 (m) The Secretary of State shall require anyone placed on  
34 court supervision for a violation of Section 3-707 of the  
35 Illinois Vehicle Code or a similar provision of a local  
36 ordinance to give proof of his or her financial responsibility

1 as defined in Section 7-315 of the Illinois Vehicle Code. The  
2 proof shall be maintained by the individual in a manner  
3 satisfactory to the Secretary of State for a minimum period of  
4 one year after the date the proof is first filed. The proof  
5 shall be limited to a single action per arrest and may not be  
6 affected by any post-sentence disposition. The Secretary of  
7 State shall suspend the driver's license of any person  
8 determined by the Secretary to be in violation of this  
9 subsection.

10 (n) Any offender placed on supervision for any offense that  
11 the court or probation department has determined to be sexually  
12 motivated as defined in the Sex Offender Management Board Act  
13 shall be required to refrain from any contact, directly or  
14 indirectly, with any persons specified by the court and shall  
15 be available for all evaluations and treatment programs  
16 required by the court or the probation department.

17 (Source: P.A. 92-282, eff. 8-7-01; 92-458, eff. 8-22-01;  
18 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-970, eff.  
19 8-20-04.)

20 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

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

23 (a) When multiple sentences of imprisonment are imposed on  
24 a defendant at the same time, or when a term of imprisonment is  
25 imposed on a defendant who is already subject to sentence in  
26 this State or in another state, or for a sentence imposed by  
27 any district court of the United States, the sentences shall  
28 run concurrently or consecutively as determined by the court.  
29 When a term of imprisonment is imposed on a defendant by an  
30 Illinois circuit court and the defendant is subsequently  
31 sentenced to a term of imprisonment by another state or by a  
32 district court of the United States, the Illinois circuit court  
33 which imposed the sentence may order that the Illinois sentence  
34 be made concurrent with the sentence imposed by the other state  
35 or district court of the United States. The defendant must

1 apply to the circuit court within 30 days after the defendant's  
2 sentence imposed by the other state or district of the United  
3 States is finalized. The court shall impose consecutive  
4 sentences if:

5 (i) one of the offenses for which defendant was  
6 convicted was first degree murder or a Class X or Class 1  
7 felony and the defendant inflicted severe bodily injury, or

8 (ii) the defendant was convicted of a violation of  
9 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of  
10 1961, or

11 (iii) the defendant was convicted of armed violence  
12 based upon the predicate offense of solicitation of murder,  
13 solicitation of murder for hire, heinous battery,  
14 aggravated battery of a senior citizen, criminal sexual  
15 assault, a violation of subsection (g) of Section 5 of the  
16 Cannabis Control Act, cannabis trafficking, a violation of  
17 subsection (a) of Section 401 of the Illinois Controlled  
18 Substances Act, controlled substance trafficking involving  
19 a Class X felony amount of controlled substance under  
20 Section 401 of the Illinois Controlled Substances Act, a  
21 violation of the Methamphetamine Control and Community  
22 Protection Act, calculated criminal drug conspiracy, or  
23 streetgang criminal drug conspiracy, or

24 (iv) the defendant was convicted of the offense of  
25 leaving the scene of a motor vehicle accident involving  
26 death or personal injuries under Section 11-401 and either:

27 (A) aggravated driving under the influence of alcohol,  
28 other drug or drugs, or intoxicating compound or compounds,  
29 or any combination thereof under Section 11-501 of the  
30 Illinois Vehicle Code, or (B) reckless homicide under  
31 Section 9-3 of the Criminal Code of 1961, or both an  
32 offense described in subdivision (A) and an offense  
33 described in subdivision (B), or

34 (v) the defendant was convicted of a violation of  
35 Section 9-3.1 (concealment of homicidal death) or Section  
36 12-20.5 (dismembering a human body) of the Criminal Code of

1           1961,  
2           in which event the court shall enter sentences to run  
3           consecutively. Sentences shall run concurrently unless  
4           otherwise specified by the court.

5           (b) Except in cases where consecutive sentences are  
6           mandated, the court shall impose concurrent sentences unless,  
7           having regard to the nature and circumstances of the offense  
8           and the history and character of the defendant, it is of the  
9           opinion that consecutive sentences are required to protect the  
10          public from further criminal conduct by the defendant, the  
11          basis for which the court shall set forth in the record.

12          (c) (1) For sentences imposed under law in effect prior to  
13          February 1, 1978 the aggregate maximum of consecutive  
14          sentences shall not exceed the maximum term authorized  
15          under Section 5-8-1 for the 2 most serious felonies  
16          involved. The aggregate minimum period of consecutive  
17          sentences shall not exceed the highest minimum term  
18          authorized under Section 5-8-1 for the 2 most serious  
19          felonies involved. When sentenced only for misdemeanors, a  
20          defendant shall not be consecutively sentenced to more than  
21          the maximum for one Class A misdemeanor.

22          (2) For sentences imposed under the law in effect on or  
23          after February 1, 1978, the aggregate of consecutive  
24          sentences for offenses that were committed as part of a  
25          single course of conduct during which there was no  
26          substantial change in the nature of the criminal objective  
27          shall not exceed the sum of the maximum terms authorized  
28          under Section 5-8-2 for the 2 most serious felonies  
29          involved, but no such limitation shall apply for offenses  
30          that were not committed as part of a single course of  
31          conduct during which there was no substantial change in the  
32          nature of the criminal objective. When sentenced only for  
33          misdemeanors, a defendant shall not be consecutively  
34          sentenced to more than the maximum for one Class A  
35          misdemeanor.

36          (d) An offender serving a sentence for a misdemeanor who is

1 convicted of a felony and sentenced to imprisonment shall be  
2 transferred to the Department of Corrections, and the  
3 misdemeanor sentence shall be merged in and run concurrently  
4 with the felony sentence.

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

10 (1) the maximum period of a term of imprisonment shall  
11 consist of the aggregate of the maximums of the imposed  
12 indeterminate terms, if any, plus the aggregate of the  
13 imposed determinate sentences for felonies plus the  
14 aggregate of the imposed determinate sentences for  
15 misdemeanors subject to paragraph (c) of this Section;

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

19 (3) the minimum period of imprisonment shall be the  
20 aggregate of the minimum and determinate periods of  
21 imprisonment imposed by the court, subject to paragraph (c)  
22 of this Section; and

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

29 (f) A sentence of an offender committed to the Department  
30 of Corrections at the time of the commission of the offense  
31 shall be served consecutive to the sentence under which he is  
32 held by the Department of Corrections. However, in case such  
33 offender shall be sentenced to punishment by death, the  
34 sentence shall be executed at such time as the court may fix  
35 without regard to the sentence under which such offender may be  
36 held by the Department.

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

4 (h) If a person charged with a felony commits a separate  
5 felony while on pre-trial release or in pretrial detention in a  
6 county jail facility or county detention facility, the  
7 sentences imposed upon conviction of these felonies shall be  
8 served consecutively regardless of the order in which the  
9 judgments of conviction are entered.

10 (i) If a person admitted to bail following conviction of a  
11 felony commits a separate felony while free on bond or if a  
12 person detained in a county jail facility or county detention  
13 facility following conviction of a felony commits a separate  
14 felony while in detention, any sentence following conviction of  
15 the separate felony shall be consecutive to that of the  
16 original sentence for which the defendant was on bond or  
17 detained.

18 (Source: P.A. 92-16, eff. 6-28-01; 92-674, eff. 1-1-03; 93-160,  
19 eff. 7-10-03; 93-768, eff. 7-20-04.)

20 (730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

21 Sec. 5-9-1. Authorized fines.

22 (a) An offender may be sentenced to pay a fine which shall  
23 not exceed for each offense:

24 (1) for a felony, \$25,000 or the amount specified in  
25 the offense, whichever is greater, or where the offender is  
26 a corporation, \$50,000 or the amount specified in the  
27 offense, whichever is greater;

28 (2) for a Class A misdemeanor, \$2,500 or the amount  
29 specified in the offense, whichever is greater;

30 (3) for a Class B or Class C misdemeanor, \$1,500;

31 (4) for a petty offense, \$1,000 or the amount specified  
32 in the offense, whichever is less;

33 (5) for a business offense, the amount specified in the  
34 statute defining that offense.

35 (b) A fine may be imposed in addition to a sentence of

1 conditional discharge, probation, periodic imprisonment, or  
2 imprisonment.

3 (c) There shall be added to every fine imposed in  
4 sentencing for a criminal or traffic offense, except an offense  
5 relating to parking or registration, or offense by a  
6 pedestrian, an additional penalty of \$5 for each \$40, or  
7 fraction thereof, of fine imposed. The additional penalty of \$5  
8 for each \$40, or fraction thereof, of fine imposed, if not  
9 otherwise assessed, shall also be added to every fine imposed  
10 upon a plea of guilty, stipulation of facts or findings of  
11 guilty, resulting in a judgment of conviction, or order of  
12 supervision in criminal, traffic, local ordinance, county  
13 ordinance, and conservation cases (except parking,  
14 registration, or pedestrian violations), or upon a sentence of  
15 probation without entry of judgment under Section 10 of the  
16 Cannabis Control Act, ~~or~~ Section 410 of the Controlled  
17 Substances Act, or Section 70 of the Methamphetamine Control  
18 and Community Protection Act.

19 Such additional amounts shall be assessed by the court  
20 imposing the fine and shall be collected by the Circuit Clerk  
21 in addition to the fine and costs in the case. Each such  
22 additional penalty shall be remitted by the Circuit Clerk  
23 within one month after receipt to the State Treasurer. The  
24 State Treasurer shall deposit \$1 for each \$40, or fraction  
25 thereof, of fine imposed into the LEADS Maintenance Fund. The  
26 remaining surcharge amount shall be deposited into the Traffic  
27 and Criminal Conviction Surcharge Fund, unless the fine, costs  
28 or additional amounts are subject to disbursement by the  
29 circuit clerk under Section 27.5 of the Clerks of Courts Act.  
30 Such additional penalty shall not be considered a part of the  
31 fine for purposes of any reduction in the fine for time served  
32 either before or after sentencing. Not later than March 1 of  
33 each year the Circuit Clerk shall submit a report of the amount  
34 of funds remitted to the State Treasurer under this subsection  
35 (c) during the preceding calendar year. Except as otherwise  
36 provided by Supreme Court Rules, if a court in imposing a fine

1 against an offender levies a gross amount for fine, costs, fees  
2 and penalties, the amount of the additional penalty provided  
3 for herein shall be computed on the amount remaining after  
4 deducting from the gross amount levied all fees of the Circuit  
5 Clerk, the State's Attorney and the Sheriff. After deducting  
6 from the gross amount levied the fees and additional penalty  
7 provided for herein, less any other additional penalties  
8 provided by law, the clerk shall remit the net balance  
9 remaining to the entity authorized by law to receive the fine  
10 imposed in the case. For purposes of this Section "fees of the  
11 Circuit Clerk" shall include, if applicable, the fee provided  
12 for under Section 27.3a of the Clerks of Courts Act and the  
13 fee, if applicable, payable to the county in which the  
14 violation occurred pursuant to Section 5-1101 of the Counties  
15 Code.

16 (c-5) In addition to the fines imposed by subsection (c),  
17 any person convicted or receiving an order of supervision for  
18 driving under the influence of alcohol or drugs shall pay an  
19 additional \$100 fee to the clerk. This additional fee, less 2  
20 1/2% that shall be used to defray administrative costs incurred  
21 by the clerk, shall be remitted by the clerk to the Treasurer  
22 within 60 days after receipt for deposit into the Trauma Center  
23 Fund. This additional fee of \$100 shall not be considered a  
24 part of the fine for purposes of any reduction in the fine for  
25 time served either before or after sentencing. Not later than  
26 March 1 of each year the Circuit Clerk shall submit a report of  
27 the amount of funds remitted to the State Treasurer under this  
28 subsection (c-5) during the preceding calendar year.

29 The Circuit Clerk may accept payment of fines and costs by  
30 credit card from an offender who has been convicted of a  
31 traffic offense, petty offense or misdemeanor and may charge  
32 the service fee permitted where fines and costs are paid by  
33 credit card provided for in Section 27.3b of the Clerks of  
34 Courts Act.

35 (c-7) In addition to the fines imposed by subsection (c),  
36 any person convicted or receiving an order of supervision for

1 driving under the influence of alcohol or drugs shall pay an  
2 additional \$5 fee to the clerk. This additional fee, less 2  
3 1/2% that shall be used to defray administrative costs incurred  
4 by the clerk, shall be remitted by the clerk to the Treasurer  
5 within 60 days after receipt for deposit into the Spinal Cord  
6 Injury Paralysis Cure Research Trust Fund. This additional fee  
7 of \$5 shall not be considered a part of the fine for purposes  
8 of any reduction in the fine for time served either before or  
9 after sentencing. Not later than March 1 of each year the  
10 Circuit Clerk shall submit a report of the amount of funds  
11 remitted to the State Treasurer under this subsection (c-7)  
12 during the preceding calendar year.

13 (c-9) There shall be added to every fine imposed in  
14 sentencing for a criminal or traffic offense, except an offense  
15 relating to parking or registration, or offense by a  
16 pedestrian, an additional penalty of \$4 imposed. The additional  
17 penalty of \$4 shall also be added to every fine imposed upon a  
18 plea of guilty, stipulation of facts or findings of guilty,  
19 resulting in a judgment of conviction, or order of supervision  
20 in criminal, traffic, local ordinance, county ordinance, or  
21 conservation cases (except parking, registration, or  
22 pedestrian violations), or upon a sentence of probation without  
23 entry of judgment under Section 10 of the Cannabis Control Act,  
24 ~~or~~ Section 410 of the Controlled Substances Act, or Section 70  
25 of the Methamphetamine Control and Community Protection Act.

26 Such additional penalty of \$4 shall be assessed by the court  
27 imposing the fine and shall be collected by the circuit clerk  
28 in addition to any other fine, costs, fees, and penalties in  
29 the case. Each such additional penalty of \$4 shall be remitted  
30 to the State Treasurer by the circuit clerk within one month  
31 after receipt. The State Treasurer shall deposit the additional  
32 penalty of \$4 into the Traffic and Criminal Conviction  
33 Surcharge Fund. The additional penalty of \$4 shall be in  
34 addition to any other fine, costs, fees, and penalties and  
35 shall not reduce or affect the distribution of any other fine,  
36 costs, fees, and penalties.

1 (d) In determining the amount and method of payment of a  
2 fine, except for those fines established for violations of  
3 Chapter 15 of the Illinois Vehicle Code, the court shall  
4 consider:

5 (1) the financial resources and future ability of the  
6 offender to pay the fine; and

7 (2) whether the fine will prevent the offender from  
8 making court ordered restitution or reparation to the  
9 victim of the offense; and

10 (3) in a case where the accused is a dissolved  
11 corporation and the court has appointed counsel to  
12 represent the corporation, the costs incurred either by the  
13 county or the State for such representation.

14 (e) The court may order the fine to be paid forthwith or  
15 within a specified period of time or in installments.

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

23 (Source: P.A. 92-431, eff. 1-1-02; 93-32, eff. 6-20-03.)

24 (730 ILCS 5/5-9-1.1) (from Ch. 38, par. 1005-9-1.1)

25 Sec. 5-9-1.1. Drug related offenses.

26 (a) When a person has been adjudged guilty of a drug  
27 related offense involving possession or delivery of cannabis or  
28 possession or delivery of a controlled substance as defined in  
29 the Cannabis Control Act, ~~as amended, or~~ the Illinois  
30 Controlled Substances Act, or the Methamphetamine Control and  
31 Community Protection Act as amended, in addition to any other  
32 penalty imposed, a fine shall be levied by the court at not  
33 less than the full street value of the cannabis or controlled  
34 substances seized.

35 "Street value" shall be determined by the court on the

1 basis of testimony of law enforcement personnel and the  
2 defendant as to the amount seized and such testimony as may be  
3 required by the court as to the current street value of the  
4 cannabis or controlled substance seized.

5 (b) In addition to any penalty imposed under subsection (a)  
6 of this Section, a fine of \$100 shall be levied by the court,  
7 the proceeds of which shall be collected by the Circuit Clerk  
8 and remitted to the State Treasurer under Section 27.6 of the  
9 Clerks of Courts Act for deposit into the Trauma Center Fund  
10 for distribution as provided under Section 3.225 of the  
11 Emergency Medical Services (EMS) Systems Act.

12 (c) In addition to any penalty imposed under subsection (a)  
13 of this Section, a fee of \$5 shall be assessed by the court,  
14 the proceeds of which shall be collected by the Circuit Clerk  
15 and remitted to the State Treasurer under Section 27.6 of the  
16 Clerks of Courts Act for deposit into the Spinal Cord Injury  
17 Paralysis Cure Research Trust Fund. This additional fee of \$5  
18 shall not be considered a part of the fine for purposes of any  
19 reduction in the fine for time served either before or after  
20 sentencing.

21 (Source: P.A. 92-431, eff. 1-1-02.)

22 (730 ILCS 5/5-9-1.2) (from Ch. 38, par. 1005-9-1.2)

23 Sec. 5-9-1.2. (a) Twelve and one-half percent of all  
24 amounts collected as fines pursuant to Section 5-9-1.1 shall be  
25 paid into the Youth Drug Abuse Prevention Fund, which is hereby  
26 created in the State treasury, to be used by the Department of  
27 Human Services for the funding of programs and services for  
28 drug-abuse treatment, and prevention and education services,  
29 for juveniles.

30 (b) Eighty-seven and one-half percent of the proceeds of  
31 all fines received pursuant to Section 5-9-1.1 shall be  
32 transmitted to and deposited in the treasurer's office at the  
33 level of government as follows:

34 (1) If such seizure was made by a combination of law  
35 enforcement personnel representing differing units of

1 local government, the court levying the fine shall  
2 equitably allocate 50% of the fine among these units of  
3 local government and shall allocate 37 1/2% to the county  
4 general corporate fund. In the event that the seizure was  
5 made by law enforcement personnel representing a unit of  
6 local government from a municipality where the number of  
7 inhabitants exceeds 2 million in population, the court  
8 levying the fine shall allocate 87 1/2% of the fine to that  
9 unit of local government. If the seizure was made by a  
10 combination of law enforcement personnel representing  
11 differing units of local government, and at least one of  
12 those units represents a municipality where the number of  
13 inhabitants exceeds 2 million in population, the court  
14 shall equitably allocate 87 1/2% of the proceeds of the  
15 fines received among the differing units of local  
16 government.

17 (2) If such seizure was made by State law enforcement  
18 personnel, then the court shall allocate 37 1/2% to the  
19 State treasury and 50% to the county general corporate  
20 fund.

21 (3) If a State law enforcement agency in combination  
22 with a law enforcement agency or agencies of a unit or  
23 units of local government conducted the seizure, the court  
24 shall equitably allocate 37 1/2% of the fines to or among  
25 the law enforcement agency or agencies of the unit or units  
26 of local government which conducted the seizure and shall  
27 allocate 50% to the county general corporate fund.

28 (c) The proceeds of all fines allocated to the law  
29 enforcement agency or agencies of the unit or units of local  
30 government pursuant to subsection (b) shall be made available  
31 to that law enforcement agency as expendable receipts for use  
32 in the enforcement of laws regulating controlled substances and  
33 cannabis. The proceeds of fines awarded to the State treasury  
34 shall be deposited in a special fund known as the Drug Traffic  
35 Prevention Fund. Monies from this fund may be used by the  
36 Department of State Police for use in the enforcement of laws

1 regulating controlled substances and cannabis; to satisfy  
2 funding provisions of the Intergovernmental Drug Laws  
3 Enforcement Act; and to defray costs and expenses associated  
4 with returning violators of the Cannabis Control Act, ~~and~~ the  
5 Illinois Controlled Substances Act, and the Methamphetamine  
6 Control and Community Protection Act only, as provided in those  
7 Acts, when punishment of the crime shall be confinement of the  
8 criminal in the penitentiary. Moneys in the Drug Traffic  
9 Prevention Fund deposited from fines awarded as a direct result  
10 of enforcement efforts of the Illinois Conservation Police may  
11 be used by the Department of Natural Resources Office of Law  
12 Enforcement for use in enforcing laws regulating controlled  
13 substances and cannabis on Department of Natural Resources  
14 regulated lands and waterways. All other monies shall be paid  
15 into the general revenue fund in the State treasury.

16 (Source: P.A. 92-601, eff. 7-1-02.)

17 (730 ILCS 5/5-9-1.4) (from Ch. 38, par. 1005-9-1.4)

18 Sec. 5-9-1.4. (a) "Crime laboratory" means any  
19 not-for-profit laboratory registered with the Drug Enforcement  
20 Administration of the United States Department of Justice,  
21 substantially funded by a unit or combination of units of local  
22 government or the State of Illinois, which regularly employs at  
23 least one person engaged in the analysis of controlled  
24 substances, cannabis, methamphetamine, or steroids for  
25 criminal justice agencies in criminal matters and provides  
26 testimony with respect to such examinations.

27 (b) When a person has been adjudged guilty of an offense in  
28 violation of the Cannabis Control Act, the Illinois Controlled  
29 Substances Act, the Methamphetamine Control and Community  
30 Protection Act, or the Steroid Control Act, in addition to any  
31 other disposition, penalty or fine imposed, a criminal  
32 laboratory analysis fee of \$100 for each offense for which he  
33 was convicted shall be levied by the court. Any person placed  
34 on probation pursuant to Section 10 of the Cannabis Control  
35 Act, Section 410 of the Illinois Controlled Substances Act,

1 Section 70 of the Methamphetamine Control and Community  
2 Protection Act, or Section 10 of the Steroid Control Act or  
3 placed on supervision for a violation of the Cannabis Control  
4 Act, the Illinois Controlled Substances Act or the Steroid  
5 Control Act shall be assessed a criminal laboratory analysis  
6 fee of \$100 for each offense for which he was charged. Upon  
7 verified petition of the person, the court may suspend payment  
8 of all or part of the fee if it finds that the person does not  
9 have the ability to pay the fee.

10 (c) In addition to any other disposition made pursuant to  
11 the provisions of the Juvenile Court Act of 1987, any minor  
12 adjudicated delinquent for an offense which if committed by an  
13 adult would constitute a violation of the Cannabis Control Act,  
14 the Illinois Controlled Substances Act, the Methamphetamine  
15 Control and Community Protection Act, or the Steroid Control  
16 Act shall be assessed a criminal laboratory analysis fee of  
17 \$100 for each adjudication. Upon verified petition of the  
18 minor, the court may suspend payment of all or part of the fee  
19 if it finds that the minor does not have the ability to pay the  
20 fee. The parent, guardian or legal custodian of the minor may  
21 pay some or all of such fee on the minor's behalf.

22 (d) All criminal laboratory analysis fees provided for by  
23 this Section shall be collected by the clerk of the court and  
24 forwarded to the appropriate crime laboratory fund as provided  
25 in subsection (f).

26 (e) Crime laboratory funds shall be established as follows:

27 (1) Any unit of local government which maintains a  
28 crime laboratory may establish a crime laboratory fund  
29 within the office of the county or municipal treasurer.

30 (2) Any combination of units of local government which  
31 maintains a crime laboratory may establish a crime  
32 laboratory fund within the office of the treasurer of the  
33 county where the crime laboratory is situated.

34 (3) The State Crime Laboratory Fund is hereby created  
35 as a special fund in the State Treasury.

36 (f) The analysis fee provided for in subsections (b) and

1 (c) of this Section shall be forwarded to the office of the  
2 treasurer of the unit of local government that performed the  
3 analysis if that unit of local government has established a  
4 crime laboratory fund, or to the State Crime Laboratory Fund if  
5 the analysis was performed by a laboratory operated by the  
6 Illinois State Police. If the analysis was performed by a crime  
7 laboratory funded by a combination of units of local  
8 government, the analysis fee shall be forwarded to the  
9 treasurer of the county where the crime laboratory is situated  
10 if a crime laboratory fund has been established in that county.  
11 If the unit of local government or combination of units of  
12 local government has not established a crime laboratory fund,  
13 then the analysis fee shall be forwarded to the State Crime  
14 Laboratory Fund. The clerk of the circuit court may retain the  
15 amount of \$10 from each collected analysis fee to offset  
16 administrative costs incurred in carrying out the clerk's  
17 responsibilities under this Section.

18 (g) Fees deposited into a crime laboratory fund created  
19 pursuant to paragraphs (1) or (2) of subsection (e) of this  
20 Section shall be in addition to any allocations made pursuant  
21 to existing law and shall be designated for the exclusive use  
22 of the crime laboratory. These uses may include, but are not  
23 limited to, the following:

24 (1) costs incurred in providing analysis for  
25 controlled substances in connection with criminal  
26 investigations conducted within this State;

27 (2) purchase and maintenance of equipment for use in  
28 performing analyses; and

29 (3) continuing education, training and professional  
30 development of forensic scientists regularly employed by  
31 these laboratories.

32 (h) Fees deposited in the State Crime Laboratory Fund  
33 created pursuant to paragraph (3) of subsection (d) of this  
34 Section shall be used by State crime laboratories as designated  
35 by the Director of State Police. These funds shall be in  
36 addition to any allocations made pursuant to existing law and

1 shall be designated for the exclusive use of State crime  
2 laboratories. These uses may include those enumerated in  
3 subsection (g) of this Section.

4 (Source: P.A. 92-312, eff. 1-1-02.)

5 Section 1115. The Code of Civil Procedure is amended by  
6 changing Sections 9-118 and 12-903.5 as follows:

7 (735 ILCS 5/9-118) (from Ch. 110, par. 9-118)

8 Sec. 9-118. Emergency housing eviction proceedings.

9 (a) As used in this Section:

10 "Cannabis" has the meaning ascribed to that term in the  
11 Cannabis Control Act.

12 "Narcotics" and "controlled substance" have the meanings  
13 ascribed to those terms in the Illinois Controlled Substances  
14 Act.

15 (b) This Section applies only if all of the following  
16 conditions are met:

17 (1) The complaint seeks possession of premises that are  
18 owned or managed by a housing authority established under  
19 the Housing Authorities Act or privately owned and managed.

20 (2) The verified complaint alleges that there is direct  
21 evidence of any of the following:

22 (A) unlawful possessing, serving, storing,  
23 manufacturing, cultivating, delivering, using,  
24 selling, giving away, or trafficking in cannabis,  
25 methamphetamine, narcotics, or controlled substances  
26 within or upon the premises by or with the knowledge  
27 and consent of, or in concert with the person or  
28 persons named in the complaint; or

29 (B) the possession, use, sale, or delivery of a  
30 firearm which is otherwise prohibited by State law  
31 within or upon the premises by or with the knowledge  
32 and consent of, or in concert with, the person or  
33 persons named in the complaint; or

34 (C) murder, attempted murder, kidnapping,

1 attempted kidnapping, arson, attempted arson,  
2 aggravated battery, criminal sexual assault, attempted  
3 criminal sexual assault, aggravated criminal sexual  
4 assault, predatory criminal sexual assault of a child,  
5 or criminal sexual abuse within or upon the premises by  
6 or with the knowledge and consent of, or in concert  
7 with, the person or persons named in the complaint.

8 (3) Notice by verified complaint setting forth the  
9 relevant facts, and a demand for possession of the type  
10 specified in Section 9-104 is served on the tenant or  
11 occupant of the premises at least 14 days before a hearing  
12 on the complaint is held, and proof of service of the  
13 complaint is submitted by the plaintiff to the court.

14 (b-5) In all actions brought under this Section 9-118, no  
15 predicate notice of termination or demand for possession shall  
16 be required to initiate an eviction action.

17 (c) When a complaint has been filed under this Section, a  
18 hearing on the complaint shall be scheduled on any day after  
19 the expiration of 14 days following the filing of the  
20 complaint. The summons shall advise the defendant that a  
21 hearing on the complaint shall be held at the specified date  
22 and time, and that the defendant should be prepared to present  
23 any evidence on his or her behalf at that time.

24 If a plaintiff which is a public housing authority accepts  
25 rent from the defendant after an action is initiated under this  
26 Section, the acceptance of rent shall not be a cause for  
27 dismissal of the complaint.

28 (d) If the defendant does not appear at the hearing,  
29 judgment for possession of the premises in favor of the  
30 plaintiff shall be entered by default. If the defendant  
31 appears, a trial shall be held immediately as is prescribed in  
32 other proceedings for possession. The matter shall not be  
33 continued beyond 7 days from the date set for the first hearing  
34 on the complaint except by agreement of both the plaintiff and  
35 the defendant. After a trial, if the court finds, by a  
36 preponderance of the evidence, that the allegations in the

1 complaint have been proven, the court shall enter judgment for  
2 possession of the premises in favor of the plaintiff and the  
3 court shall order that the plaintiff shall be entitled to  
4 re-enter the premises immediately.

5 (d-5) If cannabis, methamphetamine, narcotics, or  
6 controlled substances are found or used anywhere in the  
7 premises, there is a rebuttable presumption either (1) that the  
8 cannabis, methamphetamine, narcotics, or controlled substances  
9 were used or possessed by a tenant or occupant or (2) that a  
10 tenant or occupant permitted the premises to be used for that  
11 use or possession, and knew or should have reasonably known  
12 that the substance was used or possessed.

13 (e) A judgment for possession entered under this Section  
14 may not be stayed for any period in excess of 7 days by the  
15 court. Thereafter the plaintiff shall be entitled to re-enter  
16 the premises immediately. The sheriff or other lawfully  
17 deputized officers shall give priority to service and execution  
18 of orders entered under this Section over other possession  
19 orders.

20 (f) This Section shall not be construed to prohibit the use  
21 or possession of cannabis, methamphetamine, narcotics, or a  
22 controlled substance that has been legally obtained in  
23 accordance with a valid prescription for the personal use of a  
24 lawful occupant of a dwelling unit.

25 (Source: P.A. 90-557, eff. 6-1-98; 90-768, eff. 8-14-98;  
26 91-504, eff. 8-13-99.)

27 (735 ILCS 5/12-903.5)

28 Sec. 12-903.5. Drug asset forfeitures.

29 (a) The homestead exemption under this Part 9 of Article  
30 XII does not apply to property subject to forfeiture under  
31 Section 505 of the Illinois Controlled Substances Act, Section  
32 12 of the Cannabis Control Act, Section 85 of the  
33 Methamphetamine Control and Community Protection Act, or  
34 Section 5 of the Narcotics Profit Forfeiture Act.

35 (b) This Section applies to actions pending on or commenced

1 on or after the effective date of this Section.

2 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

3 Section 1120. The Cannabis and Controlled Substances Tort  
4 Claims Act is amended by changing Sections 2, 4, and 6 as  
5 follows:

6 (740 ILCS 20/2) (from Ch. 70, par. 902)

7 Sec. 2. Findings and intent.

8 (a) The General Assembly finds that the abuse of cannabis  
9 and controlled substances:

10 (1) greatly increases incidents involving crimes of  
11 violence and threats of crimes of violence;

12 (2) causes death or severe and often irreversible  
13 injuries to newborn children;

14 (3) accounts for the commission of the majority of  
15 property crimes committed within this State;

16 (4) causes motor vehicle, job related, and numerous  
17 other types of accidents that frequently result in death or  
18 permanent injuries;

19 (5) contributes to the disintegration of the family;

20 (6) interferes with the duty of parents and legal  
21 guardians to provide for the physical, mental, and  
22 emotional well-being of their unemancipated children and  
23 with the rights of parents and legal guardians to raise the  
24 children free from the physical, mental, and emotional  
25 trauma that is caused by the abuse of cannabis and  
26 controlled substances;

27 (7) encourages and fosters the growth of urban gangs  
28 engaged in violent and nonviolent crime;

29 (8) furthers the interests of elements of organized  
30 criminals;

31 (9) increases the dropout, truancy, and failure rates  
32 of children attending schools within this State;

33 (10) stifles educational opportunities for both drug  
34 users and nonusers;

1 (11) contributes to the unemployment rate within this  
2 State;

3 (12) reduces the productivity of employees, retards  
4 competitiveness within the established business community,  
5 and hinders the formation and growth of new businesses;

6 (13) reduces the value of real property;

7 (14) costs the citizens of this State billions of  
8 dollars in federal, State, and local taxes for increased  
9 costs for law enforcement, welfare, and education;

10 (15) costs the citizens of this State billions of  
11 dollars in increased costs for consumer goods and services,  
12 insurance premiums, and medical treatment;

13 (16) hinders citizens from freely using public parks,  
14 streets, schools, forest preserves, playgrounds, and other  
15 public areas; and

16 (17) contributes to a lower quality of life and  
17 standard of living for the citizens of this State.

18 (b) The General Assembly finds that, in light of the  
19 findings made in subsection (a), any violation of the Cannabis  
20 Control Act, the Methamphetamine Control and Community  
21 Protection Act, or the Illinois Controlled Substances Act that  
22 involves the nonconsensual use of the real or personal property  
23 of another person, whether that person is an individual or a  
24 governmental or private entity representing a collection of  
25 individuals, is so injurious to the property interests and the  
26 well-being of that person that the violation gives rise to a  
27 cause of action sounding in tort. The General Assembly also  
28 finds that the delivery of a controlled substance or cannabis  
29 in violation of the Illinois Controlled Substances Act, the  
30 Methamphetamine Control and Community Protection Act, or the  
31 Cannabis Control Act to an unemancipated minor under the age of  
32 18 is so injurious to the rights and duties of parents and  
33 legal guardians relating to the physical, mental, and emotional  
34 well-being of that minor that the violation also gives rise to  
35 a cause of action sounding in tort. The General Assembly  
36 further finds that although the damage a person suffers through

1 the nonconsensual use of his property to facilitate such a  
2 violation or the damage a parent or legal guardian suffers as  
3 the result of the delivery to the minor of cannabis or a  
4 substance in violation of the Cannabis Control Act, the  
5 Methamphetamine Control and Community Protection Act, or the  
6 Illinois Controlled Substances Act is often subtle and  
7 incapable of precise articulation, that damage is nonetheless  
8 real and substantial. It is therefore the intent of the General  
9 Assembly to create a cause of action with statutorily  
10 prescribed damages for the conduct described in this Act.

11 (Source: P.A. 87-544.)

12 (740 ILCS 20/4) (from Ch. 70, par. 904)

13 Sec. 4. Civil liability.

14 (a) A person who uses or causes to be used any property  
15 without the consent of the owner of that property to facilitate  
16 in any manner a violation of the Cannabis Control Act, ~~or~~ the  
17 Illinois Controlled Substances Act, or the Methamphetamine  
18 Control and Community Protection Act or any inchoate offense  
19 under either of those Acts is liable to the owner for civil  
20 damages as set forth in this Act.

21 (b) A person who delivers or causes to be delivered in  
22 violation of the Illinois Controlled Substances Act, ~~or~~ the  
23 Cannabis Control Act, or the Methamphetamine Control and  
24 Community Protection Act a controlled substance, ~~or~~ cannabis, ~~or~~  
25 or methamphetamine to an unemancipated minor under the age of  
26 18 is liable to the parent or legal guardian of that minor as  
27 set forth in this Act.

28 (c) A person who knowingly delivers or causes to be  
29 delivered cannabis, ~~or~~ a controlled or counterfeit substance, ~~or~~  
30 or methamphetamine that is later involved in a transaction or  
31 activity that gives rise to a cause of action under subsection  
32 (a) or (b) of this Section is liable under subsection (a) or  
33 (b), as the case may be, in the same manner and amount as the  
34 person or persons whose conduct gives immediate rise to the  
35 cause of action.

1 (Source: P.A. 87-544.)

2 (740 ILCS 20/6) (from Ch. 70, par. 906)

3 Sec. 6. Damages.

4 (a) The damages to which an owner of property is entitled  
5 under subsection (a) of Section 4 shall be based on the highest  
6 classification of offense prescribed under the Cannabis  
7 Control Act, ~~or~~ the Illinois Controlled Substances Act, or the  
8 Methamphetamine Control and Community Protection Act that  
9 involves the nonconsensual use of his property in an amount as  
10 follows:

11 (1) When the property is used to facilitate the  
12 commission of a Class B or C misdemeanor, no less than  
13 \$1,000.

14 (2) When the property is used to facilitate the  
15 commission of a Class A misdemeanor, no less than \$1,500.

16 (3) When the property is used to facilitate the  
17 commission of a Class 4 felony, no less than \$2,500.

18 (4) When the property is used to facilitate the  
19 commission of a Class 3 felony, no less than \$5,000.

20 (5) When the property is used to facilitate the  
21 commission of a Class 2 felony, no less than \$10,000.

22 (6) When the property is used to facilitate the  
23 commission of a Class 1 felony, no less than \$15,000.

24 (7) When the property is used to facilitate the  
25 commission of a Class X felony, no less than \$20,000.

26 (b) The damages to which a parent or legal guardian is  
27 entitled under subsection (b) of Section 4 shall be based on  
28 the highest classification of offense prescribed under the  
29 Cannabis Control Act, ~~or~~ the Illinois Controlled Substances  
30 Act, or the Methamphetamine Control and Community Protection  
31 Act committed by the person delivering the cannabis or  
32 controlled substance to the minor in an amount as follows:

33 (1) When the delivery is classified as a Class B or C  
34 misdemeanor, no less than \$1,500.

35 (2) When the delivery is classified as a Class A

1 misdemeanor, no less than \$2,500.

2 (3) When the delivery is classified as a Class 4  
3 felony, no less than \$5,000.

4 (4) When the delivery is classified as a Class 3  
5 felony, no less than \$10,000.

6 (5) When the delivery is classified as a Class 2  
7 felony, no less than \$15,000.

8 (6) When the delivery is classified as a Class 1  
9 felony, no less than \$20,000.

10 (7) When the delivery is classified as a Class X  
11 felony, no less than \$25,000.

12 (c) In addition to the amounts set forth in subsections (a)  
13 and (b), the owner of the property bringing a cause of action  
14 under subsection (a), other than a government or a governmental  
15 subdivision or agency, or the parent or legal guardian of the  
16 minor bringing a cause of action under subsection (b), may be  
17 entitled to receive punitive damages.

18 (d) A party prevailing in a cause of action brought under  
19 this Act is entitled to reasonable attorneys fees in addition  
20 to damages awarded under subsections (a), (b), and (c) of this  
21 Section.

22 (Source: P.A. 87-544.)

23 Section 9999. Effective date. This Act takes effect 30 days  
24 after becoming law.