



Sen. Rickey R. Hendon

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1 AMENDMENT TO SENATE BILL 328

2 AMENDMENT NO. _____. Amend Senate Bill 328, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 3. The Department of State Police Law of the Civil
6 Administrative Code of Illinois is amended by changing Section
7 2605-40 as follows:

8 (20 ILCS 2605/2605-40) (was 20 ILCS 2605/55a-4)

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

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

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

15 (3) Provide assistance to local law enforcement
16 agencies through training, management, and consultant

1 services.

2 (4) (Blank).

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

6 (6) Establish and operate a forensic science
7 laboratory system, including a forensic toxicological
8 laboratory service, for the purpose of testing specimens
9 submitted by coroners and other law enforcement officers in
10 their efforts to determine whether alcohol, drugs, or
11 poisonous or other toxic substances have been involved in
12 deaths, accidents, or illness. Forensic toxicological
13 laboratories shall be established in Springfield, Chicago,
14 and elsewhere in the State as needed.

15 (7) (Blank). ~~Subject to specific appropriations made~~
16 ~~for these purposes, establish and coordinate a system for~~
17 ~~providing accurate and expedited forensic science and~~
18 ~~other investigative and laboratory services to local law~~
19 ~~enforcement agencies and local State's Attorneys in aid of~~
20 ~~the investigation and trial of capital cases.~~

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

23 Section 5. The Criminal Identification Act is amended by
24 changing Section 2.1 as follows:

1 (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

2 Sec. 2.1. For the purpose of maintaining complete and
3 accurate criminal records of the Department of State Police, it
4 is necessary for all policing bodies of this State, the clerk
5 of the circuit court, the Illinois Department of Corrections,
6 the sheriff of each county, and State's Attorney of each county
7 to submit certain criminal arrest, charge, and disposition
8 information to the Department for filing at the earliest time
9 possible. Unless otherwise noted herein, it shall be the duty
10 of all policing bodies of this State, the clerk of the circuit
11 court, the Illinois Department of Corrections, the sheriff of
12 each county, and the State's Attorney of each county to report
13 such information as provided in this Section, both in the form
14 and manner required by the Department and within 30 days of the
15 criminal history event. Specifically:

16 (a) Arrest Information. All agencies making arrests for
17 offenses which are required by statute to be collected,
18 maintained or disseminated by the Department of State Police
19 shall be responsible for furnishing daily to the Department
20 fingerprints, charges and descriptions of all persons who are
21 arrested for such offenses. All such agencies shall also notify
22 the Department of all decisions by the arresting agency not to
23 refer such arrests for prosecution. With approval of the
24 Department, an agency making such arrests may enter into
25 arrangements with other agencies for the purpose of furnishing
26 daily such fingerprints, charges and descriptions to the

1 Department upon its behalf.

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

13 (c) Disposition Information. The clerk of the circuit court
14 of each county shall furnish the Department, in the form and
15 manner required by the Supreme Court, with all final
16 dispositions of cases for which the Department has received
17 information required to be reported pursuant to paragraph (a)
18 or (d) of this Section. Such information shall include, for
19 each charge, all (1) judgments of not guilty, judgments of
20 guilty including the sentence pronounced by the court, findings
21 that a minor is delinquent and any sentence made based on those
22 findings, discharges and dismissals in the court; (2) reviewing
23 court orders filed with the clerk of the circuit court which
24 reverse or remand a reported conviction or findings that a
25 minor is delinquent or that vacate or modify a sentence or
26 sentence made following a trial that a minor is delinquent; (3)

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

17 (d) Fingerprints After Sentencing.

18 (1) After the court pronounces sentence, sentences a
19 minor following a trial in which a minor was found to be
20 delinquent or issues an order of supervision or an order of
21 probation granted under Section 10 of the Cannabis Control
22 Act, Section 410 of the Illinois Controlled Substances Act,
23 Section 70 of the Methamphetamine Control and Community
24 Protection Act, Section 12-4.3 of the Criminal Code of
25 1961, Section 10-102 of the Illinois Alcoholism and Other
26 Drug Dependency Act, Section 40-10 of the Alcoholism and

1 Other Drug Abuse and Dependency Act, Section 10 of the
2 Steroid Control Act, or Section 5-615 of the Juvenile Court
3 Act of 1987 for any offense which is required by statute to
4 be collected, maintained, or disseminated by the
5 Department of State Police, the State's Attorney of each
6 county shall ask the court to order a law enforcement
7 agency to fingerprint immediately all persons appearing
8 before the court who have not previously been fingerprinted
9 for the same case. The court shall so order the requested
10 fingerprinting, if it determines that any such person has
11 not previously been fingerprinted for the same case. The
12 law enforcement agency shall submit such fingerprints to
13 the Department daily.

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

26 (e) Corrections Information. The Illinois Department of

1 Corrections and the sheriff of each county shall furnish the
2 Department with all information concerning the receipt,
3 escape, execution before the effective date of this amendatory
4 Act of the 95th General Assembly, death, release, pardon,
5 parole, commutation of sentence, granting of executive
6 clemency or discharge of an individual who has been sentenced
7 or committed to the agency's custody for any offenses which are
8 mandated by statute to be collected, maintained or disseminated
9 by the Department of State Police. For an individual who has
10 been charged with any such offense and who escapes from custody
11 or dies while in custody, all information concerning the
12 receipt and escape or death, whichever is appropriate, shall
13 also be so furnished to the Department.

14 (Source: P.A. 94-556, eff. 9-11-05.)

15 (30 ILCS 105/5.518 rep.)

16 Section 10. The State Finance Act is amended by repealing
17 Section 5.518 on July 1, 2007.

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

20 (55 ILCS 5/3-4011) (from Ch. 34, par. 3-4011)

21 Sec. 3-4011. Expenses and legal services for indigent
22 defendants in felony cases. It shall be the duty of the county
23 board in counties containing fewer than 500,000 inhabitants to

1 appropriate a sufficient sum for the purpose of paying for the
2 legal services necessarily rendered for the defense of indigent
3 persons in felony cases, and for costs, expenses and legal
4 services necessary in the prosecution of an appeal when the
5 sentence is death and the sentence was imposed before the
6 effective date of this amendatory Act of the 95th General
7 Assembly, which is to be paid upon the orders of a court of
8 competent jurisdiction. It shall likewise be the duty of the
9 county board in counties containing fewer than 500,000
10 inhabitants to appropriate a sufficient sum for the payment of
11 out of pocket expenses necessarily incurred by appointed
12 counsel in the prosecution of an appeal on behalf of an
13 indigent incarcerated defendant in felony cases. In such cases
14 payment shall be made upon the order of the reviewing court.

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

16 (55 ILCS 5/3-9005) (from Ch. 34, par. 3-9005)

17 Sec. 3-9005. Powers and duties of State's attorney.

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

19 (1) To commence and prosecute all actions, suits,
20 indictments and prosecutions, civil and criminal, in the
21 circuit court for his county, in which the people of the
22 State or county may be concerned.

23 (2) To prosecute all forfeited bonds and
24 recognizances, and all actions and proceedings for the
25 recovery of debts, revenues, moneys, fines, penalties and

1 forfeitures accruing to the State or his county, or to any
2 school district or road district in his county; also, to
3 prosecute all suits in his county against railroad or
4 transportation companies, which may be prosecuted in the
5 name of the People of the State of Illinois.

6 (3) To commence and prosecute all actions and
7 proceedings brought by any county officer in his official
8 capacity.

9 (4) To defend all actions and proceedings brought
10 against his county, or against any county or State officer,
11 in his official capacity, within his county.

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

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

19 (7) To give his opinion, without fee or reward, to any
20 county officer in his county, upon any question or law
21 relating to any criminal or other matter, in which the
22 people or the county may be concerned.

23 (8) To assist the attorney general whenever it may be
24 necessary, and in cases of appeal from his county to the
25 Supreme Court, to which it is the duty of the attorney
26 general to attend, he shall furnish the attorney general at

1 least 10 days before such is due to be filed, a manuscript
2 of a proposed statement, brief and argument to be printed
3 and filed on behalf of the people, prepared in accordance
4 with the rules of the Supreme Court. However, if such
5 brief, argument or other document is due to be filed by law
6 or order of court within this 10 day period, then the
7 State's attorney shall furnish such as soon as may be
8 reasonable.

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

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

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

17 (12) To appear in all proceedings by collectors of
18 taxes against delinquent taxpayers for judgments to sell
19 real estate, and see that all the necessary preliminary
20 steps have been legally taken to make the judgment legal
21 and binding.

22 (b) The State's Attorney of each county shall have
23 authority to appoint one or more special investigators to serve
24 subpoenas, make return of process and conduct investigations
25 which assist the State's Attorney in the performance of his
26 duties. A special investigator shall not carry firearms except

1 with permission of the State's Attorney and only while carrying
2 appropriate identification indicating his employment and in
3 the performance of his assigned duties.

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

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

20 Before a person is appointed as a special investigator, his
21 fingerprints shall be taken and transmitted to the Department
22 of State Police. The Department shall examine its records and
23 submit to the State's Attorney of the county in which the
24 investigator seeks appointment any conviction information
25 concerning the person on file with the Department. No person
26 shall be appointed as a special investigator if he has been

1 convicted of a felony or other offense involving moral
2 turpitude. A special investigator shall be paid a salary and be
3 reimbursed for actual expenses incurred in performing his
4 assigned duties. The county board shall approve the salary and
5 actual expenses and appropriate the salary and expenses in the
6 manner prescribed by law or ordinance.

7 (c) The State's Attorney may request and receive from
8 employers, labor unions, telephone companies, and utility
9 companies location information concerning putative fathers and
10 noncustodial parents for the purpose of establishing a child's
11 paternity or establishing, enforcing, or modifying a child
12 support obligation. In this subsection, "location information"
13 means information about (i) the physical whereabouts of a
14 putative father or noncustodial parent, (ii) the putative
15 father or noncustodial parent's employer, or (iii) the salary,
16 wages, and other compensation paid and the health insurance
17 coverage provided to the putative father or noncustodial parent
18 by the employer of the putative father or noncustodial parent
19 or by a labor union of which the putative father or
20 noncustodial parent is a member.

21 (d) (Blank) ~~For each State fiscal year, the State's~~
22 ~~Attorney of Cook County shall appear before the General~~
23 ~~Assembly and request appropriations to be made from the Capital~~
24 ~~Litigation Trust Fund to the State Treasurer for the purpose of~~
25 ~~providing assistance in the prosecution of capital cases in~~
26 ~~Cook County and for the purpose of providing assistance to the~~

1 ~~State in post-conviction proceedings in capital cases under~~
2 ~~Article 122 of the Code of Criminal Procedure of 1963 and in~~
3 ~~relation to petitions filed under Section 2-1401 of the Code of~~
4 ~~Civil Procedure in relation to capital cases. The State's~~
5 ~~Attorney may appear before the General Assembly at other times~~
6 ~~during the State's fiscal year to request supplemental~~
7 ~~appropriations from the Trust Fund to the State Treasurer.~~

8 (e) The State's Attorney shall have the authority to enter
9 into a written agreement with the Department of Revenue for
10 pursuit of civil liability under Section 17-1a of the Criminal
11 Code of 1961 against persons who have issued to the Department
12 checks or other orders in violation of the provisions of
13 paragraph (d) of subsection (B) of Section 17-1 of the Criminal
14 Code of 1961, with the Department to retain the amount owing
15 upon the dishonored check or order along with the dishonored
16 check fee imposed under the Uniform Penalty and Interest Act,
17 with the balance of damages, fees, and costs collected under
18 Section 17-1a of the Criminal Code of 1961 to be retained by
19 the State's Attorney. The agreement shall not affect the
20 allocation of fines and costs imposed in any criminal
21 prosecution.

22 (Source: P.A. 92-492, eff. 1-1-02; 93-972, eff. 8-20-04.)

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

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

1 Section 25. The School Code is amended by changing Section
2 21-23b as follows:

3 (105 ILCS 5/21-23b) (from Ch. 122, par. 21-23b)
4 Sec. 21-23b. Conviction of felony.

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

16 (b) Whenever the State Board of Education receives notice
17 of a conviction under subsection (a) or otherwise learns that
18 any person who is a "teacher" as that term is defined in
19 Section 16-106 of the Illinois Pension Code has been convicted,
20 either after a bench trial, trial by jury, or plea of guilty,
21 of any offense for which a sentence to ~~death~~ or a term of
22 imprisonment in a penitentiary for one year or more is
23 provided, the State Board of Education shall promptly notify in
24 writing the board of trustees of the Teachers' Retirement

1 System of the State of Illinois and the board of trustees of
2 the Public School Teachers' Pension and Retirement Fund of the
3 City of Chicago of the name of the certificate holder or
4 teacher, the fact of the conviction, the name and location of
5 the court in which the conviction occurred, and the number
6 assigned in that court to the case in which the conviction
7 occurred.

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

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

11 (305 ILCS 5/1-8)

12 Sec. 1-8. Fugitives ineligible.

13 (a) The following persons are not eligible for aid under
14 this Code, or federal food stamps or federal food stamp
15 benefits:

16 (1) A person who has fled from the jurisdiction of any
17 court of record of this or any other state or of the United
18 States to avoid prosecution for a felony or to avoid giving
19 testimony in any criminal proceeding involving the alleged
20 commission of a felony.

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

24 (3) A person who has escaped from a correctional

1 facility of this or any other state or the United States if
2 the person was incarcerated for having committed a felony.

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

5 In this Section, "felony" means a violation of a penal
6 statute of this State for which a sentence to a term of
7 imprisonment in a penitentiary for one year or more is provided
8 or a violation of a penal statute of ~~or~~ any other state or the
9 United States for which a sentence to death or to a term of
10 imprisonment in a penitentiary for one year or more is
11 provided.

12 To implement this Section, the Illinois Department may
13 exchange necessary information with an appropriate law
14 enforcement agency of this or any other state, a political
15 subdivision of this or any other state, or the United States.

16 (b) (Blank).

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

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

21 (720 ILCS 5/2-7) (from Ch. 38, par. 2-7)

22 Sec. 2-7. "Felony".

23 "Felony" means an offense for which a sentence to ~~death or~~
24 ~~to~~ a term of imprisonment in a penitentiary for one year or

1 more is provided.

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

3 (720 ILCS 5/7-10) (from Ch. 38, par. 7-10)

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

5 A public officer who, in the exercise of his official duty,
6 puts a person to death pursuant to a sentence of a court of
7 competent jurisdiction made before the effective date of this
8 amendatory Act of the 95th General Assembly, is justified if he
9 acts in accordance with the sentence pronounced and the law
10 prescribing the procedure for execution of a death sentence.

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

12 (720 ILCS 5/9-1) (from Ch. 38, par. 9-1)

13 Sec. 9-1. First degree Murder ~~—Death penalties—~~
14 ~~Exceptions—Separate Hearings—Proof—Findings—Appellate~~
15 ~~procedures—Reversals.~~

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

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

22 (2) he knows that such acts create a strong probability
23 of death or great bodily harm to that individual or
24 another; or

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

3 (b) Aggravating Factors. A defendant who at the time of the
4 commission of the offense has attained the age of 18 or more
5 and who has been found guilty of first degree murder may be
6 sentenced to a term of natural life imprisonment ~~death~~ if:

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

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

24 (3) the defendant has been convicted of murdering two
25 or more individuals under subsection (a) of this Section or
26 under any law of the United States or of any state which is

1 substantially similar to subsection (a) of this Section
2 regardless of whether the deaths occurred as the result of
3 the same act or of several related or unrelated acts so
4 long as the deaths were the result of either an intent to
5 kill more than one person or of separate acts which the
6 defendant knew would cause death or create a strong
7 probability of death or great bodily harm to the murdered
8 individual or another; or

9 (4) the murdered individual was killed as a result of
10 the hijacking of an airplane, train, ship, bus or other
11 public conveyance; or

12 (5) the defendant committed the murder pursuant to a
13 contract, agreement or understanding by which he was to
14 receive money or anything of value in return for committing
15 the murder or procured another to commit the murder for
16 money or anything of value; or

17 (6) the murdered individual was killed in the course of
18 another felony if:

19 (a) the murdered individual:

20 (i) was actually killed by the defendant, or

21 (ii) received physical injuries personally
22 inflicted by the defendant substantially
23 contemporaneously with physical injuries caused by
24 one or more persons for whose conduct the defendant
25 is legally accountable under Section 5-2 of this
26 Code, and the physical injuries inflicted by

1 either the defendant or the other person or persons
2 for whose conduct he is legally accountable caused
3 the death of the murdered individual; and

4 (b) in performing the acts which caused the death
5 of the murdered individual or which resulted in
6 physical injuries personally inflicted by the
7 defendant on the murdered individual under the
8 circumstances of subdivision (ii) of subparagraph (a)
9 of paragraph (6) of subsection (b) of this Section, the
10 defendant acted with the intent to kill the murdered
11 individual or with the knowledge that his acts created
12 a strong probability of death or great bodily harm to
13 the murdered individual or another; and

14 (c) the other felony was an inherently violent
15 crime or the attempt to commit an inherently violent
16 crime. In this subparagraph (c), "inherently violent
17 crime" includes, but is not limited to, armed robbery,
18 robbery, predatory criminal sexual assault of a child,
19 aggravated criminal sexual assault, aggravated
20 kidnapping, aggravated vehicular hijacking, aggravated
21 arson, aggravated stalking, residential burglary, and
22 home invasion; or

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

26 (8) the defendant committed the murder with intent to

1 prevent the murdered individual from testifying or
2 participating in any criminal investigation or prosecution
3 or giving material assistance to the State in any
4 investigation or prosecution, either against the defendant
5 or another; or the defendant committed the murder because
6 the murdered individual was a witness in any prosecution or
7 gave material assistance to the State in any investigation
8 or prosecution, either against the defendant or another;
9 for purposes of this paragraph (8), "participating in any
10 criminal investigation or prosecution" is intended to
11 include those appearing in the proceedings in any capacity
12 such as trial judges, prosecutors, defense attorneys,
13 investigators, witnesses, or jurors; or

14 (9) the defendant, while committing an offense
15 punishable under Sections 401, 401.1, 401.2, 405, 405.2,
16 407 or 407.1 or subsection (b) of Section 404 of the
17 Illinois Controlled Substances Act, or while engaged in a
18 conspiracy or solicitation to commit such offense,
19 intentionally killed an individual or counseled,
20 commanded, induced, procured or caused the intentional
21 killing of the murdered individual; or

22 (10) the defendant was incarcerated in an institution
23 or facility of the Department of Corrections at the time of
24 the murder, and while committing an offense punishable as a
25 felony under Illinois law, or while engaged in a conspiracy
26 or solicitation to commit such offense, intentionally

1 killed an individual or counseled, commanded, induced,
2 procured or caused the intentional killing of the murdered
3 individual; or

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

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

24 (13) the defendant was a principal administrator,
25 organizer, or leader of a calculated criminal drug
26 conspiracy consisting of a hierarchical position of

1 authority superior to that of all other members of the
2 conspiracy, and the defendant counseled, commanded,
3 induced, procured, or caused the intentional killing of the
4 murdered person; or

5 (14) the murder was intentional and involved the
6 infliction of torture. For the purpose of this Section
7 torture means the infliction of or subjection to extreme
8 physical pain, motivated by an intent to increase or
9 prolong the pain, suffering or agony of the victim; or

10 (15) the murder was committed as a result of the
11 intentional discharge of a firearm by the defendant from a
12 motor vehicle and the victim was not present within the
13 motor vehicle; or

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

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

25 (18) the murder was committed by reason of any person's
26 activity as a community policing volunteer or to prevent

1 any person from engaging in activity as a community
2 policing volunteer; or

3 (19) the murdered individual was subject to an order of
4 protection and the murder was committed by a person against
5 whom the same order of protection was issued under the
6 Illinois Domestic Violence Act of 1986; or

7 (20) the murdered individual was known by the defendant
8 to be a teacher or other person employed in any school and
9 the teacher or other employee is upon the grounds of a
10 school or grounds adjacent to a school, or is in any part
11 of a building used for school purposes; or

12 (21) the murder was committed by the defendant in
13 connection with or as a result of the offense of terrorism
14 as defined in Section 29D-30 of this Code.

15 (c) (Blank). ~~Consideration of factors in Aggravation and~~
16 ~~Mitigation.~~

17 ~~The court shall consider, or shall instruct the jury to~~
18 ~~consider any aggravating and any mitigating factors which are~~
19 ~~relevant to the imposition of the death penalty. Aggravating~~
20 ~~factors may include but need not be limited to those factors~~
21 ~~set forth in subsection (b). Mitigating factors may include but~~
22 ~~need not be limited to the following:~~

23 ~~(1) the defendant has no significant history of prior~~
24 ~~criminal activity;~~

25 ~~(2) the murder was committed while the defendant was~~
26 ~~under the influence of extreme mental or emotional~~

1 ~~disturbance, although not such as to constitute a defense~~
2 ~~to prosecution;~~

3 ~~(3) the murdered individual was a participant in the~~
4 ~~defendant's homicidal conduct or consented to the~~
5 ~~homicidal act;~~

6 ~~(4) the defendant acted under the compulsion of threat~~
7 ~~or menace of the imminent infliction of death or great~~
8 ~~bodily harm;~~

9 ~~(5) the defendant was not personally present during~~
10 ~~commission of the act or acts causing death;~~

11 ~~(6) the defendant's background includes a history of~~
12 ~~extreme emotional or physical abuse;~~

13 ~~(7) the defendant suffers from a reduced mental~~
14 ~~capacity.~~

15 (d) (Blank). ~~Separate sentencing hearing.~~

16 ~~Where requested by the State, the court shall conduct a~~
17 ~~separate sentencing proceeding to determine the existence of~~
18 ~~factors set forth in subsection (b) and to consider any~~
19 ~~aggravating or mitigating factors as indicated in subsection~~
20 ~~(c). The proceeding shall be conducted:~~

21 ~~(1) before the jury that determined the defendant's~~
22 ~~guilt; or~~

23 ~~(2) before a jury impanelled for the purpose of the~~
24 ~~proceeding if:~~

25 ~~A. the defendant was convicted upon a plea of~~
26 ~~guilty; or~~

1 ~~B. the defendant was convicted after a trial before~~
2 ~~the court sitting without a jury; or~~

3 ~~C. the court for good cause shown discharges the~~
4 ~~jury that determined the defendant's guilt; or~~

5 ~~(3) before the court alone if the defendant waives a~~
6 ~~jury for the separate proceeding.~~

7 (e) (Blank). ~~Evidence and Argument.~~

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

18 (f) (Blank). ~~Proof.~~

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

23 (g) (Blank). ~~Procedure — Jury.~~

24 ~~If at the separate sentencing proceeding the jury finds~~
25 ~~that none of the factors set forth in subsection (b) exists,~~
26 ~~the court shall sentence the defendant to a term of~~

1 ~~imprisonment under Chapter V of the Unified Code of~~
2 ~~Corrections. If there is a unanimous finding by the jury that~~
3 ~~one or more of the factors set forth in subsection (b) exist,~~
4 ~~the jury shall consider aggravating and mitigating factors as~~
5 ~~instructed by the court and shall determine whether the~~
6 ~~sentence of death shall be imposed. If the jury determines~~
7 ~~unanimously, after weighing the factors in aggravation and~~
8 ~~mitigation, that death is the appropriate sentence, the court~~
9 ~~shall sentence the defendant to death. If the court does not~~
10 ~~concur with the jury determination that death is the~~
11 ~~appropriate sentence, the court shall set forth reasons in~~
12 ~~writing including what facts or circumstances the court relied~~
13 ~~upon, along with any relevant documents, that compelled the~~
14 ~~court to non concur with the sentence. This document and any~~
15 ~~attachments shall be part of the record for appellate review.~~
16 ~~The court shall be bound by the jury's sentencing~~
17 ~~determination.~~

18 ~~If after weighing the factors in aggravation and~~
19 ~~mitigation, one or more jurors determines that death is not the~~
20 ~~appropriate sentence, the court shall sentence the defendant to~~
21 ~~a term of imprisonment under Chapter V of the Unified Code of~~
22 ~~Corrections.~~

23 (h) (Blank). Procedure — No Jury.

24 ~~In a proceeding before the court alone, if the court finds~~
25 ~~that none of the factors found in subsection (b) exists, the~~
26 ~~court shall sentence the defendant to a term of imprisonment~~

1 ~~under Chapter V of the Unified Code of Corrections.~~

2 ~~If the Court determines that one or more of the factors set~~
3 ~~forth in subsection (b) exists, the Court shall consider any~~
4 ~~aggravating and mitigating factors as indicated in subsection~~
5 ~~(c). If the Court determines, after weighing the factors in~~
6 ~~aggravation and mitigation, that death is the appropriate~~
7 ~~sentence, the Court shall sentence the defendant to death.~~

8 ~~If the court finds that death is not the appropriate~~
9 ~~sentence, the court shall sentence the defendant to a term of~~
10 ~~imprisonment under Chapter V of the Unified Code of~~
11 ~~Corrections.~~

12 (h-5) (Blank). ~~Decertification as a capital case.~~

13 ~~In a case in which the defendant has been found guilty of~~
14 ~~first degree murder by a judge or jury, or a case on remand for~~
15 ~~resentencing, and the State seeks the death penalty as an~~
16 ~~appropriate sentence, on the court's own motion or the written~~
17 ~~motion of the defendant, the court may decertify the case as a~~
18 ~~death penalty case if the court finds that the only evidence~~
19 ~~supporting the defendant's conviction is the uncorroborated~~
20 ~~testimony of an informant witness, as defined in Section 115-21~~
21 ~~of the Code of Criminal Procedure of 1963, concerning the~~
22 ~~confession or admission of the defendant or that the sole~~
23 ~~evidence against the defendant is a single eyewitness or single~~
24 ~~accomplice without any other corroborating evidence. If the~~
25 ~~court decertifies the case as a capital case under either of~~
26 ~~the grounds set forth above, the court shall issue a written~~

1 ~~finding. The State may pursue its right to appeal the~~
2 ~~decertification pursuant to Supreme Court Rule 604(a)(1). If~~
3 ~~the court does not decertify the case as a capital case, the~~
4 ~~matter shall proceed to the eligibility phase of the sentencing~~
5 ~~hearing.~~

6 (i) (Blank). ~~Appellate Procedure.~~

7 ~~The conviction and sentence of death shall be subject to~~
8 ~~automatic review by the Supreme Court. Such review shall be in~~
9 ~~accordance with rules promulgated by the Supreme Court. The~~
10 ~~Illinois Supreme Court may overturn the death sentence, and~~
11 ~~order the imposition of imprisonment under Chapter V of the~~
12 ~~Unified Code of Corrections if the court finds that the death~~
13 ~~sentence is fundamentally unjust as applied to the particular~~
14 ~~case. If the Illinois Supreme Court finds that the death~~
15 ~~sentence is fundamentally unjust as applied to the particular~~
16 ~~case, independent of any procedural grounds for relief, the~~
17 ~~Illinois Supreme Court shall issue a written opinion explaining~~
18 ~~this finding.~~

19 (j) (Blank). ~~Disposition of reversed death sentence.~~

20 ~~In the event that the death penalty in this Act is held to~~
21 ~~be unconstitutional by the Supreme Court of the United States~~
22 ~~or of the State of Illinois, any person convicted of first~~
23 ~~degree murder shall be sentenced by the court to a term of~~
24 ~~imprisonment under Chapter V of the Unified Code of~~
25 ~~Corrections.~~

26 ~~In the event that any death sentence pursuant to the~~

1 ~~sentencing provisions of this Section is declared~~
2 ~~unconstitutional by the Supreme Court of the United States or~~
3 ~~of the State of Illinois, the court having jurisdiction over a~~
4 ~~person previously sentenced to death shall cause the defendant~~
5 ~~to be brought before the court, and the court shall sentence~~
6 ~~the defendant to a term of imprisonment under Chapter V of the~~
7 ~~Unified Code of Corrections.~~

8 (k) (Blank). ~~Guidelines for seeking the death penalty.~~

9 The Attorney General and State's Attorneys Association
10 shall consult on voluntary guidelines for procedures governing
11 whether or not to seek the death penalty. The guidelines do not
12 have the force of law and are only advisory in nature.

13 (Source: P.A. 92-854, eff. 12-5-02; 93-605, eff. 11-19-03.)

14 (720 ILCS 5/9-1.2) (from Ch. 38, par. 9-1.2)

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

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

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

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

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

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

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

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

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

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

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

23 (4) if, during the commission of the offense, the
24 person personally discharged a firearm that proximately
25 caused great bodily harm, permanent disability, permanent
26 disfigurement, or death to another person, 25 years or up

1 to a term of natural life shall be added to the term of
2 imprisonment imposed by the court.

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

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

7 (720 ILCS 5/30-1) (from Ch. 38, par. 30-1)

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

10 (1) Levies war against this State; or

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

13 (b) No person may be convicted of treason except on the
14 testimony of 2 witnesses to the same overt act, or on his
15 confession in open court.

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

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

20 (720 ILCS 5/33B-1) (from Ch. 38, par. 33B-1)

21 Sec. 33B-1. (a) Every person who has been twice convicted
22 in any state or federal court of an offense that contains the
23 same elements as an offense now classified in Illinois as a
24 Class X felony, criminal sexual assault, aggravated kidnapping

1 or first degree murder, and is thereafter convicted of a Class
2 X felony, criminal sexual assault or first degree murder,
3 committed after the 2 prior convictions, shall be adjudged an
4 habitual criminal.

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

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

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

13 (1) the third offense was committed after the effective
14 date of this Act;

15 (2) the third offense was committed within 20 years of
16 the date that judgment was entered on the first conviction,
17 provided, however, that time spent in custody shall not be
18 counted;

19 (3) the third offense was committed after conviction on
20 the second offense;

21 (4) the second offense was committed after conviction
22 on the first offense.

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

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

1 Section 40. The Cannabis Control Act is amended by changing
2 Section 9 as follows:

3 (720 ILCS 550/9) (from Ch. 56 1/2, par. 709)

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

16 (b) For purposes of this section, a person engages in a
17 calculated criminal cannabis conspiracy when:

18 (1) he violates Section 4 (d), 4 (e), 5 (d), 5 (e), 8 (c) or
19 8 (d) of this Act; and

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

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

24 (c) Any person who is convicted under this Section of

1 engaging in a calculated criminal cannabis conspiracy shall
2 forfeit to the State of Illinois:

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

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

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

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

14 Section 45. The Code of Criminal Procedure of 1963 is
15 amended by changing Sections 104-26, 113-3, 114-5, 115-4,
16 115-4.1, 116-4, 119-5, 121-13, 122-1, 122-2.1, and 122-4 as
17 follows:

18 (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

19 Sec. 104-26. Disposition of Defendants suffering
20 disabilities.

21 (a) A defendant convicted following a trial conducted under
22 the provisions of Section 104-22 shall not be sentenced before
23 a written presentence report of investigation is presented to
24 and considered by the court. The presentence report shall be

1 prepared pursuant to Sections 5-3-2, 5-3-3 and 5-3-4 of the
2 Unified Code of Corrections, as now or hereafter amended, and
3 shall include a physical and mental examination unless the
4 court finds that the reports of prior physical and mental
5 examinations conducted pursuant to this Article are adequate
6 and recent enough so that additional examinations would be
7 unnecessary.

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

10 (c) A defendant convicted following a trial under Section
11 104-22 shall be sentenced according to the procedures and
12 dispositions authorized under the Unified Code of Corrections,
13 as now or hereafter amended, subject to the following
14 provisions:

15 (1) The court shall not impose a sentence of
16 imprisonment upon the offender if the court believes that
17 because of his disability a sentence of imprisonment would
18 not serve the ends of justice and the interests of society
19 and the offender or that because of his disability a
20 sentence of imprisonment would subject the offender to
21 excessive hardship. In addition to any other conditions of
22 a sentence of conditional discharge or probation the court
23 may require that the offender undergo treatment
24 appropriate to his mental or physical condition.

25 (2) After imposing a sentence of imprisonment upon an
26 offender who has a mental disability, the court may remand

1 him to the custody of the Department of Human Services and
2 order a hearing to be conducted pursuant to the provisions
3 of the Mental Health and Developmental Disabilities Code,
4 as now or hereafter amended. If the offender is committed
5 following such hearing, he shall be treated in the same
6 manner as any other civilly committed patient for all
7 purposes except as provided in this Section. If the
8 defendant is not committed pursuant to such hearing, he
9 shall be remanded to the sentencing court for disposition
10 according to the sentence imposed.

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

17 (4) If the court imposes a sentence of imprisonment
18 upon an offender who has a physical disability, it may
19 authorize the Department of Corrections to place the
20 offender in a public or private facility which is able to
21 provide care or treatment for the offender's disability and
22 which agrees to do so.

23 (5) When an offender is placed with the Department of
24 Human Services or another facility pursuant to
25 subparagraph (2) or (4) of this paragraph (c), the
26 Department or private facility shall not discharge or allow

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

18 (6) The Department of Corrections shall notify the
19 Department of Human Services or a facility in which an
20 offender has been placed pursuant to subparagraph (2) or
21 (4) of paragraph (c) of this Section of the expiration of
22 his sentence. Thereafter, an offender in the Department of
23 Human Services shall continue to be treated pursuant to his
24 commitment order and shall be considered a civilly
25 committed patient for all purposes including discharge. An
26 offender who is in a facility pursuant to subparagraph (4)

1 of paragraph (c) of this Section shall be informed by the
2 facility of the expiration of his sentence, and shall
3 either consent to the continuation of his care or treatment
4 by the facility or shall be discharged.

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

6 (725 ILCS 5/113-3) (from Ch. 38, par. 113-3)

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

16 (b) In all cases, except where the penalty is a fine only,
17 if the court determines that the defendant is indigent and
18 desires counsel, the Public Defender shall be appointed as
19 counsel. If there is no Public Defender in the county or if the
20 defendant requests counsel other than the Public Defender and
21 the court finds that the rights of the defendant will be
22 prejudiced by the appointment of the Public Defender, the court
23 shall appoint as counsel a licensed attorney at law of this
24 State, except that in a county having a population of 2,000,000
25 ~~1,000,000~~ or more the Public Defender shall be appointed as

1 counsel in all misdemeanor cases where the defendant is
2 indigent and desires counsel unless the case involves multiple
3 defendants, in which case the court may appoint counsel other
4 than the Public Defender for the additional defendants. The
5 court shall require an affidavit signed by any defendant who
6 requests court-appointed counsel. Such affidavit shall be in
7 the form established by the Supreme Court containing sufficient
8 information to ascertain the assets and liabilities of that
9 defendant. The Court may direct the Clerk of the Circuit Court
10 to assist the defendant in the completion of the affidavit. Any
11 person who knowingly files such affidavit containing false
12 information concerning his assets and liabilities shall be
13 liable to the county where the case, in which such false
14 affidavit is filed, is pending for the reasonable value of the
15 services rendered by the public defender or other
16 court-appointed counsel in the case to the extent that such
17 services were unjustly or falsely procured.

18 (c) Upon the filing with the court of a verified statement
19 of services rendered the court shall order the county treasurer
20 of the county of trial to pay counsel other than the Public
21 Defender a reasonable fee. The court shall consider all
22 relevant circumstances, including but not limited to the time
23 spent while court is in session, other time spent in
24 representing the defendant, and expenses reasonably incurred
25 by counsel. In counties with a population greater than
26 2,000,000, the court shall order the county treasurer of the

1 county of trial to pay counsel other than the Public Defender a
2 reasonable fee stated in the order and based upon a rate of
3 compensation of not more than \$40 for each hour spent while
4 court is in session and not more than \$30 for each hour
5 otherwise spent representing a defendant, and such
6 compensation shall not exceed \$150 for each defendant
7 represented in misdemeanor cases and \$1250 in felony cases, in
8 addition to expenses reasonably incurred as hereinafter in this
9 Section provided, except that, in extraordinary circumstances,
10 payment in excess of the limits herein stated may be made if
11 the trial court certifies that such payment is necessary to
12 provide fair compensation for protracted representation. A
13 trial court may entertain the filing of this verified statement
14 before the termination of the cause, and may order the
15 provisional payment of sums during the pendency of the cause.

16 (d) (Blank). ~~In capital cases, in addition to counsel, if~~
17 ~~the court determines that the defendant is indigent the court~~
18 ~~may, upon the filing with the court of a verified statement of~~
19 ~~services rendered, order the county Treasurer of the county of~~
20 ~~trial to pay necessary expert witnesses for defendant~~
21 ~~reasonable compensation stated in the order not to exceed \$250~~
22 ~~for each defendant.~~

23 (e) If the court in any county having a population greater
24 than 2,000,000 ~~1,000,000~~ determines that the defendant is
25 indigent the court may, upon the filing with the court of a
26 verified statement of such expenses, order the county treasurer

1 of the county of trial, in such counties having a population
2 greater than 2,000,000 ~~1,000,000~~ to pay the general expenses of
3 the trial incurred by the defendant not to exceed \$50 for each
4 defendant.

5 (f) (Blank). ~~The provisions of this Section relating to~~
6 ~~appointment of counsel, compensation of counsel, and payment of~~
7 ~~expenses in capital cases apply except when the compensation~~
8 ~~and expenses are being provided under the Capital Crimes~~
9 ~~Litigation Act.~~

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

11 (725 ILCS 5/114-5) (from Ch. 38, par. 114-5)

12 Sec. 114-5. Substitution of judge.

13 (a) Within 10 days after a cause involving only one
14 defendant has been placed on the trial call of a judge the
15 defendant may move the court in writing for a substitution of
16 that judge on the ground that such judge is so prejudiced
17 against him that he cannot receive a fair trial. Upon the
18 filing of such a motion the court shall proceed no further in
19 the cause but shall transfer it to another judge not named in
20 the motion. The defendant may name only one judge as
21 prejudiced, pursuant to this subsection; provided, however,
22 that in a case in which the offense charged is a Class X felony
23 or may be punished by ~~death or~~ life imprisonment, the defendant
24 may name two judges as prejudiced.

25 (b) Within 24 hours after a motion is made for substitution

1 of judge in a cause with multiple defendants each defendant
2 shall have the right to move in accordance with subsection (a)
3 of this Section for a substitution of one judge. The total
4 number of judges named as prejudiced by all defendants shall
5 not exceed the total number of defendants. The first motion for
6 substitution of judge in a cause with multiple defendants shall
7 be made within 10 days after the cause has been placed on the
8 trial call of a judge.

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

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

1 the motion.

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

3 (725 ILCS 5/115-4) (from Ch. 38, par. 115-4)

4 Sec. 115-4. Trial by Court and Jury.) (a) Questions of law
5 shall be decided by the court and questions of fact by the
6 jury.

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

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

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

14 (e) A defendant tried alone shall be allowed ~~20 peremptory~~
15 ~~challenges in a capital case,~~ 10 peremptory challenges in a
16 case in which the punishment may be imprisonment in the
17 penitentiary⁷ and 5 in all other cases; except that, in a
18 single trial of more than one defendant, each defendant shall
19 be allowed ~~12 peremptory challenges in a capital case,~~ 6
20 peremptory challenges in a case in which the punishment may be
21 imprisonment in the penitentiary⁷ and 3 in all other cases. If
22 several charges against a defendant or defendants are
23 consolidated for trial, each defendant shall be allowed
24 peremptory challenges upon one charge only, which single charge
25 shall be the charge against that defendant authorizing the

1 greatest maximum penalty. The State shall be allowed the same
2 number of peremptory challenges as all of the defendants.

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

6 (g) After the jury is impaneled and sworn the court may
7 direct the selection of 2 alternate jurors who shall take the
8 same oath as the regular jurors. Each party shall have one
9 additional peremptory challenge for each alternate juror. If
10 before the final submission of a cause a member of the jury
11 dies or is discharged he shall be replaced by an alternate
12 juror in the order of selection.

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

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

18 (j) Unless the affirmative defense of insanity has been
19 presented during the trial, the jury shall return a general
20 verdict as to each offense charged. When the affirmative
21 defense of insanity has been presented during the trial, the
22 court shall provide the jury not only with general verdict
23 forms but also with a special verdict form of not guilty by
24 reason of insanity, as to each offense charged, and in such
25 event the court shall separately instruct the jury that a
26 special verdict of not guilty by reason of insanity may be

1 returned instead of a general verdict but such special verdict
2 requires a unanimous finding by the jury that the defendant
3 committed the acts charged but at the time of the commission of
4 those acts the defendant was insane. In the event of a verdict
5 of not guilty by reason of insanity, a hearing shall be held
6 pursuant to the Mental Health and Developmental Disabilities
7 Code to determine whether the defendant is subject to
8 involuntary admission. When the affirmative defense of
9 insanity has been presented during the trial, the court, where
10 warranted by the evidence, shall also provide the jury with a
11 special verdict form of guilty but mentally ill, as to each
12 offense charged and shall separately instruct the jury that a
13 special verdict of guilty but mentally ill may be returned
14 instead of a general verdict, but that such special verdict
15 requires a unanimous finding by the jury that: (1) the State
16 has proven beyond a reasonable doubt that the defendant is
17 guilty of the offense charged; and (2) the defendant has failed
18 to prove his insanity as required in subsection (b) of Section
19 3-2 of the Criminal Code of 1961, as amended, and subsections
20 (a), (b) and (e) of Section 6-2 of the Criminal Code of 1961,
21 as amended; and (3) the defendant has proven by a preponderance
22 of the evidence that he was mentally ill, as defined in
23 subsections (c) and (d) of Section 6-2 of the Criminal Code of
24 1961, as amended, at the time of the offense.

25 (k) When, at the close of the State's evidence or at the
26 close of all of the evidence, the evidence is insufficient to

1 support a finding or verdict of guilty the court may and on
2 motion of the defendant shall make a finding or direct the jury
3 to return a verdict of not guilty, enter a judgment of
4 acquittal and discharge the defendant.

5 (l) When the jury retires to consider its verdict an
6 officer of the court shall be appointed to keep them together
7 and to prevent conversation between the jurors and others;
8 however, if any juror is deaf, the jury may be accompanied by
9 and may communicate with a court-appointed interpreter during
10 its deliberations. Upon agreement between the State and
11 defendant or his counsel the jury may seal and deliver its
12 verdict to the clerk of the court, separate, and then return
13 such verdict in open court at its next session.

14 (m) In the trial of an ~~a capital or other~~ offense, any
15 juror who is a member of a panel or jury which has been
16 impaneled and sworn as a panel or as a jury shall be permitted
17 to separate from other such jurors during every period of
18 adjournment to a later day, until final submission of the cause
19 to the jury for determination, except that no such separation
20 shall be permitted in any trial after the court, upon motion by
21 the defendant or the State or upon its own motion, finds a
22 probability that prejudice to the defendant or to the State
23 will result from such separation.

24 (n) The members of the jury shall be entitled to take notes
25 during the trial, and the sheriff of the county in which the
26 jury is sitting shall provide them with writing materials for

1 this purpose. Such notes shall remain confidential, and shall
2 be destroyed by the sheriff after the verdict has been returned
3 or a mistrial declared.

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

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

8 (725 ILCS 5/115-4.1) (from Ch. 38, par. 115-4.1)

9 Sec. 115-4.1. Absence of defendant.

10 (a) When a defendant after arrest and an initial court
11 appearance for a ~~non-capital~~ felony or a misdemeanor, fails to
12 appear for trial, at the request of the State and after the
13 State has affirmatively proven through substantial evidence
14 that the defendant is willfully avoiding trial, the court may
15 commence trial in the absence of the defendant. Absence of a
16 defendant as specified in this Section shall not be a bar to
17 indictment of a defendant, return of information against a
18 defendant, or arraignment of a defendant for the charge for
19 which bail has been granted. If a defendant fails to appear at
20 arraignment, the court may enter a plea of "not guilty" on his
21 behalf. ~~If a defendant absents himself before trial on a~~
22 ~~capital felony, trial may proceed as specified in this Section~~
23 ~~provided that the State certifies that it will not seek a death~~
24 ~~sentence following conviction.~~ Trial in the defendant's
25 absence shall be by jury unless the defendant had previously

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

24 (b) The absence of a defendant from a trial conducted
25 pursuant to this Section does not operate as a bar to
26 concluding the trial, to a judgment of conviction resulting

1 therefrom, or to a final disposition of the trial in favor of
2 the defendant.

3 (c) Upon a verdict of not guilty, the court shall enter
4 judgment for the defendant. Upon a verdict of guilty, the court
5 shall set a date for the hearing of post-trial motions and
6 shall hear such motion in the absence of the defendant. If
7 post-trial motions are denied, the court shall proceed to
8 conduct a sentencing hearing and to impose a sentence upon the
9 defendant.

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

13 (e) When a defendant who in his absence has been either
14 convicted or sentenced or both convicted and sentenced appears
15 before the court, he must be granted a new trial or new
16 sentencing hearing if the defendant can establish that his
17 failure to appear in court was both without his fault and due
18 to circumstances beyond his control. A hearing with notice to
19 the State's Attorney on the defendant's request for a new trial
20 or a new sentencing hearing must be held before any such
21 request may be granted. At any such hearing both the defendant
22 and the State may present evidence.

23 (f) If the court grants only the defendant's request for a
24 new sentencing hearing, then a new sentencing hearing shall be
25 held in accordance with the provisions of the Unified Code of
26 Corrections. At any such hearing, both the defendant and the

1 State may offer evidence of the defendant's conduct during his
2 period of absence from the court. The court may impose any
3 sentence authorized by the Unified Code of Corrections and is
4 not in any way limited or restricted by any sentence previously
5 imposed.

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

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

12 (725 ILCS 5/116-4)

13 Sec. 116-4. Preservation of evidence for forensic testing.

14 (a) Before or after the trial in a prosecution for a
15 violation of Section 12-13, 12-14, 12-14.1, 12-15, or 12-16 of
16 the Criminal Code of 1961 or in a prosecution for an offense
17 defined in Article 9 of that Code, or in a prosecution for an
18 attempt in violation of Section 8-4 of that Code of any of the
19 above-enumerated offenses, unless otherwise provided herein
20 under subsection (b) or (c), a law enforcement agency or an
21 agent acting on behalf of the law enforcement agency shall
22 preserve, subject to a continuous chain of custody, any
23 physical evidence in their possession or control that is
24 reasonably likely to contain forensic evidence, including, but
25 not limited to, fingerprints or biological material secured in

1 relation to a trial and with sufficient documentation to locate
2 that evidence.

3 (b) After a judgment of conviction is entered, the evidence
4 shall either be impounded with the Clerk of the Circuit Court
5 or shall be securely retained by a law enforcement agency.
6 Retention shall be permanent in cases where a sentence of
7 natural life imprisonment ~~death~~ is imposed. Retention shall be
8 until the completion of the sentence, including the period of
9 mandatory supervised release for the offense, or January 1,
10 2006, whichever is later, for any conviction for an offense or
11 an attempt of an offense defined in Article 9 of the Criminal
12 Code of 1961 or in Section 12-13, 12-14, 12-14.1, 12-15, or
13 12-16 of the Criminal Code of 1961 or for 7 years following any
14 conviction for any other felony for which the defendant's
15 genetic profile may be taken by a law enforcement agency and
16 submitted for comparison in a forensic DNA database for
17 unsolved offenses.

18 (c) After a judgment of conviction is entered, the law
19 enforcement agency required to retain evidence described in
20 subsection (a) may petition the court with notice to the
21 defendant or, in cases where the defendant has died, his
22 estate, his attorney of record, or an attorney appointed for
23 that purpose by the court for entry of an order allowing it to
24 dispose of evidence if, after a hearing, the court determines
25 by a preponderance of the evidence that:

26 (1) it has no significant value for forensic science

1 analysis and should be returned to its rightful owner,
2 destroyed, used for training purposes, or as otherwise
3 provided by law; or

4 (2) it has no significant value for forensic science
5 analysis and is of a size, bulk, or physical character not
6 usually retained by the law enforcement agency and cannot
7 practicably be retained by the law enforcement agency; or

8 (3) there no longer exists a reasonable basis to
9 require the preservation of the evidence because of the
10 death of the defendant; ~~however, this paragraph (3) does~~
11 ~~not apply if a sentence of death was imposed.~~

12 (d) The court may order the disposition of the evidence if
13 the defendant is allowed the opportunity to take reasonable
14 measures to remove or preserve portions of the evidence in
15 question for future testing.

16 (d-5) Any order allowing the disposition of evidence
17 pursuant to subsection (c) or (d) shall be a final and
18 appealable order. No evidence shall be disposed of until 30
19 days after the order is entered, and if a notice of appeal is
20 filed, no evidence shall be disposed of until the mandate has
21 been received by the circuit court from the appellate court.

22 (d-10) All records documenting the possession, control,
23 storage, and destruction of evidence and all police reports,
24 evidence control or inventory records, and other reports cited
25 in this Section, including computer records, must be retained
26 for as long as the evidence exists and may not be disposed of

1 without the approval of the Local Records Commission.

2 (e) In this Section, "law enforcement agency" includes any
3 of the following or an agent acting on behalf of any of the
4 following: a municipal police department, county sheriff's
5 office, any prosecuting authority, the Department of State
6 Police, or any other State, university, county, federal, or
7 municipal police unit or police force.

8 "Biological material" includes, but is not limited to, any
9 blood, hair, saliva, or semen from which genetic marker
10 groupings may be obtained.

11 (Source: P.A. 91-871, eff. 1-1-01; 92-459, eff. 8-22-01.)

12 (725 ILCS 5/119-5) (from Ch. 38, par. 119-5)

13 Sec. 119-5. ~~Execution of Death sentence abolished~~
14 ~~Sentence.~~ On or after the effective date of this amendatory Act
15 of the 95th General Assembly no person may be executed in this
16 State.

17 ~~(a)(1) A defendant sentenced to death shall be executed by~~
18 ~~an intravenous administration of a lethal quantity of an~~
19 ~~ultrashort-acting barbiturate in combination with a~~
20 ~~chemical paralytic agent and potassium chloride or other~~
21 ~~equally effective substances sufficient to cause death~~
22 ~~until death is pronounced by a coroner who is not a~~
23 ~~licensed physician.~~

24 ~~(2) If the execution of the sentence of death as~~
25 ~~provided in paragraph (1) is held illegal or~~

1 ~~unconstitutional by a reviewing court of competent~~
2 ~~jurisdiction, the sentence of death shall be carried out by~~
3 ~~electrocutation.~~

4 ~~(b) In pronouncing the sentence of death the court shall~~
5 ~~set the date of the execution which shall be not less than 60~~
6 ~~nor more than 90 days from the date sentence is pronounced.~~

7 ~~(c) A sentence of death shall be executed at a Department~~
8 ~~of Corrections facility.~~

9 ~~(d) The warden of the penitentiary shall supervise such~~
10 ~~execution, which shall be conducted in the presence of 6~~
11 ~~witnesses who shall certify the execution of the sentence. The~~
12 ~~certification shall be filed with the clerk of the court that~~
13 ~~imposed the sentence.~~

14 ~~(d 5) The Department of Corrections shall not request,~~
15 ~~require, or allow a health care practitioner licensed in~~
16 ~~Illinois, including but not limited to physicians and nurses,~~
17 ~~regardless of employment, to participate in an execution.~~

18 ~~(e) Except as otherwise provided in this subsection (e),~~
19 ~~the identity of executioners and other persons who participate~~
20 ~~or perform ancillary functions in an execution and information~~
21 ~~contained in records that would identify those persons shall~~
22 ~~remain confidential, shall not be subject to disclosure, and~~
23 ~~shall not be admissible as evidence or be discoverable in any~~
24 ~~action of any kind in any court or before any tribunal, board,~~
25 ~~agency, or person. In order to protect the confidentiality of~~
26 ~~persons participating in an execution, the Director of~~

1 ~~Corrections may direct that the Department make payments in~~
2 ~~cash for such services. In confidential investigations by the~~
3 ~~Department of Professional Regulation, the Department of~~
4 ~~Corrections shall disclose the names and license numbers of~~
5 ~~health care practitioners participating or performing~~
6 ~~ancillary functions in an execution to the Department of~~
7 ~~Professional Regulation and the Department of Professional~~
8 ~~Regulation shall forward those names and license numbers to the~~
9 ~~appropriate disciplinary boards.~~

10 ~~(f) The amendatory changes to this Section made by this~~
11 ~~amendatory Act of 1991 are severable under Section 1.31 of the~~
12 ~~Statute on Statutes.~~

13 ~~(g) (Blank).~~

14 ~~(h) Notwithstanding any other provision of law, any~~
15 ~~pharmaceutical supplier is authorized to dispense drugs to the~~
16 ~~Director of Corrections or his or her designee, without~~
17 ~~prescription, in order to carry out the provisions of this~~
18 ~~Section.~~

19 ~~(i) The amendatory changes to this Section made by this~~
20 ~~amendatory Act of the 93rd General Assembly are severable under~~
21 ~~Section 1.31 of the Statute on Statutes.~~

22 (Source: P.A. 93-379, eff. 7-24-03.)

23 (725 ILCS 5/121-13) (from Ch. 38, par. 121-13)

24 Sec. 121-13. Pauper Appeals.

25 (a) In any case wherein the defendant was convicted of a

1 felony, if the court determines that the defendant desires
2 counsel on appeal but is indigent the Public Defender or the
3 State Appellate Defender shall be appointed as counsel, unless
4 with the consent of the defendant and for good cause shown, the
5 court may appoint counsel other than the Public Defender or the
6 State Appellate Defender.

7 (b) In any case wherein the defendant was convicted of a
8 felony ~~and a sentence of death was not imposed~~ in the trial
9 court the reviewing court, upon petition of the defendant's
10 counsel made not more frequently than every 60 days after
11 appointment, shall determine a reasonable amount to be allowed
12 an indigent defendant's counsel other than the Public Defender
13 or the State Appellate Defender for compensation and
14 reimbursement of expenditures necessarily incurred in the
15 prosecution of the appeal or review proceedings. The
16 compensation shall not exceed \$1500 in each case, except that,
17 in extraordinary circumstances, payment in excess of the limits
18 herein stated may be made if the reviewing court certifies that
19 the payment is necessary to provide fair compensation for
20 protracted representation. The reviewing court shall enter an
21 order directing the county treasurer of the county where the
22 case was tried to pay the amount allowed by the court. The
23 reviewing court may order the provisional payment of sums
24 during the pendency of the cause.

25 (c) In any case in which a sentence of death was imposed in
26 the trial court before the effective date of this amendatory

1 Act of the 95th General Assembly, the Supreme Court, upon
2 written petition of the defendant's counsel made not more than
3 every 60 days after appointment, shall determine reasonable
4 compensation for an indigent defendant's attorneys on appeal.
5 The compensation shall not exceed \$2,000 in each case, except
6 that, in extraordinary circumstances, payment in excess of the
7 limits herein stated may be made if the reviewing court
8 certifies that the payment is necessary to provide fair
9 compensation for protracted representation. The Supreme Court
10 shall enter an order directing the county treasurer of the
11 county where the case was tried to pay compensation and
12 reimburse expenditures necessarily incurred in the prosecution
13 of the appeal or review proceedings. The Supreme Court may
14 order the provisional payment of sums during the pendency of
15 the cause.

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

17 (725 ILCS 5/122-1) (from Ch. 38, par. 122-1)

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

19 (a) Any person imprisoned in the penitentiary may institute
20 a proceeding under this Article if the person asserts that:

21 (1) in the proceedings which resulted in his or her
22 conviction there was a substantial denial of his or her
23 rights under the Constitution of the United States or of
24 the State of Illinois or both; or

25 (2) the death penalty was imposed before the effective

1 date of this amendatory Act of the 95th General Assembly
2 and there is newly discovered evidence not available to the
3 person at the time of the proceeding that resulted in his
4 or her conviction that establishes a substantial basis to
5 believe that the defendant is actually innocent by clear
6 and convincing evidence.

7 (a-5) A proceeding under paragraph (2) of subsection (a)
8 may be commenced within a reasonable period of time after the
9 person's conviction notwithstanding any other provisions of
10 this Article. In such a proceeding regarding actual innocence,
11 if the court determines the petition is frivolous or is
12 patently without merit, it shall dismiss the petition in a
13 written order, specifying the findings of fact and conclusions
14 of law it made in reaching its decision. Such order of
15 dismissal is a final judgment and shall be served upon the
16 petitioner by certified mail within 10 days of its entry.

17 (b) The proceeding shall be commenced by filing with the
18 clerk of the court in which the conviction took place a
19 petition (together with a copy thereof) verified by affidavit.
20 Petitioner shall also serve another copy upon the State's
21 Attorney by any of the methods provided in Rule 7 of the
22 Supreme Court. The clerk shall docket the petition for
23 consideration by the court pursuant to Section 122-2.1 upon his
24 or her receipt thereof and bring the same promptly to the
25 attention of the court.

26 (c) Except as otherwise provided in subsection (a-5), if

1 the petitioner is under sentence of death before the effective
2 date of this amendatory Act of the 95th General Assembly and a
3 petition for writ of certiorari is filed, no proceedings under
4 this Article shall be commenced more than 6 months after the
5 conclusion of proceedings in the United States Supreme Court,
6 unless the petitioner alleges facts showing that the delay was
7 not due to his or her culpable negligence. If a petition for
8 certiorari is not filed, no proceedings under this Article
9 shall be commenced more than 6 months from the date for filing
10 a certiorari petition, unless the petitioner alleges facts
11 showing that the delay was not due to his or her culpable
12 negligence.

13 When a defendant has a sentence other than death, no
14 proceedings under this Article shall be commenced more than 6
15 months after the conclusion of proceedings in the United States
16 Supreme Court, unless the petitioner alleges facts showing that
17 the delay was not due to his or her culpable negligence. If a
18 petition for certiorari is not filed, no proceedings under this
19 Article shall be commenced more than 6 months from the date for
20 filing a certiorari petition, unless the petitioner alleges
21 facts showing that the delay was not due to his or her culpable
22 negligence. If a defendant does not file a direct appeal, the
23 post-conviction petition shall be filed no later than 3 years
24 from the date of conviction, unless the petitioner alleges
25 facts showing that the delay was not due to his or her culpable
26 negligence.

1 This limitation does not apply to a petition advancing a
2 claim of actual innocence.

3 (d) A person seeking relief by filing a petition under this
4 Section must specify in the petition or its heading that it is
5 filed under this Section. A trial court that has received a
6 petition complaining of a conviction or sentence that fails to
7 specify in the petition or its heading that it is filed under
8 this Section need not evaluate the petition to determine
9 whether it could otherwise have stated some grounds for relief
10 under this Article.

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

16 (f) Only one petition may be filed by a petitioner under
17 this Article without leave of the court. Leave of court may be
18 granted only if a petitioner demonstrates cause for his or her
19 failure to bring the claim in his or her initial
20 post-conviction proceedings and prejudice results from that
21 failure. For purposes of this subsection (f): (1) a prisoner
22 shows cause by identifying an objective factor that impeded his
23 or her ability to raise a specific claim during his or her
24 initial post-conviction proceedings; and (2) a prisoner shows
25 prejudice by demonstrating that the claim not raised during his
26 or her initial post-conviction proceedings so infected the

1 trial that the resulting conviction or sentence violated due
2 process.

3 (Source: P.A. 93-493, eff. 1-1-04; 93-605, eff. 11-19-03;
4 93-972, eff. 8-20-04.)

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

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

9 (1) If the petitioner is under sentence of death
10 imposed before the effective date of this amendatory Act of
11 the 95th General Assembly and is without counsel and
12 alleges that he is without means to procure counsel, he
13 shall state whether or not he wishes counsel to be
14 appointed to represent him. If appointment of counsel is so
15 requested, the court shall appoint counsel if satisfied
16 that the petitioner has no means to procure counsel.

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

25 (b) If the petition is not dismissed pursuant to this

1 Section, the court shall order the petition to be docketed for
2 further consideration in accordance with Sections 122-4
3 through 122-6. If the petitioner is under sentence of death
4 imposed before the effective date of this amendatory Act of the
5 95th General Assembly, the court shall order the petition to be
6 docketed for further consideration and hearing within one year
7 of the filing of the petition. Continuances may be granted as
8 the court deems appropriate.

9 (c) In considering a petition pursuant to this Section, the
10 court may examine the court file of the proceeding in which the
11 petitioner was convicted, any action taken by an appellate
12 court in such proceeding and any transcripts of such
13 proceeding.

14 (Source: P.A. 93-605, eff. 11-19-03.)

15 (725 ILCS 5/122-4) (from Ch. 38, par. 122-4)

16 Sec. 122-4. Pauper Petitions. If the petition is not
17 dismissed pursuant to Section 122-2.1, and alleges that the
18 petitioner is unable to pay the costs of the proceeding, the
19 court may order that the petitioner be permitted to proceed as
20 a poor person and order a transcript of the proceedings
21 delivered to petitioner in accordance with Rule of the Supreme
22 Court. If the petitioner is without counsel and alleges that he
23 is without means to procure counsel, he shall state whether or
24 not he wishes counsel to be appointed to represent him. If
25 appointment of counsel is so requested, and the petition is not

1 dismissed pursuant to Section 122-2.1, the court shall appoint
2 counsel if satisfied that the petitioner has no means to
3 procure counsel. A petitioner who is a prisoner in an Illinois
4 Department of Corrections facility who files a pleading,
5 motion, or other filing that purports to be a legal document
6 seeking post-conviction relief under this Article against the
7 State, the Illinois Department of Corrections, the Prisoner
8 Review Board, or any of their officers or employees in which
9 the court makes a specific finding that the pleading, motion,
10 or other filing that purports to be a legal document is
11 frivolous shall not proceed as a poor person and shall be
12 liable for the full payment of filing fees and actual court
13 costs as provided in Article XXII of the Code of Civil
14 Procedure.

15 A Circuit Court or the Illinois Supreme Court may appoint
16 the State Appellate Defender to provide post-conviction
17 representation in a case in which the defendant was ~~is~~
18 sentenced to death before the effective date of this amendatory
19 Act of the 95th General Assembly. Any attorney assigned by the
20 Office of the State Appellate Defender to provide
21 post-conviction representation for indigent defendants in
22 cases in which a sentence of death was imposed in the trial
23 court before the effective date of this amendatory Act of the
24 95th General Assembly may, from time to time submit bills and
25 time sheets to the Office of the State Appellate Defender for
26 payment of services rendered and the Office of the State

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

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

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

21 (725 ILCS 5/122-2.2 rep.)

22 Section 46. The Code of Criminal Procedure of 1963 is
23 amended by repealing Section 122-2.2.

24 Section 50. The State Appellate Defender Act is amended by

1 changing Sections 10 and 10.5 as follows:

2 (725 ILCS 105/10) (from Ch. 38, par. 208-10)

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

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

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

10 (c) The State Appellate Defender may:

11 (1) maintain a panel of private attorneys available to
12 serve as counsel on a case basis;

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

16 (3) cooperate and consult with state agencies,
17 professional associations, and other groups concerning the
18 causes of criminal conduct, the rehabilitation and
19 correction of persons charged with and convicted of crime,
20 the administration of criminal justice, and, in counties of
21 less than 1,000,000 population, study, design, develop and
22 implement model systems for the delivery of trial level
23 defender services, and make an annual report to the General
24 Assembly;

25 (4) hire investigators to provide investigative

1 services to appointed counsel and county public defenders;

2 (blank). ~~(5) in cases in which a death sentence is an~~
3 ~~authorized disposition, provide trial counsel with legal~~
4 ~~advice and the assistance of expert witnesses,~~
5 ~~investigators, and mitigation specialists from funds~~
6 ~~appropriated to the State Appellate Defender specifically~~
7 ~~for that purpose by the General Assembly. The Office of~~
8 ~~State Appellate Defender shall not be appointed to serve as~~
9 ~~trial counsel in capital cases.~~

10 Investigators employed by the Death Penalty Trial
11 Assistance and Capital Litigation Division of the State
12 Appellate Defender before the effective date of this amendatory
13 Act of the 95th General Assembly shall be authorized to inquire
14 through the Illinois State Police or local law enforcement with
15 the Law Enforcement Agencies Data System (LEADS) under Section
16 2605-375 of the Civil Administrative Code of Illinois to
17 ascertain whether their potential witnesses have a criminal
18 background, including: (i) warrants; (ii) arrests; (iii)
19 convictions; and (iv) officer safety information. This
20 authorization applies only to information held on the State
21 level and shall be used only to protect the personal safety of
22 the investigators. Any information that is obtained through
23 this inquiry may not be disclosed by the investigators.

24 (Blank). ~~(d) For each State fiscal year, the State~~
25 ~~Appellate Defender shall appear before the General Assembly and~~
26 ~~request appropriations to be made from the Capital Litigation~~

1 ~~Trust Fund to the State Treasurer for the purpose of providing~~
2 ~~defense assistance in capital cases outside of Cook County and~~
3 ~~for expenses incurred by the State Appellate Defender in~~
4 ~~representing petitioners in capital cases in post-conviction~~
5 ~~proceedings under Article 122 of the Code of Criminal Procedure~~
6 ~~of 1963 and in relation to petitions filed under Section 2-1401~~
7 ~~of the Code of Civil Procedure in relation to capital cases and~~
8 ~~for the representation of those petitioners by attorneys~~
9 ~~approved by or contracted with the State Appellate Defender.~~
10 ~~The State Appellate Defender may appear before the General~~
11 ~~Assembly at other times during the State's fiscal year to~~
12 ~~request supplemental appropriations from the Trust Fund to the~~
13 ~~State Treasurer.~~

14 (e) The requirement for reporting to the General Assembly
15 shall be satisfied by filing copies of the report with the
16 Speaker, the Minority Leader and the Clerk of the House of
17 Representatives and the President, the Minority Leader and the
18 Secretary of the Senate and the Legislative Research Unit, as
19 required by Section 3.1 of the General Assembly Organization
20 Act and filing such additional copies with the State Government
21 Report Distribution Center for the General Assembly as is
22 required under paragraph (t) of Section 7 of the State Library
23 Act.

24 (Source: P.A. 93-972, eff. 8-20-04; 93-1011, eff. 1-1-05;
25 94-340, eff. 1-1-06.)

1 (725 ILCS 105/10.5)

2 Sec. 10.5. Competitive bidding for appellate services.

3 (a) The State Appellate Defender may, to the extent
4 necessary to dispose of its backlog of indigent criminal
5 appeals, institute a competitive bidding program under which
6 contracts for the services of attorneys in ~~non-death penalty~~
7 criminal appeals are awarded to the lowest responsible bidder.

8 (b) The State Appellate Defender, before letting out bids
9 for contracts for the services of attorneys to represent
10 indigent defendants on appeal in criminal cases, shall
11 advertise the letting of the bids in a publication or
12 publications of the Illinois State Bar Association, the Chicago
13 Daily Law Bulletin, and the Chicago Lawyer. The State Appellate
14 Defender shall also advertise the letting of the bids in
15 newspapers of general circulation in major municipalities to be
16 determined by the State Appellate Defender. The State Appellate
17 Defender shall mail notices of the letting of the bids to
18 county and local bar associations.

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

23 (d) A bid for services of an attorney under this Section
24 shall be let only to an attorney licensed to practice law in
25 Illinois who has prior criminal appellate experience or to an
26 attorney who is a member or employee of a law firm which has at

1 least one member with that experience. Prospective bidders must
2 furnish legal writing samples that are deemed acceptable to the
3 State Appellate Defender.

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

13 (f) Gross compensation for completing of a case shall be
14 \$40 per hour but shall not exceed \$2,000 per case. The contract
15 shall specify the manner of payment.

16 (g) (Blank).

17 (h) (Blank).

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

19 (725 ILCS 124/Act rep.)

20 Section 55. The Capital Crimes Litigation Act is repealed
21 on July 1, 2003.

22 Section 60. The Uniform Rendition of Prisoners as Witnesses
23 in Criminal Proceedings Act is amended by changing Section 5 as
24 follows:

1 (725 ILCS 235/5) (from Ch. 38, par. 157-5)

2 Sec. 5. Exceptions.

3 This act does not apply to any person in this State
4 confined as mentally ill or, in need of mental treatment, ~~or~~
5 ~~under sentence of death.~~

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

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

10 (730 ILCS 5/3-3-13) (from Ch. 38, par. 1003-3-13)

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

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

19 (a-5) After a petition has been denied by the Governor, the
20 Board may not accept a repeat petition for executive clemency
21 for the same person until one full year has elapsed from the
22 date of the denial. The Chairman of the Board may waive the
23 one-year requirement if the petitioner offers in writing new

1 information that was unavailable to the petitioner at the time
2 of the filing of the prior petition and which the Chairman
3 determines to be significant. The Chairman also may waive the
4 one-year waiting period if the petitioner can show that a
5 change in circumstances of a compelling humanitarian nature has
6 arisen since the denial of the prior petition.

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

10 (c) The Board shall, if requested and upon due notice, give
11 a hearing to each application, allowing representation by
12 counsel, if desired, after which it shall confidentially advise
13 the Governor by a written report of its recommendations which
14 shall be determined by majority vote. The Board shall meet to
15 consider such petitions no less than 4 times each year.

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

21 (d) The Governor shall decide each application and
22 communicate his decision to the Board which shall notify the
23 petitioner.

24 In the event a petitioner who has been convicted of a Class
25 X felony is granted a release, after the Governor has
26 communicated such decision to the Board, the Board shall give

1 written notice to the Sheriff of the county from which the
2 offender was sentenced if such sheriff has requested that such
3 notice be given on a continuing basis. In cases where arrest of
4 the offender or the commission of the offense took place in any
5 municipality with a population of more than 10,000 persons, the
6 Board shall also give written notice to the proper law
7 enforcement agency for said municipality which has requested
8 notice on a continuing basis.

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

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

13 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

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

15 (a) (1) The Department of Corrections shall prescribe
16 rules and regulations for the early release on account of
17 good conduct of persons committed to the Department which
18 shall be subject to review by the Prisoner Review Board.

19 (2) The rules and regulations on early release shall
20 provide, with respect to offenses listed in clause (i),
21 (ii), or (iii) of this paragraph (2) committed on or after
22 June 19, 1998 or with respect to the offense listed in
23 clause (iv) of this paragraph (2) committed on or after
24 June 23, 2005 (the effective date of Public Act 94-71) or
25 with respect to the offense of being an armed habitual

1 criminal committed on or after August 2, 2005 (the
2 effective date of Public Act 94-398), the following:

3 (i) that a prisoner who is serving a term of
4 imprisonment for first degree murder or for the offense
5 of terrorism shall receive no good conduct credit and
6 shall serve the entire sentence imposed by the court;

7 (ii) that a prisoner serving a sentence for attempt
8 to commit first degree murder, solicitation of murder,
9 solicitation of murder for hire, intentional homicide
10 of an unborn child, predatory criminal sexual assault
11 of a child, aggravated criminal sexual assault,
12 criminal sexual assault, aggravated kidnapping,
13 aggravated battery with a firearm, heinous battery,
14 being an armed habitual criminal, aggravated battery
15 of a senior citizen, or aggravated battery of a child
16 shall receive no more than 4.5 days of good conduct
17 credit for each month of his or her sentence of
18 imprisonment;

19 (iii) that a prisoner serving a sentence for home
20 invasion, armed robbery, aggravated vehicular
21 hijacking, aggravated discharge of a firearm, or armed
22 violence with a category I weapon or category II
23 weapon, when the court has made and entered a finding,
24 pursuant to subsection (c-1) of Section 5-4-1 of this
25 Code, that the conduct leading to conviction for the
26 enumerated offense resulted in great bodily harm to a

1 victim, shall receive no more than 4.5 days of good
2 conduct credit for each month of his or her sentence of
3 imprisonment; and

4 (iv) that a prisoner serving a sentence for
5 aggravated discharge of a firearm, whether or not the
6 conduct leading to conviction for the offense resulted
7 in great bodily harm to the victim, shall receive no
8 more than 4.5 days of good conduct credit for each
9 month of his or her sentence of imprisonment.

10 (2.1) For all offenses, other than those enumerated in
11 subdivision (a)(2)(i), (ii), or (iii) committed on or after
12 June 19, 1998 or subdivision (a)(2)(iv) committed on or
13 after June 23, 2005 (the effective date of Public Act
14 94-71), and other than the offense of reckless homicide as
15 defined in subsection (e) of Section 9-3 of the Criminal
16 Code of 1961 committed on or after January 1, 1999, or
17 aggravated driving under the influence of alcohol, other
18 drug or drugs, or intoxicating compound or compounds, or
19 any combination thereof as defined in subparagraph (F) of
20 paragraph (1) of subsection (d) of Section 11-501 of the
21 Illinois Vehicle Code, the rules and regulations shall
22 provide that a prisoner who is serving a term of
23 imprisonment shall receive one day of good conduct credit
24 for each day of his or her sentence of imprisonment or
25 recommitment under Section 3-3-9. Each day of good conduct
26 credit shall reduce by one day the prisoner's period of

1 imprisonment or recommitment under Section 3-3-9.

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

5 (2.3) The rules and regulations on early release shall
6 provide that a prisoner who is serving a sentence for
7 reckless homicide as defined in subsection (e) of Section
8 9-3 of the Criminal Code of 1961 committed on or after
9 January 1, 1999, or aggravated driving under the influence
10 of alcohol, other drug or drugs, or intoxicating compound
11 or compounds, or any combination thereof as defined in
12 subparagraph (F) of paragraph (1) of subsection (d) of
13 Section 11-501 of the Illinois Vehicle Code, shall receive
14 no more than 4.5 days of good conduct credit for each month
15 of his or her sentence of imprisonment.

16 (2.4) The rules and regulations on early release shall
17 provide with respect to the offenses of aggravated battery
18 with a machine gun or a firearm equipped with any device or
19 attachment designed or used for silencing the report of a
20 firearm or aggravated discharge of a machine gun or a
21 firearm equipped with any device or attachment designed or
22 used for silencing the report of a firearm, committed on or
23 after July 15, 1999 (the effective date of Public Act
24 91-121), that a prisoner serving a sentence for any of
25 these offenses shall receive no more than 4.5 days of good
26 conduct credit for each month of his or her sentence of

1 imprisonment.

2 (2.5) The rules and regulations on early release shall
3 provide that a prisoner who is serving a sentence for
4 aggravated arson committed on or after July 27, 2001 (the
5 effective date of Public Act 92-176) shall receive no more
6 than 4.5 days of good conduct credit for each month of his
7 or her sentence of imprisonment.

8 (3) The rules and regulations shall also provide that
9 the Director may award up to 180 days additional good
10 conduct credit for meritorious service in specific
11 instances as the Director deems proper; except that no more
12 than 90 days of good conduct credit for meritorious service
13 shall be awarded to any prisoner who is serving a sentence
14 for conviction of first degree murder, reckless homicide
15 while under the influence of alcohol or any other drug, or
16 aggravated driving under the influence of alcohol, other
17 drug or drugs, or intoxicating compound or compounds, or
18 any combination thereof as defined in subparagraph (F) of
19 paragraph (1) of subsection (d) of Section 11-501 of the
20 Illinois Vehicle Code, aggravated kidnapping, kidnapping,
21 predatory criminal sexual assault of a child, aggravated
22 criminal sexual assault, criminal sexual assault, deviate
23 sexual assault, aggravated criminal sexual abuse,
24 aggravated indecent liberties with a child, indecent
25 liberties with a child, child pornography, heinous
26 battery, aggravated battery of a spouse, aggravated

1 battery of a spouse with a firearm, stalking, aggravated
2 stalking, aggravated battery of a child, endangering the
3 life or health of a child, cruelty to a child, or narcotic
4 racketeering. Notwithstanding the foregoing, good conduct
5 credit for meritorious service shall not be awarded on a
6 sentence of imprisonment imposed for conviction of: (i) one
7 of the offenses enumerated in subdivision (a)(2)(i), (ii),
8 or (iii) when the offense is committed on or after June 19,
9 1998 or subdivision (a)(2)(iv) when the offense is
10 committed on or after June 23, 2005 (the effective date of
11 Public Act 94-71), (ii) reckless homicide as defined in
12 subsection (e) of Section 9-3 of the Criminal Code of 1961
13 when the offense is committed on or after January 1, 1999,
14 or aggravated driving under the influence of alcohol, other
15 drug or drugs, or intoxicating compound or compounds, or
16 any combination thereof as defined in subparagraph (F) of
17 paragraph (1) of subsection (d) of Section 11-501 of the
18 Illinois Vehicle Code, (iii) one of the offenses enumerated
19 in subdivision (a)(2.4) when the offense is committed on or
20 after July 15, 1999 (the effective date of Public Act
21 91-121), or (iv) aggravated arson when the offense is
22 committed on or after July 27, 2001 (the effective date of
23 Public Act 92-176).

24 (4) The rules and regulations shall also provide that
25 the good conduct credit accumulated and retained under
26 paragraph (2.1) of subsection (a) of this Section by any

1 inmate during specific periods of time in which such inmate
2 is engaged full-time in substance abuse programs,
3 correctional industry assignments, or educational programs
4 provided by the Department under this paragraph (4) and
5 satisfactorily completes the assigned program as
6 determined by the standards of the Department, shall be
7 multiplied by a factor of 1.25 for program participation
8 before August 11, 1993 and 1.50 for program participation
9 on or after that date. However, no inmate shall be eligible
10 for the additional good conduct credit under this paragraph
11 (4) or (4.1) of this subsection (a) while assigned to a
12 boot camp or electronic detention, or if convicted of an
13 offense enumerated in subdivision (a)(2)(i), (ii), or
14 (iii) of this Section that is committed on or after June
15 19, 1998 or subdivision (a)(2)(iv) of this Section that is
16 committed on or after June 23, 2005 (the effective date of
17 Public Act 94-71), or if convicted of reckless homicide as
18 defined in subsection (e) of Section 9-3 of the Criminal
19 Code of 1961 if the offense is committed on or after
20 January 1, 1999, or aggravated driving under the influence
21 of alcohol, other drug or drugs, or intoxicating compound
22 or compounds, or any combination thereof as defined in
23 subparagraph (F) of paragraph (1) of subsection (d) of
24 Section 11-501 of the Illinois Vehicle Code, or if
25 convicted of an offense enumerated in paragraph (a)(2.4) of
26 this Section that is committed on or after July 15, 1999

1 (the effective date of Public Act 91-121), or first degree
2 murder, a Class X felony, criminal sexual assault, felony
3 criminal sexual abuse, aggravated criminal sexual abuse,
4 aggravated battery with a firearm, or any predecessor or
5 successor offenses with the same or substantially the same
6 elements, or any inchoate offenses relating to the
7 foregoing offenses. No inmate shall be eligible for the
8 additional good conduct credit under this paragraph (4) who
9 (i) has previously received increased good conduct credit
10 under this paragraph (4) and has subsequently been
11 convicted of a felony, or (ii) has previously served more
12 than one prior sentence of imprisonment for a felony in an
13 adult correctional facility.

14 Educational, vocational, substance abuse and
15 correctional industry programs under which good conduct
16 credit may be increased under this paragraph (4) and
17 paragraph (4.1) of this subsection (a) shall be evaluated
18 by the Department on the basis of documented standards. The
19 Department shall report the results of these evaluations to
20 the Governor and the General Assembly by September 30th of
21 each year. The reports shall include data relating to the
22 recidivism rate among program participants.

23 Availability of these programs shall be subject to the
24 limits of fiscal resources appropriated by the General
25 Assembly for these purposes. Eligible inmates who are
26 denied immediate admission shall be placed on a waiting

1 list under criteria established by the Department. The
2 inability of any inmate to become engaged in any such
3 programs by reason of insufficient program resources or for
4 any other reason established under the rules and
5 regulations of the Department shall not be deemed a cause
6 of action under which the Department or any employee or
7 agent of the Department shall be liable for damages to the
8 inmate.

9 (4.1) The rules and regulations shall also provide that
10 an additional 60 days of good conduct credit shall be
11 awarded to any prisoner who passes the high school level
12 Test of General Educational Development (GED) while the
13 prisoner is incarcerated. The good conduct credit awarded
14 under this paragraph (4.1) shall be in addition to, and
15 shall not affect, the award of good conduct under any other
16 paragraph of this Section, but shall also be pursuant to
17 the guidelines and restrictions set forth in paragraph (4)
18 of subsection (a) of this Section. The good conduct credit
19 provided for in this paragraph shall be available only to
20 those prisoners who have not previously earned a high
21 school diploma or a GED. If, after an award of the GED good
22 conduct credit has been made and the Department determines
23 that the prisoner was not eligible, then the award shall be
24 revoked.

25 (4.5) The rules and regulations on early release shall
26 also provide that when the court's sentencing order

1 recommends a prisoner for substance abuse treatment and the
2 crime was committed on or after September 1, 2003 (the
3 effective date of Public Act 93-354), the prisoner shall
4 receive no good conduct credit awarded under clause (3) of
5 this subsection (a) unless he or she participates in and
6 completes a substance abuse treatment program. The
7 Director may waive the requirement to participate in or
8 complete a substance abuse treatment program and award the
9 good conduct credit in specific instances if the prisoner
10 is not a good candidate for a substance abuse treatment
11 program for medical, programming, or operational reasons.
12 Availability of substance abuse treatment shall be subject
13 to the limits of fiscal resources appropriated by the
14 General Assembly for these purposes. If treatment is not
15 available and the requirement to participate and complete
16 the treatment has not been waived by the Director, the
17 prisoner shall be placed on a waiting list under criteria
18 established by the Department. The Director may allow a
19 prisoner placed on a waiting list to participate in and
20 complete a substance abuse education class or attend
21 substance abuse self-help meetings in lieu of a substance
22 abuse treatment program. A prisoner on a waiting list who
23 is not placed in a substance abuse program prior to release
24 may be eligible for a waiver and receive good conduct
25 credit under clause (3) of this subsection (a) at the
26 discretion of the Director.

1 (5) Whenever the Department is to release any inmate
2 earlier than it otherwise would because of a grant of good
3 conduct credit for meritorious service given at any time
4 during the term, the Department shall give reasonable
5 advance notice of the impending release to the State's
6 Attorney of the county where the prosecution of the inmate
7 took place.

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

12 (c) The Department shall prescribe rules and regulations
13 for revoking good conduct credit, or suspending or reducing the
14 rate of accumulation of good conduct credit for specific rule
15 violations, during imprisonment. These rules and regulations
16 shall provide that no inmate may be penalized more than one
17 year of good conduct credit for any one infraction.

18 When the Department seeks to revoke, suspend or reduce the
19 rate of accumulation of any good conduct credits for an alleged
20 infraction of its rules, it shall bring charges therefor
21 against the prisoner sought to be so deprived of good conduct
22 credits before the Prisoner Review Board as provided in
23 subparagraph (a)(4) of Section 3-3-2 of this Code, if the
24 amount of credit at issue exceeds 30 days or when during any 12
25 month period, the cumulative amount of credit revoked exceeds
26 30 days except where the infraction is committed or discovered

1 within 60 days of scheduled release. In those cases, the
2 Department of Corrections may revoke up to 30 days of good
3 conduct credit. The Board may subsequently approve the
4 revocation of additional good conduct credit, if the Department
5 seeks to revoke good conduct credit in excess of 30 days.
6 However, the Board shall not be empowered to review the
7 Department's decision with respect to the loss of 30 days of
8 good conduct credit within any calendar year for any prisoner
9 or to increase any penalty beyond the length requested by the
10 Department.

11 The Director of the Department of Corrections, in
12 appropriate cases, may restore up to 30 days good conduct
13 credits which have been revoked, suspended or reduced. Any
14 restoration of good conduct credits in excess of 30 days shall
15 be subject to review by the Prisoner Review Board. However, the
16 Board may not restore good conduct credit in excess of the
17 amount requested by the Director.

18 Nothing contained in this Section shall prohibit the
19 Prisoner Review Board from ordering, pursuant to Section
20 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the
21 sentence imposed by the court that was not served due to the
22 accumulation of good conduct credit.

23 (d) If a lawsuit is filed by a prisoner in an Illinois or
24 federal court against the State, the Department of Corrections,
25 or the Prisoner Review Board, or against any of their officers
26 or employees, and the court makes a specific finding that a

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

11 For purposes of this subsection (d):

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

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

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

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

26 (D) the allegations and other factual contentions

1 do not have evidentiary support or, if specifically so
2 identified, are not likely to have evidentiary support
3 after a reasonable opportunity for further
4 investigation or discovery; or

5 (E) the denials of factual contentions are not
6 warranted on the evidence, or if specifically so
7 identified, are not reasonably based on a lack of
8 information or belief.

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

17 (e) Nothing in Public Act 90-592 or 90-593 affects the
18 validity of Public Act 89-404.

19 (Source: P.A. 93-213, eff. 7-18-03; 93-354, eff. 9-1-03; 94-71,
20 eff. 6-23-05; 94-128, eff. 7-7-05; 94-156, eff. 7-8-05; 94-398,
21 eff. 8-2-05; 94-491, eff. 8-8-05; 94-744, eff. 5-8-06.)

22 (730 ILCS 5/3-8-10) (from Ch. 38, par. 1003-8-10)

23 Sec. 3-8-10. Intrastate Detainers. ~~Except for persons~~
24 ~~sentenced to death,~~ Subsection (b), (c) and (e) of Section
25 103-5 of the Code of Criminal Procedure of 1963 shall also

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

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

21 (730 ILCS 5/5-1-9) (from Ch. 38, par. 1005-1-9)

22 Sec. 5-1-9. Felony.

23 "Felony" means an offense for which a sentence to ~~death or~~
24 ~~to~~ a term of imprisonment in a penitentiary for one year or
25 more is provided.

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

2 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

4 (a) After ~~Except when the death penalty is sought under~~
5 ~~hearing procedures otherwise specified, after~~ a determination
6 of guilt, a hearing shall be held to impose the sentence.
7 However, prior to the imposition of sentence on an individual
8 being sentenced for an offense based upon a charge for a
9 violation of Section 11-501 of the Illinois Vehicle Code or a
10 similar provision of a local ordinance, the individual must
11 undergo a professional evaluation to determine if an alcohol or
12 other drug abuse problem exists and the extent of such a
13 problem. Programs conducting these evaluations shall be
14 licensed by the Department of Human Services. However, if the
15 individual is not a resident of Illinois, the court may, in its
16 discretion, accept an evaluation from a program in the state of
17 such individual's residence. The court may in its sentencing
18 order approve an eligible defendant for placement in a
19 Department of Corrections impact incarceration program as
20 provided in Section 5-8-1.1 or 5-8-1.3. The court may in its
21 sentencing order recommend a defendant for placement in a
22 Department of Corrections substance abuse treatment program as
23 provided in paragraph (a) of subsection (1) of Section 3-2-2
24 conditioned upon the defendant being accepted in a program by
25 the Department of Corrections. At the hearing the court shall:

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

3 (2) consider any presentence reports;

4 (3) consider the financial impact of incarceration
5 based on the financial impact statement filed with the
6 clerk of the court by the Department of Corrections;

7 (4) consider evidence and information offered by the
8 parties in aggravation and mitigation;

9 (4.5) consider substance abuse treatment, eligibility
10 screening, and an assessment, if any, of the defendant by
11 an agent designated by the State of Illinois to provide
12 assessment services for the Illinois courts;

13 (5) hear arguments as to sentencing alternatives;

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

16 (7) afford the victim of a violent crime or a violation
17 of Section 11-501 of the Illinois Vehicle Code, or a
18 similar provision of a local ordinance, or a qualified
19 individual affected by: (i) a violation of Section 405,
20 405.1, 405.2, or 407 of the Illinois Controlled Substances
21 Act or a violation of Section 55 or Section 65 of the
22 Methamphetamine Control and Community Protection Act, or
23 (ii) a Class 4 felony violation of Section 11-14, 11-15,
24 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of
25 1961, committed by the defendant the opportunity to make a
26 statement concerning the impact on the victim and to offer

1 evidence in aggravation or mitigation; provided that the
2 statement and evidence offered in aggravation or
3 mitigation must first be prepared in writing in conjunction
4 with the State's Attorney before it may be presented orally
5 at the hearing. Any sworn testimony offered by the victim
6 is subject to the defendant's right to cross-examine. All
7 statements and evidence offered under this paragraph (7)
8 shall become part of the record of the court. For the
9 purpose of this paragraph (7), "qualified individual"
10 means any person who (i) lived or worked within the
11 territorial jurisdiction where the offense took place when
12 the offense took place; and (ii) is familiar with various
13 public places within the territorial jurisdiction where
14 the offense took place when the offense took place. For the
15 purposes of this paragraph (7), "qualified individual"
16 includes any peace officer, or any member of any duly
17 organized State, county, or municipal peace unit assigned
18 to the territorial jurisdiction where the offense took
19 place when the offense took place;

20 (8) in cases of reckless homicide afford the victim's
21 spouse, guardians, parents or other immediate family
22 members an opportunity to make oral statements; and

23 (9) in cases involving a felony sex offense as defined
24 under the Sex Offender Management Board Act, consider the
25 results of the sex offender evaluation conducted pursuant
26 to Section 5-3-2 of this Act.

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

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

23 (c-1) In imposing a sentence for the offense of aggravated
24 kidnapping for ransom, home invasion, armed robbery,
25 aggravated vehicular hijacking, aggravated discharge of a
26 firearm, or armed violence with a category I weapon or category

1 II weapon, the trial judge shall make a finding as to whether
2 the conduct leading to conviction for the offense resulted in
3 great bodily harm to a victim, and shall enter that finding and
4 the basis for that finding in the record.

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

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

19 "The purpose of this statement is to inform the public of
20 the actual period of time this defendant is likely to spend in
21 prison as a result of this sentence. The actual period of
22 prison time served is determined by the statutes of Illinois as
23 applied to this sentence by the Illinois Department of
24 Corrections and the Illinois Prisoner Review Board. In this
25 case, assuming the defendant receives all of his or her good
26 conduct credit, the period of estimated actual custody is ...

1 years and ... months, less up to 180 days additional good
2 conduct credit for meritorious service. If the defendant,
3 because of his or her own misconduct or failure to comply with
4 the institutional regulations, does not receive those credits,
5 the actual time served in prison will be longer. The defendant
6 may also receive an additional one-half day good conduct credit
7 for each day of participation in vocational, industry,
8 substance abuse, and educational programs as provided for by
9 Illinois statute."

10 When the sentence is imposed for one of the offenses
11 enumerated in paragraph (a)(3) of Section 3-6-3, other than
12 when the sentence is imposed for one of the offenses enumerated
13 in paragraph (a)(2) of Section 3-6-3 committed on or after June
14 19, 1998, and other than when the sentence is imposed for
15 reckless homicide as defined in subsection (e) of Section 9-3
16 of the Criminal Code of 1961 if the offense was committed on or
17 after January 1, 1999, and other than when the sentence is
18 imposed for aggravated arson if the offense was committed on or
19 after July 27, 2001 (the effective date of Public Act 92-176),
20 the judge's statement, to be given after pronouncing the
21 sentence, shall include the following:

22 "The purpose of this statement is to inform the public of
23 the actual period of time this defendant is likely to spend in
24 prison as a result of this sentence. The actual period of
25 prison time served is determined by the statutes of Illinois as
26 applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this
2 case, assuming the defendant receives all of his or her good
3 conduct credit, the period of estimated actual custody is ...
4 years and ... months, less up to 90 days additional good
5 conduct credit for meritorious service. If the defendant,
6 because of his or her own misconduct or failure to comply with
7 the institutional regulations, does not receive those credits,
8 the actual time served in prison will be longer. The defendant
9 may also receive an additional one-half day good conduct credit
10 for each day of participation in vocational, industry,
11 substance abuse, and educational programs as provided for by
12 Illinois statute."

13 When the sentence is imposed for one of the offenses
14 enumerated in paragraph (a)(2) of Section 3-6-3, other than
15 first degree murder, and the offense was committed on or after
16 June 19, 1998, and when the sentence is imposed for reckless
17 homicide as defined in subsection (e) of Section 9-3 of the
18 Criminal Code of 1961 if the offense was committed on or after
19 January 1, 1999, and when the sentence is imposed for
20 aggravated driving under the influence of alcohol, other drug
21 or drugs, or intoxicating compound or compounds, or any
22 combination thereof as defined in subparagraph (F) of paragraph
23 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
24 Code, and when the sentence is imposed for aggravated arson if
25 the offense was committed on or after July 27, 2001 (the
26 effective date of Public Act 92-176), the judge's statement, to

1 be given after pronouncing the sentence, shall include the
2 following:

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

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

22 "The purpose of this statement is to inform the public of
23 the actual period of time this defendant is likely to spend in
24 prison as a result of this sentence. The actual period of
25 prison time served is determined by the statutes of Illinois as
26 applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this
2 case, the defendant is not entitled to good conduct credit.
3 Therefore, this defendant will serve 100% of his or her
4 sentence."

5 When the sentencing order recommends placement in a
6 substance abuse program for any offense that results in
7 incarceration in a Department of Corrections facility and the
8 crime was committed on or after September 1, 2003 (the
9 effective date of Public Act 93-354), the judge's statement, in
10 addition to any other judge's statement required under this
11 Section, to be given after pronouncing the sentence, shall
12 include the following:

13 "The purpose of this statement is to inform the public of
14 the actual period of time this defendant is likely to spend in
15 prison as a result of this sentence. The actual period of
16 prison time served is determined by the statutes of Illinois as
17 applied to this sentence by the Illinois Department of
18 Corrections and the Illinois Prisoner Review Board. In this
19 case, the defendant shall receive no good conduct credit under
20 clause (3) of subsection (a) of Section 3-6-3 until he or she
21 participates in and completes a substance abuse treatment
22 program or receives a waiver from the Director of Corrections
23 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

24 (d) When the defendant is committed to the Department of
25 Corrections, the State's Attorney shall and counsel for the
26 defendant may file a statement with the clerk of the court to

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

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

18 (1) the sentence imposed;

19 (2) any statement by the court of the basis for
20 imposing the sentence;

21 (3) any presentence reports;

22 (3.5) any sex offender evaluations;

23 (3.6) any substance abuse treatment eligibility
24 screening and assessment of the defendant by an agent
25 designated by the State of Illinois to provide assessment
26 services for the Illinois courts;

1 (4) the number of days, if any, which the defendant has
2 been in custody and for which he is entitled to credit
3 against the sentence, which information shall be provided
4 to the clerk by the sheriff;

5 (4.1) any finding of great bodily harm made by the
6 court with respect to an offense enumerated in subsection
7 (c-1);

8 (5) all statements filed under subsection (d) of this
9 Section;

10 (6) any medical or mental health records or summaries
11 of the defendant;

12 (7) the municipality where the arrest of the offender
13 or the commission of the offense has occurred, where such
14 municipality has a population of more than 25,000 persons;

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

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

19 (Source: P.A. 93-213, eff. 7-18-03; 93-317, eff. 1-1-04;
20 93-354, eff. 9-1-03; 93-616, eff. 1-1-04; 94-156, eff. 7-8-05;
21 94-556, eff. 9-11-05; revised 8-19-05.)

22 (730 ILCS 5/5-4-3) (from Ch. 38, par. 1005-4-3)

23 Sec. 5-4-3. Persons convicted of, or found delinquent for,
24 certain offenses or institutionalized as sexually dangerous;
25 specimens; genetic marker groups.

1 (a) Any person convicted of, found guilty under the
2 Juvenile Court Act of 1987 for, or who received a disposition
3 of court supervision for, a qualifying offense or attempt of a
4 qualifying offense, convicted or found guilty of any offense
5 classified as a felony under Illinois law, convicted or found
6 guilty of any offense requiring registration under the Sex
7 Offender Registration Act, found guilty or given supervision
8 for any offense classified as a felony under the Juvenile Court
9 Act of 1987, convicted or found guilty of, under the Juvenile
10 Court Act of 1987, any offense requiring registration under the
11 Sex Offender Registration Act, or institutionalized as a
12 sexually dangerous person under the Sexually Dangerous Persons
13 Act, or committed as a sexually violent person under the
14 Sexually Violent Persons Commitment Act shall, regardless of
15 the sentence or disposition imposed, be required to submit
16 specimens of blood, saliva, or tissue to the Illinois
17 Department of State Police in accordance with the provisions of
18 this Section, provided such person is:

19 (1) convicted of a qualifying offense or attempt of a
20 qualifying offense on or after July 1, 1990 and sentenced
21 to a term of imprisonment, periodic imprisonment, fine,
22 probation, conditional discharge or any other form of
23 sentence, or given a disposition of court supervision for
24 the offense;

25 (1.5) found guilty or given supervision under the
26 Juvenile Court Act of 1987 for a qualifying offense or

1 attempt of a qualifying offense on or after January 1,
2 1997;

3 (2) ordered institutionalized as a sexually dangerous
4 person on or after July 1, 1990;

5 (3) convicted of a qualifying offense or attempt of a
6 qualifying offense before July 1, 1990 and is presently
7 confined as a result of such conviction in any State
8 correctional facility or county jail or is presently
9 serving a sentence of probation, conditional discharge or
10 periodic imprisonment as a result of such conviction;

11 (3.5) convicted or found guilty of any offense
12 classified as a felony under Illinois law or found guilty
13 or given supervision for such an offense under the Juvenile
14 Court Act of 1987 on or after August 22, 2002;

15 (4) presently institutionalized as a sexually
16 dangerous person or presently institutionalized as a
17 person found guilty but mentally ill of a sexual offense or
18 attempt to commit a sexual offense;

19 (4.5) ordered committed as a sexually violent person on
20 or after the effective date of the Sexually Violent Persons
21 Commitment Act; or

22 (5) seeking transfer to or residency in Illinois under
23 Sections 3-3-11.05 through 3-3-11.5 of the Unified Code of
24 Corrections and the Interstate Compact for Adult Offender
25 Supervision or the Interstate Agreements on Sexually
26 Dangerous Persons Act.

1 Notwithstanding other provisions of this Section, any
2 person incarcerated in a facility of the Illinois Department of
3 Corrections on or after August 22, 2002 shall be required to
4 submit a specimen of blood, saliva, or tissue prior to his or
5 her final discharge or release on parole or mandatory
6 supervised release, as a condition of his or her parole or
7 mandatory supervised release.

8 Notwithstanding other provisions of this Section, any
9 person sentenced to life imprisonment in a facility of the
10 Illinois Department of Corrections after the effective date of
11 this amendatory Act of the 94th General Assembly or sentenced
12 to death after the effective date of this amendatory Act of the
13 94th General Assembly and before the effective date of this
14 amendatory Act of the 95th General Assembly shall be required
15 to provide a specimen of blood, saliva, or tissue within 45
16 days after sentencing or disposition at a collection site
17 designated by the Illinois Department of State Police. Any
18 person serving a sentence of life imprisonment in a facility of
19 the Illinois Department of Corrections on the effective date of
20 this amendatory Act of the 94th General Assembly or any person
21 who is under a sentence of death on the effective date of this
22 amendatory Act of the 94th General Assembly and before the
23 effective date of this amendatory Act of the 95th General
24 Assembly shall be required to provide a specimen of blood,
25 saliva, or tissue upon request at a collection site designated
26 by the Illinois Department of State Police.

1 (a-5) Any person who was otherwise convicted of or received
2 a disposition of court supervision for any other offense under
3 the Criminal Code of 1961 or who was found guilty or given
4 supervision for such a violation under the Juvenile Court Act
5 of 1987, may, regardless of the sentence imposed, be required
6 by an order of the court to submit specimens of blood, saliva,
7 or tissue to the Illinois Department of State Police in
8 accordance with the provisions of this Section.

9 (b) Any person required by paragraphs (a) (1), (a) (1.5),
10 (a) (2), (a) (3.5), and (a-5) to provide specimens of blood,
11 saliva, or tissue shall provide specimens of blood, saliva, or
12 tissue within 45 days after sentencing or disposition at a
13 collection site designated by the Illinois Department of State
14 Police.

15 (c) Any person required by paragraphs (a) (3), (a) (4), and
16 (a) (4.5) to provide specimens of blood, saliva, or tissue shall
17 be required to provide such samples prior to final discharge,
18 parole, or release at a collection site designated by the
19 Illinois Department of State Police.

20 (c-5) Any person required by paragraph (a) (5) to provide
21 specimens of blood, saliva, or tissue shall, where feasible, be
22 required to provide the specimens before being accepted for
23 conditioned residency in Illinois under the interstate compact
24 or agreement, but no later than 45 days after arrival in this
25 State.

26 (c-6) The Illinois Department of State Police may determine

1 which type of specimen or specimens, blood, saliva, or tissue,
2 is acceptable for submission to the Division of Forensic
3 Services for analysis.

4 (d) The Illinois Department of State Police shall provide
5 all equipment and instructions necessary for the collection of
6 blood samples. The collection of samples shall be performed in
7 a medically approved manner. Only a physician authorized to
8 practice medicine, a registered nurse or other qualified person
9 trained in venipuncture may withdraw blood for the purposes of
10 this Act. The samples shall thereafter be forwarded to the
11 Illinois Department of State Police, Division of Forensic
12 Services, for analysis and categorizing into genetic marker
13 groupings.

14 (d-1) The Illinois Department of State Police shall provide
15 all equipment and instructions necessary for the collection of
16 saliva samples. The collection of saliva samples shall be
17 performed in a medically approved manner. Only a person trained
18 in the instructions promulgated by the Illinois State Police on
19 collecting saliva may collect saliva for the purposes of this
20 Section. The samples shall thereafter be forwarded to the
21 Illinois Department of State Police, Division of Forensic
22 Services, for analysis and categorizing into genetic marker
23 groupings.

24 (d-2) The Illinois Department of State Police shall provide
25 all equipment and instructions necessary for the collection of
26 tissue samples. The collection of tissue samples shall be

1 performed in a medically approved manner. Only a person trained
2 in the instructions promulgated by the Illinois State Police on
3 collecting tissue may collect tissue for the purposes of this
4 Section. The samples shall thereafter be forwarded to the
5 Illinois Department of State Police, Division of Forensic
6 Services, for analysis and categorizing into genetic marker
7 groupings.

8 (d-5) To the extent that funds are available, the Illinois
9 Department of State Police shall contract with qualified
10 personnel and certified laboratories for the collection,
11 analysis, and categorization of known samples.

12 (d-6) Agencies designated by the Illinois Department of
13 State Police and the Illinois Department of State Police may
14 contract with third parties to provide for the collection or
15 analysis of DNA, or both, of an offender's blood, saliva, and
16 tissue samples.

17 (e) The genetic marker groupings shall be maintained by the
18 Illinois Department of State Police, Division of Forensic
19 Services.

20 (f) The genetic marker grouping analysis information
21 obtained pursuant to this Act shall be confidential and shall
22 be released only to peace officers of the United States, of
23 other states or territories, of the insular possessions of the
24 United States, of foreign countries duly authorized to receive
25 the same, to all peace officers of the State of Illinois and to
26 all prosecutorial agencies, and to defense counsel as provided

1 by Section 116-5 of the Code of Criminal Procedure of 1963. The
2 genetic marker grouping analysis information obtained pursuant
3 to this Act shall be used only for (i) valid law enforcement
4 identification purposes and as required by the Federal Bureau
5 of Investigation for participation in the National DNA
6 database, (ii) technology validation purposes, (iii) a
7 population statistics database, (iv) quality assurance
8 purposes if personally identifying information is removed, (v)
9 assisting in the defense of the criminally accused pursuant to
10 Section 116-5 of the Code of Criminal Procedure of 1963, or
11 (vi) identifying and assisting in the prosecution of a person
12 who is suspected of committing a sexual assault as defined in
13 Section 1a of the Sexual Assault Survivors Emergency Treatment
14 Act. Notwithstanding any other statutory provision to the
15 contrary, all information obtained under this Section shall be
16 maintained in a single State data base, which may be uploaded
17 into a national database, and which information may be subject
18 to expungement only as set forth in subsection (f-1).

19 (f-1) Upon receipt of notification of a reversal of a
20 conviction based on actual innocence, or of the granting of a
21 pardon pursuant to Section 12 of Article V of the Illinois
22 Constitution, if that pardon document specifically states that
23 the reason for the pardon is the actual innocence of an
24 individual whose DNA record has been stored in the State or
25 national DNA identification index in accordance with this
26 Section by the Illinois Department of State Police, the DNA

1 record shall be expunged from the DNA identification index, and
2 the Department shall by rule prescribe procedures to ensure
3 that the record and any samples, analyses, or other documents
4 relating to such record, whether in the possession of the
5 Department or any law enforcement or police agency, or any
6 forensic DNA laboratory, including any duplicates or copies
7 thereof, are destroyed and a letter is sent to the court
8 verifying the expungement is completed.

9 (f-5) Any person who intentionally uses genetic marker
10 grouping analysis information, or any other information
11 derived from a DNA sample, beyond the authorized uses as
12 provided under this Section, or any other Illinois law, is
13 guilty of a Class 4 felony, and shall be subject to a fine of
14 not less than \$5,000.

15 (f-6) The Illinois Department of State Police may contract
16 with third parties for the purposes of implementing this
17 amendatory Act of the 93rd General Assembly. Any other party
18 contracting to carry out the functions of this Section shall be
19 subject to the same restrictions and requirements of this
20 Section insofar as applicable, as the Illinois Department of
21 State Police, and to any additional restrictions imposed by the
22 Illinois Department of State Police.

23 (g) For the purposes of this Section, "qualifying offense"
24 means any of the following:

25 (1) any violation or inchoate violation of Section
26 11-6, 11-9.1, 11-11, 11-18.1, 12-15, or 12-16 of the

1 Criminal Code of 1961;

2 (1.1) any violation or inchoate violation of Section
3 9-1, 9-2, 10-1, 10-2, 12-11, 12-11.1, 18-1, 18-2, 18-3,
4 18-4, 19-1, or 19-2 of the Criminal Code of 1961 for which
5 persons are convicted on or after July 1, 2001;

6 (2) any former statute of this State which defined a
7 felony sexual offense;

8 (3) (blank);

9 (4) any inchoate violation of Section 9-3.1, 11-9.3,
10 12-7.3, or 12-7.4 of the Criminal Code of 1961; or

11 (5) any violation or inchoate violation of Article 29D
12 of the Criminal Code of 1961.

13 (g-5) (Blank).

14 (h) The Illinois Department of State Police shall be the
15 State central repository for all genetic marker grouping
16 analysis information obtained pursuant to this Act. The
17 Illinois Department of State Police may promulgate rules for
18 the form and manner of the collection of blood, saliva, or
19 tissue samples and other procedures for the operation of this
20 Act. The provisions of the Administrative Review Law shall
21 apply to all actions taken under the rules so promulgated.

22 (i) (1) A person required to provide a blood, saliva, or
23 tissue specimen shall cooperate with the collection of the
24 specimen and any deliberate act by that person intended to
25 impede, delay or stop the collection of the blood, saliva,
26 or tissue specimen is a Class A misdemeanor.

1 (2) In the event that a person's DNA sample is not
2 adequate for any reason, the person shall provide another
3 DNA sample for analysis. Duly authorized law enforcement
4 and corrections personnel may employ reasonable force in
5 cases in which an individual refuses to provide a DNA
6 sample required under this Act.

7 (j) Any person required by subsection (a) to submit
8 specimens of blood, saliva, or tissue to the Illinois
9 Department of State Police for analysis and categorization into
10 genetic marker grouping, in addition to any other disposition,
11 penalty, or fine imposed, shall pay an analysis fee of \$200. If
12 the analysis fee is not paid at the time of sentencing, the
13 court shall establish a fee schedule by which the entire amount
14 of the analysis fee shall be paid in full, such schedule not to
15 exceed 24 months from the time of conviction. The inability to
16 pay this analysis fee shall not be the sole ground to
17 incarcerate the person.

18 (k) All analysis and categorization fees provided for by
19 subsection (j) shall be regulated as follows:

20 (1) The State Offender DNA Identification System Fund
21 is hereby created as a special fund in the State Treasury.

22 (2) All fees shall be collected by the clerk of the
23 court and forwarded to the State Offender DNA
24 Identification System Fund for deposit. The clerk of the
25 circuit court may retain the amount of \$10 from each
26 collected analysis fee to offset administrative costs

1 incurred in carrying out the clerk's responsibilities
2 under this Section.

3 (3) Fees deposited into the State Offender DNA
4 Identification System Fund shall be used by Illinois State
5 Police crime laboratories as designated by the Director of
6 State Police. These funds shall be in addition to any
7 allocations made pursuant to existing laws and shall be
8 designated for the exclusive use of State crime
9 laboratories. These uses may include, but are not limited
10 to, the following:

11 (A) Costs incurred in providing analysis and
12 genetic marker categorization as required by
13 subsection (d).

14 (B) Costs incurred in maintaining genetic marker
15 groupings as required by subsection (e).

16 (C) Costs incurred in the purchase and maintenance
17 of equipment for use in performing analyses.

18 (D) Costs incurred in continuing research and
19 development of new techniques for analysis and genetic
20 marker categorization.

21 (E) Costs incurred in continuing education,
22 training, and professional development of forensic
23 scientists regularly employed by these laboratories.

24 (1) The failure of a person to provide a specimen, or of
25 any person or agency to collect a specimen, within the 45 day
26 period shall in no way alter the obligation of the person to

1 submit such specimen, or the authority of the Illinois
2 Department of State Police or persons designated by the
3 Department to collect the specimen, or the authority of the
4 Illinois Department of State Police to accept, analyze and
5 maintain the specimen or to maintain or upload results of
6 genetic marker grouping analysis information into a State or
7 national database.

8 (m) If any provision of this amendatory Act of the 93rd
9 General Assembly is held unconstitutional or otherwise
10 invalid, the remainder of this amendatory Act of the 93rd
11 General Assembly is not affected.

12 (Source: P.A. 93-216, eff. 1-1-04; 93-605, eff. 11-19-03;
13 93-781, eff. 1-1-05; 94-16, eff. 6-13-05; 94-1018, eff.
14 1-1-07.)

15 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

16 (Text of Section before amendment by P.A. 94-1035)

17 Sec. 5-5-3. Disposition.

18 (a) Except as provided in Section 11-501 of the Illinois
19 Vehicle Code, every person convicted of an offense shall be
20 sentenced as provided in this Section.

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

25 (1) A period of probation.

1 (2) A term of periodic imprisonment.

2 (3) A term of conditional discharge.

3 (4) A term of imprisonment.

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

8 (6) A fine.

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

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

13 (9) A term of imprisonment in combination with a term
14 of probation when the offender has been admitted into a
15 drug court program under Section 20 of the Drug Court
16 Treatment Act.

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

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

25 (2) A period of probation, a term of periodic
26 imprisonment or conditional discharge shall not be imposed

1 for the following offenses. The court shall sentence the
2 offender to not less than the minimum term of imprisonment
3 set forth in this Code for the following offenses, and may
4 order a fine or restitution or both in conjunction with
5 such term of imprisonment:

6 (A) First degree murder ~~where the death penalty is~~
7 ~~not imposed.~~

8 (B) Attempted first degree murder.

9 (C) A Class X felony.

10 (D) A violation of Section 401.1 or 407 of the
11 Illinois Controlled Substances Act, or a violation of
12 subdivision (c) (1) or (c) (2) of Section 401 of that Act
13 which relates to more than 5 grams of a substance
14 containing heroin or cocaine or an analog thereof.

15 (E) A violation of Section 5.1 or 9 of the Cannabis
16 Control Act.

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

23 (F-5) A violation of Section 24-1, 24-1.1, or
24 24-1.6 of the Criminal Code of 1961 for which
25 imprisonment is prescribed in those Sections.

26 (G) Residential burglary, except as otherwise

1 provided in Section 40-10 of the Alcoholism and Other
2 Drug Abuse and Dependency Act.

3 (H) Criminal sexual assault.

4 (I) Aggravated battery of a senior citizen.

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

7 Before July 1, 1994, for the purposes of this
8 paragraph, "organized gang" means an association of 5
9 or more persons, with an established hierarchy, that
10 encourages members of the association to perpetrate
11 crimes or provides support to the members of the
12 association who do commit crimes.

13 Beginning July 1, 1994, for the purposes of this
14 paragraph, "organized gang" has the meaning ascribed
15 to it in Section 10 of the Illinois Streetgang
16 Terrorism Omnibus Prevention Act.

17 (K) Vehicular hijacking.

18 (L) A second or subsequent conviction for the
19 offense of hate crime when the underlying offense upon
20 which the hate crime is based is felony aggravated
21 assault or felony mob action.

22 (M) A second or subsequent conviction for the
23 offense of institutional vandalism if the damage to the
24 property exceeds \$300.

25 (N) A Class 3 felony violation of paragraph (1) of
26 subsection (a) of Section 2 of the Firearm Owners

1 Identification Card Act.

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

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

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

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

11 (S) (Blank).

12 (T) A second or subsequent violation of the
13 Methamphetamine Control and Community Protection Act.

14 (3) (Blank).

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

19 (4.1) (Blank).

20 (4.2) Except as provided in paragraph (4.3) of this
21 subsection (c), a minimum of 100 hours of community service
22 shall be imposed for a second violation of Section 6-303 of
23 the Illinois Vehicle Code.

24 (4.3) A minimum term of imprisonment of 30 days or 300
25 hours of community service, as determined by the court,
26 shall be imposed for a second violation of subsection (c)

1 of Section 6-303 of the Illinois Vehicle Code.

2 (4.4) Except as provided in paragraph (4.5) and
3 paragraph (4.6) of this subsection (c), a minimum term of
4 imprisonment of 30 days or 300 hours of community service,
5 as determined by the court, shall be imposed for a third or
6 subsequent violation of Section 6-303 of the Illinois
7 Vehicle Code.

8 (4.5) A minimum term of imprisonment of 30 days shall
9 be imposed for a third violation of subsection (c) of
10 Section 6-303 of the Illinois Vehicle Code.

11 (4.6) A minimum term of imprisonment of 180 days shall
12 be imposed for a fourth or subsequent violation of
13 subsection (c) of Section 6-303 of the Illinois Vehicle
14 Code.

15 (5) The court may sentence an offender convicted of a
16 business offense or a petty offense or a corporation or
17 unincorporated association convicted of any offense to:

18 (A) a period of conditional discharge;

19 (B) a fine;

20 (C) make restitution to the victim under Section
21 5-5-6 of this Code.

22 (5.1) In addition to any penalties imposed under
23 paragraph (5) of this subsection (c), and except as
24 provided in paragraph (5.2) or (5.3), 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,

1 permit, or privileges suspended for at least 90 days but
2 not more than one year, if the violation resulted in damage
3 to the property of another person.

4 (5.2) In addition to any penalties imposed under
5 paragraph (5) of this subsection (c), and except as
6 provided in paragraph (5.3), a person convicted of
7 violating subsection (c) of Section 11-907 of the Illinois
8 Vehicle Code shall have his or her driver's license,
9 permit, or privileges suspended for at least 180 days but
10 not more than 2 years, if the violation resulted in injury
11 to another person.

12 (5.3) In addition to any penalties imposed under
13 paragraph (5) of this subsection (c), a person convicted of
14 violating subsection (c) of Section 11-907 of the Illinois
15 Vehicle Code shall have his or her driver's license,
16 permit, or privileges suspended for 2 years, if the
17 violation resulted in the death of another person.

18 (6) In no case shall an offender be eligible for a
19 disposition of probation or conditional discharge for a
20 Class 1 felony committed while he was serving a term of
21 probation or conditional discharge for a felony.

22 (7) When a defendant is adjudged a habitual criminal
23 under Article 33B of the Criminal Code of 1961, the court
24 shall sentence the defendant to a term of natural life
25 imprisonment.

26 (8) When a defendant, over the age of 21 years, is

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

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

19 (10) (Blank).

20 (11) The court shall impose a minimum fine of \$1,000
21 for a first offense and \$2,000 for a second or subsequent
22 offense upon a person convicted of or placed on supervision
23 for battery when the individual harmed was a sports
24 official or coach at any level of competition and the act
25 causing harm to the sports official or coach occurred
26 within an athletic facility or within the immediate

1 vicinity of the athletic facility at which the sports
2 official or coach was an active participant of the athletic
3 contest held at the athletic facility. For the purposes of
4 this paragraph (11), "sports official" means a person at an
5 athletic contest who enforces the rules of the contest,
6 such as an umpire or referee; "athletic facility" means an
7 indoor or outdoor playing field or recreational area where
8 sports activities are conducted; and "coach" means a person
9 recognized as a coach by the sanctioning authority that
10 conducted the sporting event.

11 (12) A person may not receive a disposition of court
12 supervision for a violation of Section 5-16 of the Boat
13 Registration and Safety Act if that person has previously
14 received a disposition of court supervision for a violation
15 of that Section.

16 (d) In any case in which a sentence originally imposed is
17 vacated, the case shall be remanded to the trial court. The
18 trial court shall hold a hearing under Section 5-4-1 of the
19 Unified Code of Corrections which may include evidence of the
20 defendant's life, moral character and occupation during the
21 time since the original sentence was passed. The trial court
22 shall then impose sentence upon the defendant. The trial court
23 may impose any sentence which could have been imposed at the
24 original trial subject to Section 5-5-4 of the Unified Code of
25 Corrections. If a sentence is vacated on appeal or on
26 collateral attack due to the failure of the trier of fact at

1 trial to determine beyond a reasonable doubt the existence of a
2 fact (other than a prior conviction) necessary to increase the
3 punishment for the offense beyond the statutory maximum
4 otherwise applicable, either the defendant may be re-sentenced
5 to a term within the range otherwise provided or, if the State
6 files notice of its intention to again seek the extended
7 sentence, the defendant shall be afforded a new trial.

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

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

15 (A) the defendant is willing to undergo a court
16 approved counseling program for a minimum duration of 2
17 years; or

18 (B) the defendant is willing to participate in a
19 court approved plan including but not limited to the
20 defendant's:

21 (i) removal from the household;

22 (ii) restricted contact with the victim;

23 (iii) continued financial support of the
24 family;

25 (iv) restitution for harm done to the victim;

26 and

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

3 (2) the court orders the defendant to pay for the
4 victim's counseling services, to the extent that the court
5 finds, after considering the defendant's income and
6 assets, that the defendant is financially capable of paying
7 for such services, if the victim was under 18 years of age
8 at the time the offense was committed and requires
9 counseling as a result of the offense.

10 Probation may be revoked or modified pursuant to Section
11 5-6-4; except where the court determines at the hearing that
12 the defendant violated a condition of his or her probation
13 restricting contact with the victim or other family members or
14 commits another offense with the victim or other family
15 members, the court shall revoke the defendant's probation and
16 impose a term of imprisonment.

17 For the purposes of this Section, "family member" and
18 "victim" shall have the meanings ascribed to them in Section
19 12-12 of the Criminal Code of 1961.

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

24 (g) Whenever a defendant is convicted of an offense under
25 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
26 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16

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

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

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

19 (h) Whenever a defendant is convicted of an offense under
20 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
21 defendant shall undergo medical testing to determine whether
22 the defendant has been exposed to human immunodeficiency virus
23 (HIV) or any other identified causative agent of acquired
24 immunodeficiency syndrome (AIDS). Except as otherwise provided
25 by law, the results of such test shall be kept strictly
26 confidential by all medical personnel involved in the testing

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

22 (i) All fines and penalties imposed under this Section for
23 any violation of Chapters 3, 4, 6, and 11 of the Illinois
24 Vehicle Code, or a similar provision of a local ordinance, and
25 any violation of the Child Passenger Protection Act, or a
26 similar provision of a local ordinance, shall be collected and

1 disbursed by the circuit clerk as provided under Section 27.5
2 of the Clerks of Courts Act.

3 (j) In cases when prosecution for any violation of Section
4 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
5 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
6 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
7 Code of 1961, any violation of the Illinois Controlled
8 Substances Act, any violation of the Cannabis Control Act, or
9 any violation of the Methamphetamine Control and Community
10 Protection Act results in conviction, a disposition of court
11 supervision, or an order of probation granted under Section 10
12 of the Cannabis Control Act, Section 410 of the Illinois
13 Controlled Substance Act, or Section 70 of the Methamphetamine
14 Control and Community Protection Act of a defendant, the court
15 shall determine whether the defendant is employed by a facility
16 or center as defined under the Child Care Act of 1969, a public
17 or private elementary or secondary school, or otherwise works
18 with children under 18 years of age on a daily basis. When a
19 defendant is so employed, the court shall order the Clerk of
20 the Court to send a copy of the judgment of conviction or order
21 of supervision or probation to the defendant's employer by
22 certified mail. If the employer of the defendant is a school,
23 the Clerk of the Court shall direct the mailing of a copy of
24 the judgment of conviction or order of supervision or probation
25 to the appropriate regional superintendent of schools. The
26 regional superintendent of schools shall notify the State Board

1 of Education of any notification under this subsection.

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

1 this subsection (j-5) as provided in Section 3-3-9. This
2 subsection (j-5) does not apply to a defendant who has a high
3 school diploma or has successfully passed the GED test. This
4 subsection (j-5) does not apply to a defendant who is
5 determined by the court to be developmentally disabled or
6 otherwise mentally incapable of completing the educational or
7 vocational program.

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

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

1 (B) If the defendant has already been sentenced for a
2 felony or misdemeanor offense, or has been placed on
3 probation under Section 10 of the Cannabis Control Act,
4 Section 410 of the Illinois Controlled Substances Act, or
5 Section 70 of the Methamphetamine Control and Community
6 Protection Act, the court may, upon motion of the State's
7 Attorney to suspend the sentence imposed, commit the
8 defendant to the custody of the Attorney General of the
9 United States or his or her designated agent when:

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

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

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

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

1 eligible for additional good conduct credit for
2 meritorious service as provided under Section 3-6-6.

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

9 (n) The court may sentence a person convicted of a
10 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
11 Code of 1961 (i) to an impact incarceration program if the
12 person is otherwise eligible for that program under Section
13 5-8-1.1, (ii) to community service, or (iii) if the person is
14 an addict or alcoholic, as defined in the Alcoholism and Other
15 Drug Abuse and Dependency Act, to a substance or alcohol abuse
16 program licensed under that Act.

17 (o) Whenever a person is convicted of a sex offense as
18 defined in Section 2 of the Sex Offender Registration Act, the
19 defendant's driver's license or permit shall be subject to
20 renewal on an annual basis in accordance with the provisions of
21 license renewal established by the Secretary of State.

22 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
23 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
24 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
25 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
26 eff. 9-11-05; 94-993, eff. 1-1-07.)

1 (Text of Section after amendment by P.A. 94-1035)

2 Sec. 5-5-3. Disposition.

3 (a) Except as provided in Section 11-501 of the Illinois
4 Vehicle Code, every person convicted of an offense shall be
5 sentenced as provided in this Section.

6 (b) The following options shall be appropriate
7 dispositions, alone or in combination, for all felonies and
8 misdemeanors other than those identified in subsection (c) of
9 this Section:

10 (1) A period of probation.

11 (2) A term of periodic imprisonment.

12 (3) A term of conditional discharge.

13 (4) A term of imprisonment.

14 (5) An order directing the offender to clean up and
15 repair the damage, if the offender was convicted under
16 paragraph (h) of Section 21-1 of the Criminal Code of 1961
17 (now repealed).

18 (6) A fine.

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

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

23 (9) A term of imprisonment in combination with a term
24 of probation when the offender has been admitted into a
25 drug court program under Section 20 of the Drug Court

1 Treatment Act.

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

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

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

17 (A) First degree murder ~~where the death penalty is~~
18 ~~not imposed.~~

19 (B) Attempted first degree murder.

20 (C) A Class X felony.

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

26 (E) A violation of Section 5.1 or 9 of the Cannabis

1 Control Act.

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

8 (F-5) A violation of Section 24-1, 24-1.1, or
9 24-1.6 of the Criminal Code of 1961 for which
10 imprisonment is prescribed in those Sections.

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

14 (H) Criminal sexual assault.

15 (I) Aggravated battery of a senior citizen.

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

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

24 Beginning July 1, 1994, for the purposes of this
25 paragraph, "organized gang" has the meaning ascribed
26 to it in Section 10 of the Illinois Streetgang

1 Terrorism Omnibus Prevention Act.

2 (K) Vehicular hijacking.

3 (L) A second or subsequent conviction for the
4 offense of hate crime when the underlying offense upon
5 which the hate crime is based is felony aggravated
6 assault or felony mob action.

7 (M) A second or subsequent conviction for the
8 offense of institutional vandalism if the damage to the
9 property exceeds \$300.

10 (N) A Class 3 felony violation of paragraph (1) of
11 subsection (a) of Section 2 of the Firearm Owners
12 Identification Card Act.

13 (O) A violation of Section 12-6.1 of the Criminal
14 Code of 1961.

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

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

20 (R) A violation of Section 24-3A of the Criminal
21 Code of 1961.

22 (S) (Blank).

23 (T) A second or subsequent violation of the
24 Methamphetamine Control and Community Protection Act.

25 (3) (Blank).

26 (4) A minimum term of imprisonment of not less than 10

1 consecutive days or 30 days of community service shall be
2 imposed for a violation of paragraph (c) of Section 6-303
3 of the Illinois Vehicle Code.

4 (4.1) (Blank).

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

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

13 (4.4) Except as provided in paragraph (4.5) and
14 paragraph (4.6) of this subsection (c), a minimum term of
15 imprisonment of 30 days or 300 hours of community service,
16 as determined by the court, shall be imposed for a third or
17 subsequent violation of Section 6-303 of the Illinois
18 Vehicle Code.

19 (4.5) A minimum term of imprisonment of 30 days shall
20 be imposed for a third violation of subsection (c) of
21 Section 6-303 of the Illinois Vehicle Code.

22 (4.6) A minimum term of imprisonment of 180 days shall
23 be imposed for a fourth or subsequent violation of
24 subsection (c) of Section 6-303 of the Illinois Vehicle
25 Code.

26 (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,

1 permit, or privileges suspended for 2 years, if the
2 violation resulted in the death of another person.

3 (5.4) In addition to any penalties imposed under
4 paragraph (5) of this subsection (c), a person convicted of
5 violating Section 3-707 of the Illinois Vehicle Code shall
6 have his or her driver's license, permit, or privileges
7 suspended for 3 months and until he or she has paid a
8 reinstatement fee of \$100.

9 (5.5) In addition to any penalties imposed under
10 paragraph (5) of this subsection (c), a person convicted of
11 violating Section 3-707 of the Illinois Vehicle Code during
12 a period in which his or her driver's license, permit, or
13 privileges were suspended for a previous violation of that
14 Section shall have his or her driver's license, permit, or
15 privileges suspended for an additional 6 months after the
16 expiration of the original 3-month suspension and until he
17 or she has paid a reinstatement fee of \$100.

18 (6) In no case shall an offender be eligible for a
19 disposition of probation or conditional discharge for a
20 Class 1 felony committed while he was serving a term of
21 probation or conditional discharge for a felony.

22 (7) When a defendant is adjudged a habitual criminal
23 under Article 33B of the Criminal Code of 1961, the court
24 shall sentence the defendant to a term of natural life
25 imprisonment.

26 (8) When a defendant, over the age of 21 years, is

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

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

19 (10) (Blank).

20 (11) The court shall impose a minimum fine of \$1,000
21 for a first offense and \$2,000 for a second or subsequent
22 offense upon a person convicted of or placed on supervision
23 for battery when the individual harmed was a sports
24 official or coach at any level of competition and the act
25 causing harm to the sports official or coach occurred
26 within an athletic facility or within the immediate

1 vicinity of the athletic facility at which the sports
2 official or coach was an active participant of the athletic
3 contest held at the athletic facility. For the purposes of
4 this paragraph (11), "sports official" means a person at an
5 athletic contest who enforces the rules of the contest,
6 such as an umpire or referee; "athletic facility" means an
7 indoor or outdoor playing field or recreational area where
8 sports activities are conducted; and "coach" means a person
9 recognized as a coach by the sanctioning authority that
10 conducted the sporting event.

11 (12) A person may not receive a disposition of court
12 supervision for a violation of Section 5-16 of the Boat
13 Registration and Safety Act if that person has previously
14 received a disposition of court supervision for a violation
15 of that Section.

16 (d) In any case in which a sentence originally imposed is
17 vacated, the case shall be remanded to the trial court. The
18 trial court shall hold a hearing under Section 5-4-1 of the
19 Unified Code of Corrections which may include evidence of the
20 defendant's life, moral character and occupation during the
21 time since the original sentence was passed. The trial court
22 shall then impose sentence upon the defendant. The trial court
23 may impose any sentence which could have been imposed at the
24 original trial subject to Section 5-5-4 of the Unified Code of
25 Corrections. If a sentence is vacated on appeal or on
26 collateral attack due to the failure of the trier of fact at

1 trial to determine beyond a reasonable doubt the existence of a
2 fact (other than a prior conviction) necessary to increase the
3 punishment for the offense beyond the statutory maximum
4 otherwise applicable, either the defendant may be re-sentenced
5 to a term within the range otherwise provided or, if the State
6 files notice of its intention to again seek the extended
7 sentence, the defendant shall be afforded a new trial.

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

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

15 (A) the defendant is willing to undergo a court
16 approved counseling program for a minimum duration of 2
17 years; or

18 (B) the defendant is willing to participate in a
19 court approved plan including but not limited to the
20 defendant's:

21 (i) removal from the household;

22 (ii) restricted contact with the victim;

23 (iii) continued financial support of the
24 family;

25 (iv) restitution for harm done to the victim;

26 and

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

3 (2) the court orders the defendant to pay for the
4 victim's counseling services, to the extent that the court
5 finds, after considering the defendant's income and
6 assets, that the defendant is financially capable of paying
7 for such services, if the victim was under 18 years of age
8 at the time the offense was committed and requires
9 counseling as a result of the offense.

10 Probation may be revoked or modified pursuant to Section
11 5-6-4; except where the court determines at the hearing that
12 the defendant violated a condition of his or her probation
13 restricting contact with the victim or other family members or
14 commits another offense with the victim or other family
15 members, the court shall revoke the defendant's probation and
16 impose a term of imprisonment.

17 For the purposes of this Section, "family member" and
18 "victim" shall have the meanings ascribed to them in Section
19 12-12 of the Criminal Code of 1961.

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

24 (g) Whenever a defendant is convicted of an offense under
25 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
26 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16

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

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

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

19 (h) Whenever a defendant is convicted of an offense under
20 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
21 defendant shall undergo medical testing to determine whether
22 the defendant has been exposed to human immunodeficiency virus
23 (HIV) or any other identified causative agent of acquired
24 immunodeficiency syndrome (AIDS). Except as otherwise provided
25 by law, the results of such test shall be kept strictly
26 confidential by all medical personnel involved in the testing

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

22 (i) All fines and penalties imposed under this Section for
23 any violation of Chapters 3, 4, 6, and 11 of the Illinois
24 Vehicle Code, or a similar provision of a local ordinance, and
25 any violation of the Child Passenger Protection Act, or a
26 similar provision of a local ordinance, shall be collected and

1 disbursed by the circuit clerk as provided under Section 27.5
2 of the Clerks of Courts Act.

3 (j) In cases when prosecution for any violation of Section
4 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
5 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
6 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
7 Code of 1961, any violation of the Illinois Controlled
8 Substances Act, any violation of the Cannabis Control Act, or
9 any violation of the Methamphetamine Control and Community
10 Protection Act results in conviction, a disposition of court
11 supervision, or an order of probation granted under Section 10
12 of the Cannabis Control Act, Section 410 of the Illinois
13 Controlled Substance Act, or Section 70 of the Methamphetamine
14 Control and Community Protection Act of a defendant, the court
15 shall determine whether the defendant is employed by a facility
16 or center as defined under the Child Care Act of 1969, a public
17 or private elementary or secondary school, or otherwise works
18 with children under 18 years of age on a daily basis. When a
19 defendant is so employed, the court shall order the Clerk of
20 the Court to send a copy of the judgment of conviction or order
21 of supervision or probation to the defendant's employer by
22 certified mail. If the employer of the defendant is a school,
23 the Clerk of the Court shall direct the mailing of a copy of
24 the judgment of conviction or order of supervision or probation
25 to the appropriate regional superintendent of schools. The
26 regional superintendent of schools shall notify the State Board

1 of Education of any notification under this subsection.

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

1 this subsection (j-5) as provided in Section 3-3-9. This
2 subsection (j-5) does not apply to a defendant who has a high
3 school diploma or has successfully passed the GED test. This
4 subsection (j-5) does not apply to a defendant who is
5 determined by the court to be developmentally disabled or
6 otherwise mentally incapable of completing the educational or
7 vocational program.

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

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

1 (B) If the defendant has already been sentenced for a
2 felony or misdemeanor offense, or has been placed on
3 probation under Section 10 of the Cannabis Control Act,
4 Section 410 of the Illinois Controlled Substances Act, or
5 Section 70 of the Methamphetamine Control and Community
6 Protection Act, the court may, upon motion of the State's
7 Attorney to suspend the sentence imposed, commit the
8 defendant to the custody of the Attorney General of the
9 United States or his or her designated agent when:

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

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

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

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

1 eligible for additional good conduct credit for
2 meritorious service as provided under Section 3-6-6.

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

9 (n) The court may sentence a person convicted of a
10 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
11 Code of 1961 (i) to an impact incarceration program if the
12 person is otherwise eligible for that program under Section
13 5-8-1.1, (ii) to community service, or (iii) if the person is
14 an addict or alcoholic, as defined in the Alcoholism and Other
15 Drug Abuse and Dependency Act, to a substance or alcohol abuse
16 program licensed under that Act.

17 (o) Whenever a person is convicted of a sex offense as
18 defined in Section 2 of the Sex Offender Registration Act, the
19 defendant's driver's license or permit shall be subject to
20 renewal on an annual basis in accordance with the provisions of
21 license renewal established by the Secretary of State.

22 (Source: P.A. 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
23 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
24 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
25 eff. 1-1-05; 93-1014, eff. 1-1-05; 94-72, eff. 1-1-06; 94-556,
26 eff. 9-11-05; 94-993, eff. 1-1-07; 94-1035, eff. 7-1-07;

1 revised 8-28-06.)

2 (730 ILCS 5/5-8-1) (from Ch. 38, par. 1005-8-1)

3 Sec. 5-8-1. Sentence of Imprisonment for Felony.

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

8 (1) for first degree murder,

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

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

19 (b-5) a defendant who has been sentenced to death
20 before the effective date of this amendatory Act of the
21 95th General Assembly shall be sentenced as provided in
22 this Chapter V, or

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

1 (i) has previously been convicted of first
2 degree murder under any state or federal law, or

3 (ii) is a person who, at the time of the
4 commission of the murder, had attained the age of
5 17 or more and is found guilty of murdering an
6 individual under 12 years of age; or, irrespective
7 of the defendant's age at the time of the
8 commission of the offense, is found guilty of
9 murdering more than one victim, or

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

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

1 the employee from performing his official duties,
2 or in retaliation for the employee performing his
3 official duties, or

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

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

1 (vii) is found guilty of first degree murder
2 and the murder was committed by reason of any
3 person's activity as a community policing
4 volunteer or to prevent any person from engaging in
5 activity as a community policing volunteer. For
6 the purpose of this Section, "community policing
7 volunteer" has the meaning ascribed to it in
8 Section 2-3.5 of the Criminal Code of 1961.

9 For purposes of clause (v), "emergency medical
10 technician - ambulance", "emergency medical technician
11 - intermediate", "emergency medical technician -
12 paramedic", have the meanings ascribed to them in the
13 Emergency Medical Services (EMS) Systems Act.

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

17 (ii) if, during the commission of the offense,
18 the person personally discharged a firearm, 20
19 years shall be added to the term of imprisonment
20 imposed by the court;

21 (iii) if, during the commission of the
22 offense, the person personally discharged a
23 firearm that proximately caused great bodily harm,
24 permanent disability, permanent disfigurement, or
25 death to another person, 25 years or up to a term
26 of natural life shall be added to the term of

1 imprisonment imposed by the court.

2 (1.5) for second degree murder, a term shall be not
3 less than 4 years and not more than 20 years;

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

7 (2.5) for a person convicted under the circumstances
8 described in paragraph (3) of subsection (b) of Section
9 12-13, paragraph (2) of subsection (d) of Section 12-14,
10 paragraph (1.2) of subsection (b) of Section 12-14.1, or
11 paragraph (2) of subsection (b) of Section 12-14.1 of the
12 Criminal Code of 1961, the sentence shall be a term of
13 natural life imprisonment;

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

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

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

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

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

26 (b) The sentencing judge in each felony conviction shall

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

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

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

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

25 A motion filed pursuant to this subsection shall not be
26 considered to have been timely filed unless it is filed with

1 the circuit court clerk within 30 days after the sentence is
2 imposed together with a notice of motion, which notice of
3 motion shall set the motion on the court's calendar on a date
4 certain within a reasonable time after the date of filing.

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

14 (1) for first degree murder or a Class X felony except
15 for the offenses of predatory criminal sexual assault of a
16 child, aggravated criminal sexual assault, and criminal
17 sexual assault if committed on or after the effective date
18 of this amendatory Act of the 94th General Assembly, 3
19 years;

20 (2) for a Class 1 felony or a Class 2 felony except for
21 the offense of criminal sexual assault if committed on or
22 after the effective date of this amendatory Act of the 94th
23 General Assembly, 2 years;

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

25 (4) for defendants who commit the offense of predatory
26 criminal sexual assault of a child, aggravated criminal

1 sexual assault, or criminal sexual assault, on or after the
2 effective date of this amendatory Act of the 94th General
3 Assembly, the term of mandatory supervised release shall
4 range from a minimum of 3 years to a maximum of the natural
5 life of the defendant;

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

12 (e) A defendant who has a previous and unexpired sentence
13 of imprisonment imposed by another state or by any district
14 court of the United States and who, after sentence for a crime
15 in Illinois, must return to serve the unexpired prior sentence
16 may have his sentence by the Illinois court ordered to be
17 concurrent with the prior sentence in the other state. The
18 court may order that any time served on the unexpired portion
19 of the sentence in the other state, prior to his return to
20 Illinois, shall be credited on his Illinois sentence. The other
21 state shall be furnished with a copy of the order imposing
22 sentence which shall provide that, when the offender is
23 released from confinement of the other state, whether by parole
24 or by termination of sentence, the offender shall be
25 transferred by the Sheriff of the committing county to the
26 Illinois Department of Corrections. The court shall cause the

1 Department of Corrections to be notified of such sentence at
2 the time of commitment and to be provided with copies of all
3 records regarding the sentence.

4 (f) A defendant who has a previous and unexpired sentence
5 of imprisonment imposed by an Illinois circuit court for a
6 crime in this State and who is subsequently sentenced to a term
7 of imprisonment by another state or by any district court of
8 the United States and who has served a term of imprisonment
9 imposed by the other state or district court of the United
10 States, and must return to serve the unexpired prior sentence
11 imposed by the Illinois Circuit Court may apply to the court
12 which imposed sentence to have his sentence reduced.

13 The circuit court may order that any time served on the
14 sentence imposed by the other state or district court of the
15 United States be credited on his Illinois sentence. Such
16 application for reduction of a sentence under this subsection
17 (f) shall be made within 30 days after the defendant has
18 completed the sentence imposed by the other state or district
19 court of the United States.

20 (Source: P.A. 94-165, eff. 7-11-05; 94-243, eff. 1-1-06;
21 94-715, eff. 12-13-05.)

22 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)
23 Sec. 5-8-4. Concurrent and Consecutive Terms of
24 Imprisonment.

25 (a) When multiple sentences of imprisonment are imposed on

1 a defendant at the same time, or when a term of imprisonment is
2 imposed on a defendant who is already subject to sentence in
3 this State or in another state, or for a sentence imposed by
4 any district court of the United States, the sentences shall
5 run concurrently or consecutively as determined by the court.
6 When one of the offenses for which a defendant was convicted
7 was a violation of Section 32-5.2 of the Criminal Code of 1961
8 and the offense was committed in attempting or committing a
9 forcible felony, the court may impose consecutive sentences.
10 When a term of imprisonment is imposed on a defendant by an
11 Illinois circuit court and the defendant is subsequently
12 sentenced to a term of imprisonment by another state or by a
13 district court of the United States, the Illinois circuit court
14 which imposed the sentence may order that the Illinois sentence
15 be made concurrent with the sentence imposed by the other state
16 or district court of the United States. The defendant must
17 apply to the circuit court within 30 days after the defendant's
18 sentence imposed by the other state or district of the United
19 States is finalized. The court shall impose consecutive
20 sentences if:

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

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

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

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

24 (v) the defendant was convicted of a violation of
25 Section 9-3.1 (concealment of homicidal death) or Section
26 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

1 shall not exceed the sum of the maximum terms authorized
2 under Section 5-8-2 for the 2 most serious felonies
3 involved, but no such limitation shall apply for offenses
4 that were not committed as part of a single course of
5 conduct during which there was no substantial change in the
6 nature of the criminal objective. When sentenced only for
7 misdemeanors, a defendant shall not be consecutively
8 sentenced to more than the maximum for one Class A
9 misdemeanor.

10 (d) An offender serving a sentence for a misdemeanor who is
11 convicted of a felony and sentenced to imprisonment shall be
12 transferred to the Department of Corrections, and the
13 misdemeanor sentence shall be merged in and run concurrently
14 with the felony sentence.

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

20 (1) the maximum period of a term of imprisonment shall
21 consist of the aggregate of the maximums of the imposed
22 indeterminate terms, if any, plus the aggregate of the
23 imposed determinate sentences for felonies plus the
24 aggregate of the imposed determinate sentences for
25 misdemeanors subject to paragraph (c) of this Section;

26 (2) the parole or mandatory supervised release term

1 shall be as provided in paragraph (e) of Section 5-8-1 of
2 this Code for the most serious of the offenses involved;

3 (3) the minimum period of imprisonment shall be the
4 aggregate of the minimum and determinate periods of
5 imprisonment imposed by the court, subject to paragraph (c)
6 of this Section; and

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

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

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

24 (h) If a person charged with a felony commits a separate
25 felony while on pre-trial release or in pretrial detention in a
26 county jail facility or county detention facility, the

1 sentences imposed upon conviction of these felonies shall be
2 served consecutively regardless of the order in which the
3 judgments of conviction are entered.

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

12 (Source: P.A. 93-160, eff. 7-10-03; 93-768, eff. 7-20-04;
13 94-556, eff. 9-11-05; 94-985, eff. 1-1-07.)

14 (730 ILCS 5/5-8-5) (from Ch. 38, par. 1005-8-5)

15 Sec. 5-8-5. Commitment of the Offender. Upon rendition of
16 judgment after pronouncement of a sentence of periodic
17 imprisonment or imprisonment, ~~or death~~, the court shall commit
18 the offender to the custody of the sheriff or to the Department
19 of Corrections. A sheriff in executing an order for commitment
20 to the Department of Corrections shall convey such offender to
21 the nearest receiving station designated by the Department of
22 Corrections. The court may commit the offender to the custody
23 of the Attorney General of the United States under Section
24 5-8-6 when a sentence for a State offense provides that such
25 sentence is to run concurrently with a previous and unexpired

1 federal sentence. The expense of conveying a person committed
2 by the juvenile court or an offender convicted of a felony
3 shall be paid by the State. The expenses in all other cases
4 shall be paid by the county of the committing court.

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

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

8 (735 ILCS 5/10-103) (from Ch. 110, par. 10-103)

9 Sec. 10-103. Application. Application for the relief shall
10 be made to the Supreme Court or to the circuit court of the
11 county in which the person in whose behalf the application is
12 made, is imprisoned or restrained, or to the circuit court of
13 the county from which such person was sentenced or committed.
14 Application shall be made by complaint signed by the person for
15 whose relief it is intended, or by some person in his or her
16 behalf, and verified by affidavit. ~~Application for relief under
17 this Article may not be commenced on behalf of a person who has
18 been sentenced to death without the written consent of that
19 person, unless the person, because of a mental or physical
20 condition, is incapable of asserting his or her own claim.~~

21 (Source: P.A. 89-684, eff. 6-1-97.)

22 (735 ILCS 5/10-136) (from Ch. 110, par. 10-136)

23 Sec. 10-136. Prisoner remanded or punished. After a

1 prisoner has given his or her testimony, or been surrendered,
2 or his or her bail discharged, or he or she has been tried for
3 the crime with which he or she is charged, he or she shall be
4 returned to the jail or other place of confinement from which
5 he or she was taken for that purpose. If such prisoner is
6 convicted of a crime punishable with ~~death or~~ imprisonment in
7 the penitentiary, he or she may be punished accordingly; but in
8 any case where the prisoner has been taken from the
9 penitentiary, and his or her punishment is by imprisonment, the
10 time of such imprisonment shall not commence to run until the
11 expiration of the time of service under any former sentence.

12 (Source: P.A. 82-280.)

13 Section 95. No acceleration or delay. Where this Act makes
14 changes in a statute that is represented in this Act by text
15 that is not yet or no longer in effect (for example, a Section
16 represented by multiple versions), the use of that text does
17 not accelerate or delay the taking effect of (i) the changes
18 made by this Act or (ii) provisions derived from any other
19 Public Act.

20 Section 99. Effective date. This Act takes effect upon
21 becoming law."