

1 AN ACT concerning criminal law.

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

4 Section 5. This Act may be referred to as the Cindy Bischof  
5 Law.

6 Section 10. The State Finance Act is amended by adding  
7 Section 5.710 as follows:

8 (30 ILCS 105/5.710 new)

9 Sec. 5.710. The Domestic Violence Surveillance Fund.

10 Section 20. The Code of Criminal Procedure of 1963 is  
11 amended by changing Sections 110-5 and 112A-14 as follows:

12 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

13 Sec. 110-5. Determining the amount of bail and conditions  
14 of release.

15 (a) In determining the amount of monetary bail or  
16 conditions of release, if any, which will reasonably assure the  
17 appearance of a defendant as required or the safety of any  
18 other person or the community and the likelihood of compliance  
19 by the defendant with all the conditions of bail, the court  
20 shall, on the basis of available information, take into account

1 such matters as the nature and circumstances of the offense  
2 charged, whether the evidence shows that as part of the offense  
3 there was a use of violence or threatened use of violence,  
4 whether the offense involved corruption of public officials or  
5 employees, whether there was physical harm or threats of  
6 physical harm to any public official, public employee, judge,  
7 prosecutor, juror or witness, senior citizen, child or  
8 handicapped person, whether evidence shows that during the  
9 offense or during the arrest the defendant possessed or used a  
10 firearm, machine gun, explosive or metal piercing ammunition or  
11 explosive bomb device or any military or paramilitary armament,  
12 whether the evidence shows that the offense committed was  
13 related to or in furtherance of the criminal activities of an  
14 organized gang or was motivated by the defendant's membership  
15 in or allegiance to an organized gang, the condition of the  
16 victim, any written statement submitted by the victim or  
17 proffer or representation by the State regarding the impact  
18 which the alleged criminal conduct has had on the victim and  
19 the victim's concern, if any, with further contact with the  
20 defendant if released on bail, whether the offense was based on  
21 racial, religious, sexual orientation or ethnic hatred, the  
22 likelihood of the filing of a greater charge, the likelihood of  
23 conviction, the sentence applicable upon conviction, the  
24 weight of the evidence against such defendant, whether there  
25 exists motivation or ability to flee, whether there is any  
26 verification as to prior residence, education, or family ties

1 in the local jurisdiction, in another county, state or foreign  
2 country, the defendant's employment, financial resources,  
3 character and mental condition, past conduct, prior use of  
4 alias names or dates of birth, and length of residence in the  
5 community, the consent of the defendant to periodic drug  
6 testing in accordance with Section 110-6.5, whether a foreign  
7 national defendant is lawfully admitted in the United States of  
8 America, whether the government of the foreign national  
9 maintains an extradition treaty with the United States by which  
10 the foreign government will extradite to the United States its  
11 national for a trial for a crime allegedly committed in the  
12 United States, whether the defendant is currently subject to  
13 deportation or exclusion under the immigration laws of the  
14 United States, whether the defendant, although a United States  
15 citizen, is considered under the law of any foreign state a  
16 national of that state for the purposes of extradition or  
17 non-extradition to the United States, the amount of unrecovered  
18 proceeds lost as a result of the alleged offense, the source of  
19 bail funds tendered or sought to be tendered for bail, whether  
20 from the totality of the court's consideration, the loss of  
21 funds posted or sought to be posted for bail will not deter the  
22 defendant from flight, whether the evidence shows that the  
23 defendant is engaged in significant possession, manufacture,  
24 or delivery of a controlled substance or cannabis, either  
25 individually or in consort with others, whether at the time of  
26 the offense charged he was on bond or pre-trial release pending

1 trial, probation, periodic imprisonment or conditional  
2 discharge pursuant to this Code or the comparable Code of any  
3 other state or federal jurisdiction, whether the defendant is  
4 on bond or pre-trial release pending the imposition or  
5 execution of sentence or appeal of sentence for any offense  
6 under the laws of Illinois or any other state or federal  
7 jurisdiction, whether the defendant is under parole or  
8 mandatory supervised release or work release from the Illinois  
9 Department of Corrections or any penal institution or  
10 corrections department of any state or federal jurisdiction,  
11 the defendant's record of convictions, whether the defendant  
12 has been convicted of a misdemeanor or ordinance offense in  
13 Illinois or similar offense in other state or federal  
14 jurisdiction within the 10 years preceding the current charge  
15 or convicted of a felony in Illinois, whether the defendant was  
16 convicted of an offense in another state or federal  
17 jurisdiction that would be a felony if committed in Illinois  
18 within the 20 years preceding the current charge or has been  
19 convicted of such felony and released from the penitentiary  
20 within 20 years preceding the current charge if a penitentiary  
21 sentence was imposed in Illinois or other state or federal  
22 jurisdiction, the defendant's records of juvenile adjudication  
23 of delinquency in any jurisdiction, any record of appearance or  
24 failure to appear by the defendant at court proceedings,  
25 whether there was flight to avoid arrest or prosecution,  
26 whether the defendant escaped or attempted to escape to avoid

1 arrest, whether the defendant refused to identify himself, or  
2 whether there was a refusal by the defendant to be  
3 fingerprinted as required by law. Information used by the court  
4 in its findings or stated in or offered in connection with this  
5 Section may be by way of proffer based upon reliable  
6 information offered by the State or defendant. All evidence  
7 shall be admissible if it is relevant and reliable regardless  
8 of whether it would be admissible under the rules of evidence  
9 applicable at criminal trials. If the State presents evidence  
10 that the offense committed by the defendant was related to or  
11 in furtherance of the criminal activities of an organized gang  
12 or was motivated by the defendant's membership in or allegiance  
13 to an organized gang, and if the court determines that the  
14 evidence may be substantiated, the court shall prohibit the  
15 defendant from associating with other members of the organized  
16 gang as a condition of bail or release. For the purposes of  
17 this Section, "organized gang" has the meaning ascribed to it  
18 in Section 10 of the Illinois Streetgang Terrorism Omnibus  
19 Prevention Act.

20 (b) The amount of bail shall be:

21 (1) Sufficient to assure compliance with the  
22 conditions set forth in the bail bond, which shall include  
23 the defendant's current address with a written  
24 admonishment to the defendant that he or she must comply  
25 with the provisions of Section 110-12 regarding any change  
26 in his or her address. The defendant's address shall at all

1 times remain a matter of public record with the clerk of  
2 the court.

3 (2) Not oppressive.

4 (3) Considerate of the financial ability of the  
5 accused.

6 (4) When a person is charged with a drug related  
7 offense involving possession or delivery of cannabis or  
8 possession or delivery of a controlled substance as defined  
9 in the Cannabis Control Act, the Illinois Controlled  
10 Substances Act, or the Methamphetamine Control and  
11 Community Protection Act, the full street value of the  
12 drugs seized shall be considered. "Street value" shall be  
13 determined by the court on the basis of a proffer by the  
14 State based upon reliable information of a law enforcement  
15 official contained in a written report as to the amount  
16 seized and such proffer may be used by the court as to the  
17 current street value of the smallest unit of the drug  
18 seized.

19 (b-5) Upon the filing of a written request demonstrating  
20 reasonable cause, the State's Attorney may request a source of  
21 bail hearing either before or after the posting of any funds.  
22 If the hearing is granted, before the posting of any bail, the  
23 accused must file a written notice requesting that the court  
24 conduct a source of bail hearing. The notice must be  
25 accompanied by justifying affidavits stating the legitimate  
26 and lawful source of funds for bail. At the hearing, the court

1 shall inquire into any matters stated in any justifying  
2 affidavits, and may also inquire into matters appropriate to  
3 the determination which shall include, but are not limited to,  
4 the following:

5 (1) the background, character, reputation, and  
6 relationship to the accused of any surety; and

7 (2) the source of any money or property deposited by  
8 any surety, and whether any such money or property  
9 constitutes the fruits of criminal or unlawful conduct; and

10 (3) the source of any money posted as cash bail, and  
11 whether any such money constitutes the fruits of criminal  
12 or unlawful conduct; and

13 (4) the background, character, reputation, and  
14 relationship to the accused of the person posting cash  
15 bail.

16 Upon setting the hearing, the court shall examine, under  
17 oath, any persons who may possess material information.

18 The State's Attorney has a right to attend the hearing, to  
19 call witnesses and to examine any witness in the proceeding.  
20 The court shall, upon request of the State's Attorney, continue  
21 the proceedings for a reasonable period to allow the State's  
22 Attorney to investigate the matter raised in any testimony or  
23 affidavit. If the hearing is granted after the accused has  
24 posted bail, the court shall conduct a hearing consistent with  
25 this subsection (b-5). At the conclusion of the hearing, the  
26 court must issue an order either approving or disapproving the

1 bail.

2 (c) When a person is charged with an offense punishable by  
3 fine only the amount of the bail shall not exceed double the  
4 amount of the maximum penalty.

5 (d) When a person has been convicted of an offense and only  
6 a fine has been imposed the amount of the bail shall not exceed  
7 double the amount of the fine.

8 (e) The State may appeal any order granting bail or setting  
9 a given amount for bail.

10 (f) When a person is charged with a violation of an order  
11 of protection under Section 12-30 of the Criminal Code of 1961,  
12 the court shall order the respondent to undergo a risk  
13 assessment evaluation at an Illinois Department of Human  
14 Services protocol approved partner abuse intervention program.  
15 Based on the results of the risk assessment and the other  
16 circumstances of the violation, the court may order that the  
17 person, as a condition of bail, be placed under electronic  
18 surveillance as provided in Section 5-8A-7 of the Unified Code  
19 of Corrections.

20 (Source: P.A. 93-254, eff. 1-1-04; 93-817, eff. 7-27-04;  
21 94-556, eff. 9-11-05.)

22 (725 ILCS 5/112A-14) (from Ch. 38, par. 112A-14)

23 Sec. 112A-14. Order of protection; remedies.

24 (a) Issuance of order. If the court finds that petitioner  
25 has been abused by a family or household member, as defined in



1 this Article, an order of protection prohibiting such abuse  
2 shall issue; provided that petitioner must also satisfy the  
3 requirements of one of the following Sections, as appropriate:  
4 Section 112A-17 on emergency orders, Section 112A-18 on interim  
5 orders, or Section 112A-19 on plenary orders. Petitioner shall  
6 not be denied an order of protection because petitioner or  
7 respondent is a minor. The court, when determining whether or  
8 not to issue an order of protection, shall not require physical  
9 manifestations of abuse on the person of the victim.  
10 Modification and extension of prior orders of protection shall  
11 be in accordance with this Article.

12 (b) Remedies and standards. The remedies to be included in  
13 an order of protection shall be determined in accordance with  
14 this Section and one of the following Sections, as appropriate:  
15 Section 112A-17 on emergency orders, Section 112A-18 on interim  
16 orders, and Section 112A-19 on plenary orders. The remedies  
17 listed in this subsection shall be in addition to other civil  
18 or criminal remedies available to petitioner.

19 (1) Prohibition of abuse. Prohibit respondent's  
20 harassment, interference with personal liberty,  
21 intimidation of a dependent, physical abuse or willful  
22 deprivation, as defined in this Article, if such abuse has  
23 occurred or otherwise appears likely to occur if not  
24 prohibited.

25 (2) Grant of exclusive possession of residence.  
26 Prohibit respondent from entering or remaining in any

1 residence or household of the petitioner, including one  
2 owned or leased by respondent, if petitioner has a right to  
3 occupancy thereof. The grant of exclusive possession of the  
4 residence shall not affect title to real property, nor  
5 shall the court be limited by the standard set forth in  
6 Section 701 of the Illinois Marriage and Dissolution of  
7 Marriage Act.

8 (A) Right to occupancy. A party has a right to  
9 occupancy of a residence or household if it is solely  
10 or jointly owned or leased by that party, that party's  
11 spouse, a person with a legal duty to support that  
12 party or a minor child in that party's care, or by any  
13 person or entity other than the opposing party that  
14 authorizes that party's occupancy (e.g., a domestic  
15 violence shelter). Standards set forth in subparagraph  
16 (B) shall not preclude equitable relief.

17 (B) Presumption of hardships. If petitioner and  
18 respondent each has the right to occupancy of a  
19 residence or household, the court shall balance (i) the  
20 hardships to respondent and any minor child or  
21 dependent adult in respondent's care resulting from  
22 entry of this remedy with (ii) the hardships to  
23 petitioner and any minor child or dependent adult in  
24 petitioner's care resulting from continued exposure to  
25 the risk of abuse (should petitioner remain at the  
26 residence or household) or from loss of possession of

1           the residence or household (should petitioner leave to  
2           avoid the risk of abuse). When determining the balance  
3           of hardships, the court shall also take into account  
4           the accessibility of the residence or household.  
5           Hardships need not be balanced if respondent does not  
6           have a right to occupancy.

7           The balance of hardships is presumed to favor  
8           possession by petitioner unless the presumption is  
9           rebutted by a preponderance of the evidence, showing  
10          that the hardships to respondent substantially  
11          outweigh the hardships to petitioner and any minor  
12          child or dependent adult in petitioner's care. The  
13          court, on the request of petitioner or on its own  
14          motion, may order respondent to provide suitable,  
15          accessible, alternate housing for petitioner instead  
16          of excluding respondent from a mutual residence or  
17          household.

18          (3) Stay away order and additional prohibitions. Order  
19          respondent to stay away from petitioner or any other person  
20          protected by the order of protection, or prohibit  
21          respondent from entering or remaining present at  
22          petitioner's school, place of employment, or other  
23          specified places at times when petitioner is present, or  
24          both, if reasonable, given the balance of hardships.  
25          Hardships need not be balanced for the court to enter a  
26          stay away order or prohibit entry if respondent has no

1 right to enter the premises.

2 If an order of protection grants petitioner exclusive  
3 possession of the residence, or prohibits respondent from  
4 entering the residence, or orders respondent to stay away  
5 from petitioner or other protected persons, then the court  
6 may allow respondent access to the residence to remove  
7 items of clothing and personal adornment used exclusively  
8 by respondent, medications, and other items as the court  
9 directs. The right to access shall be exercised on only one  
10 occasion as the court directs and in the presence of an  
11 agreed-upon adult third party or law enforcement officer.

12 (4) Counseling. Require or recommend the respondent to  
13 undergo counseling for a specified duration with a social  
14 worker, psychologist, clinical psychologist, psychiatrist,  
15 family service agency, alcohol or substance abuse program,  
16 mental health center guidance counselor, agency providing  
17 services to elders, program designed for domestic violence  
18 abusers or any other guidance service the court deems  
19 appropriate. The court may order the respondent in any  
20 intimate partner relationship to report to an Illinois  
21 Department of Human Services protocol approved partner  
22 abuse intervention program for an assessment and to follow  
23 all recommended treatment.

24 (5) Physical care and possession of the minor child. In  
25 order to protect the minor child from abuse, neglect, or  
26 unwarranted separation from the person who has been the

1 minor child's primary caretaker, or to otherwise protect  
2 the well-being of the minor child, the court may do either  
3 or both of the following: (i) grant petitioner physical  
4 care or possession of the minor child, or both, or (ii)  
5 order respondent to return a minor child to, or not remove  
6 a minor child from, the physical care of a parent or person  
7 in loco parentis.

8 If a court finds, after a hearing, that respondent has  
9 committed abuse (as defined in Section 112A-3) of a minor  
10 child, there shall be a rebuttable presumption that  
11 awarding physical care to respondent would not be in the  
12 minor child's best interest.

13 (6) Temporary legal custody. Award temporary legal  
14 custody to petitioner in accordance with this Section, the  
15 Illinois Marriage and Dissolution of Marriage Act, the  
16 Illinois Parentage Act of 1984, and this State's Uniform  
17 Child-Custody Jurisdiction and Enforcement Act.

18 If a court finds, after a hearing, that respondent has  
19 committed abuse (as defined in Section 112A-3) of a minor  
20 child, there shall be a rebuttable presumption that  
21 awarding temporary legal custody to respondent would not be  
22 in the child's best interest.

23 (7) Visitation. Determine the visitation rights, if  
24 any, of respondent in any case in which the court awards  
25 physical care or temporary legal custody of a minor child  
26 to petitioner. The court shall restrict or deny

1 respondent's visitation with a minor child if the court  
2 finds that respondent has done or is likely to do any of  
3 the following: (i) abuse or endanger the minor child during  
4 visitation; (ii) use the visitation as an opportunity to  
5 abuse or harass petitioner or petitioner's family or  
6 household members; (iii) improperly conceal or detain the  
7 minor child; or (iv) otherwise act in a manner that is not  
8 in the best interests of the minor child. The court shall  
9 not be limited by the standards set forth in Section 607.1  
10 of the Illinois Marriage and Dissolution of Marriage Act.  
11 If the court grants visitation, the order shall specify  
12 dates and times for the visitation to take place or other  
13 specific parameters or conditions that are appropriate. No  
14 order for visitation shall refer merely to the term  
15 "reasonable visitation".

16 Petitioner may deny respondent access to the minor  
17 child if, when respondent arrives for visitation,  
18 respondent is under the influence of drugs or alcohol and  
19 constitutes a threat to the safety and well-being of  
20 petitioner or petitioner's minor children or is behaving in  
21 a violent or abusive manner.

22 If necessary to protect any member of petitioner's  
23 family or household from future abuse, respondent shall be  
24 prohibited from coming to petitioner's residence to meet  
25 the minor child for visitation, and the parties shall  
26 submit to the court their recommendations for reasonable

1 alternative arrangements for visitation. A person may be  
2 approved to supervise visitation only after filing an  
3 affidavit accepting that responsibility and acknowledging  
4 accountability to the court.

5 (8) Removal or concealment of minor child. Prohibit  
6 respondent from removing a minor child from the State or  
7 concealing the child within the State.

8 (9) Order to appear. Order the respondent to appear in  
9 court, alone or with a minor child, to prevent abuse,  
10 neglect, removal or concealment of the child, to return the  
11 child to the custody or care of the petitioner or to permit  
12 any court-ordered interview or examination of the child or  
13 the respondent.

14 (10) Possession of personal property. Grant petitioner  
15 exclusive possession of personal property and, if  
16 respondent has possession or control, direct respondent to  
17 promptly make it available to petitioner, if:

18 (i) petitioner, but not respondent, owns the  
19 property; or

20 (ii) the parties own the property jointly; sharing  
21 it would risk abuse of petitioner by respondent or is  
22 impracticable; and the balance of hardships favors  
23 temporary possession by petitioner.

24 If petitioner's sole claim to ownership of the property  
25 is that it is marital property, the court may award  
26 petitioner temporary possession thereof under the

1 standards of subparagraph (ii) of this paragraph only if a  
2 proper proceeding has been filed under the Illinois  
3 Marriage and Dissolution of Marriage Act, as now or  
4 hereafter amended.

5 No order under this provision shall affect title to  
6 property.

7 (11) Protection of property. Forbid the respondent  
8 from taking, transferring, encumbering, concealing,  
9 damaging or otherwise disposing of any real or personal  
10 property, except as explicitly authorized by the court, if:

11 (i) petitioner, but not respondent, owns the  
12 property; or

13 (ii) the parties own the property jointly, and the  
14 balance of hardships favors granting this remedy.

15 If petitioner's sole claim to ownership of the property  
16 is that it is marital property, the court may grant  
17 petitioner relief under subparagraph (ii) of this  
18 paragraph only if a proper proceeding has been filed under  
19 the Illinois Marriage and Dissolution of Marriage Act, as  
20 now or hereafter amended.

21 The court may further prohibit respondent from  
22 improperly using the financial or other resources of an  
23 aged member of the family or household for the profit or  
24 advantage of respondent or of any other person.

25 (11.5) Protection of animals. Grant the petitioner the  
26 exclusive care, custody, or control of any animal owned,



1           possessed, leased, kept, or held by either the petitioner  
2           or the respondent or a minor child residing in the  
3           residence or household of either the petitioner or the  
4           respondent and order the respondent to stay away from the  
5           animal and forbid the respondent from taking,  
6           transferring, encumbering, concealing, harming, or  
7           otherwise disposing of the animal.

8           (12) Order for payment of support. Order respondent to  
9           pay temporary support for the petitioner or any child in  
10          the petitioner's care or custody, when the respondent has a  
11          legal obligation to support that person, in accordance with  
12          the Illinois Marriage and Dissolution of Marriage Act,  
13          which shall govern, among other matters, the amount of  
14          support, payment through the clerk and withholding of  
15          income to secure payment. An order for child support may be  
16          granted to a petitioner with lawful physical care or  
17          custody of a child, or an order or agreement for physical  
18          care or custody, prior to entry of an order for legal  
19          custody. Such a support order shall expire upon entry of a  
20          valid order granting legal custody to another, unless  
21          otherwise provided in the custody order.

22          (13) Order for payment of losses. Order respondent to  
23          pay petitioner for losses suffered as a direct result of  
24          the abuse. Such losses shall include, but not be limited  
25          to, medical expenses, lost earnings or other support,  
26          repair or replacement of property damaged or taken,

1 reasonable attorney's fees, court costs and moving or other  
2 travel expenses, including additional reasonable expenses  
3 for temporary shelter and restaurant meals.

4 (i) Losses affecting family needs. If a party is  
5 entitled to seek maintenance, child support or  
6 property distribution from the other party under the  
7 Illinois Marriage and Dissolution of Marriage Act, as  
8 now or hereafter amended, the court may order  
9 respondent to reimburse petitioner's actual losses, to  
10 the extent that such reimbursement would be  
11 "appropriate temporary relief", as authorized by  
12 subsection (a) (3) of Section 501 of that Act.

13 (ii) Recovery of expenses. In the case of an  
14 improper concealment or removal of a minor child, the  
15 court may order respondent to pay the reasonable  
16 expenses incurred or to be incurred in the search for  
17 and recovery of the minor child, including but not  
18 limited to legal fees, court costs, private  
19 investigator fees, and travel costs.

20 (14) Prohibition of entry. Prohibit the respondent  
21 from entering or remaining in the residence or household  
22 while the respondent is under the influence of alcohol or  
23 drugs and constitutes a threat to the safety and well-being  
24 of the petitioner or the petitioner's children.

25 (14.5) Prohibition of firearm possession.

26 (a) When a complaint is made under a request for an

1 order of protection, that the respondent has  
2 threatened or is likely to use firearms illegally  
3 against the petitioner, and the respondent is present  
4 in court, or has failed to appear after receiving  
5 actual notice, the court shall examine on oath the  
6 petitioner, and any witnesses who may be produced. If  
7 the court is satisfied that there is any danger of the  
8 illegal use of firearms, it shall include in the order  
9 of protection the requirement that any firearms in the  
10 possession of the respondent, except as provided in  
11 subsection (b), be turned over to the local law  
12 enforcement agency for safekeeping. If the respondent  
13 fails to appear, or refuses or fails to surrender his  
14 or her firearms, the court shall issue a warrant for  
15 seizure of any firearm in the possession of the  
16 respondent. The period of safekeeping shall be for a  
17 stated period of time not to exceed 2 years. The  
18 firearm or firearms shall be returned to the respondent  
19 at the end of the stated period or at expiration of the  
20 order of protection, whichever is sooner.

21 (b) If the respondent is a peace officer as defined  
22 in Section 2-13 of the Criminal Code of 1961, the court  
23 shall order that any firearms used by the respondent in  
24 the performance of his or her duties as a peace officer  
25 be surrendered to the chief law enforcement executive  
26 of the agency in which the respondent is employed, who

1           shall retain the firearms for safekeeping for the  
2           stated period not to exceed 2 years as set forth in the  
3           court order.

4           (15) Prohibition of access to records. If an order of  
5           protection prohibits respondent from having contact with  
6           the minor child, or if petitioner's address is omitted  
7           under subsection (b) of Section 112A-5, or if necessary to  
8           prevent abuse or wrongful removal or concealment of a minor  
9           child, the order shall deny respondent access to, and  
10          prohibit respondent from inspecting, obtaining, or  
11          attempting to inspect or obtain, school or any other  
12          records of the minor child who is in the care of  
13          petitioner.

14          (16) Order for payment of shelter services. Order  
15          respondent to reimburse a shelter providing temporary  
16          housing and counseling services to the petitioner for the  
17          cost of the services, as certified by the shelter and  
18          deemed reasonable by the court.

19          (17) Order for injunctive relief. Enter injunctive  
20          relief necessary or appropriate to prevent further abuse of  
21          a family or household member or to effectuate one of the  
22          granted remedies, if supported by the balance of hardships.  
23          If the harm to be prevented by the injunction is abuse or  
24          any other harm that one of the remedies listed in  
25          paragraphs (1) through (16) of this subsection is designed  
26          to prevent, no further evidence is necessary to establish

1           that the harm is an irreparable injury.

2           (c) Relevant factors; findings.

3           (1) In determining whether to grant a specific remedy,  
4           other than payment of support, the court shall consider  
5           relevant factors, including but not limited to the  
6           following:

7                   (i) the nature, frequency, severity, pattern and  
8                   consequences of the respondent's past abuse of the  
9                   petitioner or any family or household member,  
10                  including the concealment of his or her location in  
11                  order to evade service of process or notice, and the  
12                  likelihood of danger of future abuse to petitioner or  
13                  any member of petitioner's or respondent's family or  
14                  household; and

15                   (ii) the danger that any minor child will be abused  
16                   or neglected or improperly removed from the  
17                   jurisdiction, improperly concealed within the State or  
18                   improperly separated from the child's primary  
19                   caretaker.

20           (2) In comparing relative hardships resulting to the  
21           parties from loss of possession of the family home, the  
22           court shall consider relevant factors, including but not  
23           limited to the following:

24                   (i) availability, accessibility, cost, safety,  
25                   adequacy, location and other characteristics of  
26                   alternate housing for each party and any minor child or

1 dependent adult in the party's care;

2 (ii) the effect on the party's employment; and

3 (iii) the effect on the relationship of the party,  
4 and any minor child or dependent adult in the party's  
5 care, to family, school, church and community.

6 (3) Subject to the exceptions set forth in paragraph  
7 (4) of this subsection, the court shall make its findings  
8 in an official record or in writing, and shall at a minimum  
9 set forth the following:

10 (i) That the court has considered the applicable  
11 relevant factors described in paragraphs (1) and (2) of  
12 this subsection.

13 (ii) Whether the conduct or actions of respondent,  
14 unless prohibited, will likely cause irreparable harm  
15 or continued abuse.

16 (iii) Whether it is necessary to grant the  
17 requested relief in order to protect petitioner or  
18 other alleged abused persons.

19 (4) For purposes of issuing an ex parte emergency order  
20 of protection, the court, as an alternative to or as a  
21 supplement to making the findings described in paragraphs  
22 (c)(3)(i) through (c)(3)(iii) of this subsection, may use  
23 the following procedure:

24 When a verified petition for an emergency order of  
25 protection in accordance with the requirements of Sections  
26 112A-5 and 112A-17 is presented to the court, the court

1 shall examine petitioner on oath or affirmation. An  
2 emergency order of protection shall be issued by the court  
3 if it appears from the contents of the petition and the  
4 examination of petitioner that the averments are  
5 sufficient to indicate abuse by respondent and to support  
6 the granting of relief under the issuance of the emergency  
7 order of protection.

8 (5) Never married parties. No rights or  
9 responsibilities for a minor child born outside of marriage  
10 attach to a putative father until a father and child  
11 relationship has been established under the Illinois  
12 Parentage Act of 1984. Absent such an adjudication, no  
13 putative father shall be granted temporary custody of the  
14 minor child, visitation with the minor child, or physical  
15 care and possession of the minor child, nor shall an order  
16 of payment for support of the minor child be entered.

17 (d) Balance of hardships; findings. If the court finds that  
18 the balance of hardships does not support the granting of a  
19 remedy governed by paragraph (2), (3), (10), (11), or (16) of  
20 subsection (b) of this Section, which may require such  
21 balancing, the court's findings shall so indicate and shall  
22 include a finding as to whether granting the remedy will result  
23 in hardship to respondent that would substantially outweigh the  
24 hardship to petitioner from denial of the remedy. The findings  
25 shall be an official record or in writing.

26 (e) Denial of remedies. Denial of any remedy shall not be

1 based, in whole or in part, on evidence that:

2 (1) Respondent has cause for any use of force, unless  
3 that cause satisfies the standards for justifiable use of  
4 force provided by Article VII of the Criminal Code of 1961;

5 (2) Respondent was voluntarily intoxicated;

6 (3) Petitioner acted in self-defense or defense of  
7 another, provided that, if petitioner utilized force, such  
8 force was justifiable under Article VII of the Criminal  
9 Code of 1961;

10 (4) Petitioner did not act in self-defense or defense  
11 of another;

12 (5) Petitioner left the residence or household to avoid  
13 further abuse by respondent;

14 (6) Petitioner did not leave the residence or household  
15 to avoid further abuse by respondent;

16 (7) Conduct by any family or household member excused  
17 the abuse by respondent, unless that same conduct would  
18 have excused such abuse if the parties had not been family  
19 or household members.

20 (Source: P.A. 95-234, eff. 1-1-08.)

21 Section 25. The Unified Code of Corrections is amended by  
22 changing Sections 3-3-7, 3-6-3, and 5-6-3 and by adding  
23 Sections 5-8A-7 and 5-9-1.16 as follows:

24 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)



1 (Text of Section after amendment by P.A. 95-464, 95-579,  
2 and 95-640)

3 Sec. 3-3-7. Conditions of Parole or Mandatory Supervised  
4 Release.

5 (a) The conditions of parole or mandatory supervised  
6 release shall be such as the Prisoner Review Board deems  
7 necessary to assist the subject in leading a law-abiding life.  
8 The conditions of every parole and mandatory supervised release  
9 are that the subject:

10 (1) not violate any criminal statute of any  
11 jurisdiction during the parole or release term;

12 (2) refrain from possessing a firearm or other  
13 dangerous weapon;

14 (3) report to an agent of the Department of  
15 Corrections;

16 (4) permit the agent to visit him or her at his or her  
17 home, employment, or elsewhere to the extent necessary for  
18 the agent to discharge his or her duties;

19 (5) attend or reside in a facility established for the  
20 instruction or residence of persons on parole or mandatory  
21 supervised release;

22 (6) secure permission before visiting or writing a  
23 committed person in an Illinois Department of Corrections  
24 facility;

25 (7) report all arrests to an agent of the Department of  
26 Corrections as soon as permitted by the arresting authority

1 but in no event later than 24 hours after release from  
2 custody;

3 (7.5) if convicted of a sex offense as defined in the  
4 Sex Offender Management Board Act, the individual shall  
5 undergo and successfully complete sex offender treatment  
6 conducted in conformance with the standards developed by  
7 the Sex Offender Management Board Act by a treatment  
8 provider approved by the Board;

9 (7.6) if convicted of a sex offense as defined in the  
10 Sex Offender Management Board Act, refrain from residing at  
11 the same address or in the same condominium unit or  
12 apartment unit or in the same condominium complex or  
13 apartment complex with another person he or she knows or  
14 reasonably should know is a convicted sex offender or has  
15 been placed on supervision for a sex offense; the  
16 provisions of this paragraph do not apply to a person  
17 convicted of a sex offense who is placed in a Department of  
18 Corrections licensed transitional housing facility for sex  
19 offenders, or is in any facility operated or licensed by  
20 the Department of Children and Family Services or by the  
21 Department of Human Services, or is in any licensed medical  
22 facility;

23 (7.7) if convicted for an offense that would qualify  
24 the accused as a sexual predator under the Sex Offender  
25 Registration Act on or after the effective date of this  
26 amendatory Act of the 94th General Assembly, wear an

1 approved electronic monitoring device as defined in  
2 Section 5-8A-2 for the duration of the person's parole,  
3 mandatory supervised release term, or extended mandatory  
4 supervised release term;

5 (7.8) if convicted for an offense committed on or after  
6 the effective date of this amendatory Act of the 95th  
7 General Assembly that would qualify the accused as a child  
8 sex offender as defined in Section 11-9.3 or 11-9.4 of the  
9 Criminal Code of 1961, refrain from communicating with or  
10 contacting, by means of the Internet, a person who is not  
11 related to the accused and whom the accused reasonably  
12 believes to be under 18 years of age; for purposes of this  
13 paragraph (7.8), "Internet" has the meaning ascribed to it  
14 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~  
15 ~~Public Act 94-179~~; and a person is not related to the  
16 accused if the person is not: (i) the spouse, brother, or  
17 sister of the accused; (ii) a descendant of the accused;  
18 (iii) a first or second cousin of the accused; or (iv) a  
19 step-child or adopted child of the accused;

20 (7.9) ~~(7.8)~~ if convicted under Section 11-6, 11-20.1,  
21 11-20.3, or 11-21 of the Criminal Code of 1961, consent to  
22 search of computers, PDAs, cellular phones, and other  
23 devices under his or her control that are capable of  
24 accessing the Internet or storing electronic files, in  
25 order to confirm Internet protocol addresses reported in  
26 accordance with the Sex Offender Registration Act and

1 compliance with conditions in this Act;

2 (7.10) ~~(7.8)~~ if convicted for an offense that would  
3 qualify the accused as a sex offender or sexual predator  
4 under the Sex Offender Registration Act on or after the  
5 effective date of this amendatory Act of the 95th General  
6 Assembly, not possess prescription drugs for erectile  
7 dysfunction;

8 (8) obtain permission of an agent of the Department of  
9 Corrections before leaving the State of Illinois;

10 (9) obtain permission of an agent of the Department of  
11 Corrections before changing his or her residence or  
12 employment;

13 (10) consent to a search of his or her person,  
14 property, or residence under his or her control;

15 (11) refrain from the use or possession of narcotics or  
16 other controlled substances in any form, or both, or any  
17 paraphernalia related to those substances and submit to a  
18 urinalysis test as instructed by a parole agent of the  
19 Department of Corrections;

20 (12) not frequent places where controlled substances  
21 are illegally sold, used, distributed, or administered;

22 (13) not knowingly associate with other persons on  
23 parole or mandatory supervised release without prior  
24 written permission of his or her parole agent and not  
25 associate with persons who are members of an organized gang  
26 as that term is defined in the Illinois Streetgang

1 Terrorism Omnibus Prevention Act;

2 (14) provide true and accurate information, as it  
3 relates to his or her adjustment in the community while on  
4 parole or mandatory supervised release or to his or her  
5 conduct while incarcerated, in response to inquiries by his  
6 or her parole agent or of the Department of Corrections;

7 (15) follow any specific instructions provided by the  
8 parole agent that are consistent with furthering  
9 conditions set and approved by the Prisoner Review Board or  
10 by law, exclusive of placement on electronic detention, to  
11 achieve the goals and objectives of his or her parole or  
12 mandatory supervised release or to protect the public.  
13 These instructions by the parole agent may be modified at  
14 any time, as the agent deems appropriate; ~~and~~

15 (16) if convicted of a sex offense as defined in  
16 subsection (a-5) of Section 3-1-2 of this Code, unless the  
17 offender is a parent or guardian of the person under 18  
18 years of age present in the home and no non-familial minors  
19 are present, not participate in a holiday event involving  
20 children under 18 years of age, such as distributing candy  
21 or other items to children on Halloween, wearing a Santa  
22 Claus costume on or preceding Christmas, being employed as  
23 a department store Santa Claus, or wearing an Easter Bunny  
24 costume on or preceding Easter; ~~and-~~

25 (17) if convicted of a violation of an order of  
26 protection under Section 12-30 of the Criminal Code of

1       1961, be placed under electronic surveillance as provided  
2       in Section 5-8A-7 of this Code.

3       (b) The Board may in addition to other conditions require  
4       that the subject:

5               (1) work or pursue a course of study or vocational  
6               training;

7               (2) undergo medical or psychiatric treatment, or  
8               treatment for drug addiction or alcoholism;

9               (3) attend or reside in a facility established for the  
10              instruction or residence of persons on probation or parole;

11              (4) support his dependents;

12              (5) (blank);

13              (6) (blank);

14              (7) comply with the terms and conditions of an order of  
15              protection issued pursuant to the Illinois Domestic  
16              Violence Act of 1986, enacted by the 84th General Assembly,  
17              or an order of protection issued by the court of another  
18              state, tribe, or United States territory;

19              (7.5) if convicted for an offense committed on or after  
20              the effective date of this amendatory Act of the 95th  
21              General Assembly that would qualify the accused as a child  
22              sex offender as defined in Section 11-9.3 or 11-9.4 of the  
23              Criminal Code of 1961, refrain from communicating with or  
24              contacting, by means of the Internet, a person who is  
25              related to the accused and whom the accused reasonably  
26              believes to be under 18 years of age; for purposes of this

1 paragraph (7.5), "Internet" has the meaning ascribed to it  
2 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~  
3 ~~Public Act 94-179~~; and a person is related to the accused  
4 if the person is: (i) the spouse, brother, or sister of the  
5 accused; (ii) a descendant of the accused; (iii) a first or  
6 second cousin of the accused; or (iv) a step-child or  
7 adopted child of the accused; and

8 (8) in addition, if a minor:

9 (i) reside with his parents or in a foster home;

10 (ii) attend school;

11 (iii) attend a non-residential program for youth;

12 or

13 (iv) contribute to his own support at home or in a  
14 foster home.

15 (b-1) In addition to the conditions set forth in  
16 subsections (a) and (b), persons required to register as sex  
17 offenders pursuant to the Sex Offender Registration Act, upon  
18 release from the custody of the Illinois Department of  
19 Corrections, may be required by the Board to comply with the  
20 following specific conditions of release:

21 (1) reside only at a Department approved location;

22 (2) comply with all requirements of the Sex Offender  
23 Registration Act;

24 (3) notify third parties of the risks that may be  
25 occasioned by his or her criminal record;

26 (4) obtain the approval of an agent of the Department

1 of Corrections prior to accepting employment or pursuing a  
2 course of study or vocational training and notify the  
3 Department prior to any change in employment, study, or  
4 training;

5 (5) not be employed or participate in any volunteer  
6 activity that involves contact with children, except under  
7 circumstances approved in advance and in writing by an  
8 agent of the Department of Corrections;

9 (6) be electronically monitored for a minimum of 12  
10 months from the date of release as determined by the Board;

11 (7) refrain from entering into a designated geographic  
12 area except upon terms approved in advance by an agent of  
13 the Department of Corrections. The terms may include  
14 consideration of the purpose of the entry, the time of day,  
15 and others accompanying the person;

16 (8) refrain from having any contact, including written  
17 or oral communications, directly or indirectly, personally  
18 or by telephone, letter, or through a third party with  
19 certain specified persons including, but not limited to,  
20 the victim or the victim's family without the prior written  
21 approval of an agent of the Department of Corrections;

22 (9) refrain from all contact, directly or indirectly,  
23 personally, by telephone, letter, or through a third party,  
24 with minor children without prior identification and  
25 approval of an agent of the Department of Corrections;

26 (10) neither possess or have under his or her control



1 any material that is sexually oriented, sexually  
2 stimulating, or that shows male or female sex organs or any  
3 pictures depicting children under 18 years of age nude or  
4 any written or audio material describing sexual  
5 intercourse or that depicts or alludes to sexual activity,  
6 including but not limited to visual, auditory, telephonic,  
7 or electronic media, or any matter obtained through access  
8 to any computer or material linked to computer access use;

9 (11) not patronize any business providing sexually  
10 stimulating or sexually oriented entertainment nor utilize  
11 "900" or adult telephone numbers;

12 (12) not reside near, visit, or be in or about parks,  
13 schools, day care centers, swimming pools, beaches,  
14 theaters, or any other places where minor children  
15 congregate without advance approval of an agent of the  
16 Department of Corrections and immediately report any  
17 incidental contact with minor children to the Department;

18 (13) not possess or have under his or her control  
19 certain specified items of contraband related to the  
20 incidence of sexually offending as determined by an agent  
21 of the Department of Corrections;

22 (14) may be required to provide a written daily log of  
23 activities if directed by an agent of the Department of  
24 Corrections;

25 (15) comply with all other special conditions that the  
26 Department may impose that restrict the person from

1 high-risk situations and limit access to potential  
2 victims;

3 (16) take an annual polygraph exam;

4 (17) maintain a log of his or her travel; or

5 (18) obtain prior approval of his or her parole officer  
6 before driving alone in a motor vehicle.

7 (c) The conditions under which the parole or mandatory  
8 supervised release is to be served shall be communicated to the  
9 person in writing prior to his release, and he shall sign the  
10 same before release. A signed copy of these conditions,  
11 including a copy of an order of protection where one had been  
12 issued by the criminal court, shall be retained by the person  
13 and another copy forwarded to the officer in charge of his  
14 supervision.

15 (d) After a hearing under Section 3-3-9, the Prisoner  
16 Review Board may modify or enlarge the conditions of parole or  
17 mandatory supervised release.

18 (e) The Department shall inform all offenders committed to  
19 the Department of the optional services available to them upon  
20 release and shall assist inmates in availing themselves of such  
21 optional services upon their release on a voluntary basis.

22 (f) When the subject is in compliance with all conditions  
23 of his or her parole or mandatory supervised release, the  
24 subject shall receive a reduction of the period of his or her  
25 parole or mandatory supervised release of 90 days upon passage  
26 of the high school level Test of General Educational

1 Development during the period of his or her parole or mandatory  
2 supervised release. This reduction in the period of a subject's  
3 term of parole or mandatory supervised release shall be  
4 available only to subjects who have not previously earned a  
5 high school diploma or who have not previously passed the high  
6 school level Test of General Educational Development.

7 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;  
8 94-988, eff. 1-1-07; 95-464, eff. 6-1-08; 95-539, eff. 1-1-08;  
9 95-579, eff. 6-1-08; 95-640, eff. 6-1-08; revised 12-26-07.)

10 (730 ILCS 5/3-6-3) (from Ch. 38, par. 1003-6-3)

11 (Text of Section after amendment by P.A. 95-585, 95-625,  
12 and 95-640)

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

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

18 (2) The rules and regulations on early release shall  
19 provide, with respect to offenses listed in clause (i),  
20 (ii), or (iii) of this paragraph (2) committed on or after  
21 June 19, 1998 or with respect to the offense listed in  
22 clause (iv) of this paragraph (2) committed on or after  
23 June 23, 2005 (the effective date of Public Act 94-71) or  
24 with respect to offense listed in clause (vi) ~~(v)~~ committed  
25 on or after June 1, 2008 (the effective date of Public Act

1        ~~95-625) this amendatory Act of the 95th General Assembly~~ or  
2        with respect to the offense of being an armed habitual  
3        criminal committed on or after August 2, 2005 (the  
4        effective date of Public Act 94-398) or with respect to the  
5        offenses listed in clause (v) of this paragraph (2)  
6        committed on or after August 13, 2007 (the effective date  
7        of Public Act 95-134) ~~this amendatory Act of the 95th~~  
8        ~~General Assembly~~, the following:

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

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

25              (iii) that a prisoner serving a sentence for home  
26              invasion, armed robbery, aggravated vehicular

1 hijacking, aggravated discharge of a firearm, or armed  
2 violence with a category I weapon or category II  
3 weapon, when the court has made and entered a finding,  
4 pursuant to subsection (c-1) of Section 5-4-1 of this  
5 Code, that the conduct leading to conviction for the  
6 enumerated offense resulted in great bodily harm to a  
7 victim, shall receive no more than 4.5 days of good  
8 conduct credit for each month of his or her sentence of  
9 imprisonment;

10 (iv) that a prisoner serving a sentence for  
11 aggravated discharge of a firearm, whether or not the  
12 conduct leading to conviction for the offense resulted  
13 in great bodily harm to the victim, shall receive no  
14 more than 4.5 days of good conduct credit for each  
15 month of his or her sentence of imprisonment; ~~and~~

16 (v) that a person serving a sentence for  
17 gunrunning, narcotics racketeering, controlled  
18 substance trafficking, methamphetamine trafficking,  
19 drug-induced homicide, aggravated  
20 methamphetamine-related child endangerment, money  
21 laundering pursuant to clause (c) (4) or (5) of Section  
22 29B-1 of the Criminal Code of 1961, or a Class X felony  
23 conviction for delivery of a controlled substance,  
24 possession of a controlled substance with intent to  
25 manufacture or deliver, calculated criminal drug  
26 conspiracy, criminal drug conspiracy, street gang

1 criminal drug conspiracy, participation in  
2 methamphetamine manufacturing, aggravated  
3 participation in methamphetamine manufacturing,  
4 delivery of methamphetamine, possession with intent to  
5 deliver methamphetamine, aggravated delivery of  
6 methamphetamine, aggravated possession with intent to  
7 deliver methamphetamine, methamphetamine conspiracy  
8 when the substance containing the controlled substance  
9 or methamphetamine is 100 grams or more shall receive  
10 no more than 7.5 days good conduct credit for each  
11 month of his or her sentence of imprisonment; and.

12 (vi) ~~(v)~~ that a prisoner serving a sentence for a  
13 second or subsequent offense of luring a minor shall  
14 receive no more than 4.5 days of good conduct credit  
15 for each month of his or her sentence of imprisonment.

16 (2.1) For all offenses, other than those enumerated in  
17 subdivision (a)(2)(i), (ii), or (iii) committed on or after  
18 June 19, 1998 or subdivision (a)(2)(iv) committed on or  
19 after June 23, 2005 (the effective date of Public Act  
20 94-71) or subdivision (a)(2)(v) committed on or after  
21 August 13, 2007 (the effective date of Public Act 95-134)  
22 ~~this amendatory Act of the 95th General Assembly~~ or  
23 subdivision (a)(2) (vi) ~~(v)~~ committed on or after June 1,  
24 2008 (the effective date of Public Act 95-625) ~~this~~  
25 ~~amendatory Act of the 95th General Assembly~~, and other than  
26 the offense of reckless homicide as defined in subsection

1 (e) of Section 9-3 of the Criminal Code of 1961 committed  
2 on or after January 1, 1999, or aggravated driving under  
3 the influence of alcohol, other drug or drugs, or  
4 intoxicating compound or compounds, or any combination  
5 thereof as defined in subparagraph (F) of paragraph (1) of  
6 subsection (d) of Section 11-501 of the Illinois Vehicle  
7 Code, the rules and regulations shall provide that a  
8 prisoner who is serving a term of imprisonment shall  
9 receive one day of good conduct credit for each day of his  
10 or her sentence of imprisonment or recommitment under  
11 Section 3-3-9. Each day of good conduct credit shall reduce  
12 by one day the prisoner's period of imprisonment or  
13 recommitment under Section 3-3-9.

14 (2.2) A prisoner serving a term of natural life  
15 imprisonment or a prisoner who has been sentenced to death  
16 shall receive no good conduct credit.

17 (2.3) The rules and regulations on early release shall  
18 provide that a prisoner who is serving a sentence for  
19 reckless homicide as defined in subsection (e) of Section  
20 9-3 of the Criminal Code of 1961 committed on or after  
21 January 1, 1999, or aggravated driving under the influence  
22 of alcohol, other drug or drugs, or intoxicating compound  
23 or compounds, or any combination thereof as defined in  
24 subparagraph (F) of paragraph (1) of subsection (d) of  
25 Section 11-501 of the Illinois Vehicle Code, shall receive  
26 no more than 4.5 days of good conduct credit for each month

1 of his or her sentence of imprisonment.

2 (2.4) The rules and regulations on early release shall  
3 provide with respect to the offenses of aggravated battery  
4 with a machine gun or a firearm equipped with any device or  
5 attachment designed or used for silencing the report of a  
6 firearm or aggravated discharge of a machine gun or a  
7 firearm equipped with any device or attachment designed or  
8 used for silencing the report of a firearm, committed on or  
9 after July 15, 1999 (the effective date of Public Act  
10 91-121), that a prisoner serving a sentence for any of  
11 these offenses shall receive no more than 4.5 days of good  
12 conduct credit for each month of his or her sentence of  
13 imprisonment.

14 (2.5) The rules and regulations on early release shall  
15 provide that a prisoner who is serving a sentence for  
16 aggravated arson committed on or after July 27, 2001 (the  
17 effective date of Public Act 92-176) shall receive no more  
18 than 4.5 days of good conduct credit for each month of his  
19 or her sentence of imprisonment.

20 (3) The rules and regulations shall also provide that  
21 the Director may award up to 180 days additional good  
22 conduct credit for meritorious service in specific  
23 instances as the Director deems proper; except that no more  
24 than 90 days of good conduct credit for meritorious service  
25 shall be awarded to any prisoner who is serving a sentence  
26 for conviction of first degree murder, reckless homicide



1 while under the influence of alcohol or any other drug, or  
2 aggravated driving under the influence of alcohol, other  
3 drug or drugs, or intoxicating compound or compounds, or  
4 any combination thereof as defined in subparagraph (F) of  
5 paragraph (1) of subsection (d) of Section 11-501 of the  
6 Illinois Vehicle Code, aggravated kidnapping, kidnapping,  
7 predatory criminal sexual assault of a child, aggravated  
8 criminal sexual assault, criminal sexual assault, deviate  
9 sexual assault, aggravated criminal sexual abuse,  
10 aggravated indecent liberties with a child, indecent  
11 liberties with a child, child pornography, heinous  
12 battery, aggravated battery of a spouse, aggravated  
13 battery of a spouse with a firearm, stalking, aggravated  
14 stalking, aggravated battery of a child, endangering the  
15 life or health of a child, or cruelty to a child.  
16 Notwithstanding the foregoing, good conduct credit for  
17 meritorious service shall not be awarded on a sentence of  
18 imprisonment imposed for conviction of: (i) one of the  
19 offenses enumerated in subdivision (a)(2)(i), (ii), or  
20 (iii) when the offense is committed on or after June 19,  
21 1998 or subdivision (a)(2)(iv) when the offense is  
22 committed on or after June 23, 2005 (the effective date of  
23 Public Act 94-71) or subdivision (a)(2)(v) when the offense  
24 is committed on or after August 13, 2007 (the effective  
25 date of Public Act 95-134) ~~this amendatory Act of the 95th~~  
26 ~~General Assembly~~ or subdivision (a)(2)(vi)~~(v)~~ when the

1 offense is committed on or after June 1, 2008 (the  
2 effective date of Public Act 95-625) ~~this amendatory Act of~~  
3 ~~the 95th General Assembly~~, (ii) reckless homicide as  
4 defined in subsection (e) of Section 9-3 of the Criminal  
5 Code of 1961 when the offense is committed on or after  
6 January 1, 1999, or aggravated driving under the influence  
7 of alcohol, other drug or drugs, or intoxicating compound  
8 or compounds, or any combination thereof as defined in  
9 subparagraph (F) of paragraph (1) of subsection (d) of  
10 Section 11-501 of the Illinois Vehicle Code, (iii) one of  
11 the offenses enumerated in subdivision (a)(2.4) when the  
12 offense is committed on or after July 15, 1999 (the  
13 effective date of Public Act 91-121), or (iv) aggravated  
14 arson when the offense is committed on or after July 27,  
15 2001 (the effective date of Public Act 92-176).

16 (4) The rules and regulations shall also provide that  
17 the good conduct credit accumulated and retained under  
18 paragraph (2.1) of subsection (a) of this Section by any  
19 inmate during specific periods of time in which such inmate  
20 is engaged full-time in substance abuse programs,  
21 correctional industry assignments, or educational programs  
22 provided by the Department under this paragraph (4) and  
23 satisfactorily completes the assigned program as  
24 determined by the standards of the Department, shall be  
25 multiplied by a factor of 1.25 for program participation  
26 before August 11, 1993 and 1.50 for program participation

1 on or after that date. However, no inmate shall be eligible  
2 for the additional good conduct credit under this paragraph  
3 (4) or (4.1) of this subsection (a) while assigned to a  
4 boot camp or electronic detention, or if convicted of an  
5 offense enumerated in subdivision (a)(2)(i), (ii), or  
6 (iii) of this Section that is committed on or after June  
7 19, 1998 or subdivision (a)(2)(iv) of this Section that is  
8 committed on or after June 23, 2005 (the effective date of  
9 Public Act 94-71) or subdivision (a)(2)(v) of this Section  
10 that is committed on or after August 13, 2007 (the  
11 effective date of Public Act 95-134) ~~this amendatory Act of~~  
12 ~~the 95th General Assembly~~ or subdivision (a)(2)(vi)(~~v~~)  
13 when the offense is committed on or after June 1, 2008 (the  
14 effective date of Public Act 95-625) ~~this amendatory Act of~~  
15 ~~the 95th General Assembly~~, or if convicted of reckless  
16 homicide as defined in subsection (e) of Section 9-3 of the  
17 Criminal Code of 1961 if the offense is committed on or  
18 after January 1, 1999, or aggravated driving under the  
19 influence of alcohol, other drug or drugs, or intoxicating  
20 compound or compounds, or any combination thereof as  
21 defined in subparagraph (F) of paragraph (1) of subsection  
22 (d) of Section 11-501 of the Illinois Vehicle Code, or if  
23 convicted of an offense enumerated in paragraph (a)(2.4) of  
24 this Section that is committed on or after July 15, 1999  
25 (the effective date of Public Act 91-121), or first degree  
26 murder, a Class X felony, criminal sexual assault, felony

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

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

21 Availability of these programs shall be subject to the  
22 limits of fiscal resources appropriated by the General  
23 Assembly for these purposes. Eligible inmates who are  
24 denied immediate admission shall be placed on a waiting  
25 list under criteria established by the Department. The  
26 inability of any inmate to become engaged in any such

1 programs by reason of insufficient program resources or for  
2 any other reason established under the rules and  
3 regulations of the Department shall not be deemed a cause  
4 of action under which the Department or any employee or  
5 agent of the Department shall be liable for damages to the  
6 inmate.

7 (4.1) The rules and regulations shall also provide that  
8 an additional 60 days of good conduct credit shall be  
9 awarded to any prisoner who passes the high school level  
10 Test of General Educational Development (GED) while the  
11 prisoner is incarcerated. The good conduct credit awarded  
12 under this paragraph (4.1) shall be in addition to, and  
13 shall not affect, the award of good conduct under any other  
14 paragraph of this Section, but shall also be pursuant to  
15 the guidelines and restrictions set forth in paragraph (4)  
16 of subsection (a) of this Section. The good conduct credit  
17 provided for in this paragraph shall be available only to  
18 those prisoners who have not previously earned a high  
19 school diploma or a GED. If, after an award of the GED good  
20 conduct credit has been made and the Department determines  
21 that the prisoner was not eligible, then the award shall be  
22 revoked.

23 (4.5) The rules and regulations on early release shall  
24 also provide that when the court's sentencing order  
25 recommends a prisoner for substance abuse treatment and the  
26 crime was committed on or after September 1, 2003 (the

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

25 (4.6) The rules and regulations on early release shall  
26 also provide that a prisoner who has been convicted of a

1 sex offense as defined in Section 2 of the Sex Offender  
2 Registration Act shall receive no good conduct credit  
3 unless he or she either has successfully completed or is  
4 participating in sex offender treatment as defined by the  
5 Sex Offender Management Board. However, prisoners who are  
6 waiting to receive such treatment, but who are unable to do  
7 so due solely to the lack of resources on the part of the  
8 Department, may, at the Director's sole discretion, be  
9 awarded good conduct credit at such rate as the Director  
10 shall determine.

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

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

22 (c) The Department shall prescribe rules and regulations  
23 for revoking good conduct credit, or suspending or reducing the  
24 rate of accumulation of good conduct credit for specific rule  
25 violations, during imprisonment. These rules and regulations  
26 shall provide that no inmate may be penalized more than one

1 year of good conduct credit for any one infraction.

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

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



1 amount requested by the Director.

2 Nothing contained in this Section shall prohibit the  
3 Prisoner Review Board from ordering, pursuant to Section  
4 3-3-9(a)(3)(i)(B), that a prisoner serve up to one year of the  
5 sentence imposed by the court that was not served due to the  
6 accumulation of good conduct credit.

7 (d) If a lawsuit is filed by a prisoner in an Illinois or  
8 federal court against the State, the Department of Corrections,  
9 or the Prisoner Review Board, or against any of their officers  
10 or employees, and the court makes a specific finding that a  
11 pleading, motion, or other paper filed by the prisoner is  
12 frivolous, the Department of Corrections shall conduct a  
13 hearing to revoke up to 180 days of good conduct credit by  
14 bringing charges against the prisoner sought to be deprived of  
15 the good conduct credits before the Prisoner Review Board as  
16 provided in subparagraph (a)(8) of Section 3-3-2 of this Code.  
17 If the prisoner has not accumulated 180 days of good conduct  
18 credit at the time of the finding, then the Prisoner Review  
19 Board may revoke all good conduct credit accumulated by the  
20 prisoner.

21 For purposes of this subsection (d):

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

26 (A) it lacks an arguable basis either in law or in

1 fact;

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

5 (C) the claims, defenses, and other legal  
6 contentions therein are not warranted by existing law  
7 or by a nonfrivolous argument for the extension,  
8 modification, or reversal of existing law or the  
9 establishment of new law;

10 (D) the allegations and other factual contentions  
11 do not have evidentiary support or, if specifically so  
12 identified, are not likely to have evidentiary support  
13 after a reasonable opportunity for further  
14 investigation or discovery; or

15 (E) the denials of factual contentions are not  
16 warranted on the evidence, or if specifically so  
17 identified, are not reasonably based on a lack of  
18 information or belief.

19 (2) "Lawsuit" means a motion pursuant to Section 116-3  
20 of the Code of Criminal Procedure of 1963, a habeas corpus  
21 action under Article X of the Code of Civil Procedure or  
22 under federal law (28 U.S.C. 2254), a petition for claim  
23 under the Court of Claims Act, an action under the federal  
24 Civil Rights Act (42 U.S.C. 1983), or a second or  
25 subsequent petition for post-conviction relief under  
26 Article 122 of the Code of Criminal Procedure of 1963

1           whether filed with or without leave of court or a second or  
2           subsequent petition for relief from judgment under Section  
3           2-1401 of the Code of Civil Procedure.

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

6           (f) Whenever the Department is to release any inmate who  
7           has been convicted of a violation of an order of protection  
8           under Section 12-30 of the Criminal Code of 1961, earlier than  
9           it otherwise would because of a grant of good conduct credit,  
10          the Department, as a condition of such early release, shall  
11          require that the person, upon release, be placed under  
12          electronic surveillance as provided in Section 5-8A-7 of this  
13          Code.

14          (Source: P.A. 94-71, eff. 6-23-05; 94-128, eff. 7-7-05; 94-156,  
15          eff. 7-8-05; 94-398, eff. 8-2-05; 94-491, eff. 8-8-05; 94-744,  
16          eff. 5-8-06; 95-134, eff. 8-13-07; 95-585, eff. 6-1-08; 95-625,  
17          eff. 6-1-08; 95-640, eff. 6-1-08; revised 11-19-07.)

18           (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

19           (Text of Section after amendment by P.A. 95-464, 95-578,  
20          and 95-696)

21           Sec. 5-6-3. Conditions of Probation and of Conditional  
22          Discharge.

23           (a) The conditions of probation and of conditional  
24          discharge shall be that the person:

25           (1) not violate any criminal statute of any

1 jurisdiction;

2 (2) report to or appear in person before such person or  
3 agency as directed by the court;

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

6 (4) not leave the State without the consent of the  
7 court or, in circumstances in which the reason for the  
8 absence is of such an emergency nature that prior consent  
9 by the court is not possible, without the prior  
10 notification and approval of the person's probation  
11 officer. Transfer of a person's probation or conditional  
12 discharge supervision to another state is subject to  
13 acceptance by the other state pursuant to the Interstate  
14 Compact for Adult Offender Supervision;

15 (5) permit the probation officer to visit him at his  
16 home or elsewhere to the extent necessary to discharge his  
17 duties;

18 (6) perform no less than 30 hours of community service  
19 and not more than 120 hours of community service, if  
20 community service is available in the jurisdiction and is  
21 funded and approved by the county board where the offense  
22 was committed, where the offense was related to or in  
23 furtherance of the criminal activities of an organized gang  
24 and was motivated by the offender's membership in or  
25 allegiance to an organized gang. The community service  
26 shall include, but not be limited to, the cleanup and

1 repair of any damage caused by a violation of Section  
2 21-1.3 of the Criminal Code of 1961 and similar damage to  
3 property located within the municipality or county in which  
4 the violation occurred. When possible and reasonable, the  
5 community service should be performed in the offender's  
6 neighborhood. For purposes of this Section, "organized  
7 gang" has the meaning ascribed to it in Section 10 of the  
8 Illinois Streetgang Terrorism Omnibus Prevention Act;

9 (7) if he or she is at least 17 years of age and has  
10 been sentenced to probation or conditional discharge for a  
11 misdemeanor or felony in a county of 3,000,000 or more  
12 inhabitants and has not been previously convicted of a  
13 misdemeanor or felony, may be required by the sentencing  
14 court to attend educational courses designed to prepare the  
15 defendant for a high school diploma and to work toward a  
16 high school diploma or to work toward passing the high  
17 school level Test of General Educational Development (GED)  
18 or to work toward completing a vocational training program  
19 approved by the court. The person on probation or  
20 conditional discharge must attend a public institution of  
21 education to obtain the educational or vocational training  
22 required by this clause (7). The court shall revoke the  
23 probation or conditional discharge of a person who wilfully  
24 fails to comply with this clause (7). The person on  
25 probation or conditional discharge shall be required to pay  
26 for the cost of the educational courses or GED test, if a

1 fee is charged for those courses or test. The court shall  
2 resentence the offender whose probation or conditional  
3 discharge has been revoked as provided in Section 5-6-4.  
4 This clause (7) does not apply to a person who has a high  
5 school diploma or has successfully passed the GED test.  
6 This clause (7) does not apply to a person who is  
7 determined by the court to be developmentally disabled or  
8 otherwise mentally incapable of completing the educational  
9 or vocational program;

10 (8) if convicted of possession of a substance  
11 prohibited by the Cannabis Control Act, the Illinois  
12 Controlled Substances Act, or the Methamphetamine Control  
13 and Community Protection Act after a previous conviction or  
14 disposition of supervision for possession of a substance  
15 prohibited by the Cannabis Control Act or Illinois  
16 Controlled Substances Act or after a sentence of probation  
17 under Section 10 of the Cannabis Control Act, Section 410  
18 of the Illinois Controlled Substances Act, or Section 70 of  
19 the Methamphetamine Control and Community Protection Act  
20 and upon a finding by the court that the person is  
21 addicted, undergo treatment at a substance abuse program  
22 approved by the court;

23 (8.5) if convicted of a felony sex offense as defined  
24 in the Sex Offender Management Board Act, the person shall  
25 undergo and successfully complete sex offender treatment  
26 by a treatment provider approved by the Board and conducted

1 in conformance with the standards developed under the Sex  
2 Offender Management Board Act;

3 (8.6) if convicted of a sex offense as defined in the  
4 Sex Offender Management Board Act, refrain from residing at  
5 the same address or in the same condominium unit or  
6 apartment unit or in the same condominium complex or  
7 apartment complex with another person he or she knows or  
8 reasonably should know is a convicted sex offender or has  
9 been placed on supervision for a sex offense; the  
10 provisions of this paragraph do not apply to a person  
11 convicted of a sex offense who is placed in a Department of  
12 Corrections licensed transitional housing facility for sex  
13 offenders;

14 (8.7) if convicted for an offense committed on or after  
15 the effective date of this amendatory Act of the 95th  
16 General Assembly that would qualify the accused as a child  
17 sex offender as defined in Section 11-9.3 or 11-9.4 of the  
18 Criminal Code of 1961, refrain from communicating with or  
19 contacting, by means of the Internet, a person who is not  
20 related to the accused and whom the accused reasonably  
21 believes to be under 18 years of age; for purposes of this  
22 paragraph (8.7), "Internet" has the meaning ascribed to it  
23 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~  
24 ~~Public Act 94-179~~; and a person is not related to the  
25 accused if the person is not: (i) the spouse, brother, or  
26 sister of the accused; (ii) a descendant of the accused;

1 (iii) a first or second cousin of the accused; or (iv) a  
2 step-child or adopted child of the accused;

3 (9) if convicted of a felony, physically surrender at a  
4 time and place designated by the court, his or her Firearm  
5 Owner's Identification Card and any and all firearms in his  
6 or her possession; and

7 (10) if convicted of a sex offense as defined in  
8 subsection (a-5) of Section 3-1-2 of this Code, unless the  
9 offender is a parent or guardian of the person under 18  
10 years of age present in the home and no non-familial minors  
11 are present, not participate in a holiday event involving  
12 children under 18 years of age, such as distributing candy  
13 or other items to children on Halloween, wearing a Santa  
14 Claus costume on or preceding Christmas, being employed as  
15 a department store Santa Claus, or wearing an Easter Bunny  
16 costume on or preceding Easter.

17 (b) The Court may in addition to other reasonable  
18 conditions relating to the nature of the offense or the  
19 rehabilitation of the defendant as determined for each  
20 defendant in the proper discretion of the Court require that  
21 the person:

22 (1) serve a term of periodic imprisonment under Article  
23 7 for a period not to exceed that specified in paragraph  
24 (d) of Section 5-7-1;

25 (2) pay a fine and costs;

26 (3) work or pursue a course of study or vocational



1 training;

2 (4) undergo medical, psychological or psychiatric  
3 treatment; or treatment for drug addiction or alcoholism;

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

6 (6) support his dependents;

7 (7) and in addition, if a minor:

8 (i) reside with his parents or in a foster home;

9 (ii) attend school;

10 (iii) attend a non-residential program for youth;

11 (iv) contribute to his own support at home or in a  
12 foster home;

13 (v) with the consent of the superintendent of the  
14 facility, attend an educational program at a facility  
15 other than the school in which the offense was  
16 committed if he or she is convicted of a crime of  
17 violence as defined in Section 2 of the Crime Victims  
18 Compensation Act committed in a school, on the real  
19 property comprising a school, or within 1,000 feet of  
20 the real property comprising a school;

21 (8) make restitution as provided in Section 5-5-6 of  
22 this Code;

23 (9) perform some reasonable public or community  
24 service;

25 (10) serve a term of home confinement. In addition to  
26 any other applicable condition of probation or conditional

1 discharge, the conditions of home confinement shall be that  
2 the offender:

3 (i) remain within the interior premises of the  
4 place designated for his confinement during the hours  
5 designated by the court;

6 (ii) admit any person or agent designated by the  
7 court into the offender's place of confinement at any  
8 time for purposes of verifying the offender's  
9 compliance with the conditions of his confinement; and

10 (iii) if further deemed necessary by the court or  
11 the Probation or Court Services Department, be placed  
12 on an approved electronic monitoring device, subject  
13 to Article 8A of Chapter V;

14 (iv) for persons convicted of any alcohol,  
15 cannabis or controlled substance violation who are  
16 placed on an approved monitoring device as a condition  
17 of probation or conditional discharge, the court shall  
18 impose a reasonable fee for each day of the use of the  
19 device, as established by the county board in  
20 subsection (g) of this Section, unless after  
21 determining the inability of the offender to pay the  
22 fee, the court assesses a lesser fee or no fee as the  
23 case may be. This fee shall be imposed in addition to  
24 the fees imposed under subsections (g) and (i) of this  
25 Section. The fee shall be collected by the clerk of the  
26 circuit court. The clerk of the circuit court shall pay

1 all monies collected from this fee to the county  
2 treasurer for deposit in the substance abuse services  
3 fund under Section 5-1086.1 of the Counties Code; and

4 (v) for persons convicted of offenses other than  
5 those referenced in clause (iv) above and who are  
6 placed on an approved monitoring device as a condition  
7 of probation or conditional discharge, the court shall  
8 impose a reasonable fee for each day of the use of the  
9 device, as established by the county board in  
10 subsection (g) of this Section, unless after  
11 determining the inability of the defendant to pay the  
12 fee, the court assesses a lesser fee or no fee as the  
13 case may be. This fee shall be imposed in addition to  
14 the fees imposed under subsections (g) and (i) of this  
15 Section. The fee shall be collected by the clerk of the  
16 circuit court. The clerk of the circuit court shall pay  
17 all monies collected from this fee to the county  
18 treasurer who shall use the monies collected to defray  
19 the costs of corrections. The county treasurer shall  
20 deposit the fee collected in the county working cash  
21 fund under Section 6-27001 or Section 6-29002 of the  
22 Counties Code, as the case may be.

23 (11) comply with the terms and conditions of an order  
24 of protection issued by the court pursuant to the Illinois  
25 Domestic Violence Act of 1986, as now or hereafter amended,  
26 or an order of protection issued by the court of another

1 state, tribe, or United States territory. A copy of the  
2 order of protection shall be transmitted to the probation  
3 officer or agency having responsibility for the case;

4 (12) reimburse any "local anti-crime program" as  
5 defined in Section 7 of the Anti-Crime Advisory Council Act  
6 for any reasonable expenses incurred by the program on the  
7 offender's case, not to exceed the maximum amount of the  
8 fine authorized for the offense for which the defendant was  
9 sentenced;

10 (13) contribute a reasonable sum of money, not to  
11 exceed the maximum amount of the fine authorized for the  
12 offense for which the defendant was sentenced, (i) to a  
13 "local anti-crime program", as defined in Section 7 of the  
14 Anti-Crime Advisory Council Act, or (ii) for offenses under  
15 the jurisdiction of the Department of Natural Resources, to  
16 the fund established by the Department of Natural Resources  
17 for the purchase of evidence for investigation purposes and  
18 to conduct investigations as outlined in Section 805-105 of  
19 the Department of Natural Resources (Conservation) Law;

20 (14) refrain from entering into a designated  
21 geographic area except upon such terms as the court finds  
22 appropriate. Such terms may include consideration of the  
23 purpose of the entry, the time of day, other persons  
24 accompanying the defendant, and advance approval by a  
25 probation officer, if the defendant has been placed on  
26 probation or advance approval by the court, if the

1 defendant was placed on conditional discharge;

2 (15) refrain from having any contact, directly or  
3 indirectly, with certain specified persons or particular  
4 types of persons, including but not limited to members of  
5 street gangs and drug users or dealers;

6 (16) refrain from having in his or her body the  
7 presence of any illicit drug prohibited by the Cannabis  
8 Control Act, the Illinois Controlled Substances Act, or the  
9 Methamphetamine Control and Community Protection Act,  
10 unless prescribed by a physician, and submit samples of his  
11 or her blood or urine or both for tests to determine the  
12 presence of any illicit drug; and

13 (17) if convicted for an offense committed on or after  
14 the effective date of this amendatory Act of the 95th  
15 General Assembly that would qualify the accused as a child  
16 sex offender as defined in Section 11-9.3 or 11-9.4 of the  
17 Criminal Code of 1961, refrain from communicating with or  
18 contacting, by means of the Internet, a person who is  
19 related to the accused and whom the accused reasonably  
20 believes to be under 18 years of age; for purposes of this  
21 paragraph (17), "Internet" has the meaning ascribed to it  
22 in Section 16J-5 of the Criminal Code of 1961, ~~as added by~~  
23 ~~Public Act 94-179~~; and a person is related to the accused  
24 if the person is: (i) the spouse, brother, or sister of the  
25 accused; (ii) a descendant of the accused; (iii) a first or  
26 second cousin of the accused; or (iv) a step-child or

1           adopted child of the accused.

2           (c) The court may as a condition of probation or of  
3 conditional discharge require that a person under 18 years of  
4 age found guilty of any alcohol, cannabis or controlled  
5 substance violation, refrain from acquiring a driver's license  
6 during the period of probation or conditional discharge. If  
7 such person is in possession of a permit or license, the court  
8 may require that the minor refrain from driving or operating  
9 any motor vehicle during the period of probation or conditional  
10 discharge, except as may be necessary in the course of the  
11 minor's lawful employment.

12           (d) An offender sentenced to probation or to conditional  
13 discharge shall be given a certificate setting forth the  
14 conditions thereof.

15           (e) Except where the offender has committed a fourth or  
16 subsequent violation of subsection (c) of Section 6-303 of the  
17 Illinois Vehicle Code, the court shall not require as a  
18 condition of the sentence of probation or conditional discharge  
19 that the offender be committed to a period of imprisonment in  
20 excess of 6 months. This 6 month limit shall not include  
21 periods of confinement given pursuant to a sentence of county  
22 impact incarceration under Section 5-8-1.2.

23           Persons committed to imprisonment as a condition of  
24 probation or conditional discharge shall not be committed to  
25 the Department of Corrections.

26           (f) The court may combine a sentence of periodic

1 imprisonment under Article 7 or a sentence to a county impact  
2 incarceration program under Article 8 with a sentence of  
3 probation or conditional discharge.

4 (g) An offender sentenced to probation or to conditional  
5 discharge and who during the term of either undergoes mandatory  
6 drug or alcohol testing, or both, or is assigned to be placed  
7 on an approved electronic monitoring device, shall be ordered  
8 to pay all costs incidental to such mandatory drug or alcohol  
9 testing, or both, and all costs incidental to such approved  
10 electronic monitoring in accordance with the defendant's  
11 ability to pay those costs. The county board with the  
12 concurrence of the Chief Judge of the judicial circuit in which  
13 the county is located shall establish reasonable fees for the  
14 cost of maintenance, testing, and incidental expenses related  
15 to the mandatory drug or alcohol testing, or both, and all  
16 costs incidental to approved electronic monitoring, involved  
17 in a successful probation program for the county. The  
18 concurrence of the Chief Judge shall be in the form of an  
19 administrative order. The fees shall be collected by the clerk  
20 of the circuit court. The clerk of the circuit court shall pay  
21 all moneys collected from these fees to the county treasurer  
22 who shall use the moneys collected to defray the costs of drug  
23 testing, alcohol testing, and electronic monitoring. The  
24 county treasurer shall deposit the fees collected in the county  
25 working cash fund under Section 6-27001 or Section 6-29002 of  
26 the Counties Code, as the case may be.

1           (h) Jurisdiction over an offender may be transferred from  
2 the sentencing court to the court of another circuit with the  
3 concurrence of both courts. Further transfers or retransfers of  
4 jurisdiction are also authorized in the same manner. The court  
5 to which jurisdiction has been transferred shall have the same  
6 powers as the sentencing court.

7           (i) The court shall impose upon an offender sentenced to  
8 probation after January 1, 1989 or to conditional discharge  
9 after January 1, 1992 or to community service under the  
10 supervision of a probation or court services department after  
11 January 1, 2004, as a condition of such probation or  
12 conditional discharge or supervised community service, a fee of  
13 \$50 for each month of probation or conditional discharge  
14 supervision or supervised community service ordered by the  
15 court, unless after determining the inability of the person  
16 sentenced to probation or conditional discharge or supervised  
17 community service to pay the fee, the court assesses a lesser  
18 fee. The court may not impose the fee on a minor who is made a  
19 ward of the State under the Juvenile Court Act of 1987 while  
20 the minor is in placement. The fee shall be imposed only upon  
21 an offender who is actively supervised by the probation and  
22 court services department. The fee shall be collected by the  
23 clerk of the circuit court. The clerk of the circuit court  
24 shall pay all monies collected from this fee to the county  
25 treasurer for deposit in the probation and court services fund  
26 under Section 15.1 of the Probation and Probation Officers Act.



1           A circuit court may not impose a probation fee under this  
2 subsection (i) in excess of \$25 per month unless: (1) the  
3 circuit court has adopted, by administrative order issued by  
4 the chief judge, a standard probation fee guide determining an  
5 offender's ability to pay, under guidelines developed by the  
6 Administrative Office of the Illinois Courts; and (2) the  
7 circuit court has authorized, by administrative order issued by  
8 the chief judge, the creation of a Crime Victim's Services  
9 Fund, to be administered by the Chief Judge or his or her  
10 designee, for services to crime victims and their families. Of  
11 the amount collected as a probation fee, up to \$5 of that fee  
12 collected per month may be used to provide services to crime  
13 victims and their families.

14           This amendatory Act of the 93rd General Assembly deletes  
15 the \$10 increase in the fee under this subsection that was  
16 imposed by Public Act 93-616. This deletion is intended to  
17 control over any other Act of the 93rd General Assembly that  
18 retains or incorporates that fee increase.

19           (i-5) In addition to the fees imposed under subsection (i)  
20 of this Section, in the case of an offender convicted of a  
21 felony sex offense (as defined in the Sex Offender Management  
22 Board Act) or an offense that the court or probation department  
23 has determined to be sexually motivated (as defined in the Sex  
24 Offender Management Board Act), the court or the probation  
25 department shall assess additional fees to pay for all costs of  
26 treatment, assessment, evaluation for risk and treatment, and

1 monitoring the offender, based on that offender's ability to  
2 pay those costs either as they occur or under a payment plan.

3 (j) All fines and costs imposed under this Section for any  
4 violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle  
5 Code, or a similar provision of a local ordinance, and any  
6 violation of the Child Passenger Protection Act, or a similar  
7 provision of a local ordinance, shall be collected and  
8 disbursed by the circuit clerk as provided under Section 27.5  
9 of the Clerks of Courts Act.

10 (k) Any offender who is sentenced to probation or  
11 conditional discharge for a felony sex offense as defined in  
12 the Sex Offender Management Board Act or any offense that the  
13 court or probation department has determined to be sexually  
14 motivated as defined in the Sex Offender Management Board Act  
15 shall be required to refrain from any contact, directly or  
16 indirectly, with any persons specified by the court and shall  
17 be available for all evaluations and treatment programs  
18 required by the court or the probation department.

19 (l) The court may order an offender who is sentenced to  
20 probation or conditional discharge for a violation of an order  
21 of protection be placed under electronic surveillance as  
22 provided in Section 5-8A-7 of this Code.

23 (Source: P.A. 94-159, eff. 7-11-05; 94-161, eff. 7-11-05;  
24 94-556, eff. 9-11-05; 95-331, eff. 8-21-07; 95-464, eff.  
25 6-1-08; 95-578, eff. 6-1-08; 95-696, eff. 6-1-08; revised  
26 12-26-07.)

1 (730 ILCS 5/5-8A-7 new)

2 Sec. 5-8A-7. Domestic violence surveillance program. If  
3 the Prisoner Review Board, Department of Corrections, or court  
4 (the supervising authority) orders electronic surveillance as  
5 a condition of parole, mandatory supervised release, early  
6 release, probation, or conditional discharge for a violation of  
7 an order of protection or as a condition of bail for a person  
8 charged with a violation of an order of protection, the  
9 supervising authority shall use the best available global  
10 positioning technology to track domestic violence offenders.  
11 Such capabilities should include technology that (1)  
12 immediately notifies law enforcement or other monitors of any  
13 breach of the court ordered inclusion zone boundaries; (2)  
14 notifies the victim in near-real time of any breach; (3) allows  
15 monitors to speak to the offender through a cell phone  
16 implanted in the bracelet device; and (4) has a loud alarm that  
17 can be activated to warn the potential victim of the offender's  
18 presence in a forbidden zone.

19 (730 ILCS 5/5-9-1.16 new)

20 Sec. 5-9-1.16. Protective order violation fines.

21 (a) There shall be added to every penalty imposed in  
22 sentencing for a violation of an order of protection under  
23 Section 12-30 of the Criminal Code of 1961 an additional fine  
24 to be set in an amount not less than \$200 to be imposed upon a

1 plea of guilty or finding of guilty resulting in a judgment of  
2 conviction.

3 (b) Such additional amount shall be assessed by the court  
4 imposing sentence and shall be collected by the Circuit Clerk  
5 in addition to the fine, if any, and costs in the case to be  
6 used by the supervising authority in implementing the domestic  
7 violence surveillance program. Each such additional penalty  
8 shall be remitted by the Circuit Clerk within one month after  
9 receipt to the State Treasurer for deposit into the Domestic  
10 Violence Surveillance Fund. The Circuit Clerk shall retain 10%  
11 of such penalty and deposit that percentage into the Circuit  
12 Court Clerk Operation and Administrative Fund to cover the  
13 costs incurred in administering and enforcing this Section.  
14 Such additional penalty shall not be considered a part of the  
15 fine for purposes of any reduction in the fine for time served  
16 either before or after sentencing.

17 (c) Not later than March 1 of each year the Clerk of the  
18 Circuit Court shall submit to the State Comptroller a report of  
19 the amount of funds remitted by him or her to the State  
20 Treasurer under this Section during the preceding calendar  
21 year.

22 (d) Moneys in the Domestic Violence Surveillance Fund shall  
23 be used by the supervising authority of a respondent ordered to  
24 carry or wear a global positioning system device for a  
25 violation of an order of protection under Section 12-30 of the  
26 Criminal Code of 1961 to offset the costs of such surveillance

1 of the respondent.

2 (e) For purposes of this Section "fees of the Circuit  
3 Clerk" shall include, if applicable, the fee provided for under  
4 Section 27.3a of the Clerks of Courts Act and the fee, if  
5 applicable, payable to the county in which the violation  
6 occurred under Section 5-1101 of the Counties Code.

7 Section 26. The Probation and Probation Officers Act is  
8 amended by changing Section 15 as follows:

9 (730 ILCS 110/15) (from Ch. 38, par. 204-7)

10 Sec. 15. (1) The Supreme Court of Illinois may establish a  
11 Division of Probation Services whose purpose shall be the  
12 development, establishment, promulgation, and enforcement of  
13 uniform standards for probation services in this State, and to  
14 otherwise carry out the intent of this Act. The Division may:

15 (a) establish qualifications for chief probation  
16 officers and other probation and court services personnel  
17 as to hiring, promotion, and training.

18 (b) make available, on a timely basis, lists of those  
19 applicants whose qualifications meet the regulations  
20 referred to herein, including on said lists all candidates  
21 found qualified.

22 (c) establish a means of verifying the conditions for  
23 reimbursement under this Act and develop criteria for  
24 approved costs for reimbursement.

1           (d) develop standards and approve employee  
2 compensation schedules for probation and court services  
3 departments.

4           (e) employ sufficient personnel in the Division to  
5 carry out the functions of the Division.

6           (f) establish a system of training and establish  
7 standards for personnel orientation and training.

8           (g) develop standards for a system of record keeping  
9 for cases and programs, gather statistics, establish a  
10 system of uniform forms, and develop research for planning  
11 of Probation Services.

12           (h) develop standards to assure adequate support  
13 personnel, office space, equipment and supplies, travel  
14 expenses, and other essential items necessary for  
15 Probation and Court Services Departments to carry out their  
16 duties.

17           (i) review and approve annual plans submitted by  
18 Probation and Court Services Departments.

19           (j) monitor and evaluate all programs operated by  
20 Probation and Court Services Departments, and may include  
21 in the program evaluation criteria such factors as the  
22 percentage of Probation sentences for felons convicted of  
23 Probationable offenses.

24           (k) seek the cooperation of local and State government  
25 and private agencies to improve the quality of probation  
26 and court services.

1           (1) where appropriate, establish programs and  
2 corresponding standards designed to generally improve the  
3 quality of probation and court services and reduce the rate  
4 of adult or juvenile offenders committed to the Department  
5 of Corrections.

6           (m) establish such other standards and regulations and  
7 do all acts necessary to carry out the intent and purposes  
8 of this Act.

9           (n) develop standards to implement the Domestic  
10 Violence Surveillance Program established under Section  
11 5-8A-7 of the Unified Code of Corrections including (i)  
12 procurement of equipment and other services necessary to  
13 implement the program and (ii) development of uniform  
14 standards for the delivery of the program through county  
15 probation departments.

16           The Division shall establish a model list of structured  
17 intermediate sanctions that may be imposed by a probation  
18 agency for violations of terms and conditions of a sentence of  
19 probation, conditional discharge, or supervision.

20           The State of Illinois shall provide for the costs of  
21 personnel, travel, equipment, telecommunications, postage,  
22 commodities, printing, space, contractual services and other  
23 related costs necessary to carry out the intent of this Act.

24           (2) (a) The chief judge of each circuit shall provide  
25 full-time probation services for all counties within the  
26 circuit, in a manner consistent with the annual probation plan,

1 the standards, policies, and regulations established by the  
2 Supreme Court. A probation district of two or more counties  
3 within a circuit may be created for the purposes of providing  
4 full-time probation services. Every county or group of counties  
5 within a circuit shall maintain a probation department which  
6 shall be under the authority of the Chief Judge of the circuit  
7 or some other judge designated by the Chief Judge. The Chief  
8 Judge, through the Probation and Court Services Department  
9 shall submit annual plans to the Division for probation and  
10 related services.

11 (b) The Chief Judge of each circuit shall appoint the Chief  
12 Probation Officer and all other probation officers for his or  
13 her circuit from lists of qualified applicants supplied by the  
14 Supreme Court. Candidates for chief managing officer and other  
15 probation officer positions must apply with both the Chief  
16 Judge of the circuit and the Supreme Court.

17 (3) A Probation and Court Service Department shall apply to  
18 the Supreme Court for funds for basic services, and may apply  
19 for funds for new and expanded programs or Individualized  
20 Services and Programs. Costs shall be reimbursed monthly based  
21 on a plan and budget approved by the Supreme Court. No  
22 Department may be reimbursed for costs which exceed or are not  
23 provided for in the approved annual plan and budget. After the  
24 effective date of this amendatory Act of 1985, each county must  
25 provide basic services in accordance with the annual plan and  
26 standards created by the division. No department may receive



1 funds for new or expanded programs or individualized services  
2 and programs unless they are in compliance with standards as  
3 enumerated in paragraph (h) of subsection (1) of this Section,  
4 the annual plan, and standards for basic services.

5 (4) The Division shall reimburse the county or counties for  
6 probation services as follows:

7 (a) 100% of the salary of all chief managing officers  
8 designated as such by the Chief Judge and the division.

9 (b) 100% of the salary for all probation officer and  
10 supervisor positions approved for reimbursement by the  
11 division after April 1, 1984, to meet workload standards  
12 and to implement intensive sanction and probation  
13 supervision programs and other basic services as defined in  
14 this Act.

15 (c) 100% of the salary for all secure detention  
16 personnel and non-secure group home personnel approved for  
17 reimbursement after December 1, 1990. For all such  
18 positions approved for reimbursement before December 1,  
19 1990, the counties shall be reimbursed \$1,250 per month  
20 beginning July 1, 1995, and an additional \$250 per month  
21 beginning each July 1st thereafter until the positions  
22 receive 100% salary reimbursement. Allocation of such  
23 positions will be based on comparative need considering  
24 capacity, staff/resident ratio, physical plant and  
25 program.

26 (d) \$1,000 per month for salaries for the remaining

1 probation officer positions engaged in basic services and  
2 new or expanded services. All such positions shall be  
3 approved by the division in accordance with this Act and  
4 division standards.

5 (e) 100% of the travel expenses in accordance with  
6 Division standards for all Probation positions approved  
7 under paragraph (b) of subsection 4 of this Section.

8 (f) If the amount of funds reimbursed to the county  
9 under paragraphs (a) through (e) of subsection 4 of this  
10 Section on an annual basis is less than the amount the  
11 county had received during the 12 month period immediately  
12 prior to the effective date of this amendatory Act of 1985,  
13 then the Division shall reimburse the amount of the  
14 difference to the county. The effect of paragraph (b) of  
15 subsection 7 of this Section shall be considered in  
16 implementing this supplemental reimbursement provision.

17 (5) The Division shall provide funds beginning on April 1,  
18 1987 for the counties to provide Individualized Services and  
19 Programs as provided in Section 16 of this Act.

20 (6) A Probation and Court Services Department in order to  
21 be eligible for the reimbursement must submit to the Supreme  
22 Court an application containing such information and in such a  
23 form and by such dates as the Supreme Court may require.  
24 Departments to be eligible for funding must satisfy the  
25 following conditions:

26 (a) The Department shall have on file with the Supreme

1 Court an annual Probation plan for continuing, improved,  
2 and new Probation and Court Services Programs approved by  
3 the Supreme Court or its designee. This plan shall indicate  
4 the manner in which Probation and Court Services will be  
5 delivered and improved, consistent with the minimum  
6 standards and regulations for Probation and Court  
7 Services, as established by the Supreme Court. In counties  
8 with more than one Probation and Court Services Department  
9 eligible to receive funds, all Departments within that  
10 county must submit plans which are approved by the Supreme  
11 Court.

12 (b) The annual probation plan shall seek to generally  
13 improve the quality of probation services and to reduce the  
14 commitment of adult offenders to the Department of  
15 Corrections and to reduce the commitment of juvenile  
16 offenders to the Department of Juvenile Justice and shall  
17 require, when appropriate, coordination with the  
18 Department of Corrections, the Department of Juvenile  
19 Justice, and the Department of Children and Family Services  
20 in the development and use of community resources,  
21 information systems, case review and permanency planning  
22 systems to avoid the duplication of services.

23 (c) The Department shall be in compliance with  
24 standards developed by the Supreme Court for basic, new and  
25 expanded services, training, personnel hiring and  
26 promotion.

1           (d) The Department shall in its annual plan indicate  
2           the manner in which it will support the rights of crime  
3           victims and in which manner it will implement Article I,  
4           Section 8.1 of the Illinois Constitution and in what manner  
5           it will coordinate crime victims' support services with  
6           other criminal justice agencies within its jurisdiction,  
7           including but not limited to, the State's Attorney, the  
8           Sheriff and any municipal police department.

9           (7) No statement shall be verified by the Supreme Court or  
10          its designee or vouchered by the Comptroller unless each of the  
11          following conditions have been met:

12           (a) The probation officer is a full-time employee  
13           appointed by the Chief Judge to provide probation services.

14           (b) The probation officer, in order to be eligible for  
15           State reimbursement, is receiving a salary of at least  
16           \$17,000 per year.

17           (c) The probation officer is appointed or was  
18           reappointed in accordance with minimum qualifications or  
19           criteria established by the Supreme Court; however, all  
20           probation officers appointed prior to January 1, 1978,  
21           shall be exempted from the minimum requirements  
22           established by the Supreme Court. Payments shall be made to  
23           counties employing these exempted probation officers as  
24           long as they are employed in the position held on the  
25           effective date of this amendatory Act of 1985. Promotions  
26           shall be governed by minimum qualifications established by

1 the Supreme Court.

2 (d) The Department has an established compensation  
3 schedule approved by the Supreme Court. The compensation  
4 schedule shall include salary ranges with necessary  
5 increments to compensate each employee. The increments  
6 shall, within the salary ranges, be based on such factors  
7 as bona fide occupational qualifications, performance, and  
8 length of service. Each position in the Department shall be  
9 placed on the compensation schedule according to job duties  
10 and responsibilities of such position. The policy and  
11 procedures of the compensation schedule shall be made  
12 available to each employee.

13 (8) In order to obtain full reimbursement of all approved  
14 costs, each Department must continue to employ at least the  
15 same number of probation officers and probation managers as  
16 were authorized for employment for the fiscal year which  
17 includes January 1, 1985. This number shall be designated as  
18 the base amount of the Department. No positions approved by the  
19 Division under paragraph (b) of subsection 4 will be included  
20 in the base amount. In the event that the Department employs  
21 fewer Probation officers and Probation managers than the base  
22 amount for a period of 90 days, funding received by the  
23 Department under subsection 4 of this Section may be reduced on  
24 a monthly basis by the amount of the current salaries of any  
25 positions below the base amount.

26 (9) Before the 15th day of each month, the treasurer of any

1 county which has a Probation and Court Services Department, or  
2 the treasurer of the most populous county, in the case of a  
3 Probation or Court Services Department funded by more than one  
4 county, shall submit an itemized statement of all approved  
5 costs incurred in the delivery of Basic Probation and Court  
6 Services under this Act to the Supreme Court. The treasurer may  
7 also submit an itemized statement of all approved costs  
8 incurred in the delivery of new and expanded Probation and  
9 Court Services as well as Individualized Services and Programs.  
10 The Supreme Court or its designee shall verify compliance with  
11 this Section and shall examine and audit the monthly statement  
12 and, upon finding them to be correct, shall forward them to the  
13 Comptroller for payment to the county treasurer. In the case of  
14 payment to a treasurer of a county which is the most populous  
15 of counties sharing the salary and expenses of a Probation and  
16 Court Services Department, the treasurer shall divide the money  
17 between the counties in a manner that reflects each county's  
18 share of the cost incurred by the Department.

19 (10) The county treasurer must certify that funds received  
20 under this Section shall be used solely to maintain and improve  
21 Probation and Court Services. The county or circuit shall  
22 remain in compliance with all standards, policies and  
23 regulations established by the Supreme Court. If at any time  
24 the Supreme Court determines that a county or circuit is not in  
25 compliance, the Supreme Court shall immediately notify the  
26 Chief Judge, county board chairman and the Director of Court

1 Services Chief Probation Officer. If after 90 days of written  
2 notice the noncompliance still exists, the Supreme Court shall  
3 be required to reduce the amount of monthly reimbursement by  
4 10%. An additional 10% reduction of monthly reimbursement shall  
5 occur for each consecutive month of noncompliance. Except as  
6 provided in subsection 5 of Section 15, funding to counties  
7 shall commence on April 1, 1986. Funds received under this Act  
8 shall be used to provide for Probation Department expenses  
9 including those required under Section 13 of this Act. The  
10 Mandatory Arbitration Fund may be used to provide for Probation  
11 Department expenses, including those required under Section 13  
12 of this Act.

13 (11) The respective counties shall be responsible for  
14 capital and space costs, fringe benefits, clerical costs,  
15 equipment, telecommunications, postage, commodities and  
16 printing.

17 (12) For purposes of this Act only, probation officers  
18 shall be considered peace officers. In the exercise of their  
19 official duties, probation officers, sheriffs, and police  
20 officers may, anywhere within the State, arrest any probationer  
21 who is in violation of any of the conditions of his or her  
22 probation, conditional discharge, or supervision, and it shall  
23 be the duty of the officer making the arrest to take the  
24 probationer before the Court having jurisdiction over the  
25 probationer for further order.

26 (Source: P.A. 94-91, eff. 7-1-05; 94-696, eff. 6-1-06; 94-839,

1 eff. 6-6-06; 95-707, eff. 1-11-08.)

2 Section 30. The Illinois Domestic Violence Act of 1986 is  
3 amended by changing Section 214 as follows:

4 (750 ILCS 60/214) (from Ch. 40, par. 2312-14)

5 Sec. 214. Order of protection; remedies.

6 (a) Issuance of order. If the court finds that petitioner  
7 has been abused by a family or household member or that  
8 petitioner is a high-risk adult who has been abused, neglected,  
9 or exploited, as defined in this Act, an order of protection  
10 prohibiting the abuse, neglect, or exploitation shall issue;  
11 provided that petitioner must also satisfy the requirements of  
12 one of the following Sections, as appropriate: Section 217 on  
13 emergency orders, Section 218 on interim orders, or Section 219  
14 on plenary orders. Petitioner shall not be denied an order of  
15 protection because petitioner or respondent is a minor. The  
16 court, when determining whether or not to issue an order of  
17 protection, shall not require physical manifestations of abuse  
18 on the person of the victim. Modification and extension of  
19 prior orders of protection shall be in accordance with this  
20 Act.

21 (b) Remedies and standards. The remedies to be included in  
22 an order of protection shall be determined in accordance with  
23 this Section and one of the following Sections, as appropriate:  
24 Section 217 on emergency orders, Section 218 on interim orders,



1 and Section 219 on plenary orders. The remedies listed in this  
2 subsection shall be in addition to other civil or criminal  
3 remedies available to petitioner.

4 (1) Prohibition of abuse, neglect, or exploitation.  
5 Prohibit respondent's harassment, interference with  
6 personal liberty, intimidation of a dependent, physical  
7 abuse, or willful deprivation, neglect or exploitation, as  
8 defined in this Act, or stalking of the petitioner, as  
9 defined in Section 12-7.3 of the Criminal Code of 1961, if  
10 such abuse, neglect, exploitation, or stalking has  
11 occurred or otherwise appears likely to occur if not  
12 prohibited.

13 (2) Grant of exclusive possession of residence.  
14 Prohibit respondent from entering or remaining in any  
15 residence or household of the petitioner, including one  
16 owned or leased by respondent, if petitioner has a right to  
17 occupancy thereof. The grant of exclusive possession of the  
18 residence shall not affect title to real property, nor  
19 shall the court be limited by the standard set forth in  
20 Section 701 of the Illinois Marriage and Dissolution of  
21 Marriage Act.

22 (A) Right to occupancy. A party has a right to  
23 occupancy of a residence or household if it is solely  
24 or jointly owned or leased by that party, that party's  
25 spouse, a person with a legal duty to support that  
26 party or a minor child in that party's care, or by any

1 person or entity other than the opposing party that  
2 authorizes that party's occupancy (e.g., a domestic  
3 violence shelter). Standards set forth in subparagraph  
4 (B) shall not preclude equitable relief.

5 (B) Presumption of hardships. If petitioner and  
6 respondent each has the right to occupancy of a  
7 residence or household, the court shall balance (i) the  
8 hardships to respondent and any minor child or  
9 dependent adult in respondent's care resulting from  
10 entry of this remedy with (ii) the hardships to  
11 petitioner and any minor child or dependent adult in  
12 petitioner's care resulting from continued exposure to  
13 the risk of abuse (should petitioner remain at the  
14 residence or household) or from loss of possession of  
15 the residence or household (should petitioner leave to  
16 avoid the risk of abuse). When determining the balance  
17 of hardships, the court shall also take into account  
18 the accessibility of the residence or household.  
19 Hardships need not be balanced if respondent does not  
20 have a right to occupancy.

21 The balance of hardships is presumed to favor  
22 possession by petitioner unless the presumption is  
23 rebutted by a preponderance of the evidence, showing  
24 that the hardships to respondent substantially  
25 outweigh the hardships to petitioner and any minor  
26 child or dependent adult in petitioner's care. The

1 court, on the request of petitioner or on its own  
2 motion, may order respondent to provide suitable,  
3 accessible, alternate housing for petitioner instead  
4 of excluding respondent from a mutual residence or  
5 household.

6 (3) Stay away order and additional prohibitions. Order  
7 respondent to stay away from petitioner or any other person  
8 protected by the order of protection, or prohibit  
9 respondent from entering or remaining present at  
10 petitioner's school, place of employment, or other  
11 specified places at times when petitioner is present, or  
12 both, if reasonable, given the balance of hardships.  
13 Hardships need not be balanced for the court to enter a  
14 stay away order or prohibit entry if respondent has no  
15 right to enter the premises.

16 If an order of protection grants petitioner exclusive  
17 possession of the residence, or prohibits respondent from  
18 entering the residence, or orders respondent to stay away  
19 from petitioner or other protected persons, then the court  
20 may allow respondent access to the residence to remove  
21 items of clothing and personal adornment used exclusively  
22 by respondent, medications, and other items as the court  
23 directs. The right to access shall be exercised on only one  
24 occasion as the court directs and in the presence of an  
25 agreed-upon adult third party or law enforcement officer.

26 (4) Counseling. Require or recommend the respondent to

1           undergo counseling for a specified duration with a social  
2           worker, psychologist, clinical psychologist, psychiatrist,  
3           family service agency, alcohol or substance abuse program,  
4           mental health center guidance counselor, agency providing  
5           services to elders, program designed for domestic violence  
6           abusers or any other guidance service the court deems  
7           appropriate. The Court may order the respondent in any  
8           intimate partner relationship to report to an Illinois  
9           Department of Human Services protocol approved partner  
10           abuse intervention program for an assessment and to follow  
11           all recommended treatment.

12           (5) Physical care and possession of the minor child. In  
13           order to protect the minor child from abuse, neglect, or  
14           unwarranted separation from the person who has been the  
15           minor child's primary caretaker, or to otherwise protect  
16           the well-being of the minor child, the court may do either  
17           or both of the following: (i) grant petitioner physical  
18           care or possession of the minor child, or both, or (ii)  
19           order respondent to return a minor child to, or not remove  
20           a minor child from, the physical care of a parent or person  
21           in loco parentis.

22           If a court finds, after a hearing, that respondent has  
23           committed abuse (as defined in Section 103) of a minor  
24           child, there shall be a rebuttable presumption that  
25           awarding physical care to respondent would not be in the  
26           minor child's best interest.

1           (6) Temporary legal custody. Award temporary legal  
2 custody to petitioner in accordance with this Section, the  
3 Illinois Marriage and Dissolution of Marriage Act, the  
4 Illinois Parentage Act of 1984, and this State's Uniform  
5 Child-Custody Jurisdiction and Enforcement Act.

6           If a court finds, after a hearing, that respondent has  
7 committed abuse (as defined in Section 103) of a minor  
8 child, there shall be a rebuttable presumption that  
9 awarding temporary legal custody to respondent would not be  
10 in the child's best interest.

11           (7) Visitation. Determine the visitation rights, if  
12 any, of respondent in any case in which the court awards  
13 physical care or temporary legal custody of a minor child  
14 to petitioner. The court shall restrict or deny  
15 respondent's visitation with a minor child if the court  
16 finds that respondent has done or is likely to do any of  
17 the following: (i) abuse or endanger the minor child during  
18 visitation; (ii) use the visitation as an opportunity to  
19 abuse or harass petitioner or petitioner's family or  
20 household members; (iii) improperly conceal or detain the  
21 minor child; or (iv) otherwise act in a manner that is not  
22 in the best interests of the minor child. The court shall  
23 not be limited by the standards set forth in Section 607.1  
24 of the Illinois Marriage and Dissolution of Marriage Act.  
25 If the court grants visitation, the order shall specify  
26 dates and times for the visitation to take place or other

1 specific parameters or conditions that are appropriate. No  
2 order for visitation shall refer merely to the term  
3 "reasonable visitation".

4 Petitioner may deny respondent access to the minor  
5 child if, when respondent arrives for visitation,  
6 respondent is under the influence of drugs or alcohol and  
7 constitutes a threat to the safety and well-being of  
8 petitioner or petitioner's minor children or is behaving in  
9 a violent or abusive manner.

10 If necessary to protect any member of petitioner's  
11 family or household from future abuse, respondent shall be  
12 prohibited from coming to petitioner's residence to meet  
13 the minor child for visitation, and the parties shall  
14 submit to the court their recommendations for reasonable  
15 alternative arrangements for visitation. A person may be  
16 approved to supervise visitation only after filing an  
17 affidavit accepting that responsibility and acknowledging  
18 accountability to the court.

19 (8) Removal or concealment of minor child. Prohibit  
20 respondent from removing a minor child from the State or  
21 concealing the child within the State.

22 (9) Order to appear. Order the respondent to appear in  
23 court, alone or with a minor child, to prevent abuse,  
24 neglect, removal or concealment of the child, to return the  
25 child to the custody or care of the petitioner or to permit  
26 any court-ordered interview or examination of the child or

1 the respondent.

2 (10) Possession of personal property. Grant petitioner  
3 exclusive possession of personal property and, if  
4 respondent has possession or control, direct respondent to  
5 promptly make it available to petitioner, if:

6 (i) petitioner, but not respondent, owns the  
7 property; or

8 (ii) the parties own the property jointly; sharing  
9 it would risk abuse of petitioner by respondent or is  
10 impracticable; and the balance of hardships favors  
11 temporary possession by petitioner.

12 If petitioner's sole claim to ownership of the property  
13 is that it is marital property, the court may award  
14 petitioner temporary possession thereof under the  
15 standards of subparagraph (ii) of this paragraph only if a  
16 proper proceeding has been filed under the Illinois  
17 Marriage and Dissolution of Marriage Act, as now or  
18 hereafter amended.

19 No order under this provision shall affect title to  
20 property.

21 (11) Protection of property. Forbid the respondent  
22 from taking, transferring, encumbering, concealing,  
23 damaging or otherwise disposing of any real or personal  
24 property, except as explicitly authorized by the court, if:

25 (i) petitioner, but not respondent, owns the  
26 property; or

1           (ii) the parties own the property jointly, and the  
2           balance of hardships favors granting this remedy.

3           If petitioner's sole claim to ownership of the property  
4           is that it is marital property, the court may grant  
5           petitioner relief under subparagraph (ii) of this  
6           paragraph only if a proper proceeding has been filed under  
7           the Illinois Marriage and Dissolution of Marriage Act, as  
8           now or hereafter amended.

9           The court may further prohibit respondent from  
10          improperly using the financial or other resources of an  
11          aged member of the family or household for the profit or  
12          advantage of respondent or of any other person.

13          (11.5) Protection of animals. Grant the petitioner the  
14          exclusive care, custody, or control of any animal owned,  
15          possessed, leased, kept, or held by either the petitioner  
16          or the respondent or a minor child residing in the  
17          residence or household of either the petitioner or the  
18          respondent and order the respondent to stay away from the  
19          animal and forbid the respondent from taking,  
20          transferring, encumbering, concealing, harming, or  
21          otherwise disposing of the animal.

22          (12) Order for payment of support. Order respondent to  
23          pay temporary support for the petitioner or any child in  
24          the petitioner's care or custody, when the respondent has a  
25          legal obligation to support that person, in accordance with  
26          the Illinois Marriage and Dissolution of Marriage Act,



1           which shall govern, among other matters, the amount of  
2           support, payment through the clerk and withholding of  
3           income to secure payment. An order for child support may be  
4           granted to a petitioner with lawful physical care or  
5           custody of a child, or an order or agreement for physical  
6           care or custody, prior to entry of an order for legal  
7           custody. Such a support order shall expire upon entry of a  
8           valid order granting legal custody to another, unless  
9           otherwise provided in the custody order.

10           (13) Order for payment of losses. Order respondent to  
11           pay petitioner for losses suffered as a direct result of  
12           the abuse, neglect, or exploitation. Such losses shall  
13           include, but not be limited to, medical expenses, lost  
14           earnings or other support, repair or replacement of  
15           property damaged or taken, reasonable attorney's fees,  
16           court costs and moving or other travel expenses, including  
17           additional reasonable expenses for temporary shelter and  
18           restaurant meals.

19           (i) Losses affecting family needs. If a party is  
20           entitled to seek maintenance, child support or  
21           property distribution from the other party under the  
22           Illinois Marriage and Dissolution of Marriage Act, as  
23           now or hereafter amended, the court may order  
24           respondent to reimburse petitioner's actual losses, to  
25           the extent that such reimbursement would be  
26           "appropriate temporary relief", as authorized by

1 subsection (a) (3) of Section 501 of that Act.

2 (ii) Recovery of expenses. In the case of an  
3 improper concealment or removal of a minor child, the  
4 court may order respondent to pay the reasonable  
5 expenses incurred or to be incurred in the search for  
6 and recovery of the minor child, including but not  
7 limited to legal fees, court costs, private  
8 investigator fees, and travel costs.

9 (14) Prohibition of entry. Prohibit the respondent  
10 from entering or remaining in the residence or household  
11 while the respondent is under the influence of alcohol or  
12 drugs and constitutes a threat to the safety and well-being  
13 of the petitioner or the petitioner's children.

14 (14.5) Prohibition of firearm possession.

15 (a) When a complaint is made under a request for an  
16 order of protection, that the respondent has  
17 threatened or is likely to use firearms illegally  
18 against the petitioner, and the respondent is present  
19 in court, or has failed to appear after receiving  
20 actual notice, the court shall examine on oath the  
21 petitioner, and any witnesses who may be produced. If  
22 the court is satisfied that there is any danger of the  
23 illegal use of firearms, it shall issue an order that  
24 any firearms in the possession of the respondent,  
25 except as provided in subsection (b), be turned over to  
26 the local law enforcement agency for safekeeping. If

1           the respondent has failed to appear, the court shall  
2           issue a warrant for seizure of any firearm in the  
3           possession of the respondent. The period of  
4           safekeeping shall be for a stated period of time not to  
5           exceed 2 years. The firearm or firearms shall be  
6           returned to the respondent at the end of the stated  
7           period or at expiration of the order of protection,  
8           whichever is sooner.

9           (b) If the respondent is a peace officer as defined  
10          in Section 2-13 of the Criminal Code of 1961, the court  
11          shall order that any firearms used by the respondent in  
12          the performance of his or her duties as a peace officer  
13          be surrendered to the chief law enforcement executive  
14          of the agency in which the respondent is employed, who  
15          shall retain the firearms for safekeeping for the  
16          stated period not to exceed 2 years as set forth in the  
17          court order.

18          (15) Prohibition of access to records. If an order of  
19          protection prohibits respondent from having contact with  
20          the minor child, or if petitioner's address is omitted  
21          under subsection (b) of Section 203, or if necessary to  
22          prevent abuse or wrongful removal or concealment of a minor  
23          child, the order shall deny respondent access to, and  
24          prohibit respondent from inspecting, obtaining, or  
25          attempting to inspect or obtain, school or any other  
26          records of the minor child who is in the care of

1 petitioner.

2 (16) Order for payment of shelter services. Order  
3 respondent to reimburse a shelter providing temporary  
4 housing and counseling services to the petitioner for the  
5 cost of the services, as certified by the shelter and  
6 deemed reasonable by the court.

7 (17) Order for injunctive relief. Enter injunctive  
8 relief necessary or appropriate to prevent further abuse of  
9 a family or household member or further abuse, neglect, or  
10 exploitation of a high-risk adult with disabilities or to  
11 effectuate one of the granted remedies, if supported by the  
12 balance of hardships. If the harm to be prevented by the  
13 injunction is abuse or any other harm that one of the  
14 remedies listed in paragraphs (1) through (16) of this  
15 subsection is designed to prevent, no further evidence is  
16 necessary that the harm is an irreparable injury.

17 (c) Relevant factors; findings.

18 (1) In determining whether to grant a specific remedy,  
19 other than payment of support, the court shall consider  
20 relevant factors, including but not limited to the  
21 following:

22 (i) the nature, frequency, severity, pattern and  
23 consequences of the respondent's past abuse, neglect  
24 or exploitation of the petitioner or any family or  
25 household member, including the concealment of his or  
26 her location in order to evade service of process or

1 notice, and the likelihood of danger of future abuse,  
2 neglect, or exploitation to petitioner or any member of  
3 petitioner's or respondent's family or household; and

4 (ii) the danger that any minor child will be abused  
5 or neglected or improperly removed from the  
6 jurisdiction, improperly concealed within the State or  
7 improperly separated from the child's primary  
8 caretaker.

9 (2) In comparing relative hardships resulting to the  
10 parties from loss of possession of the family home, the  
11 court shall consider relevant factors, including but not  
12 limited to the following:

13 (i) availability, accessibility, cost, safety,  
14 adequacy, location and other characteristics of  
15 alternate housing for each party and any minor child or  
16 dependent adult in the party's care;

17 (ii) the effect on the party's employment; and

18 (iii) the effect on the relationship of the party,  
19 and any minor child or dependent adult in the party's  
20 care, to family, school, church and community.

21 (3) Subject to the exceptions set forth in paragraph  
22 (4) of this subsection, the court shall make its findings  
23 in an official record or in writing, and shall at a minimum  
24 set forth the following:

25 (i) That the court has considered the applicable  
26 relevant factors described in paragraphs (1) and (2) of

1           this subsection.

2           (ii) Whether the conduct or actions of respondent,  
3           unless prohibited, will likely cause irreparable harm  
4           or continued abuse.

5           (iii) Whether it is necessary to grant the  
6           requested relief in order to protect petitioner or  
7           other alleged abused persons.

8           (4) For purposes of issuing an ex parte emergency order  
9           of protection, the court, as an alternative to or as a  
10          supplement to making the findings described in paragraphs  
11          (c) (3) (i) through (c) (3) (iii) of this subsection, may use  
12          the following procedure:

13          When a verified petition for an emergency order of  
14          protection in accordance with the requirements of Sections  
15          203 and 217 is presented to the court, the court shall  
16          examine petitioner on oath or affirmation. An emergency  
17          order of protection shall be issued by the court if it  
18          appears from the contents of the petition and the  
19          examination of petitioner that the averments are  
20          sufficient to indicate abuse by respondent and to support  
21          the granting of relief under the issuance of the emergency  
22          order of protection.

23          (5) Never married parties. No rights or  
24          responsibilities for a minor child born outside of marriage  
25          attach to a putative father until a father and child  
26          relationship has been established under the Illinois

1 Parentage Act of 1984, the Illinois Public Aid Code,  
2 Section 12 of the Vital Records Act, the Juvenile Court Act  
3 of 1987, the Probate Act of 1985, the Revised Uniform  
4 Reciprocal Enforcement of Support Act, the Uniform  
5 Interstate Family Support Act, the Expedited Child Support  
6 Act of 1990, any judicial, administrative, or other act of  
7 another state or territory, any other Illinois statute, or  
8 by any foreign nation establishing the father and child  
9 relationship, any other proceeding substantially in  
10 conformity with the Personal Responsibility and Work  
11 Opportunity Reconciliation Act of 1996 (Pub. L. 104-193),  
12 or where both parties appeared in open court or at an  
13 administrative hearing acknowledging under oath or  
14 admitting by affirmation the existence of a father and  
15 child relationship. Absent such an adjudication, finding,  
16 or acknowledgement, no putative father shall be granted  
17 temporary custody of the minor child, visitation with the  
18 minor child, or physical care and possession of the minor  
19 child, nor shall an order of payment for support of the  
20 minor child be entered.

21 (d) Balance of hardships; findings. If the court finds that  
22 the balance of hardships does not support the granting of a  
23 remedy governed by paragraph (2), (3), (10), (11), or (16) of  
24 subsection (b) of this Section, which may require such  
25 balancing, the court's findings shall so indicate and shall  
26 include a finding as to whether granting the remedy will result

1 in hardship to respondent that would substantially outweigh the  
2 hardship to petitioner from denial of the remedy. The findings  
3 shall be an official record or in writing.

4 (e) Denial of remedies. Denial of any remedy shall not be  
5 based, in whole or in part, on evidence that:

6 (1) Respondent has cause for any use of force, unless  
7 that cause satisfies the standards for justifiable use of  
8 force provided by Article VII of the Criminal Code of 1961;

9 (2) Respondent was voluntarily intoxicated;

10 (3) Petitioner acted in self-defense or defense of  
11 another, provided that, if petitioner utilized force, such  
12 force was justifiable under Article VII of the Criminal  
13 Code of 1961;

14 (4) Petitioner did not act in self-defense or defense  
15 of another;

16 (5) Petitioner left the residence or household to avoid  
17 further abuse, neglect, or exploitation by respondent;

18 (6) Petitioner did not leave the residence or household  
19 to avoid further abuse, neglect, or exploitation by  
20 respondent;

21 (7) Conduct by any family or household member excused  
22 the abuse, neglect, or exploitation by respondent, unless  
23 that same conduct would have excused such abuse, neglect,  
24 or exploitation if the parties had not been family or  
25 household members.

26 (Source: P.A. 95-234, eff. 1-1-08.)