



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB5303

Introduced 2/3/2010, by Rep. David R. Leitch

#### SYNOPSIS AS INTRODUCED:

See Index

Amends the Department of Human Services Act and the Department of Healthcare and Family Services Law of the Civil Administrative Code of Illinois. On January 1, 2011, transfers all functions performed by the Division of Alcoholism and Substance Abuse and the Division of Mental Health within the Department of Human Services, as well as any other functions of the Department of Human Services relating to alcoholism and substance abuse or mental health, including such functions performed by the Inspector General within the Department of Human Services, to the Department of Healthcare and Family Services. Amends various other Acts to make conforming changes. Effective immediately.

LRB096 19108 DRJ 34499 b

CORRECTIONAL  
BUDGET AND  
IMPACT NOTE ACT  
MAY APPLY

FISCAL NOTE ACT  
MAY APPLY

PENSION IMPACT  
NOTE ACT MAY  
APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 5. The Department of Human Services Act is amended  
5 by changing Section 1-17 and adding Section 1-40 as follows:

6 (20 ILCS 1305/1-17)

7 (Text of Section before amendment by P.A. 96-339)

8 Sec. 1-17. Inspector General.

9 (a) Nature and purpose. It is the express intent of the  
10 General Assembly to ensure the health, safety, and financial  
11 condition of individuals receiving services in this State due  
12 to mental illness, developmental disability, or both by  
13 protecting those persons from acts of abuse, neglect, or both  
14 by service providers. To that end, the Office of the Inspector  
15 General for the Department of Human Services is created to  
16 investigate and report upon allegations of the abuse, neglect,  
17 or financial exploitation of individuals receiving services  
18 within mental health facilities, developmental disabilities  
19 facilities, and community agencies operated, licensed, funded  
20 or certified by the Department of Human Services, but not  
21 licensed or certified by any other State agency. It is also the  
22 express intent of the General Assembly to authorize the  
23 Inspector General to investigate alleged or suspected cases of

1 abuse, neglect, or financial exploitation of adults with  
2 disabilities living in domestic settings in the community under  
3 the Abuse of Adults with Disabilities Intervention Act.

4 (b) Definitions. The following definitions apply to this  
5 Section:

6 "Agency" or "community agency" means (i) a community agency  
7 licensed, funded, or certified by the Department, but not  
8 licensed or certified by any other human services agency of the  
9 State, to provide mental health service or developmental  
10 disabilities service, or (ii) a program licensed, funded, or  
11 certified by the Department, but not licensed or certified by  
12 any other human services agency of the State, to provide mental  
13 health service or developmental disabilities service.

14 "Aggravating circumstance" means a factor that is  
15 attendant to a finding and that tends to compound or increase  
16 the culpability of the accused.

17 "Allegation" means an assertion, complaint, suspicion, or  
18 incident involving any of the following conduct by an employee,  
19 facility, or agency against an individual or individuals:  
20 mental abuse, physical abuse, sexual abuse, neglect, or  
21 financial exploitation.

22 "Day" means working day, unless otherwise specified.

23 "Deflection" means a situation in which an individual is  
24 presented for admission to a facility or agency, and the  
25 facility staff or agency staff do not admit the individual.

26 "Deflection" includes triage, redirection, and denial of

1 admission.

2 "Department" means the Department of Human Services.

3 "Developmentally disabled" means having a developmental  
4 disability.

5 "Developmental disability" means "developmental  
6 disability" as defined in the Mental Health and Developmental  
7 Disabilities Code.

8 "Egregious neglect" means a finding of neglect as  
9 determined by the Inspector General that (i) represents a gross  
10 failure to adequately provide for, or a callused indifference  
11 to, the health, safety, or medical needs of an individual and  
12 (ii) results in an individual's death or other serious  
13 deterioration of an individual's physical condition or mental  
14 condition.

15 "Employee" means any person who provides services at the  
16 facility or agency on-site or off-site. The service  
17 relationship can be with the individual or with the facility or  
18 agency. Also, "employee" includes any employee or contractual  
19 agent of the Department of Human Services or the community  
20 agency involved in providing or monitoring or administering  
21 mental health or developmental disability services. This  
22 includes but is not limited to: owners, operators, payroll  
23 personnel, contractors, subcontractors, and volunteers.

24 "Facility" or "State-operated facility" means a mental  
25 health facility or developmental disabilities facility  
26 operated by the Department.

1 "Financial exploitation" means taking unjust advantage of  
2 an individual's assets, property, or financial resources  
3 through deception, intimidation, or conversion for the  
4 employee's, facility's, or agency's own advantage or benefit.

5 "Finding" means the Office of Inspector General's  
6 determination regarding whether an allegation is  
7 substantiated, unsubstantiated, or unfounded.

8 "Health care worker registry" or "registry" means the  
9 health care worker registry created by the Nursing Home Care  
10 Act.

11 "Individual" means any person receiving mental health  
12 service, developmental disabilities service, or both from a  
13 facility or agency, while either on-site or off-site.

14 "Mental abuse" means the use of demeaning, intimidating, or  
15 threatening words, signs, gestures, or other actions by an  
16 employee about an individual and in the presence of an  
17 individual or individuals that results in emotional distress or  
18 maladaptive behavior, or could have resulted in emotional  
19 distress or maladaptive behavior, for any individual present.

20 "Mental illness" means "mental illness" as defined in the  
21 Mental Health and Developmental Disabilities Code.

22 "Mentally ill" means having a mental illness.

23 "Mitigating circumstance" means a condition that (i) is  
24 attendant to a finding, (ii) does not excuse or justify the  
25 conduct in question, but (iii) may be considered in evaluating  
26 the severity of the conduct, the culpability of the accused, or

1 both the severity of the conduct and the culpability of the  
2 accused.

3 "Neglect" means an employee's, agency's, or facility's  
4 failure to provide adequate medical care, personal care, or  
5 maintenance and that, as a consequence, (i) causes an  
6 individual pain, injury, or emotional distress, (ii) results in  
7 either an individual's maladaptive behavior or the  
8 deterioration of an individual's physical condition or mental  
9 condition, or (iii) places the individual's health or safety at  
10 substantial risk.

11 "Physical abuse" means an employee's non-accidental and  
12 inappropriate contact with an individual that causes bodily  
13 harm. "Physical abuse" includes actions that cause bodily harm  
14 as a result of an employee directing an individual or person to  
15 physically abuse another individual.

16 "Recommendation" means an admonition, separate from a  
17 finding, that requires action by the facility, agency, or  
18 Department to correct a systemic issue, problem, or deficiency  
19 identified during an investigation.

20 "Required reporter" means any employee who suspects,  
21 witnesses, or is informed of an allegation of any one or more  
22 of the following: mental abuse, physical abuse, sexual abuse,  
23 neglect, or financial exploitation.

24 "Secretary" means the Chief Administrative Officer of the  
25 Department.

26 "Sexual abuse" means any sexual contact or intimate

1 physical contact between an employee and an individual,  
2 including an employee's coercion or encouragement of an  
3 individual to engage in sexual behavior that results in sexual  
4 contact, intimate physical contact, sexual behavior, or  
5 intimate physical behavior.

6 "Substantiated" means there is a preponderance of the  
7 evidence to support the allegation.

8 "Unfounded" means there is no credible evidence to support  
9 the allegation.

10 "Unsubstantiated" means there is credible evidence, but  
11 less than a preponderance of evidence to support the  
12 allegation.

13 (c) Appointment. The Governor shall appoint, and the Senate  
14 shall confirm, an Inspector General. The Inspector General  
15 shall be appointed for a term of 4 years and shall function  
16 within the Department of Human Services and report to the  
17 Secretary and the Governor.

18 (d) Operation and appropriation. The Inspector General  
19 shall function independently within the Department with  
20 respect to the operations of the Office, including the  
21 performance of investigations and issuance of findings and  
22 recommendations. The appropriation for the Office of Inspector  
23 General shall be separate from the overall appropriation for  
24 the Department.

25 (e) Powers and duties. The Inspector General shall  
26 investigate reports of suspected mental abuse, physical abuse,

1 sexual abuse, neglect, or financial exploitation of  
2 individuals in any mental health or developmental disabilities  
3 facility or agency and shall have authority to take immediate  
4 action to prevent any one or more of the following from  
5 happening to individuals under its jurisdiction: mental abuse,  
6 physical abuse, sexual abuse, neglect, or financial  
7 exploitation. Upon written request of an agency of this State,  
8 the Inspector General may assist another agency of the State in  
9 investigating reports of the abuse, neglect, or abuse and  
10 neglect of persons with mental illness, persons with  
11 developmental disabilities, or persons with both. To comply  
12 with the requirements of subsection (k) of this Section, the  
13 Inspector General shall also review all reportable deaths for  
14 which there is no allegation of abuse or neglect. Nothing in  
15 this Section shall preempt any duties of the Medical Review  
16 Board set forth in the Mental Health and Developmental  
17 Disabilities Code. The Inspector General shall have no  
18 authority to investigate alleged violations of the State  
19 Officials and Employees Ethics Act. Allegations of misconduct  
20 under the State Officials and Employees Ethics Act shall be  
21 referred to the Office of the Governor's Executive Inspector  
22 General for investigation.

23 (f) Limitations. The Inspector General shall not conduct an  
24 investigation within an agency or facility if that  
25 investigation would be redundant to or interfere with an  
26 investigation conducted by another State agency. The Inspector



1 General shall have no supervision over, or involvement in, the  
2 routine programmatic, licensing, funding, or certification  
3 operations of the Department. Nothing in this subsection limits  
4 investigations by the Department that may otherwise be required  
5 by law or that may be necessary in the Department's capacity as  
6 central administrative authority responsible for the operation  
7 of the State's mental health and developmental disabilities  
8 facilities.

9 (g) Rulemaking authority. The Inspector General shall  
10 promulgate rules establishing minimum requirements for  
11 reporting allegations as well as for initiating, conducting,  
12 and completing investigations based upon the nature of the  
13 allegation or allegations. The rules shall clearly establish  
14 that if 2 or more State agencies could investigate an  
15 allegation, the Inspector General shall not conduct an  
16 investigation that would be redundant to, or interfere with, an  
17 investigation conducted by another State agency. The rules  
18 shall further clarify the method and circumstances under which  
19 the Office of Inspector General may interact with the  
20 licensing, funding, or certification units of the Department in  
21 preventing further occurrences of mental abuse, physical  
22 abuse, sexual abuse, neglect, egregious neglect, and financial  
23 exploitation.

24 (h) Training programs. The Inspector General shall (i)  
25 establish a comprehensive program to ensure that every person  
26 authorized to conduct investigations receives ongoing training

1 relative to investigation techniques, communication skills,  
2 and the appropriate means of interacting with persons receiving  
3 treatment for mental illness, developmental disability, or  
4 both mental illness and developmental disability, and (ii)  
5 establish and conduct periodic training programs for facility  
6 and agency employees concerning the prevention and reporting of  
7 any one or more of the following: mental abuse, physical abuse,  
8 sexual abuse, neglect, egregious neglect, or financial  
9 exploitation. Nothing in this Section shall be deemed to  
10 prevent the Office of Inspector General from conducting any  
11 other training as determined by the Inspector General to be  
12 necessary or helpful.

13 (i) Duty to cooperate.

14 (1) The Inspector General shall at all times be granted  
15 access to any facility or agency for the purpose of  
16 investigating any allegation, conducting unannounced site  
17 visits, monitoring compliance with a written response, or  
18 completing any other statutorily assigned duty. The  
19 Inspector General shall conduct unannounced site visits to  
20 each facility at least annually for the purpose of  
21 reviewing and making recommendations on systemic issues  
22 relative to preventing, reporting, investigating, and  
23 responding to all of the following: mental abuse, physical  
24 abuse, sexual abuse, neglect, egregious neglect, or  
25 financial exploitation.

26 (2) Any employee who fails to cooperate with an Office

1 of the Inspector General investigation is in violation of  
2 this Act. Failure to cooperate with an investigation  
3 includes, but is not limited to, any one or more of the  
4 following: (i) creating and transmitting a false report to  
5 the Office of the Inspector General hotline, (ii) providing  
6 false information to an Office of the Inspector General  
7 Investigator during an investigation, (iii) colluding with  
8 other employees to cover up evidence, (iv) colluding with  
9 other employees to provide false information to an Office  
10 of the Inspector General investigator, (v) destroying  
11 evidence, (vi) withholding evidence, or (vii) otherwise  
12 obstructing an Office of the Inspector General  
13 investigation. Additionally, any employee who, during an  
14 unannounced site visit or written response compliance  
15 check, fails to cooperate with requests from the Office of  
16 the Inspector General is in violation of this Act.

17 (j) Subpoena powers. The Inspector General shall have the  
18 power to subpoena witnesses and compel the production of all  
19 documents and physical evidence relating to his or her  
20 investigations and any hearings authorized by this Act. This  
21 subpoena power shall not extend to persons or documents of a  
22 labor organization or its representatives insofar as the  
23 persons are acting in a representative capacity to an employee  
24 whose conduct is the subject of an investigation or the  
25 documents relate to that representation. Any person who  
26 otherwise fails to respond to a subpoena or who knowingly

1 provides false information to the Office of the Inspector  
2 General by subpoena during an investigation is guilty of a  
3 Class A misdemeanor.

4 (k) Reporting allegations and deaths.

5 (1) Allegations. If an employee witnesses, is told of,  
6 or has reason to believe an incident of mental abuse,  
7 physical abuse, sexual abuse, neglect, or financial  
8 exploitation has occurred, the employee, agency, or  
9 facility shall report the allegation by phone to the Office  
10 of the Inspector General hotline according to the agency's  
11 or facility's procedures, but in no event later than 4  
12 hours after the initial discovery of the incident,  
13 allegation, or suspicion of any one or more of the  
14 following: mental abuse, physical abuse, sexual abuse,  
15 neglect, or financial exploitation. A required reporter as  
16 defined in subsection (b) of this Section who knowingly or  
17 intentionally fails to comply with these reporting  
18 requirements is guilty of a Class A misdemeanor.

19 (2) Deaths. Absent an allegation, a required reporter  
20 shall, within 24 hours after initial discovery, report by  
21 phone to the Office of the Inspector General hotline each  
22 of the following:

23 (i) Any death of an individual occurring within 14  
24 calendar days after discharge or transfer of the  
25 individual from a residential program or facility.

26 (ii) Any death of an individual occurring within 24

1           hours after deflection from a residential program or  
2           facility.

3           (iii) Any other death of an individual occurring at  
4           an agency or facility or at any Department-funded site.

5           (3) Retaliation. It is a violation of this Act for any  
6           employee or administrator of an agency or facility to take  
7           retaliatory action against an employee who acts in good  
8           faith in conformance with his or her duties as a required  
9           reporter.

10          (1) Reporting criminal acts. Within 24 hours after  
11          determining that there is credible evidence indicating that a  
12          criminal act may have been committed or that special expertise  
13          may be required in an investigation, the Inspector General  
14          shall notify the Department of State Police or other  
15          appropriate law enforcement authority, or ensure that such  
16          notification is made. The Department of State Police shall  
17          investigate any report from a State-operated facility  
18          indicating a possible murder, sexual assault, or other felony  
19          by an employee. All investigations conducted by the Inspector  
20          General shall be conducted in a manner designed to ensure the  
21          preservation of evidence for possible use in a criminal  
22          prosecution.

23          (m) Investigative reports. Upon completion of an  
24          investigation, the Office of Inspector General shall issue an  
25          investigative report identifying whether the allegations are  
26          substantiated, unsubstantiated, or unfounded. Within 10

1 business days after the transmittal of a completed  
2 investigative report substantiating an allegation, or if a  
3 recommendation is made, the Inspector General shall provide the  
4 investigative report on the case to the Secretary and to the  
5 director of the facility or agency where any one or more of the  
6 following occurred: mental abuse, physical abuse, sexual  
7 abuse, neglect, egregious neglect, or financial exploitation.  
8 In a substantiated case, the investigative report shall include  
9 any mitigating or aggravating circumstances that were  
10 identified during the investigation. If the case involves  
11 substantiated neglect, the investigative report shall also  
12 state whether egregious neglect was found. An investigative  
13 report may also set forth recommendations. All investigative  
14 reports prepared by the Office of the Inspector General shall  
15 be considered confidential and shall not be released except as  
16 provided by the law of this State or as required under  
17 applicable federal law. Unsubstantiated and unfounded reports  
18 shall not be disclosed except as allowed under Section 6 of the  
19 Abused and Neglected Long Term Care Facility Residents  
20 Reporting Act. Raw data used to compile the investigative  
21 report shall not be subject to release unless required by law  
22 or a court order. "Raw data used to compile the investigative  
23 report" includes, but is not limited to, any one or more of the  
24 following: the initial complaint, witness statements,  
25 photographs, investigator's notes, police reports, or incident  
26 reports. If the allegations are substantiated, the accused

1 shall be provided with a redacted copy of the investigative  
2 report. Death reports where there was no allegation of abuse or  
3 neglect shall only be released pursuant to applicable State or  
4 federal law or a valid court order.

5 (n) Written responses and reconsideration requests.

6 (1) Written responses. Within 30 calendar days from  
7 receipt of a substantiated investigative report or an  
8 investigative report which contains recommendations,  
9 absent a reconsideration request, the facility or agency  
10 shall file a written response that addresses, in a concise  
11 and reasoned manner, the actions taken to: (i) protect the  
12 individual; (ii) prevent recurrences; and (iii) eliminate  
13 the problems identified. The response shall include the  
14 implementation and completion dates of such actions. If the  
15 written response is not filed within the allotted 30  
16 calendar day period, the Secretary shall determine the  
17 appropriate corrective action to be taken.

18 (2) Reconsideration requests. The facility, agency,  
19 victim or guardian, or the subject employee may request  
20 that the Office of Inspector General reconsider or clarify  
21 its finding based upon additional information.

22 (o) Disclosure of the finding by the Inspector General. The  
23 Inspector General shall disclose the finding of an  
24 investigation to the following persons: (i) the Governor, (ii)  
25 the Secretary, (iii) the director of the facility or agency,  
26 (iv) the alleged victims and their guardians, (v) the

1 complainant, and (vi) the accused. This information shall  
2 include whether the allegations were deemed substantiated,  
3 unsubstantiated, or unfounded.

4 (p) Secretary review. Upon review of the Inspector  
5 General's investigative report and any agency's or facility's  
6 written response, the Secretary shall accept or reject the  
7 written response and notify the Inspector General of that  
8 determination. The Secretary may further direct that other  
9 administrative action be taken, including, but not limited to,  
10 any one or more of the following: (i) additional site visits,  
11 (ii) training, (iii) provision of technical assistance  
12 relative to administrative needs, licensure or certification,  
13 or (iv) the imposition of appropriate sanctions.

14 (q) Action by facility or agency. Within 30 days of the  
15 date the Secretary approves the written response or directs  
16 that further administrative action be taken, the facility or  
17 agency shall provide an implementation report to the Inspector  
18 General that provides the status of the action taken. The  
19 facility or agency shall be allowed an additional 30 days to  
20 send notice of completion of the action or to send an updated  
21 implementation report. If the action has not been completed  
22 within the additional 30 day period, the facility or agency  
23 shall send updated implementation reports every 60 days until  
24 completion. The Inspector General shall conduct a review of any  
25 implementation plan that takes more than 120 days after  
26 approval to complete, and shall monitor compliance through a



1 random review of approved written responses, which may include,  
2 but are not limited to: (i) site visits, (ii) telephone  
3 contact, and (iii) requests for additional documentation  
4 evidencing compliance.

5 (r) Sanctions. Sanctions, if imposed by the Secretary under  
6 Subdivision (p)(iv) of this Section, shall be designed to  
7 prevent further acts of mental abuse, physical abuse, sexual  
8 abuse, neglect, egregious neglect, or financial exploitation  
9 or some combination of one or more of those acts at a facility  
10 or agency, and may include any one or more of the following:

11 (1) Appointment of on-site monitors.

12 (2) Transfer or relocation of an individual or  
13 individuals.

14 (3) Closure of units.

15 (4) Termination of any one or more of the following:

16 (i) Department licensing, (ii) funding, or (iii)  
17 certification.

18 The Inspector General may seek the assistance of the  
19 Illinois Attorney General or the office of any State's Attorney  
20 in implementing sanctions.

21 (s) Health care worker registry.

22 (1) Reporting to the registry. The Inspector General  
23 shall report to the Department of Public Health's health  
24 care worker registry, a public registry, the identity and  
25 finding of each employee of a facility or agency against  
26 whom there is a final investigative report containing a

1 substantiated allegation of physical or sexual abuse or  
2 egregious neglect of an individual.

3 (2) Notice to employee. Prior to reporting the name of  
4 an employee, the employee shall be notified of the  
5 Department's obligation to report and shall be granted an  
6 opportunity to request an administrative hearing, the sole  
7 purpose of which is to determine if the substantiated  
8 finding warrants reporting to the registry. Notice to the  
9 employee shall contain a clear and concise statement of the  
10 grounds on which the report to the registry is based, offer  
11 the employee an opportunity for a hearing, and identify the  
12 process for requesting such a hearing. Notice is sufficient  
13 if provided by certified mail to the employee's last known  
14 address. If the employee fails to request a hearing within  
15 30 days from the date of the notice, the Inspector General  
16 shall report the name of the employee to the registry.  
17 Nothing in this subdivision (s) (2) shall diminish or impair  
18 the rights of a person who is a member of a collective  
19 bargaining unit under the Illinois Public Labor Relations  
20 Act or under any other federal labor statute.

21 (3) Registry hearings. If the employee requests an  
22 administrative hearing, the employee shall be granted an  
23 opportunity to appear before an administrative law judge to  
24 present reasons why the employee's name should not be  
25 reported to the registry. The Department shall bear the  
26 burden of presenting evidence that establishes, by a

1 preponderance of the evidence, that the substantiated  
2 finding warrants reporting to the registry. After  
3 considering all the evidence presented, the administrative  
4 law judge shall make a recommendation to the Secretary as  
5 to whether the substantiated finding warrants reporting  
6 the name of the employee to the registry. The Secretary  
7 shall render the final decision. The Department and the  
8 employee shall have the right to request that the  
9 administrative law judge consider a stipulated disposition  
10 of these proceedings.

11 (4) Testimony at registry hearings. A person who makes  
12 a report or who investigates a report under this Act shall  
13 testify fully in any judicial proceeding resulting from  
14 such a report, as to any evidence of abuse or neglect, or  
15 the cause thereof. No evidence shall be excluded by reason  
16 of any common law or statutory privilege relating to  
17 communications between the alleged perpetrator of abuse or  
18 neglect, or the individual alleged as the victim in the  
19 report, and the person making or investigating the report.  
20 Testimony at hearings is exempt from the confidentiality  
21 requirements of subsection (f) of Section 10 of the Mental  
22 Health and Developmental Disabilities Confidentiality Act.

23 (5) Employee's rights to collateral action. No  
24 reporting to the registry shall occur and no hearing shall  
25 be set or proceed if an employee notifies the Inspector  
26 General in writing, including any supporting

1 documentation, that he or she is formally contesting an  
2 adverse employment action resulting from a substantiated  
3 finding by complaint filed with the Illinois Civil Service  
4 Commission, or which otherwise seeks to enforce the  
5 employee's rights pursuant to any applicable collective  
6 bargaining agreement. If an action taken by an employer  
7 against an employee as a result of a finding of physical  
8 abuse, sexual abuse, or egregious neglect is overturned  
9 through an action filed with the Illinois Civil Service  
10 Commission or under any applicable collective bargaining  
11 agreement and if that employee's name has already been sent  
12 to the registry, the employee's name shall be removed from  
13 the registry.

14 (6) Removal from registry. At any time after the report  
15 to the registry, but no more than once in any 12-month  
16 period, an employee may petition the Department in writing  
17 to remove his or her name from the registry. Upon receiving  
18 notice of such request, the Inspector General shall conduct  
19 an investigation into the petition. Upon receipt of such  
20 request, an administrative hearing will be set by the  
21 Department. At the hearing, the employee shall bear the  
22 burden of presenting evidence that establishes, by a  
23 preponderance of the evidence, that removal of the name  
24 from the registry is in the public interest. The parties  
25 may jointly request that the administrative law judge  
26 consider a stipulated disposition of these proceedings.

1           (t) Review of Administrative Decisions. The Department  
2 shall preserve a record of all proceedings at any formal  
3 hearing conducted by the Department involving health care  
4 worker registry hearings. Final administrative decisions of  
5 the Department are subject to judicial review pursuant to  
6 provisions of the Administrative Review Law.

7           (u) Quality Care Board. There is created, within the Office  
8 of the Inspector General, a Quality Care Board to be composed  
9 of 7 members appointed by the Governor with the advice and  
10 consent of the Senate. One of the members shall be designated  
11 as chairman by the Governor. Of the initial appointments made  
12 by the Governor, 4 Board members shall each be appointed for a  
13 term of 4 years and 3 members shall each be appointed for a  
14 term of 2 years. Upon the expiration of each member's term, a  
15 successor shall be appointed for a term of 4 years. In the case  
16 of a vacancy in the office of any member, the Governor shall  
17 appoint a successor for the remainder of the unexpired term.

18           Members appointed by the Governor shall be qualified by  
19 professional knowledge or experience in the area of law,  
20 investigatory techniques, or in the area of care of the  
21 mentally ill or developmentally disabled. Two members  
22 appointed by the Governor shall be persons with a disability or  
23 a parent of a person with a disability. Members shall serve  
24 without compensation, but shall be reimbursed for expenses  
25 incurred in connection with the performance of their duties as  
26 members.

1           The Board shall meet quarterly, and may hold other meetings  
2 on the call of the chairman. Four members shall constitute a  
3 quorum allowing the Board to conduct its business. The Board  
4 may adopt rules and regulations it deems necessary to govern  
5 its own procedures.

6           The Board shall monitor and oversee the operations,  
7 policies, and procedures of the Inspector General to ensure the  
8 prompt and thorough investigation of allegations of neglect and  
9 abuse. In fulfilling these responsibilities, the Board may do  
10 the following:

11           (1) Provide independent, expert consultation to the  
12 Inspector General on policies and protocols for  
13 investigations of alleged abuse, neglect, or both abuse and  
14 neglect.

15           (2) Review existing regulations relating to the  
16 operation of facilities.

17           (3) Advise the Inspector General as to the content of  
18 training activities authorized under this Section.

19           (4) Recommend policies concerning methods for  
20 improving the intergovernmental relationships between the  
21 Office of the Inspector General and other State or federal  
22 offices.

23           (v) Annual report. The Inspector General shall provide to  
24 the General Assembly and the Governor, no later than January 1  
25 of each year, a summary of reports and investigations made  
26 under this Act for the prior fiscal year with respect to

1 individuals receiving mental health or developmental  
2 disabilities services. The report shall detail the imposition  
3 of sanctions, if any, and the final disposition of any  
4 corrective or administrative action directed by the Secretary.  
5 The summaries shall not contain any confidential or identifying  
6 information of any individual, but shall include objective data  
7 identifying any trends in the number of reported allegations,  
8 the timeliness of the Office of the Inspector General's  
9 investigations, and their disposition, for each facility and  
10 Department-wide, for the most recent 3-year time period. The  
11 report shall also identify, by facility, the staff-to-patient  
12 ratios taking account of direct care staff only. The report  
13 shall also include detailed recommended administrative actions  
14 and matters for consideration by the General Assembly.

15 (w) Program audit. The Auditor General shall conduct a  
16 program audit of the Office of the Inspector General on an  
17 as-needed basis, as determined by the Auditor General. The  
18 audit shall specifically include the Inspector General's  
19 compliance with the Act and effectiveness in investigating  
20 reports of allegations occurring in any facility or agency. The  
21 Auditor General shall conduct the program audit according to  
22 the provisions of the Illinois State Auditing Act and shall  
23 report its findings to the General Assembly no later than  
24 January 1 following the audit period.

25 (x) Nothing in this Section shall be construed to mean that  
26 a patient is a victim of abuse or neglect because of health

1 care services appropriately provided or not provided by health  
2 care professionals.

3 (y) Nothing in this Section shall require a facility,  
4 including its employees, agents, medical staff members, and  
5 health care professionals, to provide a service to a patient in  
6 contravention of that patient's stated or implied objection to  
7 the provision of that service on the ground that that service  
8 conflicts with the patient's religious beliefs or practices,  
9 nor shall the failure to provide a service to a patient be  
10 considered abuse under this Section if the patient has objected  
11 to the provision of that service based on his or her religious  
12 beliefs or practices.

13 (Source: P.A. 95-545, eff. 8-28-07; 96-407, eff. 8-13-09;  
14 96-555, eff. 8-18-09; revised 9-25-09.)

15 (Text of Section after amendment by P.A. 96-339)  
16 Sec. 1-17. Inspector General.

17 (a) Nature and purpose. It is the express intent of the  
18 General Assembly to ensure the health, safety, and financial  
19 condition of individuals receiving services in this State due  
20 to mental illness, developmental disability, or both by  
21 protecting those persons from acts of abuse, neglect, or both  
22 by service providers. To that end, the Office of the Inspector  
23 General for the Department of Human Services is created to  
24 investigate and report upon allegations of the abuse, neglect,  
25 or financial exploitation of individuals receiving services



1 within mental health facilities, developmental disabilities  
2 facilities, and community agencies operated, licensed, funded  
3 or certified by the Department of Human Services, but not  
4 licensed or certified by any other State agency. It is also the  
5 express intent of the General Assembly to authorize the  
6 Inspector General to investigate alleged or suspected cases of  
7 abuse, neglect, or financial exploitation of adults with  
8 disabilities living in domestic settings in the community under  
9 the Abuse of Adults with Disabilities Intervention Act.

10 (a-5) On January 1, 2011, all of the functions of the  
11 Inspector General relating to mental health, together with all  
12 of the powers, duties, rights, and responsibilities of the  
13 Inspector General relating to those functions, are transferred  
14 to the Department of Healthcare and Family Services as provided  
15 in Section 2205-15 of the Department of Healthcare and Family  
16 Services Law of the Civil Administrative Code of Illinois.

17 (b) Definitions. The following definitions apply to this  
18 Section:

19 "Agency" or "community agency" means (i) a community agency  
20 licensed, funded, or certified by the Department, but not  
21 licensed or certified by any other human services agency of the  
22 State, to provide mental health service or developmental  
23 disabilities service, or (ii) a program licensed, funded, or  
24 certified by the Department, but not licensed or certified by  
25 any other human services agency of the State, to provide mental  
26 health service or developmental disabilities service.

1 "Aggravating circumstance" means a factor that is  
2 attendant to a finding and that tends to compound or increase  
3 the culpability of the accused.

4 "Allegation" means an assertion, complaint, suspicion, or  
5 incident involving any of the following conduct by an employee,  
6 facility, or agency against an individual or individuals:  
7 mental abuse, physical abuse, sexual abuse, neglect, or  
8 financial exploitation.

9 "Day" means working day, unless otherwise specified.

10 "Deflection" means a situation in which an individual is  
11 presented for admission to a facility or agency, and the  
12 facility staff or agency staff do not admit the individual.  
13 "Deflection" includes triage, redirection, and denial of  
14 admission.

15 "Department" means the Department of Human Services.

16 "Developmentally disabled" means having a developmental  
17 disability.

18 "Developmental disability" means "developmental  
19 disability" as defined in the Mental Health and Developmental  
20 Disabilities Code.

21 "Egregious neglect" means a finding of neglect as  
22 determined by the Inspector General that (i) represents a gross  
23 failure to adequately provide for, or a callused indifference  
24 to, the health, safety, or medical needs of an individual and  
25 (ii) results in an individual's death or other serious  
26 deterioration of an individual's physical condition or mental

1 condition.

2 "Employee" means any person who provides services at the  
3 facility or agency on-site or off-site. The service  
4 relationship can be with the individual or with the facility or  
5 agency. Also, "employee" includes any employee or contractual  
6 agent of the Department of Human Services or the community  
7 agency involved in providing or monitoring or administering  
8 mental health or developmental disability services. This  
9 includes but is not limited to: owners, operators, payroll  
10 personnel, contractors, subcontractors, and volunteers.

11 "Facility" or "State-operated facility" means a mental  
12 health facility or developmental disabilities facility  
13 operated by the Department.

14 "Financial exploitation" means taking unjust advantage of  
15 an individual's assets, property, or financial resources  
16 through deception, intimidation, or conversion for the  
17 employee's, facility's, or agency's own advantage or benefit.

18 "Finding" means the Office of Inspector General's  
19 determination regarding whether an allegation is  
20 substantiated, unsubstantiated, or unfounded.

21 "Health care worker registry" or "registry" means the  
22 health care worker registry created by the Nursing Home Care  
23 Act.

24 "Individual" means any person receiving mental health  
25 service, developmental disabilities service, or both from a  
26 facility or agency, while either on-site or off-site.

1 "Mental abuse" means the use of demeaning, intimidating, or  
2 threatening words, signs, gestures, or other actions by an  
3 employee about an individual and in the presence of an  
4 individual or individuals that results in emotional distress or  
5 maladaptive behavior, or could have resulted in emotional  
6 distress or maladaptive behavior, for any individual present.

7 "Mental illness" means "mental illness" as defined in the  
8 Mental Health and Developmental Disabilities Code.

9 "Mentally ill" means having a mental illness.

10 "Mitigating circumstance" means a condition that (i) is  
11 attendant to a finding, (ii) does not excuse or justify the  
12 conduct in question, but (iii) may be considered in evaluating  
13 the severity of the conduct, the culpability of the accused, or  
14 both the severity of the conduct and the culpability of the  
15 accused.

16 "Neglect" means an employee's, agency's, or facility's  
17 failure to provide adequate medical care, personal care, or  
18 maintenance and that, as a consequence, (i) causes an  
19 individual pain, injury, or emotional distress, (ii) results in  
20 either an individual's maladaptive behavior or the  
21 deterioration of an individual's physical condition or mental  
22 condition, or (iii) places the individual's health or safety at  
23 substantial risk.

24 "Physical abuse" means an employee's non-accidental and  
25 inappropriate contact with an individual that causes bodily  
26 harm. "Physical abuse" includes actions that cause bodily harm

1 as a result of an employee directing an individual or person to  
2 physically abuse another individual.

3 "Recommendation" means an admonition, separate from a  
4 finding, that requires action by the facility, agency, or  
5 Department to correct a systemic issue, problem, or deficiency  
6 identified during an investigation.

7 "Required reporter" means any employee who suspects,  
8 witnesses, or is informed of an allegation of any one or more  
9 of the following: mental abuse, physical abuse, sexual abuse,  
10 neglect, or financial exploitation.

11 "Secretary" means the Chief Administrative Officer of the  
12 Department.

13 "Sexual abuse" means any sexual contact or intimate  
14 physical contact between an employee and an individual,  
15 including an employee's coercion or encouragement of an  
16 individual to engage in sexual behavior that results in sexual  
17 contact, intimate physical contact, sexual behavior, or  
18 intimate physical behavior.

19 "Substantiated" means there is a preponderance of the  
20 evidence to support the allegation.

21 "Unfounded" means there is no credible evidence to support  
22 the allegation.

23 "Unsubstantiated" means there is credible evidence, but  
24 less than a preponderance of evidence to support the  
25 allegation.

26 (c) Appointment. The Governor shall appoint, and the Senate

1 shall confirm, an Inspector General. The Inspector General  
2 shall be appointed for a term of 4 years and shall function  
3 within the Department of Human Services and report to the  
4 Secretary and the Governor.

5 (d) Operation and appropriation. The Inspector General  
6 shall function independently within the Department with  
7 respect to the operations of the Office, including the  
8 performance of investigations and issuance of findings and  
9 recommendations. The appropriation for the Office of Inspector  
10 General shall be separate from the overall appropriation for  
11 the Department.

12 (e) Powers and duties. The Inspector General shall  
13 investigate reports of suspected mental abuse, physical abuse,  
14 sexual abuse, neglect, or financial exploitation of  
15 individuals in any mental health or developmental disabilities  
16 facility or agency and shall have authority to take immediate  
17 action to prevent any one or more of the following from  
18 happening to individuals under its jurisdiction: mental abuse,  
19 physical abuse, sexual abuse, neglect, or financial  
20 exploitation. Upon written request of an agency of this State,  
21 the Inspector General may assist another agency of the State in  
22 investigating reports of the abuse, neglect, or abuse and  
23 neglect of persons with mental illness, persons with  
24 developmental disabilities, or persons with both. To comply  
25 with the requirements of subsection (k) of this Section, the  
26 Inspector General shall also review all reportable deaths for

1 which there is no allegation of abuse or neglect. Nothing in  
2 this Section shall preempt any duties of the Medical Review  
3 Board set forth in the Mental Health and Developmental  
4 Disabilities Code. The Inspector General shall have no  
5 authority to investigate alleged violations of the State  
6 Officials and Employees Ethics Act. Allegations of misconduct  
7 under the State Officials and Employees Ethics Act shall be  
8 referred to the Office of the Governor's Executive Inspector  
9 General for investigation.

10 (f) Limitations. The Inspector General shall not conduct an  
11 investigation within an agency or facility if that  
12 investigation would be redundant to or interfere with an  
13 investigation conducted by another State agency. The Inspector  
14 General shall have no supervision over, or involvement in, the  
15 routine programmatic, licensing, funding, or certification  
16 operations of the Department. Nothing in this subsection limits  
17 investigations by the Department that may otherwise be required  
18 by law or that may be necessary in the Department's capacity as  
19 central administrative authority responsible for the operation  
20 of the State's mental health and developmental disabilities  
21 facilities.

22 (g) Rulemaking authority. The Inspector General shall  
23 promulgate rules establishing minimum requirements for  
24 reporting allegations as well as for initiating, conducting,  
25 and completing investigations based upon the nature of the  
26 allegation or allegations. The rules shall clearly establish

1 that if 2 or more State agencies could investigate an  
2 allegation, the Inspector General shall not conduct an  
3 investigation that would be redundant to, or interfere with, an  
4 investigation conducted by another State agency. The rules  
5 shall further clarify the method and circumstances under which  
6 the Office of Inspector General may interact with the  
7 licensing, funding, or certification units of the Department in  
8 preventing further occurrences of mental abuse, physical  
9 abuse, sexual abuse, neglect, egregious neglect, and financial  
10 exploitation.

11 (h) Training programs. The Inspector General shall (i)  
12 establish a comprehensive program to ensure that every person  
13 authorized to conduct investigations receives ongoing training  
14 relative to investigation techniques, communication skills,  
15 and the appropriate means of interacting with persons receiving  
16 treatment for mental illness, developmental disability, or  
17 both mental illness and developmental disability, and (ii)  
18 establish and conduct periodic training programs for facility  
19 and agency employees concerning the prevention and reporting of  
20 any one or more of the following: mental abuse, physical abuse,  
21 sexual abuse, neglect, egregious neglect, or financial  
22 exploitation. Nothing in this Section shall be deemed to  
23 prevent the Office of Inspector General from conducting any  
24 other training as determined by the Inspector General to be  
25 necessary or helpful.

26 (i) Duty to cooperate.



1           (1) The Inspector General shall at all times be granted  
2 access to any facility or agency for the purpose of  
3 investigating any allegation, conducting unannounced site  
4 visits, monitoring compliance with a written response, or  
5 completing any other statutorily assigned duty. The  
6 Inspector General shall conduct unannounced site visits to  
7 each facility at least annually for the purpose of  
8 reviewing and making recommendations on systemic issues  
9 relative to preventing, reporting, investigating, and  
10 responding to all of the following: mental abuse, physical  
11 abuse, sexual abuse, neglect, egregious neglect, or  
12 financial exploitation.

13           (2) Any employee who fails to cooperate with an Office  
14 of the Inspector General investigation is in violation of  
15 this Act. Failure to cooperate with an investigation  
16 includes, but is not limited to, any one or more of the  
17 following: (i) creating and transmitting a false report to  
18 the Office of the Inspector General hotline, (ii) providing  
19 false information to an Office of the Inspector General  
20 Investigator during an investigation, (iii) colluding with  
21 other employees to cover up evidence, (iv) colluding with  
22 other employees to provide false information to an Office  
23 of the Inspector General investigator, (v) destroying  
24 evidence, (vi) withholding evidence, or (vii) otherwise  
25 obstructing an Office of the Inspector General  
26 investigation. Additionally, any employee who, during an

1 unannounced site visit or written response compliance  
2 check, fails to cooperate with requests from the Office of  
3 the Inspector General is in violation of this Act.

4 (j) Subpoena powers. The Inspector General shall have the  
5 power to subpoena witnesses and compel the production of all  
6 documents and physical evidence relating to his or her  
7 investigations and any hearings authorized by this Act. This  
8 subpoena power shall not extend to persons or documents of a  
9 labor organization or its representatives insofar as the  
10 persons are acting in a representative capacity to an employee  
11 whose conduct is the subject of an investigation or the  
12 documents relate to that representation. Any person who  
13 otherwise fails to respond to a subpoena or who knowingly  
14 provides false information to the Office of the Inspector  
15 General by subpoena during an investigation is guilty of a  
16 Class A misdemeanor.

17 (k) Reporting allegations and deaths.

18 (1) Allegations. If an employee witnesses, is told of,  
19 or has reason to believe an incident of mental abuse,  
20 physical abuse, sexual abuse, neglect, or financial  
21 exploitation has occurred, the employee, agency, or  
22 facility shall report the allegation by phone to the Office  
23 of the Inspector General hotline according to the agency's  
24 or facility's procedures, but in no event later than 4  
25 hours after the initial discovery of the incident,  
26 allegation, or suspicion of any one or more of the

1 following: mental abuse, physical abuse, sexual abuse,  
2 neglect, or financial exploitation. A required reporter as  
3 defined in subsection (b) of this Section who knowingly or  
4 intentionally fails to comply with these reporting  
5 requirements is guilty of a Class A misdemeanor.

6 (2) Deaths. Absent an allegation, a required reporter  
7 shall, within 24 hours after initial discovery, report by  
8 phone to the Office of the Inspector General hotline each  
9 of the following:

10 (i) Any death of an individual occurring within 14  
11 calendar days after discharge or transfer of the  
12 individual from a residential program or facility.

13 (ii) Any death of an individual occurring within 24  
14 hours after deflection from a residential program or  
15 facility.

16 (iii) Any other death of an individual occurring at  
17 an agency or facility or at any Department-funded site.

18 (3) Retaliation. It is a violation of this Act for any  
19 employee or administrator of an agency or facility to take  
20 retaliatory action against an employee who acts in good  
21 faith in conformance with his or her duties as a required  
22 reporter.

23 (1) Reporting criminal acts. Within 24 hours after  
24 determining that there is credible evidence indicating that a  
25 criminal act may have been committed or that special expertise  
26 may be required in an investigation, the Inspector General

1 shall notify the Department of State Police or other  
2 appropriate law enforcement authority, or ensure that such  
3 notification is made. The Department of State Police shall  
4 investigate any report from a State-operated facility  
5 indicating a possible murder, sexual assault, or other felony  
6 by an employee. All investigations conducted by the Inspector  
7 General shall be conducted in a manner designed to ensure the  
8 preservation of evidence for possible use in a criminal  
9 prosecution.

10 (m) Investigative reports. Upon completion of an  
11 investigation, the Office of Inspector General shall issue an  
12 investigative report identifying whether the allegations are  
13 substantiated, unsubstantiated, or unfounded. Within 10  
14 business days after the transmittal of a completed  
15 investigative report substantiating an allegation, or if a  
16 recommendation is made, the Inspector General shall provide the  
17 investigative report on the case to the Secretary and to the  
18 director of the facility or agency where any one or more of the  
19 following occurred: mental abuse, physical abuse, sexual  
20 abuse, neglect, egregious neglect, or financial exploitation.  
21 In a substantiated case, the investigative report shall include  
22 any mitigating or aggravating circumstances that were  
23 identified during the investigation. If the case involves  
24 substantiated neglect, the investigative report shall also  
25 state whether egregious neglect was found. An investigative  
26 report may also set forth recommendations. All investigative

1 reports prepared by the Office of the Inspector General shall  
2 be considered confidential and shall not be released except as  
3 provided by the law of this State or as required under  
4 applicable federal law. Unsubstantiated and unfounded reports  
5 shall not be disclosed except as allowed under Section 6 of the  
6 Abused and Neglected Long Term Care Facility Residents  
7 Reporting Act. Raw data used to compile the investigative  
8 report shall not be subject to release unless required by law  
9 or a court order. "Raw data used to compile the investigative  
10 report" includes, but is not limited to, any one or more of the  
11 following: the initial complaint, witness statements,  
12 photographs, investigator's notes, police reports, or incident  
13 reports. If the allegations are substantiated, the accused  
14 shall be provided with a redacted copy of the investigative  
15 report. Death reports where there was no allegation of abuse or  
16 neglect shall only be released pursuant to applicable State or  
17 federal law or a valid court order.

18 (n) Written responses and reconsideration requests.

19 (1) Written responses. Within 30 calendar days from  
20 receipt of a substantiated investigative report or an  
21 investigative report which contains recommendations,  
22 absent a reconsideration request, the facility or agency  
23 shall file a written response that addresses, in a concise  
24 and reasoned manner, the actions taken to: (i) protect the  
25 individual; (ii) prevent recurrences; and (iii) eliminate  
26 the problems identified. The response shall include the

1 implementation and completion dates of such actions. If the  
2 written response is not filed within the allotted 30  
3 calendar day period, the Secretary shall determine the  
4 appropriate corrective action to be taken.

5 (2) Reconsideration requests. The facility, agency,  
6 victim or guardian, or the subject employee may request  
7 that the Office of Inspector General reconsider or clarify  
8 its finding based upon additional information.

9 (o) Disclosure of the finding by the Inspector General. The  
10 Inspector General shall disclose the finding of an  
11 investigation to the following persons: (i) the Governor, (ii)  
12 the Secretary, (iii) the director of the facility or agency,  
13 (iv) the alleged victims and their guardians, (v) the  
14 complainant, and (vi) the accused. This information shall  
15 include whether the allegations were deemed substantiated,  
16 unsubstantiated, or unfounded.

17 (p) Secretary review. Upon review of the Inspector  
18 General's investigative report and any agency's or facility's  
19 written response, the Secretary shall accept or reject the  
20 written response and notify the Inspector General of that  
21 determination. The Secretary may further direct that other  
22 administrative action be taken, including, but not limited to,  
23 any one or more of the following: (i) additional site visits,  
24 (ii) training, (iii) provision of technical assistance  
25 relative to administrative needs, licensure or certification,  
26 or (iv) the imposition of appropriate sanctions.

1           (q) Action by facility or agency. Within 30 days of the  
2 date the Secretary approves the written response or directs  
3 that further administrative action be taken, the facility or  
4 agency shall provide an implementation report to the Inspector  
5 General that provides the status of the action taken. The  
6 facility or agency shall be allowed an additional 30 days to  
7 send notice of completion of the action or to send an updated  
8 implementation report. If the action has not been completed  
9 within the additional 30 day period, the facility or agency  
10 shall send updated implementation reports every 60 days until  
11 completion. The Inspector General shall conduct a review of any  
12 implementation plan that takes more than 120 days after  
13 approval to complete, and shall monitor compliance through a  
14 random review of approved written responses, which may include,  
15 but are not limited to: (i) site visits, (ii) telephone  
16 contact, and (iii) requests for additional documentation  
17 evidencing compliance.

18           (r) Sanctions. Sanctions, if imposed by the Secretary under  
19 Subdivision (p)(iv) of this Section, shall be designed to  
20 prevent further acts of mental abuse, physical abuse, sexual  
21 abuse, neglect, egregious neglect, or financial exploitation  
22 or some combination of one or more of those acts at a facility  
23 or agency, and may include any one or more of the following:

24                 (1) Appointment of on-site monitors.

25                 (2) Transfer or relocation of an individual or  
26 individuals.

1 (3) Closure of units.

2 (4) Termination of any one or more of the following:

3 (i) Department licensing, (ii) funding, or (iii)  
4 certification.

5 The Inspector General may seek the assistance of the  
6 Illinois Attorney General or the office of any State's Attorney  
7 in implementing sanctions.

8 (s) Health care worker registry.

9 (1) Reporting to the registry. The Inspector General  
10 shall report to the Department of Public Health's health  
11 care worker registry, a public registry, ~~MR/DD Community~~  
12 ~~Care Act~~ the identity and finding of each employee of a  
13 facility or agency against whom there is a final  
14 investigative report containing a substantiated allegation  
15 of physical or sexual abuse or egregious neglect of an  
16 individual. ~~MR/DD Community Care Act~~

17 (2) Notice to employee. Prior to reporting the name of  
18 an employee, the employee shall be notified of the  
19 Department's obligation to report and shall be granted an  
20 opportunity to request an administrative hearing, the sole  
21 purpose of which is to determine if the substantiated  
22 finding warrants reporting to the registry. Notice to the  
23 employee shall contain a clear and concise statement of the  
24 grounds on which the report to the registry is based, offer  
25 the employee an opportunity for a hearing, and identify the  
26 process for requesting such a hearing. Notice is sufficient



1 if provided by certified mail to the employee's last known  
2 address. If the employee fails to request a hearing within  
3 30 days from the date of the notice, the Inspector General  
4 shall report the name of the employee to the registry.  
5 Nothing in this subdivision (s) (2) shall diminish or impair  
6 the rights of a person who is a member of a collective  
7 bargaining unit under the Illinois Public Labor Relations  
8 Act or under any other federal labor statute.

9 (3) Registry hearings. If the employee requests an  
10 administrative hearing, the employee shall be granted an  
11 opportunity to appear before an administrative law judge to  
12 present reasons why the employee's name should not be  
13 reported to the registry. The Department shall bear the  
14 burden of presenting evidence that establishes, by a  
15 preponderance of the evidence, that the substantiated  
16 finding warrants reporting to the registry. After  
17 considering all the evidence presented, the administrative  
18 law judge shall make a recommendation to the Secretary as  
19 to whether the substantiated finding warrants reporting  
20 the name of the employee to the registry. The Secretary  
21 shall render the final decision. The Department and the  
22 employee shall have the right to request that the  
23 administrative law judge consider a stipulated disposition  
24 of these proceedings.

25 (4) Testimony at registry hearings. A person who makes  
26 a report or who investigates a report under this Act shall

1       testify fully in any judicial proceeding resulting from  
2       such a report, as to any evidence of abuse or neglect, or  
3       the cause thereof. No evidence shall be excluded by reason  
4       of any common law or statutory privilege relating to  
5       communications between the alleged perpetrator of abuse or  
6       neglect, or the individual alleged as the victim in the  
7       report, and the person making or investigating the report.  
8       Testimony at hearings is exempt from the confidentiality  
9       requirements of subsection (f) of Section 10 of the Mental  
10      Health and Developmental Disabilities Confidentiality Act.

11       (5) Employee's rights to collateral action. No  
12      reporting to the registry shall occur and no hearing shall  
13      be set or proceed if an employee notifies the Inspector  
14      General in writing, including any supporting  
15      documentation, that he or she is formally contesting an  
16      adverse employment action resulting from a substantiated  
17      finding by complaint filed with the Illinois Civil Service  
18      Commission, or which otherwise seeks to enforce the  
19      employee's rights pursuant to any applicable collective  
20      bargaining agreement. If an action taken by an employer  
21      against an employee as a result of a finding of physical  
22      abuse, sexual abuse, or egregious neglect is overturned  
23      through an action filed with the Illinois Civil Service  
24      Commission or under any applicable collective bargaining  
25      agreement and if that employee's name has already been sent  
26      to the registry, the employee's name shall be removed from

1 the registry.

2 (6) Removal from registry. At any time after the report  
3 to the registry, but no more than once in any 12-month  
4 period, an employee may petition the Department in writing  
5 to remove his or her name from the registry. Upon receiving  
6 notice of such request, the Inspector General shall conduct  
7 an investigation into the petition. Upon receipt of such  
8 request, an administrative hearing will be set by the  
9 Department. At the hearing, the employee shall bear the  
10 burden of presenting evidence that establishes, by a  
11 preponderance of the evidence, that removal of the name  
12 from the registry is in the public interest. The parties  
13 may jointly request that the administrative law judge  
14 consider a stipulated disposition of these proceedings.

15 (t) Review of Administrative Decisions. The Department  
16 shall preserve a record of all proceedings at any formal  
17 hearing conducted by the Department involving health care  
18 worker registry hearings. Final administrative decisions of  
19 the Department are subject to judicial review pursuant to  
20 provisions of the Administrative Review Law.

21 (u) Quality Care Board. There is created, within the Office  
22 of the Inspector General, a Quality Care Board to be composed  
23 of 7 members appointed by the Governor with the advice and  
24 consent of the Senate. One of the members shall be designated  
25 as chairman by the Governor. Of the initial appointments made  
26 by the Governor, 4 Board members shall each be appointed for a

1 term of 4 years and 3 members shall each be appointed for a  
2 term of 2 years. Upon the expiration of each member's term, a  
3 successor shall be appointed for a term of 4 years. In the case  
4 of a vacancy in the office of any member, the Governor shall  
5 appoint a successor for the remainder of the unexpired term.

6 Members appointed by the Governor shall be qualified by  
7 professional knowledge or experience in the area of law,  
8 investigatory techniques, or in the area of care of the  
9 mentally ill or developmentally disabled. Two members  
10 appointed by the Governor shall be persons with a disability or  
11 a parent of a person with a disability. Members shall serve  
12 without compensation, but shall be reimbursed for expenses  
13 incurred in connection with the performance of their duties as  
14 members.

15 The Board shall meet quarterly, and may hold other meetings  
16 on the call of the chairman. Four members shall constitute a  
17 quorum allowing the Board to conduct its business. The Board  
18 may adopt rules and regulations it deems necessary to govern  
19 its own procedures.

20 The Board shall monitor and oversee the operations,  
21 policies, and procedures of the Inspector General to ensure the  
22 prompt and thorough investigation of allegations of neglect and  
23 abuse. In fulfilling these responsibilities, the Board may do  
24 the following:

25 (1) Provide independent, expert consultation to the  
26 Inspector General on policies and protocols for

1 investigations of alleged abuse, neglect, or both abuse and  
2 neglect.

3 (2) Review existing regulations relating to the  
4 operation of facilities.

5 (3) Advise the Inspector General as to the content of  
6 training activities authorized under this Section.

7 (4) Recommend policies concerning methods for  
8 improving the intergovernmental relationships between the  
9 Office of the Inspector General and other State or federal  
10 offices.

11 (v) Annual report. The Inspector General shall provide to  
12 the General Assembly and the Governor, no later than January 1  
13 of each year, a summary of reports and investigations made  
14 under this Act for the prior fiscal year with respect to  
15 individuals receiving mental health or developmental  
16 disabilities services. The report shall detail the imposition  
17 of sanctions, if any, and the final disposition of any  
18 corrective or administrative action directed by the Secretary.  
19 The summaries shall not contain any confidential or identifying  
20 information of any individual, but shall include objective data  
21 identifying any trends in the number of reported allegations,  
22 the timeliness of the Office of the Inspector General's  
23 investigations, and their disposition, for each facility and  
24 Department-wide, for the most recent 3-year time period. The  
25 report shall also identify, by facility, the staff-to-patient  
26 ratios taking account of direct care staff only. The report

1 shall also include detailed recommended administrative actions  
2 and matters for consideration by the General Assembly.

3 (w) Program audit. The Auditor General shall conduct a  
4 program audit of the Office of the Inspector General on an  
5 as-needed basis, as determined by the Auditor General. The  
6 audit shall specifically include the Inspector General's  
7 compliance with the Act and effectiveness in investigating  
8 reports of allegations occurring in any facility or agency. The  
9 Auditor General shall conduct the program audit according to  
10 the provisions of the Illinois State Auditing Act and shall  
11 report its findings to the General Assembly no later than  
12 January 1 following the audit period.

13 (x) Nothing in this Section shall be construed to mean that  
14 a patient is a victim of abuse or neglect because of health  
15 care services appropriately provided or not provided by health  
16 care professionals.

17 (y) Nothing in this Section shall require a facility,  
18 including its employees, agents, medical staff members, and  
19 health care professionals, to provide a service to a patient in  
20 contravention of that patient's stated or implied objection to  
21 the provision of that service on the ground that that service  
22 conflicts with the patient's religious beliefs or practices,  
23 nor shall the failure to provide a service to a patient be  
24 considered abuse under this Section if the patient has objected  
25 to the provision of that service based on his or her religious  
26 beliefs or practices.

1 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10;  
2 96-407, eff. 8-13-09; 96-555, eff. 8-18-09; revised 9-25-09.)

3 (20 ILCS 1305/1-40 new)

4 Sec. 1-40. Alcoholism and Substance Abuse; Mental Health;  
5 transfer to Department of Healthcare and Family Services. On  
6 January 1, 2011, all functions performed by the Division of  
7 Alcoholism and Substance Abuse and the Division of Mental  
8 Health within the Department, as well as any other functions of  
9 the Department relating to alcoholism and substance abuse or  
10 mental health, including such functions performed by the  
11 Inspector General appointed under Section 1-17, together with  
12 all of the powers, duties, rights, and responsibilities of the  
13 Department of Human Services relating to those functions, are  
14 transferred to the Department of Healthcare and Family Services  
15 as provided in Section 2205-15 of the Department of Healthcare  
16 and Family Services Law of the Civil Administrative Code of  
17 Illinois. The Department of Human Services shall cooperate with  
18 the Department of Healthcare and Family Services to ensure that  
19 the transfer of functions is completed by January 1, 2011.

20 Section 10. The Department of Healthcare and Family  
21 Services Law of the Civil Administrative Code of Illinois is  
22 amended by adding Section 2205-15 as follows:

23 (20 ILCS 2205/2205-15 new)

1       Sec. 2205-15. Alcoholism and Substance Abuse; Mental  
2 Health; transfer from Department of Human Services.

3       (a) Transfer of functions and powers. On January 1, 2011,  
4 all functions performed by the Division of Alcoholism and  
5 Substance Abuse and the Division of Mental Health within the  
6 Department of Human Services, as well as any other functions of  
7 the Department of Human Services relating to alcoholism and  
8 substance abuse or mental health, together with all of the  
9 powers, duties, rights, and responsibilities of the Department  
10 of Human Services relating to those functions, are transferred  
11 to the Department of Healthcare and Family Services. The  
12 functions transferred under this Section include, but are not  
13 limited to, the following:

14           (1) Functions under the Alcoholism and Other Drug Abuse  
15 and Dependency Act.

16           (2) Functions relating to mental health under the  
17 Mental Health and Developmental Disabilities  
18 Administrative Act.

19           (3) Functions relating to mental health under the  
20 Mental Health and Developmental Disabilities Code.

21           (4) Functions relating to mental health performed by  
22 the Inspector General appointed under Section 1-17 of the  
23 Department of Human Services Act.

24       The Department of Human Services and the Department of  
25 Healthcare and Family Services shall cooperate to ensure that  
26 the transfer of functions is completed by January 1, 2011.



1       (b) Effect of transfer. Neither the alcoholism and  
2 substance abuse and mental health functions, nor the powers,  
3 duties, rights, and responsibilities relating to those  
4 functions, that are transferred from the Department of Human  
5 Services to the Department of Healthcare and Family Services  
6 under this Section are affected by this amendatory Act of the  
7 96th General Assembly, except that all such functions, powers,  
8 duties, rights, and responsibilities shall be performed or  
9 exercised by the Department of Healthcare and Family Services  
10 on and after January 1, 2011.

11       (c) Personnel transferred. The status and rights of the  
12 employees in the Department of Human Services engaged in the  
13 performance of functions relating to alcoholism and substance  
14 abuse or mental health shall not be affected by the transfer of  
15 those functions from the Department of Human Services to the  
16 Department of Healthcare and Family Services under this  
17 Section. The rights of those employees as derived from the  
18 State of Illinois and its agencies under the Personnel Code,  
19 the applicable collective bargaining agreements, or any  
20 pension, retirement, or annuity plan shall not be affected by  
21 this Section. Personnel employed by the Department of Human  
22 Services who are affected by this Section shall continue their  
23 service within the Department of Healthcare and Family  
24 Services.

25       (d) Books and records transferred. All books, records,  
26 papers, documents, contracts, and pending business pertaining

1 to the powers, duties, rights, and responsibilities relating to  
2 the alcoholism and substance abuse and mental health functions  
3 transferred from the Department of Human Services to the  
4 Department of Healthcare and Family Services under this  
5 Section, including but not limited to material in electronic or  
6 magnetic format, shall be transferred to the Department of  
7 Healthcare and Family Services. The transfer of that  
8 information shall not, however, violate any applicable  
9 confidentiality constraints.

10 (e) Unexpended moneys transferred. All unexpended  
11 appropriation balances and other funds otherwise available to  
12 the Department of Human Services for use in connection with the  
13 alcoholism and substance abuse and mental health functions  
14 transferred from the Department of Human Services to the  
15 Department of Healthcare and Family Services under this Section  
16 shall be transferred and made available to the Department of  
17 Healthcare and Family Services for use in connection with the  
18 performance of those functions.

19 (f) Exercise of transferred powers; savings provisions.  
20 The powers, duties, rights, and responsibilities relating to  
21 the alcoholism and substance abuse and mental health functions  
22 transferred from the Department of Human Services to the  
23 Department of Healthcare and Family Services under this Section  
24 are vested in and shall be exercised by the Department of  
25 Healthcare and Family Services. Each act done in exercise of  
26 those powers, duties, rights, and responsibilities shall have

1 the same legal effect as if done by the Department of Human  
2 Services or its divisions, officers, or employees.

3 (g) Officers and others; duties; penalties. Every  
4 employee, agent, or officer of the Department of Healthcare and  
5 Family Services is subject to the same obligations and duties,  
6 and has the same rights, as are prescribed by law in connection  
7 with the exercise of any power, duty, right, or responsibility  
8 transferred under this Section.

9 Every employee, agent, or officer of the Department of  
10 Healthcare and Family Services is subject to the same penalty  
11 or penalties, civil or criminal, as are prescribed by law for  
12 the same offense by any employee, agent, or officer whose  
13 powers, duties, rights, or responsibilities are transferred  
14 under this Section.

15 (h) Reports, notices, or papers. Whenever reports or  
16 notices are required to be made or given or papers or documents  
17 furnished or served by any person to or upon the Department of  
18 Human Services in connection with any of the functions relating  
19 to alcoholism and substance abuse or mental health that are  
20 transferred under this Section, the same shall be made, given,  
21 furnished, or served in the same manner to or upon the  
22 Department of Healthcare and Family Services.

23 (i) Acts and actions unaffected by transfer. This Section  
24 does not affect any act completed, ratified, or canceled, or  
25 any right occurring or established, before January 1, 2011 in  
26 connection with any function transferred under this Section.

1 This Section does not affect any action or proceeding had or  
2 commenced before January 1, 2011 in an administrative, civil,  
3 or criminal cause regarding any function transferred under this  
4 Section, but any such action or proceeding may be continued by  
5 the Department of Healthcare and Family Services.

6 (j) For the purposes of the Successor Agency Act, the  
7 Department of Healthcare and Family Services is declared to be  
8 the successor agency of the Department of Human Services, but  
9 only with respect to the functions that are transferred to the  
10 Department of Healthcare and Family Services under this  
11 Section.

12 Section 900. The Public Employee Disability Act is amended  
13 by changing Section 1 as follows:

14 (5 ILCS 345/1) (from Ch. 70, par. 91)

15 Sec. 1. Disability benefit.

16 (a) For the purposes of this Section, "eligible employee"  
17 means any part-time or full-time State correctional officer or  
18 any other full or part-time employee of the Department of  
19 Corrections, any full or part-time employee of the Prisoner  
20 Review Board, any full or part-time employee of the Department  
21 of Healthcare and Family Services or the Department of Human  
22 Services working within a penal institution or a State mental  
23 health or developmental disabilities facility operated by the  
24 Department of Healthcare and Family Services or the Department

1 of Human Services, and any full-time law enforcement officer or  
2 full-time firefighter who is employed by the State of Illinois,  
3 any unit of local government (including any home rule unit),  
4 any State supported college or university, or any other public  
5 entity granted the power to employ persons for such purposes by  
6 law.

7 (b) Whenever an eligible employee suffers any injury in the  
8 line of duty which causes him to be unable to perform his  
9 duties, he shall continue to be paid by the employing public  
10 entity on the same basis as he was paid before the injury, with  
11 no deduction from his sick leave credits, compensatory time for  
12 overtime accumulations or vacation, or service credits in a  
13 public employee pension fund during the time he is unable to  
14 perform his duties due to the result of the injury, but not  
15 longer than one year in relation to the same injury. However,  
16 no injury to an employee of the Department of Corrections or  
17 the Prisoner Review Board working within a penal institution or  
18 an employee of the Department of Healthcare and Family Services  
19 or the Department of Human Services working within a  
20 departmental mental health or developmental disabilities  
21 facility shall qualify the employee for benefits under this  
22 Section unless the injury is the direct or indirect result of  
23 violence by inmates of the penal institution or residents of  
24 the mental health or developmental disabilities facility.

25 (c) At any time during the period for which continuing  
26 compensation is required by this Act, the employing public

1 entity may order at the expense of that entity physical or  
2 medical examinations of the injured person to determine the  
3 degree of disability.

4 (d) During this period of disability, the injured person  
5 shall not be employed in any other manner, with or without  
6 monetary compensation. Any person who is employed in violation  
7 of this paragraph forfeits the continuing compensation  
8 provided by this Act from the time such employment begins. Any  
9 salary compensation due the injured person from workers'  
10 compensation or any salary due him from any type of insurance  
11 which may be carried by the employing public entity shall  
12 revert to that entity during the time for which continuing  
13 compensation is paid to him under this Act. Any disabled person  
14 receiving compensation under the provisions of this Act shall  
15 not be entitled to any benefits for which he would qualify  
16 because of his disability under the provisions of the Illinois  
17 Pension Code.

18 (e) Any employee of the State of Illinois, as defined in  
19 Section 14-103.05 of the Illinois Pension Code, who becomes  
20 permanently unable to perform the duties of such employment due  
21 to an injury received in the active performance of his duties  
22 as a State employee as a result of a willful act of violence by  
23 another employee of the State of Illinois, as so defined,  
24 committed during such other employee's course of employment and  
25 after January 1, 1988, shall be eligible for benefits pursuant  
26 to the provisions of this Section. For purposes of this

1 Section, permanently disabled is defined as a diagnosis or  
2 prognosis of an inability to return to current job duties by a  
3 physician licensed to practice medicine in all of its branches.

4 (f) The compensation and other benefits provided to  
5 part-time employees covered by this Section shall be calculated  
6 based on the percentage of time the part-time employee was  
7 scheduled to work pursuant to his or her status as a part-time  
8 employee.

9 (g) Pursuant to paragraphs (h) and (i) of Section 6 of  
10 Article VII of the Illinois Constitution, this Act specifically  
11 denies and limits the exercise by home rule units of any power  
12 which is inconsistent herewith, and all existing laws and  
13 ordinances which are inconsistent herewith are hereby  
14 superseded. This Act does not preempt the concurrent exercise  
15 by home rule units of powers consistent herewith.

16 This Act does not apply to any home rule unit with a  
17 population of over 1,000,000.

18 (Source: P.A. 88-45; 89-507, eff. 7-1-97.)

19 Section 905. The State Employee Indemnification Act is  
20 amended by changing Sections 1 and 2 as follows:

21 (5 ILCS 350/1) (from Ch. 127, par. 1301)

22 Sec. 1. Definitions. For the purpose of this Act:

23 (a) The term "State" means the State of Illinois, the  
24 General Assembly, the court, or any State office, department,

1 division, bureau, board, commission, or committee, the  
2 governing boards of the public institutions of higher education  
3 created by the State, the Illinois National Guard, the  
4 Comprehensive Health Insurance Board, any poison control  
5 center designated under the Poison Control System Act that  
6 receives State funding, or any other agency or instrumentality  
7 of the State. It does not mean any local public entity as that  
8 term is defined in Section 1-206 of the Local Governmental and  
9 Governmental Employees Tort Immunity Act or a pension fund.

10 (b) The term "employee" means any present or former elected  
11 or appointed officer, trustee or employee of the State, or of a  
12 pension fund, any present or former commissioner or employee of  
13 the Executive Ethics Commission or of the Legislative Ethics  
14 Commission, any present or former Executive, Legislative, or  
15 Auditor General's Inspector General, any present or former  
16 employee of an Office of an Executive, Legislative, or Auditor  
17 General's Inspector General, any present or former member of  
18 the Illinois National Guard while on active duty, individuals  
19 or organizations who contract with the Department of  
20 Corrections, the Comprehensive Health Insurance Board, or the  
21 Department of Veterans' Affairs to provide services,  
22 individuals or organizations who contract with the Department  
23 of Healthcare and Family Services or the Department of Human  
24 Services ~~(as successor to the Department of Mental Health and~~  
25 ~~Developmental Disabilities)~~ to provide services including but  
26 not limited to treatment and other services for sexually



1 violent persons, individuals or organizations who contract  
2 with the Department of Military Affairs for youth programs,  
3 individuals or organizations who contract to perform carnival  
4 and amusement ride safety inspections for the Department of  
5 Labor, individual representatives of or designated  
6 organizations authorized to represent the Office of State  
7 Long-Term Ombudsman for the Department on Aging, individual  
8 representatives of or organizations designated by the  
9 Department on Aging in the performance of their duties as elder  
10 abuse provider agencies or regional administrative agencies  
11 under the Elder Abuse and Neglect Act, individuals or  
12 organizations who perform volunteer services for the State  
13 where such volunteer relationship is reduced to writing,  
14 individuals who serve on any public entity (whether created by  
15 law or administrative action) described in paragraph (a) of  
16 this Section, individuals or not for profit organizations who,  
17 either as volunteers, where such volunteer relationship is  
18 reduced to writing, or pursuant to contract, furnish  
19 professional advice or consultation to any agency or  
20 instrumentality of the State, individuals who serve as foster  
21 parents for the Department of Children and Family Services when  
22 caring for a Department ward, and individuals who serve as  
23 arbitrators pursuant to Part 10A of Article II of the Code of  
24 Civil Procedure and the rules of the Supreme Court implementing  
25 Part 10A, each as now or hereafter amended, but does not mean  
26 an independent contractor except as provided in this Section.

1 The term includes an individual appointed as an inspector by  
2 the Director of State Police when performing duties within the  
3 scope of the activities of a Metropolitan Enforcement Group or  
4 a law enforcement organization established under the  
5 Intergovernmental Cooperation Act. An individual who renders  
6 professional advice and consultation to the State through an  
7 organization which qualifies as an "employee" under the Act is  
8 also an employee. The term includes the estate or personal  
9 representative of an employee.

10 (c) The term "pension fund" means a retirement system or  
11 pension fund created under the Illinois Pension Code.

12 (Source: P.A. 93-617, eff. 12-9-03.)

13 (5 ILCS 350/2) (from Ch. 127, par. 1302)

14 Sec. 2. Representation and indemnification of State  
15 employees.

16 (a) In the event that any civil proceeding is commenced  
17 against any State employee arising out of any act or omission  
18 occurring within the scope of the employee's State employment,  
19 the Attorney General shall, upon timely and appropriate notice  
20 to him by such employee, appear on behalf of such employee and  
21 defend the action. In the event that any civil proceeding is  
22 commenced against any physician who is an employee of the  
23 Department of Corrections, the Department of Healthcare and  
24 Family Services (in a position relating to the Department's  
25 mental health functions), or the Department of Human Services

1 (in a position relating to the Department's mental health or  
2 ~~and~~ developmental disabilities functions) alleging death or  
3 bodily injury or other injury to the person of the complainant  
4 resulting from and arising out of any act or omission occurring  
5 on or after December 3, 1977 within the scope of the employee's  
6 State employment, or against any physician who is an employee  
7 of the Department of Veterans' Affairs alleging death or bodily  
8 injury or other injury to the person of the complainant  
9 resulting from and arising out of any act or omission occurring  
10 on or after the effective date of this amendatory Act of 1988  
11 within the scope of the employee's State employment, or in the  
12 event that any civil proceeding is commenced against any  
13 attorney who is an employee of the State Appellate Defender  
14 alleging legal malpractice or for other damages resulting from  
15 and arising out of any legal act or omission occurring on or  
16 after December 3, 1977, within the scope of the employee's  
17 State employment, or in the event that any civil proceeding is  
18 commenced against any individual or organization who contracts  
19 with the Department of Labor to provide services as a carnival  
20 and amusement ride safety inspector alleging malpractice,  
21 death or bodily injury or other injury to the person arising  
22 out of any act or omission occurring on or after May 1, 1985,  
23 within the scope of that employee's State employment, the  
24 Attorney General shall, upon timely and appropriate notice to  
25 him by such employee, appear on behalf of such employee and  
26 defend the action. Any such notice shall be in writing, shall

1 be mailed within 15 days after the date of receipt by the  
2 employee of service of process, and shall authorize the  
3 Attorney General to represent and defend the employee in the  
4 proceeding. The giving of this notice to the Attorney General  
5 shall constitute an agreement by the State employee to  
6 cooperate with the Attorney General in his defense of the  
7 action and a consent that the Attorney General shall conduct  
8 the defense as he deems advisable and in the best interests of  
9 the employee, including settlement in the Attorney General's  
10 discretion. In any such proceeding, the State shall pay the  
11 court costs and litigation expenses of defending such action,  
12 to the extent approved by the Attorney General as reasonable,  
13 as they are incurred.

14 (b) In the event that the Attorney General determines that  
15 so appearing and defending an employee either (1) involves an  
16 actual or potential conflict of interest, or (2) that the act  
17 or omission which gave rise to the claim was not within the  
18 scope of the employee's State employment or was intentional,  
19 wilful or wanton misconduct, the Attorney General shall decline  
20 in writing to appear or defend or shall promptly take  
21 appropriate action to withdraw as attorney for such employee.  
22 Upon receipt of such declination or upon such withdrawal by the  
23 Attorney General on the basis of an actual or potential  
24 conflict of interest, the State employee may employ his own  
25 attorney to appear and defend, in which event the State shall  
26 pay the employee's court costs, litigation expenses and

1 attorneys' fees to the extent approved by the Attorney General  
2 as reasonable, as they are incurred. In the event that the  
3 Attorney General declines to appear or withdraws on the grounds  
4 that the act or omission was not within the scope of  
5 employment, or was intentional, wilful or wanton misconduct,  
6 and a court or jury finds that the act or omission of the State  
7 employee was within the scope of employment and was not  
8 intentional, wilful or wanton misconduct, the State shall  
9 indemnify the State employee for any damages awarded and court  
10 costs and attorneys' fees assessed as part of any final and  
11 unreversed judgment. In such event the State shall also pay the  
12 employee's court costs, litigation expenses and attorneys'  
13 fees to the extent approved by the Attorney General as  
14 reasonable.

15 In the event that the defendant in the proceeding is an  
16 elected State official, including members of the General  
17 Assembly, the elected State official may retain his or her  
18 attorney, provided that said attorney shall be reasonably  
19 acceptable to the Attorney General. In such case the State  
20 shall pay the elected State official's court costs, litigation  
21 expenses, and attorneys' fees, to the extent approved by the  
22 Attorney General as reasonable, as they are incurred.

23 (b-5) The Attorney General may file a counterclaim on  
24 behalf of a State employee, provided:

25 (1) the Attorney General determines that the State  
26 employee is entitled to representation in a civil action

1 under this Section;

2 (2) the counterclaim arises out of any act or omission  
3 occurring within the scope of the employee's State  
4 employment that is the subject of the civil action; and

5 (3) the employee agrees in writing that if judgment is  
6 entered in favor of the employee, the amount of the  
7 judgment shall be applied to offset any judgment that may  
8 be entered in favor of the plaintiff, and then to reimburse  
9 the State treasury for court costs and litigation expenses  
10 required to pursue the counterclaim. The balance of the  
11 collected judgment shall be paid to the State employee.

12 (c) Notwithstanding any other provision of this Section,  
13 representation and indemnification of a judge under this Act  
14 shall also be provided in any case where the plaintiff seeks  
15 damages or any equitable relief as a result of any decision,  
16 ruling or order of a judge made in the course of his or her  
17 judicial or administrative duties, without regard to the theory  
18 of recovery employed by the plaintiff. Indemnification shall be  
19 for all damages awarded and all court costs, attorney fees and  
20 litigation expenses assessed against the judge. When a judge  
21 has been convicted of a crime as a result of his or her  
22 intentional judicial misconduct in a trial, that judge shall  
23 not be entitled to indemnification and representation under  
24 this subsection in any case maintained by a party who seeks  
25 damages or other equitable relief as a direct result of the  
26 judge's intentional judicial misconduct.

1           (d) In any such proceeding where notice in accordance with  
2 this Section has been given to the Attorney General, unless the  
3 court or jury finds that the conduct or inaction which gave  
4 rise to the claim or cause of action was intentional, wilful or  
5 wanton misconduct and was not intended to serve or benefit  
6 interests of the State, the State shall indemnify the State  
7 employee for any damages awarded and court costs and attorneys'  
8 fees assessed as part of any final and unreversed judgment, or  
9 shall pay such judgment. Unless the Attorney General determines  
10 that the conduct or inaction which gave rise to the claim or  
11 cause of action was intentional, wilful or wanton misconduct  
12 and was not intended to serve or benefit interests of the  
13 State, the case may be settled, in the Attorney General's  
14 discretion and with the employee's consent, and the State shall  
15 indemnify the employee for any damages, court costs and  
16 attorneys' fees agreed to as part of the settlement, or shall  
17 pay such settlement. Where the employee is represented by  
18 private counsel, any settlement must be so approved by the  
19 Attorney General and the court having jurisdiction, which shall  
20 obligate the State to indemnify the employee.

21           (e) (i) Court costs and litigation expenses and other costs  
22 of providing a defense or counterclaim, including attorneys'  
23 fees obligated under this Section, shall be paid from the State  
24 Treasury on the warrant of the Comptroller out of  
25 appropriations made to the Department of Central Management  
26 Services specifically designed for the payment of costs, fees

1 and expenses covered by this Section.

2 (ii) Upon entry of a final judgment against the employee,  
3 or upon the settlement of the claim, the employee shall cause  
4 to be served a copy of such judgment or settlement, personally  
5 or by certified or registered mail within thirty days of the  
6 date of entry or settlement, upon the chief administrative  
7 officer of the department, office or agency in which he is  
8 employed. If not inconsistent with the provisions of this  
9 Section, such judgment or settlement shall be certified for  
10 payment by such chief administrative officer and by the  
11 Attorney General. The judgment or settlement shall be paid from  
12 the State Treasury on the warrant of the Comptroller out of  
13 appropriations made to the Department of Central Management  
14 Services specifically designed for the payment of claims  
15 covered by this Section.

16 (f) Nothing contained or implied in this Section shall  
17 operate, or be construed or applied, to deprive the State, or  
18 any employee thereof, of any defense heretofore available.

19 (g) This Section shall apply regardless of whether the  
20 employee is sued in his or her individual or official capacity.

21 (h) This Section shall not apply to claims for bodily  
22 injury or damage to property arising from motor vehicle  
23 accidents.

24 (i) This Section shall apply to all proceedings filed on or  
25 after its effective date, and to any proceeding pending on its  
26 effective date, if the State employee gives notice to the



1 Attorney General as provided in this Section within 30 days of  
2 the Act's effective date.

3 (j) The amendatory changes made to this Section by this  
4 amendatory Act of 1986 shall apply to all proceedings filed on  
5 or after the effective date of this amendatory Act of 1986 and  
6 to any proceeding pending on its effective date, if the State  
7 employee gives notice to the Attorney General as provided in  
8 this Section within 30 days of the effective date of this  
9 amendatory Act of 1986.

10 (k) This Act applies to all State officials who are serving  
11 as trustees, or their appointing authorities, of a clean energy  
12 community trust or as members of a not-for-profit foundation or  
13 corporation established pursuant to Section 16-111.1 of the  
14 Public Utilities Act.

15 (Source: P.A. 90-655, eff. 7-30-98; 91-781, eff. 6-9-00.)

16 Section 910. The Civil Administrative Code of Illinois is  
17 amended by changing Sections 1-5 and 5-545 as follows:

18 (20 ILCS 5/1-5)

19 Sec. 1-5. Articles. The Civil Administrative Code of  
20 Illinois consists of the following Articles:

21 Article 1. General Provisions (20 ILCS 5/1-1 and  
22 following).

23 Article 5. Departments of State Government Law (20 ILCS  
24 5/5-1 and following).

1 Article 50. State Budget Law (15 ILCS 20/).

2 Article 110. Department on Aging Law (20 ILCS 110/).

3 Article 205. Department of Agriculture Law (20 ILCS 205/).

4 Article 250. State Fair Grounds Title Law (5 ILCS 620/).

5 Article 310. Department of Healthcare and Family Services  
6 ~~Human Services~~ (Alcoholism and Substance Abuse) Law (20 ILCS  
7 310/).

8 Article 405. Department of Central Management Services Law  
9 (20 ILCS 405/).

10 Article 510. Department of Children and Family Services  
11 Powers Law (20 ILCS 510/).

12 Article 605. Department of Commerce and Economic  
13 Opportunity Law (20 ILCS 605/).

14 Article 805. Department of Natural Resources  
15 (Conservation) Law (20 ILCS 805/).

16 Article 1005. Department of Employment Security Law (20  
17 ILCS 1005/).

18 Article 1405. Department of Insurance Law (20 ILCS 1405/).

19 Article 1505. Department of Labor Law (20 ILCS 1505/).

20 Article 1710. Departments of Healthcare and Family  
21 Services (Mental Health) and ~~Department of~~ Human Services  
22 (~~Mental Health and~~ Developmental Disabilities) Law (20 ILCS  
23 1710/).

24 Article 1905. Department of Natural Resources (Mines and  
25 Minerals) Law (20 ILCS 1905/).

26 Article 2105. Department of Professional Regulation Law

1 (20 ILCS 2105/).

2 Article 2205. Department of Healthcare and Family Services  
3 Law (20 ILCS 2205/).

4 Article 2310. Department of Public Health Powers and Duties  
5 Law (20 ILCS 2310/).

6 Article 2505. Department of Revenue Law (20 ILCS 2505/).

7 Article 2510. Certified Audit Program Law (20 ILCS 2510/).

8 Article 2605. Department of State Police Law (20 ILCS  
9 2605/).

10 Article 2705. Department of Transportation Law (20 ILCS  
11 2705/).

12 Article 3000. University of Illinois Exercise of Functions  
13 and Duties Law (110 ILCS 355/).

14 (Source: P.A. 95-331, eff. 8-21-07; 96-328, eff. 8-11-09.)

15 (20 ILCS 5/5-545) (was 20 ILCS 5/6.04)

16 Sec. 5-545. In the Department of Healthcare and Family  
17 Services and the Department of Human Services. A Psychiatric  
18 Advisory Council appointed jointly by and at the discretion of  
19 the Director of Healthcare and Family Services and the  
20 Secretary of Human Services, consisting of representatives  
21 from the several schools and institutes in Illinois conducting  
22 programs of psychiatric training, which shall advise each ~~the~~  
23 Department with respect to its policies and programs relating  
24 to mental health or developmental disabilities. The members  
25 shall serve for the terms that the Director and the Secretary

1 shall designate.

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

3 Section 915. The Alcoholism and Other Drug Abuse and  
4 Dependency Act is amended by changing Sections 1-10, 5-5, 5-10,  
5 5-23, 10-10, 10-15, 10-25, 10-30, 10-55, 10-60, 45-5, 45-35,  
6 45-45, 45-55, and 55-25 as follows:

7 (20 ILCS 301/1-10)

8 Sec. 1-10. Definitions. As used in this Act, unless the  
9 context clearly indicates otherwise, the following words and  
10 terms have the following meanings:

11 "Act" means the Alcoholism and Other Drug Abuse and  
12 Dependency Act.

13 "Addict" means a person who exhibits the disease known as  
14 "addiction".

15 "Addiction" means a disease process characterized by the  
16 continued use of a specific psycho-active substance despite  
17 physical, psychological or social harm. The term also describes  
18 the advanced stages of chemical dependency.

19 "Administrator" means a person responsible for  
20 administration of a program.

21 "Alcoholic" means a person who exhibits the disease known  
22 as "alcoholism".

23 "Alcoholism" means a chronic and progressive disease or  
24 illness characterized by preoccupation with and loss of control

1 over the consumption of alcohol, and the use of alcohol despite  
2 adverse consequences. Typically, combinations of the following  
3 tendencies are also present: periodic or chronic intoxication;  
4 physical disability; impaired emotional, occupational or  
5 social adjustment; tendency toward relapse; a detrimental  
6 effect on the individual, his family and society; psychological  
7 dependence; and physical dependence. Alcoholism is also known  
8 as addiction to alcohol. Alcoholism is described and further  
9 categorized in clinical detail in the DSM and the ICD.

10 "Array of services" means assistance to individuals,  
11 families and communities in response to alcohol or other drug  
12 abuse or dependency. The array of services includes, but is not  
13 limited to: prevention assistance for communities and schools;  
14 case finding, assessment and intervention to help individuals  
15 stop abusing alcohol or other drugs; case management;  
16 detoxification to aid individuals in physically withdrawing  
17 from alcohol or other drugs; short-term and long-term treatment  
18 and support services to help individuals and family members  
19 begin the process of recovery; prescription and dispensing of  
20 the drug methadone or other medications as an adjunct to  
21 treatment; relapse prevention services; education and  
22 counseling for children or other co-dependents of alcoholics or  
23 other drug abusers or addicts.

24 "Case management" means those services which will assist  
25 individuals in gaining access to needed social, educational,  
26 medical, treatment and other services.

1 "Children of alcoholics or drug addicts or abusers of  
2 alcohol and other drugs" means the minor or adult children of  
3 individuals who have abused or been dependent upon alcohol or  
4 other drugs. These children may or may not become dependent  
5 upon alcohol or other drugs themselves; however, they are  
6 physically, psychologically, and behaviorally at high risk of  
7 developing the illness. Children of alcoholics and other drug  
8 abusers experience emotional and other problems, and benefit  
9 from prevention and treatment services provided by funded and  
10 non-funded agencies licensed by the Department.

11 "Co-dependents" means individuals who are involved in the  
12 lives of and are affected by people who are dependent upon  
13 alcohol and other drugs. Co-dependents compulsively engage in  
14 behaviors that cause them to suffer adverse physical,  
15 emotional, familial, social, behavioral, vocational, and legal  
16 consequences as they attempt to cope with the alcohol or drug  
17 dependent person. People who become co-dependents include  
18 spouses, parents, siblings, and friends of alcohol or drug  
19 dependent people. Co-dependents benefit from prevention and  
20 treatment services provided by agencies licensed by the  
21 Department.

22 "Controlled substance" means any substance or immediate  
23 precursor which is enumerated in the schedules of Article II of  
24 the Illinois Controlled Substances Act or the Cannabis Control  
25 Act.

26 "Crime of violence" means any of the following crimes:

1 murder, voluntary manslaughter, criminal sexual assault,  
2 aggravated criminal sexual assault, predatory criminal sexual  
3 assault of a child, armed robbery, robbery, arson, kidnapping,  
4 aggravated battery, aggravated arson, or any other felony which  
5 involves the use or threat of physical force or violence  
6 against another individual.

7 Before January 1, 2011, "Department" means the Illinois  
8 Department of Human Services as successor to the former  
9 Department of Alcoholism and Substance Abuse. On and after  
10 January 1, 2011, "Department" means the Department of  
11 Healthcare and Family Services.

12 "Designated program" means a program designated by the  
13 Department to provide services described in subsection (c) or  
14 (d) of Section 15-10 of this Act. A designated program's  
15 primary function is screening, assessing, referring and  
16 tracking clients identified by the criminal justice system, and  
17 the program agrees to apply statewide the standards, uniform  
18 criteria and procedures established by the Department pursuant  
19 to such designation.

20 "Detoxification" means the process of allowing an  
21 individual to safely withdraw from a drug in a controlled  
22 environment.

23 "Director" means the Director of Healthcare and Family  
24 Services or his or her designee.

25 "DSM" means the most current edition of the Diagnostic and  
26 Statistical Manual of Mental Disorders.

1 "D.U.I." means driving under the influence of alcohol or  
2 other substances which may cause impairment of driving ability.

3 "Facility" means the building or premises which are used  
4 for the provision of licensable program services, including  
5 support services, as set forth by rule.

6 "ICD" means the most current edition of the International  
7 Classification of Diseases.

8 "Incapacitated" means that a person is unconscious or  
9 otherwise exhibits, by overt behavior or by extreme physical  
10 debilitation, an inability to care for his own needs or to  
11 recognize the obvious danger of his situation or to make  
12 rational decisions with respect to his need for treatment.

13 "Intermediary person" means a person with expertise  
14 relative to addiction, alcoholism, and the abuse of alcohol or  
15 other drugs who may be called on to assist the police in  
16 carrying out enforcement or other activities with respect to  
17 persons who abuse or are dependent on alcohol or other drugs.

18 "Intervention" means readily accessible activities which  
19 assist individuals and their partners or family members in  
20 coping with the immediate problems of alcohol and other drug  
21 abuse or dependency, and in reducing their alcohol and other  
22 drug use. Intervention can facilitate emotional and social  
23 stability, and involves referring people for further treatment  
24 as needed.

25 "Intoxicated person" means a person whose mental or  
26 physical functioning is substantially impaired as a result of



1 the current effects of alcohol or other drugs within the body.

2 "Local advisory council" means an alcohol and substance  
3 abuse body established in a county, township or community area,  
4 which represents public and private entities having an interest  
5 in the prevention and treatment of alcoholism or other drug  
6 abuse.

7 "Off-site services" means licensable program services or  
8 activities which are conducted at a location separate from the  
9 primary service location of the provider, and which services  
10 are operated by a program or entity licensed under this Act.

11 "Person" means any individual, firm, group, association,  
12 partnership, corporation, trust, government or governmental  
13 subdivision or agency.

14 "Prevention" means an interactive process of individuals,  
15 families, schools, religious organizations, communities and  
16 regional, state and national organizations to reduce  
17 alcoholism, prevent the use of illegal drugs and the abuse of  
18 legal drugs by persons of all ages, prevent the use of alcohol  
19 by minors, build the capacities of individuals and systems, and  
20 promote healthy environments, lifestyles and behaviors.

21 "Program" means a licensable or fundable activity or  
22 service, or a coordinated range of such activities or services,  
23 as the Department may establish by rule.

24 "Recovery" means the long-term, often life-long, process  
25 in which an addicted person changes the way in which he makes  
26 decisions and establishes personal and life priorities. The

1 evolution of this decision-making and priority-setting process  
2 is generally manifested by an obvious improvement in the  
3 individual's life and lifestyle and by his overcoming the abuse  
4 of or dependence on alcohol or other drugs. Recovery is also  
5 generally manifested by prolonged periods of abstinence from  
6 addictive chemicals which are not medically supervised.  
7 Recovery is the goal of treatment.

8 "Rehabilitation" means a process whereby those clinical  
9 services necessary and appropriate for improving an  
10 individual's life and lifestyle and for overcoming his or her  
11 abuse of or dependency upon alcohol or other drugs, or both,  
12 are delivered in an appropriate setting and manner as defined  
13 in rules established by the Department.

14 "Relapse" means a process which is manifested by a  
15 progressive pattern of behavior that reactivates the symptoms  
16 of a disease or creates debilitating conditions in an  
17 individual who has experienced remission from addiction or  
18 alcoholism.

19 "Secretary" means the Secretary of Human Services or his or  
20 her designee.

21 "Substance abuse" or "abuse" means a pattern of use of  
22 alcohol or other drugs with the potential of leading to  
23 immediate functional problems or to alcoholism or other drug  
24 dependency, or to the use of alcohol and/or other drugs solely  
25 for purposes of intoxication. The term also means the use of  
26 illegal drugs by persons of any age, and the use of alcohol by

1 persons under the age of 21.

2 "Treatment" means the broad range of emergency,  
3 outpatient, intermediate and residential services and care  
4 (including assessment, diagnosis, medical, psychiatric,  
5 psychological and social services, care and counseling, and  
6 aftercare) which may be extended to individuals who abuse or  
7 are dependent on alcohol or other drugs or families of those  
8 persons.

9 (Source: P.A. 89-202, eff. 7-21-95; 89-428, eff. 12-13-95;  
10 89-462, eff. 5-29-96; 89-507, eff. 7-1-97; 90-14, eff. 7-1-97;  
11 90-135, eff. 7-22-97.)

12 (20 ILCS 301/5-5)

13 Sec. 5-5. Successor department; home rule.

14 (a) The Department of Human Services, as successor to the  
15 Department of Alcoholism and Substance Abuse, shall assume the  
16 various rights, powers, duties, and functions provided for in  
17 this Act until January 1, 2011. On and after January 1, 2011,  
18 the Department of Healthcare and Family Services, as successor  
19 to the Department of Human Services with respect to matters  
20 relating to alcoholism and substance abuse, shall assume those  
21 rights, powers, duties, and functions.

22 (a-5) On and after January 1, 2011, the Director of  
23 Healthcare and Family Services shall exercise all of the  
24 powers, duties, rights, and responsibilities with respect to  
25 the functions under this Act that are transferred to the

1 Department of Healthcare and Family Services on that date under  
2 Section 2205-15 of the Department of Healthcare and Family  
3 Services Law of the Civil Administrative Code of Illinois.

4 (b) It is declared to be the public policy of this State,  
5 pursuant to paragraphs (h) and (i) of Section 6 of Article VII  
6 of the Illinois Constitution of 1970, that the powers and  
7 functions set forth in this Act and expressly delegated to the  
8 Department are exclusive State powers and functions. Nothing  
9 herein prohibits the exercise of any power or the performance  
10 of any function, including the power to regulate, for the  
11 protection of the public health, safety, morals and welfare, by  
12 any unit of local government, other than the powers and  
13 functions set forth in this Act and expressly delegated to the  
14 Department to be exclusive State powers and functions.

15 (c) The Department shall, through accountable and  
16 efficient leadership, example and commitment to excellence,  
17 strive to reduce the incidence and consequences of the abuse of  
18 alcohol and other drugs by:

19 (1) fostering public understanding of alcoholism and  
20 addiction as illnesses which affect individuals,  
21 co-dependents, families and communities.

22 (2) promoting healthy lifestyles.

23 (3) promoting understanding and support for sound  
24 public policies.

25 (4) ensuring quality prevention, intervention and  
26 treatment programs and services which are accessible and

1 responsive to the diverse needs of individuals, families  
2 and communities.

3 (Source: P.A. 88-80; 89-202, eff. 7-21-95; 89-507, eff.  
4 7-1-97.)

5 (20 ILCS 301/5-10)

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

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

10 (1) Design, coordinate and fund a comprehensive and  
11 coordinated community-based and culturally and  
12 gender-appropriate array of services throughout the State  
13 for the prevention, intervention, treatment and  
14 rehabilitation of alcohol and other drug abuse and  
15 dependency that is accessible and addresses the needs of  
16 at-risk or addicted individuals and their families.

17 (2) Act as the exclusive State agency to accept,  
18 receive and expend, pursuant to appropriation, any public  
19 or private monies, grants or services, including those  
20 received from the federal government or from other State  
21 agencies, for the purpose of providing an array of services  
22 for the prevention, intervention, treatment and  
23 rehabilitation of alcoholism or other drug abuse or  
24 dependency. Monies received by the Department shall be  
25 deposited into appropriate funds as may be created by State

1 law or administrative action.

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

1 disabilities and such other specific populations as the  
2 Department may from time to time identify. In developing  
3 the plan, the Department shall seek input from providers,  
4 parent groups, associations and interested citizens.

5 Beginning with State fiscal year 1996, the annual  
6 comprehensive State plan developed under this Section  
7 shall include an explanation of the rationale to be used in  
8 ensuring that funding shall be based upon local community  
9 needs, including, but not limited to, the incidence and  
10 prevalence of, and costs associated with, the abuse of and  
11 dependency upon alcohol and other drugs, as well as upon  
12 demonstrated program performance.

13 The annual comprehensive State plan developed under  
14 this Section shall contain a report detailing the  
15 activities of and progress made by the programs for the  
16 care and treatment of addicted pregnant women, addicted  
17 mothers and their children established under subsection  
18 (j) of Section 35-5 of this Act.

19 Each State agency which provides or funds alcohol or  
20 drug prevention, intervention and treatment services shall  
21 annually prepare an agency plan for providing such  
22 services, and these shall be used by the Department in  
23 preparing the annual comprehensive statewide plan. Each  
24 agency's annual plan for alcohol and drug abuse services  
25 shall contain a report on the activities and progress of  
26 such services in the prior year. The Department may provide

1 technical assistance to other State agencies, as required,  
2 in the development of their agency plans.

3 (4) Lead, foster and develop cooperation, coordination  
4 and agreements among federal and State governmental  
5 agencies and local providers that provide assistance,  
6 services, funding or other functions, peripheral or  
7 direct, in the prevention, intervention, treatment or  
8 rehabilitation of alcoholism and other drug abuse and  
9 dependency. This shall include, but shall not be limited  
10 to, the following:

11 (A) Cooperate with and assist the Department of  
12 Corrections and the Department on Aging in  
13 establishing and conducting programs relating to  
14 alcoholism and other drug abuse and dependency among  
15 those populations which they respectively serve.

16 (B) Cooperate with and assist the Illinois  
17 Department of Public Health in the establishment,  
18 funding and support of programs and services for the  
19 promotion of maternal and child health and the  
20 prevention and treatment of infectious diseases,  
21 including but not limited to HIV infection, especially  
22 with respect to those persons who may abuse drugs by  
23 intravenous injection, or may have been sexual  
24 partners of drug abusers, or may have abused substances  
25 so that their immune systems are impaired, causing them  
26 to be at high risk.



1 (C) Supply to the Department of Public Health and  
2 prenatal care providers a list of all alcohol and other  
3 drug abuse service providers for addicted pregnant  
4 women in this State.

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

11 (E) Cooperate with and assist the Illinois  
12 Department of Children and Family Services in carrying  
13 out its mandates to:

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

16 (ii) develop programs and services to deal  
17 with such problems.

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

25 (F) Cooperate with and assist the Illinois  
26 Criminal Justice Information Authority with respect to

1 statistical and other information concerning drug  
2 abuse incidence and prevalence.

3 (G) Cooperate with and assist the State  
4 Superintendent of Education, boards of education,  
5 schools, police departments, the Illinois Department  
6 of State Police, courts and other public and private  
7 agencies and individuals in establishing prevention  
8 programs statewide and preparing curriculum materials  
9 for use at all levels of education. An agreement shall  
10 be entered into with the State Superintendent of  
11 Education to assist in the establishment of such  
12 programs.

13 (H) Cooperate with and assist the Illinois  
14 Department of Healthcare and Family Services (before  
15 January 1, 2011) or the Department of Human Services  
16 (on and after January 1, 2011) in the development and  
17 provision of services offered to recipients of public  
18 assistance for the treatment and prevention of  
19 alcoholism and other drug abuse and dependency.

20 (I) Provide training recommendations to other  
21 State agencies funding alcohol or other drug abuse  
22 prevention, intervention, treatment or rehabilitation  
23 services.

24 (5) From monies appropriated to the Department from the  
25 Drunk and Drugged Driving Prevention Fund, make grants to  
26 reimburse DUI evaluation and remedial education programs

1 licensed by the Department for the costs of providing  
2 indigent persons with free or reduced-cost services  
3 relating to a charge of driving under the influence of  
4 alcohol or other drugs.

5 (6) Promulgate regulations to provide appropriate  
6 standards for publicly and privately funded programs as  
7 well as for levels of payment to government funded programs  
8 which provide an array of services for prevention,  
9 intervention, treatment and rehabilitation for alcoholism  
10 and other drug abuse or dependency.

11 (7) In consultation with local service providers,  
12 specify a uniform statistical methodology for use by  
13 agencies, organizations, individuals and the Department  
14 for collection and dissemination of statistical  
15 information regarding services related to alcoholism and  
16 other drug use and abuse. This shall include prevention  
17 services delivered, the number of persons treated,  
18 frequency of admission and readmission, and duration of  
19 treatment.

20 (8) Receive data and assistance from federal, State and  
21 local governmental agencies, and obtain copies of  
22 identification and arrest data from all federal, State and  
23 local law enforcement agencies for use in carrying out the  
24 purposes and functions of the Department.

25 (9) Designate and license providers to conduct  
26 screening, assessment, referral and tracking of clients

1 identified by the criminal justice system as having  
2 indications of alcoholism or other drug abuse or dependency  
3 and being eligible to make an election for treatment under  
4 Section 40-5 of this Act, and assist in the placement of  
5 individuals who are under court order to participate in  
6 treatment.

7 (10) Designate medical examination and other programs  
8 for determining alcoholism and other drug abuse and  
9 dependency.

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

13 (12) Make grants with funds appropriated from the Drug  
14 Treatment Fund in accordance with Section 7 of the  
15 Controlled Substance and Cannabis Nuisance Act, or in  
16 accordance with Section 80 of the Methamphetamine Control  
17 and Community Protection Act, or in accordance with  
18 subsections (h) and (i) of Section 411.2 of the Illinois  
19 Controlled Substances Act.

20 (13) Encourage all health and disability insurance  
21 programs to include alcoholism and other drug abuse and  
22 dependency as a covered illness.

23 (14) Make such agreements, grants-in-aid and  
24 purchase-care arrangements with any other department,  
25 authority or commission of this State, or any other state  
26 or the federal government or with any public or private

1 agency, including the disbursement of funds and furnishing  
2 of staff, to effectuate the purposes of this Act.

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

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

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

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

22 (3) Prepare, publish, evaluate, disseminate and serve  
23 as a central repository for educational materials dealing  
24 with the nature and effects of alcoholism and other drug  
25 abuse and dependency. Such materials may deal with the  
26 educational needs of the citizens of Illinois, and may

1 include at least pamphlets which describe the causes and  
2 effects of fetal alcohol syndrome, which the Department may  
3 distribute free of charge to each county clerk in  
4 sufficient quantities that the county clerk may provide a  
5 pamphlet to the recipients of all marriage licenses issued  
6 in the county.

7 (4) Develop and coordinate, with regional and local  
8 agencies, education and training programs for persons  
9 engaged in providing the array of services for persons  
10 having alcoholism or other drug abuse and dependency  
11 problems, which programs may include specific HIV  
12 education and training for program personnel.

13 (5) Cooperate with and assist in the development of  
14 education, prevention and treatment programs for employees  
15 of State and local governments and businesses in the State.

16 (6) Utilize the support and assistance of interested  
17 persons in the community, including recovering addicts and  
18 alcoholics, to assist individuals and communities in  
19 understanding the dynamics of addiction, and to encourage  
20 individuals with alcohol or other drug abuse or dependency  
21 problems to voluntarily undergo treatment.

22 (7) Promote, conduct, assist or sponsor basic  
23 clinical, epidemiological and statistical research into  
24 alcoholism and other drug abuse and dependency, and  
25 research into the prevention of those problems either  
26 solely or in conjunction with any public or private agency.

1           (8) Cooperate with public and private agencies,  
2 organizations and individuals in the development of  
3 programs, and to provide technical assistance and  
4 consultation services for this purpose.

5           (9) Publish or provide for the publishing of a manual  
6 to assist medical and social service providers in  
7 identifying alcoholism and other drug abuse and dependency  
8 and coordinating the multidisciplinary delivery of  
9 services to addicted pregnant women, addicted mothers and  
10 their children. The manual may be used only to provide  
11 information and may not be used by the Department to  
12 establish practice standards. The Department may not  
13 require recipients to use specific providers nor may they  
14 require providers to refer recipients to specific  
15 providers. The manual may include, but need not be limited  
16 to, the following:

17           (A) Information concerning risk assessments of  
18 women seeking prenatal, natal, and postnatal medical  
19 care.

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

22           (C) Protocols that have been adopted by the  
23 Illinois Department of Children and Family Services  
24 for the reporting and investigation of allegations of  
25 child abuse or neglect under the Abused and Neglected  
26 Child Reporting Act.

1 (D) Summary of procedures utilized in juvenile  
2 court in cases of children alleged or found to be  
3 abused or neglected as a result of being born to  
4 addicted women.

5 (E) Information concerning referral of addicted  
6 pregnant women, addicted mothers and their children by  
7 medical, social service, and substance abuse treatment  
8 providers, by the Departments of Children and Family  
9 Services, Healthcare and Family Services ~~Public Aid~~,  
10 Public Health, and Human Services.

11 (F) Effects of substance abuse on infants and  
12 guidelines on the symptoms, care, and comfort of  
13 drug-withdrawing infants.

14 (G) Responsibilities of the Illinois Department of  
15 Public Health to maintain statistics on the number of  
16 children in Illinois addicted at birth.

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

24 (11) Fund, promote or assist programs, services,  
25 demonstrations or research dealing with addictive or  
26 habituating behaviors detrimental to the health of



1 Illinois citizens.

2 (12) With monies appropriated from the Group Home Loan  
3 Revolving Fund, make loans, directly or through  
4 subcontract, to assist in underwriting the costs of housing  
5 in which individuals recovering from alcohol or other drug  
6 abuse or dependency may reside in groups of not less than 6  
7 persons, pursuant to Section 50-40 of this Act.

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

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

23 (Source: P.A. 94-556, eff. 9-11-05; 95-331, eff. 8-21-07.)

24 (20 ILCS 301/5-23)

25 Sec. 5-23. Drug Overdose Prevention Program.

1 (a) Reports of drug overdose.

2 (1) The Director of the Division of Alcoholism and  
3 Substance Abuse may publish annually a report on drug  
4 overdose trends statewide that reviews State death rates  
5 from available data to ascertain changes in the causes or  
6 rates of fatal and nonfatal drug overdose for the preceding  
7 period of not less than 5 years. The report shall also  
8 provide information on interventions that would be  
9 effective in reducing the rate of fatal or nonfatal drug  
10 overdose.

11 (2) The report may include:

12 (A) Trends in drug overdose death rates.

13 (B) Trends in emergency room utilization related  
14 to drug overdose and the cost impact of emergency room  
15 utilization.

16 (C) Trends in utilization of pre-hospital and  
17 emergency services and the cost impact of emergency  
18 services utilization.

19 (D) Suggested improvements in data collection.

20 (E) A description of other interventions effective  
21 in reducing the rate of fatal or nonfatal drug  
22 overdose.

23 (b) Programs; drug overdose prevention.

24 (1) The Director may establish a program to provide for  
25 the production and publication, in electronic and other  
26 formats, of drug overdose prevention, recognition, and

1 response literature. The Director may develop and  
2 disseminate curricula for use by professionals,  
3 organizations, individuals, or committees interested in  
4 the prevention of fatal and nonfatal drug overdose,  
5 including, but not limited to, drug users, jail and prison  
6 personnel, jail and prison inmates, drug treatment  
7 professionals, emergency medical personnel, hospital  
8 staff, families and associates of drug users, peace  
9 officers, firefighters, public safety officers, needle  
10 exchange program staff, and other persons. In addition to  
11 information regarding drug overdose prevention,  
12 recognition, and response, literature produced by the  
13 Department shall stress that drug use remains illegal and  
14 highly dangerous and that complete abstinence from illegal  
15 drug use is the healthiest choice. The literature shall  
16 provide information and resources for substance abuse  
17 treatment.

18 The Director may establish or authorize programs for  
19 prescribing, dispensing, or distributing naloxone  
20 hydrochloride or any other similarly acting and equally  
21 safe drug approved by the U.S. Food and Drug Administration  
22 for the treatment of drug overdose. Such programs may  
23 include the prescribing of naloxone hydrochloride or any  
24 other similarly acting and equally safe drug approved by  
25 the U.S. Food and Drug Administration for the treatment of  
26 drug overdose to and education about administration by

1 individuals who are not personally at risk of opioid  
2 overdose.

3 (2) The Director may provide advice to State and local  
4 officials on the growing drug overdose crisis, including  
5 the prevalence of drug overdose incidents, trends in drug  
6 overdose incidents, and solutions to the drug overdose  
7 crisis.

8 (c) Grants.

9 (1) The Director may award grants, in accordance with  
10 this subsection, to create or support local drug overdose  
11 prevention, recognition, and response projects. Local  
12 health departments, correctional institutions, hospitals,  
13 universities, community-based organizations, and  
14 faith-based organizations may apply to the Department for a  
15 grant under this subsection at the time and in the manner  
16 the Director prescribes.

17 (2) In awarding grants, the Director shall consider the  
18 necessity for overdose prevention projects in various  
19 settings and shall encourage all grant applicants to  
20 develop interventions that will be effective and viable in  
21 their local areas.

22 (3) The Director shall give preference for grants to  
23 proposals that, in addition to providing life-saving  
24 interventions and responses, provide information to drug  
25 users on how to access drug treatment or other strategies  
26 for abstaining from illegal drugs. The Director shall give

1 preference to proposals that include one or more of the  
2 following elements:

3 (A) Policies and projects to encourage persons,  
4 including drug users, to call 911 when they witness a  
5 potentially fatal drug overdose.

6 (B) Drug overdose prevention, recognition, and  
7 response education projects in drug treatment centers,  
8 outreach programs, and other organizations that work  
9 with, or have access to, drug users and their families  
10 and communities.

11 (C) Drug overdose recognition and response  
12 training, including rescue breathing, in drug  
13 treatment centers and for other organizations that  
14 work with, or have access to, drug users and their  
15 families and communities.

16 (D) The production and distribution of targeted or  
17 mass media materials on drug overdose prevention and  
18 response.

19 (E) Prescription and distribution of naloxone  
20 hydrochloride or any other similarly acting and  
21 equally safe drug approved by the U.S. Food and Drug  
22 Administration for the treatment of drug overdose.

23 (F) The institution of education and training  
24 projects on drug overdose response and treatment for  
25 emergency services and law enforcement personnel.

26 (G) A system of parent, family, and survivor

1 education and mutual support groups.

2 (4) In addition to moneys appropriated by the General  
3 Assembly, the Director may seek grants from private  
4 foundations, the federal government, and other sources to  
5 fund the grants under this Section and to fund an  
6 evaluation of the programs supported by the grants.

7 (d) Health care professional prescription of drug overdose  
8 treatment medication.

9 (1) A health care professional who, acting in good  
10 faith, directly or by standing order, prescribes or  
11 dispenses an opioid antidote to a patient who, in the  
12 judgment of the health care professional, is capable of  
13 administering the drug in an emergency, shall not, as a  
14 result of his or her acts or omissions, be subject to  
15 disciplinary or other adverse action under the Medical  
16 Practice Act of 1987, the Physician Assistant Practice Act  
17 of 1987, the Nurse Practice Act, the Pharmacy Practice Act,  
18 or any other professional licensing statute.

19 (2) A person who is not otherwise licensed to  
20 administer an opioid antidote may in an emergency  
21 administer without fee an opioid antidote if the person has  
22 received the patient information specified in paragraph  
23 (4) of this subsection and believes in good faith that  
24 another person is experiencing a drug overdose. The person  
25 shall not, as a result of his or her acts or omissions, be  
26 liable for any violation of the Medical Practice Act of

1 1987, the Physician Assistant Practice Act of 1987, the  
2 Nurse Practice Act, the Pharmacy Practice Act, or any other  
3 professional licensing statute, or subject to any criminal  
4 prosecution arising from or related to the unauthorized  
5 practice of medicine or the possession of an opioid  
6 antidote.

7 (3) A health care professional prescribing an opioid  
8 antidote to a patient shall ensure that the patient  
9 receives the patient information specified in paragraph  
10 (4) of this subsection. Patient information may be provided  
11 by the health care professional or a community-based  
12 organization, substance abuse program, or other  
13 organization with which the health care professional  
14 establishes a written agreement that includes a  
15 description of how the organization will provide patient  
16 information, how employees or volunteers providing  
17 information will be trained, and standards for documenting  
18 the provision of patient information to patients.  
19 Provision of patient information shall be documented in the  
20 patient's medical record or through similar means as  
21 determined by agreement between the health care  
22 professional and the organization. The Director of the  
23 Division of Alcoholism and Substance Abuse, in  
24 consultation with statewide organizations representing  
25 physicians, advanced practice nurses, physician  
26 assistants, substance abuse programs, and other interested

1 groups, shall develop and disseminate to health care  
2 professionals, community-based organizations, substance  
3 abuse programs, and other organizations training materials  
4 in video, electronic, or other formats to facilitate the  
5 provision of such patient information.

6 (4) For the purposes of this subsection:

7 "Opioid antidote" means naloxone hydrochloride or any  
8 other similarly acting and equally safe drug approved by  
9 the U.S. Food and Drug Administration for the treatment of  
10 drug overdose.

11 "Health care professional" means a physician licensed  
12 to practice medicine in all its branches, a physician  
13 assistant who has been delegated the prescription or  
14 dispensation of an opioid antidote by his or her  
15 supervising physician, an advanced practice registered  
16 nurse who has a written collaborative agreement with a  
17 collaborating physician that authorizes the prescription  
18 or dispensation of an opioid antidote, or an advanced  
19 practice nurse who practices in a hospital or ambulatory  
20 surgical treatment center and possesses appropriate  
21 clinical privileges in accordance with the Nurse Practice  
22 Act.

23 "Patient" includes a person who is not at risk of  
24 opioid overdose but who, in the judgment of the physician,  
25 may be in a position to assist another individual during an  
26 overdose and who has received patient information as



1 required in paragraph (2) of this subsection on the  
2 indications for and administration of an opioid antidote.

3 "Patient information" includes information provided to  
4 the patient on drug overdose prevention and recognition;  
5 how to perform rescue breathing and resuscitation; opioid  
6 antidote dosage and administration; the importance of  
7 calling 911; care for the overdose victim after  
8 administration of the overdose antidote; and other issues  
9 as necessary.

10 (e) Definition. For the purposes of this Section only,  
11 "Director" means the Director of the Division of Alcoholism and  
12 Substance Abuse within the Department.

13 (Source: P.A. 96-361, eff. 1-1-10.)

14 (20 ILCS 301/10-10)

15 Sec. 10-10. Powers and duties of the Council. The Council  
16 shall:

17 (a) Advise the Department on ways to encourage public  
18 understanding and support of the Department's programs.

19 (b) Advise the Department on regulations and licensure  
20 proposed by the Department.

21 (c) Advise the Department in the formulation,  
22 preparation and implementation of the comprehensive State  
23 plan for prevention, intervention, treatment and relapse  
24 prevention of alcoholism and other drug abuse and  
25 dependency.

1           (d) Advise the Department on implementation of  
2 alcoholism and other drug abuse and dependency education  
3 and prevention programs throughout the State.

4           (e) By January 1, 1995, and by January 1 of every third  
5 year thereafter, in cooperation with the Committee on  
6 Women's Alcohol and Substance Abuse Treatment, submit to  
7 the Governor and General Assembly a planning document,  
8 specific to Illinois' female population. The document  
9 shall contain, but need not be limited to, interagency  
10 information concerning the types of services funded, the  
11 client population served, the support services available  
12 and provided during the preceding 3 year period, and the  
13 goals, objectives, proposed methods of achievement, client  
14 projections and cost estimate for the upcoming 3 year  
15 period. The document may include, if deemed necessary and  
16 appropriate, recommendations regarding the reorganization  
17 of the Department to enhance and increase prevention,  
18 treatment and support services available to women.

19           (f) Perform other duties as requested by the Secretary  
20 or the Director.

21           (g) Advise the Department in the planning,  
22 development, and coordination of programs among all  
23 agencies and departments of State government, including  
24 programs to reduce alcoholism and drug addiction, prevent  
25 the use of illegal drugs and abuse of legal drugs by  
26 persons of all ages, and prevent the use of alcohol by

1 minors.

2 (h) Promote and encourage participation by the private  
3 sector, including business, industry, labor, and the  
4 media, in programs to prevent alcoholism and other drug  
5 abuse and dependency.

6 (i) Encourage the implementation of programs to  
7 prevent alcoholism and other drug abuse and dependency in  
8 the public and private schools and educational  
9 institutions, including establishment of alcoholism and  
10 other drug abuse and dependency programs.

11 (j) Gather information, conduct hearings, and make  
12 recommendations to the Secretary or the Director  
13 concerning additions, deletions, or rescheduling of  
14 substances under the Illinois Controlled Substances Act.

15 (k) Report annually to the General Assembly regarding  
16 the activities and recommendations made by the Council.

17 With the advice and consent of the Secretary, the presiding  
18 officer shall annually appoint a Special Committee on  
19 Licensure, which shall advise the Secretary or the Director on  
20 particular cases on which the Department intends to take action  
21 that is adverse to an applicant or license holder, and shall  
22 review an annual report submitted by the Secretary or the  
23 Director summarizing all licensure sanctions imposed by the  
24 Department.

25 (Source: P.A. 94-1033, eff. 7-1-07.)

1 (20 ILCS 301/10-15)

2 Sec. 10-15. Qualification and appointment of members. The  
3 membership of the Illinois Advisory Council shall consist of:

4 (a) A State's Attorney designated by the President of  
5 the Illinois State's Attorneys Association.

6 (b) A judge designated by the Chief Justice of the  
7 Illinois Supreme Court.

8 (c) A Public Defender appointed by the President of the  
9 Illinois Public Defenders Association.

10 (d) A local law enforcement officer appointed by the  
11 Governor.

12 (e) A labor representative appointed by the Governor.

13 (f) An educator appointed by the Governor.

14 (g) A physician licensed to practice medicine in all  
15 its branches appointed by the Governor with due regard for  
16 the appointee's knowledge of the field of alcoholism and  
17 other drug abuse and dependency.

18 (h) 4 members of the Illinois House of Representatives,  
19 2 each appointed by the Speaker and Minority Leader.

20 (i) 4 members of the Illinois Senate, 2 each appointed  
21 by the President and Minority Leader.

22 (j) The President of the Illinois Alcoholism and Drug  
23 Dependence Association.

24 (k) An advocate for the needs of youth appointed by the  
25 Governor.

26 (l) The President of the Illinois State Medical Society

1 or his or her designee.

2 (m) The President of the Illinois Hospital Association  
3 or his or her designee.

4 (n) The President of the Illinois Nurses Association or  
5 a registered nurse designated by the President.

6 (o) The President of the Illinois Pharmacists  
7 Association or a licensed pharmacist designated by the  
8 President.

9 (p) The President of the Illinois Chapter of the  
10 Association of Labor Management Administrators and  
11 Consultants on Alcoholism.

12 (p-1) The President of the Community Behavioral  
13 Healthcare Association of Illinois or his or her designee.

14 (q) The Attorney General or his or her designee.

15 (r) The State Comptroller or his or her designee.

16 (s) 20 public members, 8 appointed by the Governor, 3  
17 of whom shall be representatives of alcoholism or other  
18 drug abuse and dependency treatment programs and one of  
19 whom shall be a representative of a manufacturer or  
20 importing distributor of alcoholic liquor licensed by the  
21 State of Illinois, and 3 public members appointed by each  
22 of the President and Minority Leader of the Senate and the  
23 Speaker and Minority Leader of the House.

24 (t) The Director, Secretary, or other chief  
25 administrative officer, ex officio, or his or her designee,  
26 of each of the following: the Department on Aging, the

1 Department of Children and Family Services, the Department  
2 of Corrections, the Department of Juvenile Justice, the  
3 Department of Healthcare and Family Services (before  
4 January 1, 2011), the Department of Human Services (on and  
5 after January 1, 2011), the Department of Revenue, the  
6 Department of Public Health, the Department of Financial  
7 and Professional Regulation, the Department of State  
8 Police, the Administrative Office of the Illinois Courts,  
9 the Criminal Justice Information Authority, and the  
10 Department of Transportation.

11 (u) Each of the following, ex officio, or his or her  
12 designee: the Secretary of State, the State Superintendent  
13 of Education, and the Chairman of the Board of Higher  
14 Education.

15 The public members may not be officers or employees of the  
16 executive branch of State government; however, the public  
17 members may be officers or employees of a State college or  
18 university or of any law enforcement agency. In appointing  
19 members, due consideration shall be given to the experience of  
20 appointees in the fields of medicine, law, prevention,  
21 correctional activities, and social welfare. Vacancies in the  
22 public membership shall be filled for the unexpired term by  
23 appointment in like manner as for original appointments, and  
24 the appointive members shall serve until their successors are  
25 appointed and have qualified. Vacancies among the public  
26 members appointed by the legislative leaders shall be filled by

1 the leader of the same house and of the same political party as  
2 the leader who originally appointed the member.

3 Each non-appointive member may designate a representative  
4 to serve in his place by written notice to the Department. All  
5 General Assembly members shall serve until their respective  
6 successors are appointed or until termination of their  
7 legislative service, whichever occurs first. The terms of  
8 office for each of the members appointed by the Governor shall  
9 be for 3 years, except that of the members first appointed, 3  
10 shall be appointed for a term of one year, and 4 shall be  
11 appointed for a term of 2 years. The terms of office of each of  
12 the public members appointed by the legislative leaders shall  
13 be for 2 years.

14 (Source: P.A. 94-1033, eff. 7-1-07.)

15 (20 ILCS 301/10-25)

16 Sec. 10-25. Powers and duties of the Committee. The  
17 Committee shall have the following powers and duties:

18 (a) To advise the Council and the Secretary or the  
19 Director in the development of intervention, prevention  
20 and treatment objectives and standards, educational and  
21 outreach programs, and support services specific to the  
22 needs of women.

23 (b) To advise the Council and the Secretary or the  
24 Director in the formulation, preparation and  
25 implementation of a State plan for intervention,

1 prevention and treatment of alcoholism and other drug abuse  
2 and dependency targeted to women.

3 (c) To advise the Council and the Secretary or the  
4 Director regarding strategies to enhance service delivery  
5 to women.

6 (d) To advise the Council and the Secretary or the  
7 Director in the development and implementation of a State  
8 plan, in conjunction with the Department of Children and  
9 Family Services, to provide child care services, at no or  
10 low cost, to addicted mothers with children who are  
11 receiving substance abuse treatment services.

12 (e) By December 1, 1994, and by December 1 of every  
13 third year thereafter, to prepare and submit to the Council  
14 for approval a planning document specific to Illinois'  
15 female population. The document shall contain, but need not  
16 be limited to, interagency information concerning the  
17 types of services funded, the client population served, the  
18 support services available and provided during the  
19 preceding 3 year period, and the goals, objectives,  
20 proposed methods of achievement, client projections and  
21 cost estimate for the upcoming 3 year period. The document  
22 may include, if deemed necessary and appropriate,  
23 recommendations regarding the reorganization of the  
24 Department to enhance and increase prevention, treatment  
25 and support services available to women.

26 (f) perform other duties as requested by the Council or



1           the Secretary or the Director.

2           (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

3           (20 ILCS 301/10-30)

4           Sec. 10-30. Membership.

5           (a) The Committee shall be composed of 15 individuals  
6 appointed by the chairperson of the Council, with the advice  
7 and consent of the Secretary or the Director, from among the  
8 medical and substance abuse prevention and treatment  
9 communities who have expertise and experience in  
10 women-specific programming and representatives of appropriate  
11 public agencies. Members may be, but need not be, members of  
12 the Council.

13           (b) Members shall serve 3-year terms and until their  
14 successors are appointed and qualified, except that of the  
15 initial appointments, 5 members shall be appointed for one  
16 year, 5 members shall be appointed for 2 years, and 5 members  
17 shall be appointed for 3 years and until their successors are  
18 appointed and qualified. Appointments to fill vacancies shall  
19 be made in the same manner as the original appointments, for  
20 the unexpired portion of the vacated term. Initial terms shall  
21 begin on January 1, 1994. The chairperson of the Council shall  
22 annually appoint a chairperson from among the membership of the  
23 Committee.

24           (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

1 (20 ILCS 301/10-55)

2 Sec. 10-55. Medical Advisory Committee. The Secretary, or  
3 the Director on and after January 1, 2011, shall appoint a  
4 Medical Advisory Committee to the Department, consisting of up  
5 to 15 physicians licensed to practice medicine in all of its  
6 branches in Illinois who shall serve in an advisory capacity to  
7 the Secretary or the Director. The membership of the Medical  
8 Advisory Committee shall reasonably reflect representation  
9 from the geographic areas and the range of alcoholism and other  
10 drug abuse and dependency service providers in the State. In  
11 making appointments, the Secretary or the Director shall give  
12 consideration to recommendations made by the Illinois State  
13 Medical Society and other appropriate professional  
14 organizations. All appointments shall be made with regard to  
15 the interest and expertise of the individual with regard to  
16 alcoholism and other drug abuse and dependency services. At a  
17 minimum, those appointed to the Committee shall include  
18 representatives of Board-certified psychiatrists,  
19 community-based and hospital-based alcoholism or other drug  
20 dependency treatment programs, and Illinois medical schools.

21 Members shall serve 3-year terms and until their successors  
22 are appointed and qualified, except that of the initial  
23 appointments, one-third of the members shall be appointed for  
24 one year, one-third shall be appointed for 2 years, and  
25 one-third shall be appointed for 3 years and until their  
26 successors are appointed and qualified. Appointments to fill

1 vacancies shall be made in the same manner as the original  
2 appointments, for the unexpired portion of the vacated term.  
3 Initial terms shall begin on January 1, 1994. Members shall  
4 elect a chairperson annually from among their membership.  
5 (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

6 (20 ILCS 301/10-60)

7 Sec. 10-60. Powers and duties of the Medical Advisory  
8 Committee. The Medical Advisory Committee shall consult with  
9 and advise the Department on clinical procedures, medical  
10 technology, medical practice and standards, and other such  
11 matters as the Secretary or the Director may from time to time  
12 assign to it. The members of the Medical Advisory Committee  
13 shall receive no compensation for their service, but shall be  
14 reimbursed for all expenses actually and necessarily incurred  
15 by them in the performance of their duties under this Act. The  
16 Medical Advisory Committee shall meet as frequently as the  
17 Secretary or the Director deems necessary. Upon the request of  
18 a majority of its members, the Secretary or the Director shall  
19 call a meeting of the Medical Advisory Committee.

20 (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

21 (20 ILCS 301/45-5)

22 Sec. 45-5. Inspections.

23 (a) Employees or officers of the Department are authorized  
24 to enter, at reasonable times and upon presentation of

1 credentials, the premises on which any licensed or funded  
2 activity is conducted, including off-site services, in order to  
3 inspect all pertinent property, records, personnel and  
4 business data which relate to such activity.

5 (b) When authorized by an administrative inspection  
6 warrant issued pursuant to this Act, any officer or employee  
7 may execute the inspection warrant according to its terms.  
8 Entries, inspections and seizures of property may be made  
9 without a warrant:

10 (1) if the person in charge of the premises consents.

11 (2) in situations presenting imminent danger to health  
12 or safety.

13 (3) in situations involving inspections of conveyances  
14 if there is reasonable cause to believe that the mobility  
15 of the conveyance makes it impracticable to obtain a  
16 warrant.

17 (4) in any other exceptional or emergency  
18 circumstances where time or opportunity to apply for a  
19 warrant is lacking.

20 (c) Issuance and execution of administrative inspection  
21 warrants shall be as follows.

22 (1) A judge of the circuit court, upon proper oath or  
23 affirmation showing probable cause, may issue  
24 administrative inspection warrants for the purpose of  
25 conducting inspections and seizing property. Probable  
26 cause exists upon showing a valid public interest in the

1 effective enforcement of this Act or regulations  
2 promulgated hereunder, sufficient to justify inspection or  
3 seizure of property.

4 (2) An inspection warrant shall be issued only upon an  
5 affidavit of a person having knowledge of the facts  
6 alleged, sworn to before the circuit judge and established  
7 as grounds for issuance of a warrant. If the circuit judge  
8 is satisfied that probable cause exists, he shall issue an  
9 inspection warrant identifying the premises to be  
10 inspected, the property, if any, to be seized, and the  
11 purpose of the inspection or seizure.

12 (3) The inspection warrant shall state the grounds for  
13 its issuance, the names of persons whose affidavits have  
14 been taken in support thereof and any items or types of  
15 property to be seized.

16 (4) The inspection warrant shall be directed to a  
17 person authorized by the Secretary or the Director to  
18 execute it, shall command the person to inspect or seize  
19 the property, direct that it be served at any time of day  
20 or night, and designate a circuit judge to whom it shall be  
21 returned.

22 (5) The inspection warrant must be executed and  
23 returned within 10 days of the date of issuance unless the  
24 court orders otherwise.

25 (6) If property is seized, an inventory shall be made.  
26 A copy of the inventory of the seized property shall be

1 given to the person from whom the property was taken, or if  
2 no person is available to receive the inventory, it shall  
3 be left at the premises.

4 (7) No warrant shall be quashed nor evidence suppressed  
5 because of technical irregularities not affecting the  
6 substantive rights of the persons affected. The Department  
7 shall have exclusive jurisdiction for the enforcement of  
8 this Act and for violations thereof.

9 (Source: P.A. 88-80; 89-202, eff. 7-21-95; 89-507, eff.  
10 7-1-97.)

11 (20 ILCS 301/45-35)

12 Sec. 45-35. Unlicensed practice.

13 (a) If any unlicensed person engages in activities  
14 requiring licensure under this Act, the Secretary or the  
15 Director may, in the name of the people of the State of  
16 Illinois, through the Attorney General of the State of  
17 Illinois, or through the State's Attorney of any county,  
18 petition for a court order enjoining such activities.

19 (b) If it is established that such person has violated the  
20 order the court may punish the offender for contempt of court.  
21 Proceedings under this Section shall be in addition to, and not  
22 in lieu of, all other remedies and penalties provided under  
23 this Act. Any unlicensed person who engages in activities  
24 requiring licensure under this Act commits a Class A  
25 misdemeanor.

1 (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

2 (20 ILCS 301/45-45)

3 Sec. 45-45. Subpoena; administration of oaths.

4 (a) The Department is empowered to subpoena and bring  
5 before it any person in this State and to take testimony, upon  
6 payment of the same fees and in the same manner as is  
7 prescribed by law for judicial proceedings in civil cases in  
8 the courts of this State.

9 (b) The Secretary or the Director and any hearing officer  
10 designated by the Secretary or the Director are empowered to  
11 administer oaths at any proceeding which the Department is  
12 authorized to conduct.

13 (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

14 (20 ILCS 301/45-55)

15 Sec. 45-55. Powers and duties of designated agents.

16 (a) It is hereby made the sole and exclusive duty of the  
17 Department, and its designated agents, officers and  
18 investigators, to investigate all violations of this Act, and  
19 to cooperate with all agencies charged with enforcement of the  
20 laws of the United States, or any state, concerning matters  
21 pertaining to this Act. Nothing in this Act shall bar a grand  
22 jury from conducting an investigation of any alleged violation  
23 of this Act. Any agent, officer, investigator or peace officer  
24 designated by the Department may:

1           (1) execute and serve administrative inspection  
2 warrants and subpoenas under the authority of this State.

3           (2) make seizures of property pursuant to the  
4 provisions of this Act.

5           (3) perform such other duties as the Department may  
6 designate.

7           The Secretary or the Director may appoint such  
8 investigators as is deemed necessary to carry out the  
9 provisions of this Act. It shall be the duty of such  
10 investigators to investigate and report violations of the  
11 provisions of this Act. With respect to the enforcement of the  
12 provisions of this Act, such investigators shall have the  
13 authority to serve subpoenas, summonses and administrative  
14 inspection warrants. They shall be conservators of the peace  
15 and, as such, they shall have and may exercise during the  
16 course of an inspection or investigation all the powers  
17 possessed by policemen in the cities and sheriffs in the  
18 counties of this State, except that they may exercise such  
19 powers anywhere in the State.

20           (b) The Department or its designated agents, either before  
21 or after the issuance of a license, may request and shall  
22 receive the cooperation of the Illinois Department of State  
23 Police, county and multiple county health departments, or  
24 municipal boards of health to make investigations to determine  
25 if the applicant or licensee is complying with minimum  
26 standards prescribed by the Department.



1 (Source: P.A. 88-80; 89-507, eff. 7-1-97.)

2 (20 ILCS 301/55-25)

3 Sec. 55-25. Drug court grant program.

4 (a) Subject to appropriation, the Division of Alcoholism  
5 and Substance Abuse within the Department ~~of Human Services~~  
6 shall establish a program to administer grants to local drug  
7 courts. Grant moneys may be used for the following purposes:

8 (1) treatment or other clinical intervention through  
9 an appropriately licensed provider;

10 (2) monitoring, supervision, and clinical case  
11 management via probation, TASC, or other licensed Division  
12 of Alcoholism and Substance Abuse (DASA) providers;

13 (3) transportation of the offender to required  
14 appointments;

15 (4) interdisciplinary and other training of both  
16 clinical and legal professionals who are involved in the  
17 local drug court;

18 (5) other activities including data collection related  
19 to drug court operation and purchase of software or other  
20 administrative tools to assist in the overall management of  
21 the local system; or

22 (6) court appointed special advocate programs.

23 (b) The position of Statewide Drug Court Coordinator is  
24 created as a full-time position within the Division of  
25 Alcoholism and Substance Abuse. The Statewide Drug Court

1 Coordinator shall be responsible for the following:

2 (1) coordinating training, technical assistance, and  
3 overall support to drug courts in Illinois;

4 (2) assisting in the development of new drug courts and  
5 advising local partnerships on appropriate practices;

6 (3) collecting data from local drug court partnerships  
7 on drug court operations and aggregating that data into an  
8 annual report to be presented to the General Assembly; and

9 (4) acting as a liaison between the State and the  
10 Illinois Association of Drug Court Professionals.

11 (Source: P.A. 95-204, eff. 1-1-08.)

12 Section 920. The Department of Human Services (Alcoholism  
13 and Substance Abuse) Law of the Civil Administrative Code of  
14 Illinois is amended by changing the heading of Article 310 and  
15 Sections 310-1 and 310-5 as follows:

16 (20 ILCS 310/Art. 310 heading)

17 ARTICLE 310. DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES AS

18 SUCCESSOR TO

19 DEPARTMENT OF HUMAN SERVICES (WHICH WAS ~~AS~~ SUCCESSOR TO

20 DEPARTMENT OF ALCOHOLISM AND SUBSTANCE ABUSE)

21 (20 ILCS 310/310-1)

22 Sec. 310-1. Article short title. This Article 310 of the  
23 Civil Administrative Code of Illinois may be cited as the

1 Department of Healthcare and Family ~~Human~~ Services (Alcoholism  
2 and Substance Abuse) Law.

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

4 (20 ILCS 310/310-5) (was 20 ILCS 5/9.29)

5 Sec. 310-5. Powers under certain Acts. Until January 1,  
6 2011, the ~~The~~ Department of Human Services, as successor to the  
7 Department of Alcoholism and Substance Abuse, shall exercise,  
8 administer, and enforce all rights, powers, and duties formerly  
9 vested in the Department of Mental Health and Developmental  
10 Disabilities by the following named Acts or Sections of those  
11 Acts as they pertain to the provision of alcoholism services  
12 and the Dangerous Drugs Commission:

13 (1) The Cannabis Control Act.

14 (2) The Illinois Controlled Substances Act.

15 (3) The Community Mental Health Act.

16 (4) The Community Services Act.

17 (5) The Methamphetamine Control and Community  
18 Protection Act.

19 On and after January 1, 2011, the Department of Healthcare  
20 and Family Services, as successor to the Department of Human  
21 Services with respect to matters relating to alcoholism and  
22 substance abuse, shall exercise, administer, and enforce all  
23 rights, powers, and duties formerly vested in the Department of  
24 Human Services by the above-named Acts or Sections of those  
25 Acts as they pertain to the provision of alcoholism services

1 and the Dangerous Drugs Commission.

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

3 Section 925. The Department of Central Management Services  
4 Law of the Civil Administrative Code of Illinois is amended by  
5 changing Sections 405-315 and 405-325 as follows:

6 (20 ILCS 405/405-315) (was 20 ILCS 405/67.24)

7 Sec. 405-315. Management of State buildings; security  
8 force; fees.

9 (a) To manage, operate, maintain, and preserve from waste  
10 the State buildings, facilities, structures, grounds, or other  
11 real property transferred to the Department under Section  
12 405-415, including, without limitation, the State buildings  
13 listed below. The Department may rent portions of these and  
14 other State buildings when in the judgment of the Director  
15 those leases or subleases will be in the best interests of the  
16 State. The leases or subleases shall not exceed 5 years unless  
17 a greater term is specifically authorized.

18 a. Peoria Regional Office Building

19 5415 North University

20 Peoria, Illinois 61614

21 b. Springfield Regional Office Building

22 4500 South 6th Street

23 Springfield, Illinois 62703

24 c. Champaign Regional Office Building

- 1           2125 South 1st Street  
2           Champaign, Illinois 61820
- 3           d. Illinois State Armory Building  
4           124 East Adams  
5           Springfield, Illinois 62706
- 6           e. Marion Regional Office Building  
7           2209 West Main Street  
8           Marion, Illinois 62959
- 9           f. Kenneth Hall Regional State Office  
10          Building  
11          #10 Collinsville Avenue  
12          East St. Louis, Illinois 62201
- 13          g. Rockford Regional Office Building  
14          4402 North Main Street  
15          P.O. Box 915  
16          Rockford, Illinois 61105
- 17          h. State of Illinois Building  
18          160 North LaSalle  
19          Chicago, Illinois 60601
- 20          i. Office and Laboratory Building  
21          2121 West Taylor Street  
22          Chicago, Illinois 60602
- 23          j. Central Computer Facility  
24          201 West Adams  
25          Springfield, Illinois 62706
- 26          k. Elgin Office Building

- 1           595 South State Street  
2           Elgin, Illinois 60120
- 3        1. James R. Thompson Center  
4           Bounded by Lake, Clark, Randolph and  
5           LaSalle Streets  
6           Chicago, Illinois
- 7        m. The following buildings located within the Chicago  
8           Medical Center District:
- 9           1. Lawndale Day Care Center  
10          2929 West 19th Street  
11          2. Edwards Center  
12          2020 Roosevelt Road  
13          3. Illinois Center for  
14          Rehabilitation and Education  
15          1950 West Roosevelt Road and 1151 South Wood Street  
16          4. Department of Children and  
17          Family Services District Office  
18          1026 South Damen  
19          5. The William Heally School  
20          1731 West Taylor  
21          6. Administrative Office Building  
22          1100 South Paulina Street  
23          7. Metro Children and Adolescents Center  
24          1601 West Taylor Street
- 25        n. E.J. "Zeke" Giorgi Center  
26          200 Wyman Street

1 Rockford, Illinois

2 o. Suburban North Facility

3 9511 Harrison

4 Des Plaines, Illinois

5 p. The following buildings located within the Revenue

6 Center in Springfield:

7 1. State Property Control Warehouse

8 11th & Ash

9 2. Illinois State Museum Research & Collections

10 Center

11 1011 East Ash Street

12 q. Effingham Regional Office Building

13 401 Industrial Drive

14 Effingham, Illinois

15 r. The Communications Center

16 120 West Jefferson

17 Springfield, Illinois

18 s. Portions or all of the basement and

19 ground floor of the

20 State of Illinois Building

21 160 North LaSalle

22 Chicago, Illinois 60601

23 may be leased or subleased to persons, firms, partnerships,

24 associations, or individuals for terms not to exceed 15 years

25 when in the judgment of the Director those leases or subleases

26 will be in the best interests of the State.

1           Portions or all of the commercial space, which includes the  
2 sub-basement, storage mezzanine, concourse, and ground and  
3 second floors of the

4           James R. Thompson Center

5           Bounded by Lake, Clark, Randolph and LaSalle Streets

6           Chicago, Illinois

7 may be leased or subleased to persons, firms, partnerships,  
8 associations, or individuals for terms not to exceed 15 years  
9 subject to renewals when in the judgment of the Director those  
10 leases or subleases will be in the best interests of the State.

11           The Director is authorized to rent portions of the above  
12 described facilities to persons, firms, partnerships,  
13 associations, or individuals for terms not to exceed 30 days  
14 when those leases or subleases will not interfere with State  
15 usage of the facility. This authority is meant to supplement  
16 and shall not in any way be interpreted to restrict the  
17 Director's ability to make portions of the State of Illinois  
18 Building and the James R. Thompson Center available for  
19 long-term commercial leases or subleases.

20           Notwithstanding the provisions above, the Department of  
21 Children and Family Services, the Department of Healthcare  
22 Services (on and after January 1, 2011, as successor to the  
23 Department of Human Services with respect to functions relating  
24 to mental health) and the Department of Human Services (as  
25 successor to the Department of Rehabilitation Services and the  
26 Department of Mental Health and Developmental Disabilities



1 with respect to functions relating to developmental  
2 disabilities and, before January 1, 2011, mental health) shall  
3 determine the allocation of space for direct recipient care in  
4 their respective facilities. The Department of Central  
5 Management Services shall consult with the affected agency in  
6 the allocation and lease of surplus space in these facilities.  
7 Potential lease arrangements shall not endanger the direct  
8 recipient care responsibilities in these facilities.

9 (b) To appoint, subject to the Personnel Code, persons to  
10 be members of a police and security force. Members of the  
11 security force shall be peace officers when performing duties  
12 pursuant to this Section and as such shall have all of the  
13 powers possessed by policemen in cities and sheriffs, including  
14 the power to make arrests on view or issue citations for  
15 violations of State statutes or city or county ordinances,  
16 except that in counties of more than 1,000,000 population, any  
17 powers created by this subsection shall be exercised only (i)  
18 when necessary to protect the property, personnel, or interests  
19 of the Department or any State agency for whom the Department  
20 manages, operates, or maintains property or (ii) when  
21 specifically requested by appropriate State or local law  
22 enforcement officials, and except that within counties of  
23 1,000,000 or less population, these powers shall be exercised  
24 only when necessary to protect the property, personnel, or  
25 interests of the State of Illinois and only while on property  
26 managed, operated, or maintained by the Department.

1           Nothing in this subsection shall be construed so as to make  
2 it conflict with any provisions of, or rules promulgated under,  
3 the Personnel Code.

4           (c) To charge reasonable fees for the lease, rental, use,  
5 or occupancy of State facilities managed, operated, or  
6 maintained by the Department. All moneys collected under this  
7 Section shall be deposited in a revolving fund in the State  
8 treasury known as the Facilities Management Revolving Fund.

9           (d) Provisions of this Section relating to the James R.  
10 Thompson Center are subject to the provisions of Section 7.4 of  
11 the State Property Control Act.

12           (Source: P.A. 93-19, eff. 6-20-03; 93-839, eff. 7-30-04; 94-91,  
13 eff. 7-1-05.)

14           (20 ILCS 405/405-325) (was 20 ILCS 405/67.26)

15           Sec. 405-325. Mental health facility at Dixon. To enter  
16 into an agreement with a private individual, trust,  
17 partnership, or corporation or a municipality or other unit of  
18 local government whereby that individual, trust, partnership,  
19 or corporation or municipality or other unit of local  
20 government will construct a structure in the vicinity of Dixon,  
21 Illinois for the purposes of its serving as a mental health  
22 facility and then lease that structure to the Department for  
23 the use of the Department of Human Services (before January 1,  
24 2011) or the Department of Healthcare and Family Services (on  
25 and after January 1, 2011).

1           A lease entered into pursuant to the authority granted in  
2 this Section shall be for a term not to exceed 30 years but may  
3 grant to the State the option to purchase the structure  
4 outright.

5           The lease shall be approved by the Secretary of Human  
6 Services and shall be and shall recite that it is subject to  
7 termination and cancellation in any year for which the General  
8 Assembly fails to make an appropriation to pay the rent payable  
9 under the terms of the lease.

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

11           Section 930. The Children and Family Services Act is  
12 amended by changing Section 5 as follows:

13           (20 ILCS 505/5) (from Ch. 23, par. 5005)

14           Sec. 5. Direct child welfare services; Department of  
15 Children and Family Services. To provide direct child welfare  
16 services when not available through other public or private  
17 child care or program facilities.

18           (a) For purposes of this Section:

19           (1) "Children" means persons found within the State who  
20 are under the age of 18 years. The term also includes  
21 persons under age 21 who:

22           (A) were committed to the Department pursuant to  
23 the Juvenile Court Act or the Juvenile Court Act of  
24 1987, as amended, prior to the age of 18 and who

1 continue under the jurisdiction of the court; or

2 (B) were accepted for care, service and training by  
3 the Department prior to the age of 18 and whose best  
4 interest in the discretion of the Department would be  
5 served by continuing that care, service and training  
6 because of severe emotional disturbances, physical  
7 disability, social adjustment or any combination  
8 thereof, or because of the need to complete an  
9 educational or vocational training program.

10 (2) "Homeless youth" means persons found within the  
11 State who are under the age of 19, are not in a safe and  
12 stable living situation and cannot be reunited with their  
13 families.

14 (3) "Child welfare services" means public social  
15 services which are directed toward the accomplishment of  
16 the following purposes:

17 (A) protecting and promoting the health, safety  
18 and welfare of children, including homeless, dependent  
19 or neglected children;

20 (B) remedying, or assisting in the solution of  
21 problems which may result in, the neglect, abuse,  
22 exploitation or delinquency of children;

23 (C) preventing the unnecessary separation of  
24 children from their families by identifying family  
25 problems, assisting families in resolving their  
26 problems, and preventing the breakup of the family

1 where the prevention of child removal is desirable and  
2 possible when the child can be cared for at home  
3 without endangering the child's health and safety;

4 (D) restoring to their families children who have  
5 been removed, by the provision of services to the child  
6 and the families when the child can be cared for at  
7 home without endangering the child's health and  
8 safety;

9 (E) placing children in suitable adoptive homes,  
10 in cases where restoration to the biological family is  
11 not safe, possible or appropriate;

12 (F) assuring safe and adequate care of children  
13 away from their homes, in cases where the child cannot  
14 be returned home or cannot be placed for adoption. At  
15 the time of placement, the Department shall consider  
16 concurrent planning, as described in subsection (1-1)  
17 of this Section so that permanency may occur at the  
18 earliest opportunity. Consideration should be given so  
19 that if reunification fails or is delayed, the  
20 placement made is the best available placement to  
21 provide permanency for the child;

22 (G) (blank);

23 (H) (blank); and

24 (I) placing and maintaining children in facilities  
25 that provide separate living quarters for children  
26 under the age of 18 and for children 18 years of age

1 and older, unless a child 18 years of age is in the  
2 last year of high school education or vocational  
3 training, in an approved individual or group treatment  
4 program, in a licensed shelter facility, or secure  
5 child care facility. The Department is not required to  
6 place or maintain children:

7 (i) who are in a foster home, or

8 (ii) who are persons with a developmental  
9 disability, as defined in the Mental Health and  
10 Developmental Disabilities Code, or

11 (iii) who are female children who are  
12 pregnant, pregnant and parenting or parenting, or

13 (iv) who are siblings, in facilities that  
14 provide separate living quarters for children 18  
15 years of age and older and for children under 18  
16 years of age.

17 (b) Nothing in this Section shall be construed to authorize  
18 the expenditure of public funds for the purpose of performing  
19 abortions.

20 (c) The Department shall establish and maintain  
21 tax-supported child welfare services and extend and seek to  
22 improve voluntary services throughout the State, to the end  
23 that services and care shall be available on an equal basis  
24 throughout the State to children requiring such services.

25 (d) The Director may authorize advance disbursements for  
26 any new program initiative to any agency contracting with the

1 Department. As a prerequisite for an advance disbursement, the  
2 contractor must post a surety bond in the amount of the advance  
3 disbursement and have a purchase of service contract approved  
4 by the Department. The Department may pay up to 2 months  
5 operational expenses in advance. The amount of the advance  
6 disbursement shall be prorated over the life of the contract or  
7 the remaining months of the fiscal year, whichever is less, and  
8 the installment amount shall then be deducted from future  
9 bills. Advance disbursement authorizations for new initiatives  
10 shall not be made to any agency after that agency has operated  
11 during 2 consecutive fiscal years. The requirements of this  
12 Section concerning advance disbursements shall not apply with  
13 respect to the following: payments to local public agencies for  
14 child day care services as authorized by Section 5a of this  
15 Act; and youth service programs receiving grant funds under  
16 Section 17a-4.

17 (e) (Blank).

18 (f) (Blank).

19 (g) The Department shall establish rules and regulations  
20 concerning its operation of programs designed to meet the goals  
21 of child safety and protection, family preservation, family  
22 reunification, and adoption, including but not limited to:

23 (1) adoption;

24 (2) foster care;

25 (3) family counseling;

26 (4) protective services;

- 1 (5) (blank);
- 2 (6) homemaker service;
- 3 (7) return of runaway children;
- 4 (8) (blank);
- 5 (9) placement under Section 5-7 of the Juvenile Court  
6 Act or Section 2-27, 3-28, 4-25 or 5-740 of the Juvenile  
7 Court Act of 1987 in accordance with the federal Adoption  
8 Assistance and Child Welfare Act of 1980; and
- 9 (10) interstate services.

10 Rules and regulations established by the Department shall  
11 include provisions for training Department staff and the staff  
12 of Department grantees, through contracts with other agencies  
13 or resources, in alcohol and drug abuse screening techniques  
14 approved by the Department of Human Services (before January 1,  
15 2011) or the Department of Healthcare and Family Services (on  
16 and after January 1, 2011), ~~as a successor to the Department of~~  
17 ~~Alcoholism and Substance Abuse,~~ for the purpose of identifying  
18 children and adults who should be referred to an alcohol and  
19 drug abuse treatment program for professional evaluation.

20 (h) If the Department finds that there is no appropriate  
21 program or facility within or available to the Department for a  
22 ward and that no licensed private facility has an adequate and  
23 appropriate program or none agrees to accept the ward, the  
24 Department shall create an appropriate individualized,  
25 program-oriented plan for such ward. The plan may be developed  
26 within the Department or through purchase of services by the



1 Department to the extent that it is within its statutory  
2 authority to do.

3 (i) Service programs shall be available throughout the  
4 State and shall include but not be limited to the following  
5 services:

6 (1) case management;

7 (2) homemakers;

8 (3) counseling;

9 (4) parent education;

10 (5) day care; and

11 (6) emergency assistance and advocacy.

12 In addition, the following services may be made available  
13 to assess and meet the needs of children and families:

14 (1) comprehensive family-based services;

15 (2) assessments;

16 (3) respite care; and

17 (4) in-home health services.

18 The Department shall provide transportation for any of the  
19 services it makes available to children or families or for  
20 which it refers children or families.

21 (j) The Department may provide categories of financial  
22 assistance and education assistance grants, and shall  
23 establish rules and regulations concerning the assistance and  
24 grants, to persons who adopt physically or mentally  
25 handicapped, older and other hard-to-place children who (i)  
26 immediately prior to their adoption were legal wards of the

1 Department or (ii) were determined eligible for financial  
2 assistance with respect to a prior adoption and who become  
3 available for adoption because the prior adoption has been  
4 dissolved and the parental rights of the adoptive parents have  
5 been terminated or because the child's adoptive parents have  
6 died. The Department may continue to provide financial  
7 assistance and education assistance grants for a child who was  
8 determined eligible for financial assistance under this  
9 subsection (j) in the interim period beginning when the child's  
10 adoptive parents died and ending with the finalization of the  
11 new adoption of the child by another adoptive parent or  
12 parents. The Department may also provide categories of  
13 financial assistance and education assistance grants, and  
14 shall establish rules and regulations for the assistance and  
15 grants, to persons appointed guardian of the person under  
16 Section 5-7 of the Juvenile Court Act or Section 2-27, 3-28,  
17 4-25 or 5-740 of the Juvenile Court Act of 1987 for children  
18 who were wards of the Department for 12 months immediately  
19 prior to the appointment of the guardian.

20 The amount of assistance may vary, depending upon the needs  
21 of the child and the adoptive parents, as set forth in the  
22 annual assistance agreement. Special purpose grants are  
23 allowed where the child requires special service but such costs  
24 may not exceed the amounts which similar services would cost  
25 the Department if it were to provide or secure them as guardian  
26 of the child.

1 Any financial assistance provided under this subsection is  
2 inalienable by assignment, sale, execution, attachment,  
3 garnishment, or any other remedy for recovery or collection of  
4 a judgment or debt.

5 (j-5) The Department shall not deny or delay the placement  
6 of a child for adoption if an approved family is available  
7 either outside of the Department region handling the case, or  
8 outside of the State of Illinois.

9 (k) The Department shall accept for care and training any  
10 child who has been adjudicated neglected or abused, or  
11 dependent committed to it pursuant to the Juvenile Court Act or  
12 the Juvenile Court Act of 1987.

13 (l) The Department shall offer family preservation  
14 services, as defined in Section 8.2 of the Abused and Neglected  
15 Child Reporting Act, to help families, including adoptive and  
16 extended families. Family preservation services shall be  
17 offered (i) to prevent the placement of children in substitute  
18 care when the children can be cared for at home or in the  
19 custody of the person responsible for the children's welfare,  
20 (ii) to reunite children with their families, or (iii) to  
21 maintain an adoptive placement. Family preservation services  
22 shall only be offered when doing so will not endanger the  
23 children's health or safety. With respect to children who are  
24 in substitute care pursuant to the Juvenile Court Act of 1987,  
25 family preservation services shall not be offered if a goal  
26 other than those of subdivisions (A), (B), or (B-1) of

1 subsection (2) of Section 2-28 of that Act has been set.  
2 Nothing in this paragraph shall be construed to create a  
3 private right of action or claim on the part of any individual  
4 or child welfare agency, except that when a child is the  
5 subject of an action under Article II of the Juvenile Court Act  
6 of 1987 and the child's service plan calls for services to  
7 facilitate achievement of the permanency goal, the court  
8 hearing the action under Article II of the Juvenile Court Act  
9 of 1987 may order the Department to provide the services set  
10 out in the plan, if those services are not provided with  
11 reasonable promptness and if those services are available.

12 The Department shall notify the child and his family of the  
13 Department's responsibility to offer and provide family  
14 preservation services as identified in the service plan. The  
15 child and his family shall be eligible for services as soon as  
16 the report is determined to be "indicated". The Department may  
17 offer services to any child or family with respect to whom a  
18 report of suspected child abuse or neglect has been filed,  
19 prior to concluding its investigation under Section 7.12 of the  
20 Abused and Neglected Child Reporting Act. However, the child's  
21 or family's willingness to accept services shall not be  
22 considered in the investigation. The Department may also  
23 provide services to any child or family who is the subject of  
24 any report of suspected child abuse or neglect or may refer  
25 such child or family to services available from other agencies  
26 in the community, even if the report is determined to be

1 unfounded, if the conditions in the child's or family's home  
2 are reasonably likely to subject the child or family to future  
3 reports of suspected child abuse or neglect. Acceptance of such  
4 services shall be voluntary. The Department may also provide  
5 services to any child or family after completion of a family  
6 assessment, as an alternative to an investigation, as provided  
7 under the "differential response program" provided for in  
8 subsection (a-5) of Section 7.4 of the Abused and Neglected  
9 Child Reporting Act.

10 The Department may, at its discretion except for those  
11 children also adjudicated neglected or dependent, accept for  
12 care and training any child who has been adjudicated addicted,  
13 as a truant minor in need of supervision or as a minor  
14 requiring authoritative intervention, under the Juvenile Court  
15 Act or the Juvenile Court Act of 1987, but no such child shall  
16 be committed to the Department by any court without the  
17 approval of the Department. A minor charged with a criminal  
18 offense under the Criminal Code of 1961 or adjudicated  
19 delinquent shall not be placed in the custody of or committed  
20 to the Department by any court, except (i) a minor less than 15  
21 years of age committed to the Department under Section 5-710 of  
22 the Juvenile Court Act of 1987, (ii) a minor for whom an  
23 independent basis of abuse, neglect, or dependency exists,  
24 which must be defined by departmental rule, or (iii) a minor  
25 for whom the court has granted a supplemental petition to  
26 reinstate wardship pursuant to subsection (2) of Section 2-33

1 of the Juvenile Court Act of 1987. An independent basis exists  
2 when the allegations or adjudication of abuse, neglect, or  
3 dependency do not arise from the same facts, incident, or  
4 circumstances which give rise to a charge or adjudication of  
5 delinquency.

6 As soon as is possible after August 7, 2009 (the effective  
7 date of Public Act 96-134) ~~this amendatory Act of the 96th~~  
8 ~~General Assembly~~, the Department shall develop and implement a  
9 special program of family preservation services to support  
10 intact, foster, and adoptive families who are experiencing  
11 extreme hardships due to the difficulty and stress of caring  
12 for a child who has been diagnosed with a pervasive  
13 developmental disorder if the Department determines that those  
14 services are necessary to ensure the health and safety of the  
15 child. The Department may offer services to any family whether  
16 or not a report has been filed under the Abused and Neglected  
17 Child Reporting Act. The Department may refer the child or  
18 family to services available from other agencies in the  
19 community if the conditions in the child's or family's home are  
20 reasonably likely to subject the child or family to future  
21 reports of suspected child abuse or neglect. Acceptance of  
22 these services shall be voluntary. The Department shall develop  
23 and implement a public information campaign to alert health and  
24 social service providers and the general public about these  
25 special family preservation services. The nature and scope of  
26 the services offered and the number of families served under

1 the special program implemented under this paragraph shall be  
2 determined by the level of funding that the Department annually  
3 allocates for this purpose. The term "pervasive developmental  
4 disorder" under this paragraph means a neurological condition,  
5 including but not limited to, Asperger's Syndrome and autism,  
6 as defined in the most recent edition of the Diagnostic and  
7 Statistical Manual of Mental Disorders of the American  
8 Psychiatric Association.

9 (1-1) The legislature recognizes that the best interests of  
10 the child require that the child be placed in the most  
11 permanent living arrangement as soon as is practically  
12 possible. To achieve this goal, the legislature directs the  
13 Department of Children and Family Services to conduct  
14 concurrent planning so that permanency may occur at the  
15 earliest opportunity. Permanent living arrangements may  
16 include prevention of placement of a child outside the home of  
17 the family when the child can be cared for at home without  
18 endangering the child's health or safety; reunification with  
19 the family, when safe and appropriate, if temporary placement  
20 is necessary; or movement of the child toward the most  
21 permanent living arrangement and permanent legal status.

22 When determining reasonable efforts to be made with respect  
23 to a child, as described in this subsection, and in making such  
24 reasonable efforts, the child's health and safety shall be the  
25 paramount concern.

26 When a child is placed in foster care, the Department shall

1 ensure and document that reasonable efforts were made to  
2 prevent or eliminate the need to remove the child from the  
3 child's home. The Department must make reasonable efforts to  
4 reunify the family when temporary placement of the child occurs  
5 unless otherwise required, pursuant to the Juvenile Court Act  
6 of 1987. At any time after the dispositional hearing where the  
7 Department believes that further reunification services would  
8 be ineffective, it may request a finding from the court that  
9 reasonable efforts are no longer appropriate. The Department is  
10 not required to provide further reunification services after  
11 such a finding.

12 A decision to place a child in substitute care shall be  
13 made with considerations of the child's health, safety, and  
14 best interests. At the time of placement, consideration should  
15 also be given so that if reunification fails or is delayed, the  
16 placement made is the best available placement to provide  
17 permanency for the child.

18 The Department shall adopt rules addressing concurrent  
19 planning for reunification and permanency. The Department  
20 shall consider the following factors when determining  
21 appropriateness of concurrent planning:

- 22 (1) the likelihood of prompt reunification;
- 23 (2) the past history of the family;
- 24 (3) the barriers to reunification being addressed by  
25 the family;
- 26 (4) the level of cooperation of the family;



1           (5) the foster parents' willingness to work with the  
2 family to reunite;

3           (6) the willingness and ability of the foster family to  
4 provide an adoptive home or long-term placement;

5           (7) the age of the child;

6           (8) placement of siblings.

7           (m) The Department may assume temporary custody of any  
8 child if:

9           (1) it has received a written consent to such temporary  
10 custody signed by the parents of the child or by the parent  
11 having custody of the child if the parents are not living  
12 together or by the guardian or custodian of the child if  
13 the child is not in the custody of either parent, or

14           (2) the child is found in the State and neither a  
15 parent, guardian nor custodian of the child can be located.

16 If the child is found in his or her residence without a parent,  
17 guardian, custodian or responsible caretaker, the Department  
18 may, instead of removing the child and assuming temporary  
19 custody, place an authorized representative of the Department  
20 in that residence until such time as a parent, guardian or  
21 custodian enters the home and expresses a willingness and  
22 apparent ability to ensure the child's health and safety and  
23 resume permanent charge of the child, or until a relative  
24 enters the home and is willing and able to ensure the child's  
25 health and safety and assume charge of the child until a  
26 parent, guardian or custodian enters the home and expresses

1 such willingness and ability to ensure the child's safety and  
2 resume permanent charge. After a caretaker has remained in the  
3 home for a period not to exceed 12 hours, the Department must  
4 follow those procedures outlined in Section 2-9, 3-11, 4-8, or  
5 5-415 of the Juvenile Court Act of 1987.

6 The Department shall have the authority, responsibilities  
7 and duties that a legal custodian of the child would have  
8 pursuant to subsection (9) of Section 1-3 of the Juvenile Court  
9 Act of 1987. Whenever a child is taken into temporary custody  
10 pursuant to an investigation under the Abused and Neglected  
11 Child Reporting Act, or pursuant to a referral and acceptance  
12 under the Juvenile Court Act of 1987 of a minor in limited  
13 custody, the Department, during the period of temporary custody  
14 and before the child is brought before a judicial officer as  
15 required by Section 2-9, 3-11, 4-8, or 5-415 of the Juvenile  
16 Court Act of 1987, shall have the authority, responsibilities  
17 and duties that a legal custodian of the child would have under  
18 subsection (9) of Section 1-3 of the Juvenile Court Act of  
19 1987.

20 The Department shall ensure that any child taken into  
21 custody is scheduled for an appointment for a medical  
22 examination.

23 A parent, guardian or custodian of a child in the temporary  
24 custody of the Department who would have custody of the child  
25 if he were not in the temporary custody of the Department may  
26 deliver to the Department a signed request that the Department

1 surrender the temporary custody of the child. The Department  
2 may retain temporary custody of the child for 10 days after the  
3 receipt of the request, during which period the Department may  
4 cause to be filed a petition pursuant to the Juvenile Court Act  
5 of 1987. If a petition is so filed, the Department shall retain  
6 temporary custody of the child until the court orders  
7 otherwise. If a petition is not filed within the 10 day period,  
8 the child shall be surrendered to the custody of the requesting  
9 parent, guardian or custodian not later than the expiration of  
10 the 10 day period, at which time the authority and duties of  
11 the Department with respect to the temporary custody of the  
12 child shall terminate.

13 (m-1) The Department may place children under 18 years of  
14 age in a secure child care facility licensed by the Department  
15 that cares for children who are in need of secure living  
16 arrangements for their health, safety, and well-being after a  
17 determination is made by the facility director and the Director  
18 or the Director's designate prior to admission to the facility  
19 subject to Section 2-27.1 of the Juvenile Court Act of 1987.  
20 This subsection (m-1) does not apply to a child who is subject  
21 to placement in a correctional facility operated pursuant to  
22 Section 3-15-2 of the Unified Code of Corrections, unless the  
23 child is a ward who was placed under the care of the Department  
24 before being subject to placement in a correctional facility  
25 and a court of competent jurisdiction has ordered placement of  
26 the child in a secure care facility.

1           (n) The Department may place children under 18 years of age  
2 in licensed child care facilities when in the opinion of the  
3 Department, appropriate services aimed at family preservation  
4 have been unsuccessful and cannot ensure the child's health and  
5 safety or are unavailable and such placement would be for their  
6 best interest. Payment for board, clothing, care, training and  
7 supervision of any child placed in a licensed child care  
8 facility may be made by the Department, by the parents or  
9 guardians of the estates of those children, or by both the  
10 Department and the parents or guardians, except that no  
11 payments shall be made by the Department for any child placed  
12 in a licensed child care facility for board, clothing, care,  
13 training and supervision of such a child that exceed the  
14 average per capita cost of maintaining and of caring for a  
15 child in institutions for dependent or neglected children  
16 operated by the Department. However, such restriction on  
17 payments does not apply in cases where children require  
18 specialized care and treatment for problems of severe emotional  
19 disturbance, physical disability, social adjustment, or any  
20 combination thereof and suitable facilities for the placement  
21 of such children are not available at payment rates within the  
22 limitations set forth in this Section. All reimbursements for  
23 services delivered shall be absolutely inalienable by  
24 assignment, sale, attachment, garnishment or otherwise.

25           (n-1) The Department shall provide or authorize child  
26 welfare services, aimed at assisting minors to achieve

1 sustainable self-sufficiency as independent adults, for any  
2 minor eligible for the reinstatement of wardship pursuant to  
3 subsection (2) of Section 2-33 of the Juvenile Court Act of  
4 1987, whether or not such reinstatement is sought or allowed,  
5 provided that the minor consents to such services and has not  
6 yet attained the age of 21. The Department shall have  
7 responsibility for the development and delivery of services  
8 under this Section. An eligible youth may access services under  
9 this Section through the Department of Children and Family  
10 Services or by referral from the Department of Human Services.  
11 Youth participating in services under this Section shall  
12 cooperate with the assigned case manager in developing an  
13 agreement identifying the services to be provided and how the  
14 youth will increase skills to achieve self-sufficiency. A  
15 homeless shelter is not considered appropriate housing for any  
16 youth receiving child welfare services under this Section. The  
17 Department shall continue child welfare services under this  
18 Section to any eligible minor until the minor becomes 21 years  
19 of age, no longer consents to participate, or achieves  
20 self-sufficiency as identified in the minor's service plan. The  
21 Department of Children and Family Services shall create clear,  
22 readable notice of the rights of former foster youth to child  
23 welfare services under this Section and how such services may  
24 be obtained. The Department of Children and Family Services and  
25 the Department of Human Services shall disseminate this  
26 information statewide. The Department shall adopt regulations

1 describing services intended to assist minors in achieving  
2 sustainable self-sufficiency as independent adults.

3 (o) The Department shall establish an administrative  
4 review and appeal process for children and families who request  
5 or receive child welfare services from the Department. Children  
6 who are wards of the Department and are placed by private child  
7 welfare agencies, and foster families with whom those children  
8 are placed, shall be afforded the same procedural and appeal  
9 rights as children and families in the case of placement by the  
10 Department, including the right to an initial review of a  
11 private agency decision by that agency. The Department shall  
12 insure that any private child welfare agency, which accepts  
13 wards of the Department for placement, affords those rights to  
14 children and foster families. The Department shall accept for  
15 administrative review and an appeal hearing a complaint made by  
16 (i) a child or foster family concerning a decision following an  
17 initial review by a private child welfare agency or (ii) a  
18 prospective adoptive parent who alleges a violation of  
19 subsection (j-5) of this Section. An appeal of a decision  
20 concerning a change in the placement of a child shall be  
21 conducted in an expedited manner.

22 (p) There is hereby created the Department of Children and  
23 Family Services Emergency Assistance Fund from which the  
24 Department may provide special financial assistance to  
25 families which are in economic crisis when such assistance is  
26 not available through other public or private sources and the

1 assistance is deemed necessary to prevent dissolution of the  
2 family unit or to reunite families which have been separated  
3 due to child abuse and neglect. The Department shall establish  
4 administrative rules specifying the criteria for determining  
5 eligibility for and the amount and nature of assistance to be  
6 provided. The Department may also enter into written agreements  
7 with private and public social service agencies to provide  
8 emergency financial services to families referred by the  
9 Department. Special financial assistance payments shall be  
10 available to a family no more than once during each fiscal year  
11 and the total payments to a family may not exceed \$500 during a  
12 fiscal year.

13 (q) The Department may receive and use, in their entirety,  
14 for the benefit of children any gift, donation or bequest of  
15 money or other property which is received on behalf of such  
16 children, or any financial benefits to which such children are  
17 or may become entitled while under the jurisdiction or care of  
18 the Department.

19 The Department shall set up and administer no-cost,  
20 interest-bearing accounts in appropriate financial  
21 institutions for children for whom the Department is legally  
22 responsible and who have been determined eligible for Veterans'  
23 Benefits, Social Security benefits, assistance allotments from  
24 the armed forces, court ordered payments, parental voluntary  
25 payments, Supplemental Security Income, Railroad Retirement  
26 payments, Black Lung benefits, or other miscellaneous

1 payments. Interest earned by each account shall be credited to  
2 the account, unless disbursed in accordance with this  
3 subsection.

4 In disbursing funds from children's accounts, the  
5 Department shall:

6 (1) Establish standards in accordance with State and  
7 federal laws for disbursing money from children's  
8 accounts. In all circumstances, the Department's  
9 "Guardianship Administrator" or his or her designee must  
10 approve disbursements from children's accounts. The  
11 Department shall be responsible for keeping complete  
12 records of all disbursements for each account for any  
13 purpose.

14 (2) Calculate on a monthly basis the amounts paid from  
15 State funds for the child's board and care, medical care  
16 not covered under Medicaid, and social services; and  
17 utilize funds from the child's account, as covered by  
18 regulation, to reimburse those costs. Monthly,  
19 disbursements from all children's accounts, up to 1/12 of  
20 \$13,000,000, shall be deposited by the Department into the  
21 General Revenue Fund and the balance over 1/12 of  
22 \$13,000,000 into the DCFS Children's Services Fund.

23 (3) Maintain any balance remaining after reimbursing  
24 for the child's costs of care, as specified in item (2).  
25 The balance shall accumulate in accordance with relevant  
26 State and federal laws and shall be disbursed to the child



1 or his or her guardian, or to the issuing agency.

2 (r) The Department shall promulgate regulations  
3 encouraging all adoption agencies to voluntarily forward to the  
4 Department or its agent names and addresses of all persons who  
5 have applied for and have been approved for adoption of a  
6 hard-to-place or handicapped child and the names of such  
7 children who have not been placed for adoption. A list of such  
8 names and addresses shall be maintained by the Department or  
9 its agent, and coded lists which maintain the confidentiality  
10 of the person seeking to adopt the child and of the child shall  
11 be made available, without charge, to every adoption agency in  
12 the State to assist the agencies in placing such children for  
13 adoption. The Department may delegate to an agent its duty to  
14 maintain and make available such lists. The Department shall  
15 ensure that such agent maintains the confidentiality of the  
16 person seeking to adopt the child and of the child.

17 (s) The Department of Children and Family Services may  
18 establish and implement a program to reimburse Department and  
19 private child welfare agency foster parents licensed by the  
20 Department of Children and Family Services for damages  
21 sustained by the foster parents as a result of the malicious or  
22 negligent acts of foster children, as well as providing third  
23 party coverage for such foster parents with regard to actions  
24 of foster children to other individuals. Such coverage will be  
25 secondary to the foster parent liability insurance policy, if  
26 applicable. The program shall be funded through appropriations

1 from the General Revenue Fund, specifically designated for such  
2 purposes.

3 (t) The Department shall perform home studies and  
4 investigations and shall exercise supervision over visitation  
5 as ordered by a court pursuant to the Illinois Marriage and  
6 Dissolution of Marriage Act or the Adoption Act only if:

7 (1) an order entered by an Illinois court specifically  
8 directs the Department to perform such services; and

9 (2) the court has ordered one or both of the parties to  
10 the proceeding to reimburse the Department for its  
11 reasonable costs for providing such services in accordance  
12 with Department rules, or has determined that neither party  
13 is financially able to pay.

14 The Department shall provide written notification to the  
15 court of the specific arrangements for supervised visitation  
16 and projected monthly costs within 60 days of the court order.  
17 The Department shall send to the court information related to  
18 the costs incurred except in cases where the court has  
19 determined the parties are financially unable to pay. The court  
20 may order additional periodic reports as appropriate.

21 (u) In addition to other information that must be provided,  
22 whenever the Department places a child with a prospective  
23 adoptive parent or parents or in a licensed foster home, group  
24 home, child care institution, or in a relative home, the  
25 Department shall provide to the prospective adoptive parent or  
26 parents or other caretaker:

1           (1) available detailed information concerning the  
2 child's educational and health history, copies of  
3 immunization records (including insurance and medical card  
4 information), a history of the child's previous  
5 placements, if any, and reasons for placement changes  
6 excluding any information that identifies or reveals the  
7 location of any previous caretaker;

8           (2) a copy of the child's portion of the client service  
9 plan, including any visitation arrangement, and all  
10 amendments or revisions to it as related to the child; and

11           (3) information containing details of the child's  
12 individualized educational plan when the child is  
13 receiving special education services.

14           The caretaker shall be informed of any known social or  
15 behavioral information (including, but not limited to,  
16 criminal background, fire setting, perpetuation of sexual  
17 abuse, destructive behavior, and substance abuse) necessary to  
18 care for and safeguard the children to be placed or currently  
19 in the home. The Department may prepare a written summary of  
20 the information required by this paragraph, which may be  
21 provided to the foster or prospective adoptive parent in  
22 advance of a placement. The foster or prospective adoptive  
23 parent may review the supporting documents in the child's file  
24 in the presence of casework staff. In the case of an emergency  
25 placement, casework staff shall at least provide known  
26 information verbally, if necessary, and must subsequently

1 provide the information in writing as required by this  
2 subsection.

3 The information described in this subsection shall be  
4 provided in writing. In the case of emergency placements when  
5 time does not allow prior review, preparation, and collection  
6 of written information, the Department shall provide such  
7 information as it becomes available. Within 10 business days  
8 after placement, the Department shall obtain from the  
9 prospective adoptive parent or parents or other caretaker a  
10 signed verification of receipt of the information provided.  
11 Within 10 business days after placement, the Department shall  
12 provide to the child's guardian ad litem a copy of the  
13 information provided to the prospective adoptive parent or  
14 parents or other caretaker. The information provided to the  
15 prospective adoptive parent or parents or other caretaker shall  
16 be reviewed and approved regarding accuracy at the supervisory  
17 level.

18 (u-5) Effective July 1, 1995, only foster care placements  
19 licensed as foster family homes pursuant to the Child Care Act  
20 of 1969 shall be eligible to receive foster care payments from  
21 the Department. Relative caregivers who, as of July 1, 1995,  
22 were approved pursuant to approved relative placement rules  
23 previously promulgated by the Department at 89 Ill. Adm. Code  
24 335 and had submitted an application for licensure as a foster  
25 family home may continue to receive foster care payments only  
26 until the Department determines that they may be licensed as a

1 foster family home or that their application for licensure is  
2 denied or until September 30, 1995, whichever occurs first.

3 (v) The Department shall access criminal history record  
4 information as defined in the Illinois Uniform Conviction  
5 Information Act and information maintained in the adjudicatory  
6 and dispositional record system as defined in Section 2605-355  
7 of the Department of State Police Law (20 ILCS 2605/2605-355)  
8 if the Department determines the information is necessary to  
9 perform its duties under the Abused and Neglected Child  
10 Reporting Act, the Child Care Act of 1969, and the Children and  
11 Family Services Act. The Department shall provide for  
12 interactive computerized communication and processing  
13 equipment that permits direct on-line communication with the  
14 Department of State Police's central criminal history data  
15 repository. The Department shall comply with all certification  
16 requirements and provide certified operators who have been  
17 trained by personnel from the Department of State Police. In  
18 addition, one Office of the Inspector General investigator  
19 shall have training in the use of the criminal history  
20 information access system and have access to the terminal. The  
21 Department of Children and Family Services and its employees  
22 shall abide by rules and regulations established by the  
23 Department of State Police relating to the access and  
24 dissemination of this information.

25 (v-1) Prior to final approval for placement of a child, the  
26 Department shall conduct a criminal records background check of

1 the prospective foster or adoptive parent, including  
2 fingerprint-based checks of national crime information  
3 databases. Final approval for placement shall not be granted if  
4 the record check reveals a felony conviction for child abuse or  
5 neglect, for spousal abuse, for a crime against children, or  
6 for a crime involving violence, including rape, sexual assault,  
7 or homicide, but not including other physical assault or  
8 battery, or if there is a felony conviction for physical  
9 assault, battery, or a drug-related offense committed within  
10 the past 5 years.

11 (v-2) Prior to final approval for placement of a child, the  
12 Department shall check its child abuse and neglect registry for  
13 information concerning prospective foster and adoptive  
14 parents, and any adult living in the home. If any prospective  
15 foster or adoptive parent or other adult living in the home has  
16 resided in another state in the preceding 5 years, the  
17 Department shall request a check of that other state's child  
18 abuse and neglect registry.

19 (w) Within 120 days of August 20, 1995 (the effective date  
20 of Public Act 89-392), the Department shall prepare and submit  
21 to the Governor and the General Assembly, a written plan for  
22 the development of in-state licensed secure child care  
23 facilities that care for children who are in need of secure  
24 living arrangements for their health, safety, and well-being.  
25 For purposes of this subsection, secure care facility shall  
26 mean a facility that is designed and operated to ensure that

1 all entrances and exits from the facility, a building or a  
2 distinct part of the building, are under the exclusive control  
3 of the staff of the facility, whether or not the child has the  
4 freedom of movement within the perimeter of the facility,  
5 building, or distinct part of the building. The plan shall  
6 include descriptions of the types of facilities that are needed  
7 in Illinois; the cost of developing these secure care  
8 facilities; the estimated number of placements; the potential  
9 cost savings resulting from the movement of children currently  
10 out-of-state who are projected to be returned to Illinois; the  
11 necessary geographic distribution of these facilities in  
12 Illinois; and a proposed timetable for development of such  
13 facilities.

14 (x) The Department shall conduct annual credit history  
15 checks to determine the financial history of children placed  
16 under its guardianship pursuant to the Juvenile Court Act of  
17 1987. The Department shall conduct such credit checks starting  
18 when a ward turns 12 years old and each year thereafter for the  
19 duration of the guardianship as terminated pursuant to the  
20 Juvenile Court Act of 1987. The Department shall determine if  
21 financial exploitation of the child's personal information has  
22 occurred. If financial exploitation appears to have taken place  
23 or is presently ongoing, the Department shall notify the proper  
24 law enforcement agency, the proper State's Attorney, or the  
25 Attorney General.

26 (Source: P.A. 95-10, eff. 6-30-07; 95-601, eff. 9-11-07;

1 95-642, eff. 6-1-08; 95-876, eff. 8-21-08; 96-134, eff. 8-7-09;  
2 96-581, eff. 1-1-10; 96-600, eff. 8-21-09; 96-619, eff. 1-1-10;  
3 96-760, eff. 1-1-10; revised 9-15-09.)

4 Section 935. The Mental Health and Developmental  
5 Disabilities Administrative Act is amended by changing  
6 Sections 1, 2, 4.2, 5.1, 7.3, 12.1, 14, 15, 16.1, 17, 18.3,  
7 18.4, 31a, 33.1, 33.2, 34, 47, 56, 63, and 64 as follows:

8 (20 ILCS 1705/1) (from Ch. 91 1/2, par. 100-1)

9 Sec. 1. Purpose. The purpose of this Act is to consolidate  
10 in one statute certain powers and duties of the Department of  
11 Healthcare and Family Services and the Department of Human  
12 Services relating to mental health and developmental  
13 disabilities.

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

15 (20 ILCS 1705/2) (from Ch. 91 1/2, par. 100-2)

16 Sec. 2. Definitions; administrative subdivisions.

17 (a) For the purposes of this Act, unless the context  
18 otherwise requires:

19 "Department" means the Department of Human Services with  
20 respect to functions relating to developmental disabilities.  
21 With respect to functions relating to mental health:

22 (1) Before January 1, 2011, "Department" means the  
23 Department of Human Services.



1           (2) On and after January 1, 2011, "Department" means  
2           the Department of Healthcare and Family Services. 7  
3           ~~successor to the former Department of Mental Health and~~  
4           ~~Developmental Disabilities.~~

5           "Director means the Director of Healthcare and Family  
6           Services.

7           "Secretary" means the Secretary of Human Services.

8           (a-5) On and after January 1, 2011, the Department of  
9           Healthcare and Family Services and the Director shall exercise  
10           all of the powers, duties, rights, and responsibilities with  
11           respect to the functions relating to mental health under this  
12           Act that are transferred from the Department of Human Services  
13           to the Department of Healthcare and Family Services on that  
14           date under Section 2205-15 of the Department of Healthcare and  
15           Family Services Law of the Civil Administrative Code of  
16           Illinois.

17           (b) Unless the context otherwise requires:

18           (1) References in this Act to the programs or  
19           facilities of the Department shall be construed to refer  
20           only to those programs or facilities of the Department that  
21           pertain to mental health or developmental disabilities.

22           (2) References in this Act to the Department's service  
23           providers or service recipients shall be construed to refer  
24           only to providers or recipients of services that pertain to  
25           the Department's mental health or ~~and~~ developmental  
26           disabilities functions.

1           (3) References in this Act to employees of the  
2           Department shall be construed to refer only to employees  
3           whose duties pertain to the Department's mental health or  
4           ~~and~~ developmental disabilities functions.

5           (c) The Secretary and the Director shall establish such  
6           subdivisions of the Department as shall be desirable and shall  
7           assign to the various subdivisions the responsibilities and  
8           duties placed upon the Department by the Laws of the State of  
9           Illinois.

10          (d) There is established a coordinator of services to  
11          mentally disabled deaf and hearing impaired persons. In hiring  
12          this coordinator, every consideration shall be given to  
13          qualified deaf or hearing impaired individuals.

14          (e) Whenever the administrative director of the  
15          subdivision for mental health services is not a board-certified  
16          psychiatrist, the Secretary or the Director shall appoint a  
17          Chief for Clinical Services who shall be a board-certified  
18          psychiatrist with both clinical and administrative experience.  
19          The Chief for Clinical Services shall be responsible for all  
20          clinical and medical decisions for mental health services.

21          (Source: P.A. 91-536, eff. 1-1-00.)

22                 (20 ILCS 1705/4.2) (from Ch. 91 1/2, par. 100-4.2)  
23                 Sec. 4.2. Facility staff.

24           (a) The Department shall describe and delineate guidelines  
25           for each of the facilities it operates regarding the number and

1 qualifications of the staff required to carry out prescribed  
2 duties. The guidelines shall be based on consideration of  
3 recipient needs as well as professional and programmatic  
4 requirements, including those established for purposes of  
5 national accreditation and for certification under Titles  
6 XVIII and XIX of the federal Social Security Act.

7 (b) As used in this Section, "direct care position" means  
8 any position with the Department in which the job titles which  
9 will regularly or temporarily entail contact with recipients in  
10 the Department's facilities for persons with a mental illness  
11 or a developmental disability.

12 (c) The Department shall require that each candidate for  
13 employment in a direct care position, as a condition of  
14 employment, shall submit to a fingerprint-based criminal  
15 background investigation to determine whether the candidate  
16 for employment in a direct care position has ever been charged  
17 with a crime and, if so, the disposition of those charges. This  
18 authorization shall indicate the scope of the inquiry and the  
19 agencies which may be contacted. Upon this authorization, the  
20 Director ~~(or, on or after July 1, 1997, the Secretary)~~ shall  
21 request and receive information and assistance from any  
22 federal, State or local governmental agency as part of the  
23 authorized investigation. The Department of State Police shall  
24 provide information concerning any criminal charges, and their  
25 disposition, now or hereafter filed against a candidate for  
26 employment in a direct care position upon request of the

1 Department when the request is made in the form and manner  
2 required by the Department of State Police.

3 Information concerning convictions of a candidate for  
4 employment in a direct care position investigated under this  
5 Section, including the source of the information and any  
6 conclusions or recommendations derived from the information,  
7 shall be provided, upon request, to the candidate for  
8 employment in a direct care position before final action by the  
9 Department on the application. Information on convictions of a  
10 candidate for employment in a direct care position under this  
11 Act shall be provided to the director of the employing unit,  
12 and, upon request, to the candidate for employment in a direct  
13 care position. Any information concerning criminal charges and  
14 the disposition of those charges obtained by the Department  
15 shall be confidential and may not be transmitted outside the  
16 Department, except as required in this Act, and may not be  
17 transmitted to anyone within the Department except as needed  
18 for the purpose of evaluating an application of a candidate for  
19 employment in a direct care position. Only information and  
20 standards which bear a reasonable and rational relation to the  
21 performance of a direct care position shall be used by the  
22 Department. Any employee of the Department or the Department of  
23 State Police receiving confidential information under this  
24 Section who gives or causes to be given any confidential  
25 information concerning any criminal convictions of a candidate  
26 for employment in a direct care position shall be guilty of a

1 Class A misdemeanor unless release of the information is  
2 authorized by this Section.

3 A Department employing unit may hire, on a probationary  
4 basis, any candidate for employment in a direct care position,  
5 authorizing a criminal background investigation under this  
6 Section, pending the result of the investigation. A candidate  
7 for employment in a direct care position shall be notified  
8 before he or she is hired that his or her employment may be  
9 terminated on the basis of criminal background information  
10 obtained by the employing unit.

11 No person may be employed in a direct care position who  
12 refuses to authorize an investigation as required by this  
13 subsection (c).

14 (Source: P.A. 92-218, eff. 1-1-02.)

15 (20 ILCS 1705/5.1) (from Ch. 91 1/2, par. 100-5.1)

16 Sec. 5.1. The Department shall develop, by rule, the  
17 procedures and standards by which it shall approve medications  
18 for clinical use in its facilities. A list of those drugs  
19 approved pursuant to these procedures shall be distributed to  
20 all Department facilities.

21 Drugs not listed by the Department may not be administered  
22 in facilities under the jurisdiction of the Department,  
23 provided that an unlisted drug may be administered as part of  
24 research with the prior written consent of the Director or the  
25 Secretary specifying the nature of the permitted use and the

1 physicians authorized to prescribe the drug. Drugs, as used in  
2 this Section, mean psychotropic and narcotic drugs.

3 No physician in the Department shall sign a prescription in  
4 blank, nor permit blank prescription forms to circulate out of  
5 his possession or control.

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

7 (20 ILCS 1705/7.3)

8 Sec. 7.3. Health care worker registry; finding of abuse or  
9 neglect. The Department shall require that no facility, service  
10 agency, or support agency providing mental health or  
11 developmental disability services that is licensed, certified,  
12 operated, or funded by the Department shall employ a person, in  
13 any capacity, who is identified by the health care worker  
14 registry as having been subject of a substantiated finding of  
15 abuse or neglect of a service recipient. Any owner or operator  
16 of a community agency who is identified by the health care  
17 worker registry as having been the subject of a substantiated  
18 finding of abuse or neglect of a service recipient is  
19 prohibited from any involvement in any capacity with the  
20 provision of Department funded mental health or developmental  
21 disability services. The Department shall establish and  
22 maintain the rules that are necessary or appropriate to  
23 effectuate the intent of this Section. The provisions of this  
24 Section shall not apply to any facility, service agency, or  
25 support agency licensed or certified by a State agency other

1 than the Department, unless operated by the Department of  
2 Healthcare and Family Services or the Department of Human  
3 Services.

4 (Source: P.A. 94-934, eff. 6-26-06; 95-545, eff. 8-28-07.)

5 (20 ILCS 1705/12.1) (from Ch. 91 1/2, par. 100-12.1)

6 Sec. 12.1. To establish a distinct operational unit for the  
7 purpose of seeking and implementing in the programs of the  
8 Department, new knowledge regarding mental illness and its  
9 treatment. This unit shall also concern itself with the  
10 relationships among research activity, program development,  
11 personnel training and the provision of the most effective  
12 services possible. The Director or the Secretary shall name  
13 this unit and determine where it shall be located.

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

15 (20 ILCS 1705/14) (from Ch. 91 1/2, par. 100-14)

16 Sec. 14. Chester Mental Health Center. To maintain and  
17 operate a facility for the care, custody, and treatment of  
18 persons with mental illness or habilitation of persons with  
19 developmental disabilities hereinafter designated, to be known  
20 as the Chester Mental Health Center.

21 Within the Chester Mental Health Center there shall be  
22 confined the following classes of persons, whose history, in  
23 the opinion of the Department, discloses dangerous or violent  
24 tendencies and who, upon examination under the direction of the

1 Department, have been found a fit subject for confinement in  
2 that facility:

3 (a) Any male person who is charged with the commission  
4 of a crime but has been acquitted by reason of insanity as  
5 provided in Section 5-2-4 of the Unified Code of  
6 Corrections.

7 (b) Any male person who is charged with the commission  
8 of a crime but has been found unfit under Article 104 of  
9 the Code of Criminal Procedure of 1963.

10 (c) Any male person with mental illness or  
11 developmental disabilities or person in need of mental  
12 treatment now confined under the supervision of the  
13 Department or hereafter admitted to any facility thereof or  
14 committed thereto by any court of competent jurisdiction.

15 If and when it shall appear to the facility director of the  
16 Chester Mental Health Center that it is necessary to confine  
17 persons in order to maintain security or provide for the  
18 protection and safety of recipients and staff, the Chester  
19 Mental Health Center may confine all persons on a unit to their  
20 rooms. This period of confinement shall not exceed 10 hours in  
21 a 24 hour period, including the recipient's scheduled hours of  
22 sleep, unless approved by the Director or the Secretary of the  
23 Department. During the period of confinement, the persons  
24 confined shall be observed at least every 15 minutes. A record  
25 shall be kept of the observations. This confinement shall not  
26 be considered seclusion as defined in the Mental Health and



1 Developmental Disabilities Code.

2 The facility director of the Chester Mental Health Center  
3 may authorize the temporary use of handcuffs on a recipient for  
4 a period not to exceed 10 minutes when necessary in the course  
5 of transport of the recipient within the facility to maintain  
6 custody or security. Use of handcuffs is subject to the  
7 provisions of Section 2-108 of the Mental Health and  
8 Developmental Disabilities Code. The facility shall keep a  
9 monthly record listing each instance in which handcuffs are  
10 used, circumstances indicating the need for use of handcuffs,  
11 and time of application of handcuffs and time of release  
12 therefrom. The facility director shall allow the Illinois  
13 Guardianship and Advocacy Commission, the agency designated by  
14 the Governor under Section 1 of the Protection and Advocacy for  
15 Developmentally Disabled Persons Act, and the Department to  
16 examine and copy such record upon request.

17 If and when it shall appear to the satisfaction of the  
18 Department that any person confined in the Chester Mental  
19 Health Center is not or has ceased to be such a source of  
20 danger to the public as to require his subjection to the  
21 regimen of the center, the Department is hereby authorized to  
22 transfer such person to any State facility for treatment of  
23 persons with mental illness or habilitation of persons with  
24 developmental disabilities, as the nature of the individual  
25 case may require.

26 Subject to the provisions of this Section, the Department,

1 except where otherwise provided by law, shall, with respect to  
2 the management, conduct and control of the Chester Mental  
3 Health Center and the discipline, custody and treatment of the  
4 persons confined therein, have and exercise the same rights and  
5 powers as are vested by law in the Department with respect to  
6 any and all of the State facilities for treatment of persons  
7 with mental illness or habilitation of persons with  
8 developmental disabilities, and the recipients thereof, and  
9 shall be subject to the same duties as are imposed by law upon  
10 the Department with respect to such facilities and the  
11 recipients thereof.

12 (Source: P.A. 91-559, eff. 1-1-00.)

13 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

14 (Text of Section before amendment by P.A. 96-339)

15 Sec. 15. Before any person is released from a facility  
16 operated by the State pursuant to an absolute discharge or a  
17 conditional discharge from hospitalization under this Act, the  
18 facility director of the facility in which such person is  
19 hospitalized shall determine that such person is not currently  
20 in need of hospitalization and:

21 (a) is able to live independently in the community; or

22 (b) requires further oversight and supervisory care  
23 for which arrangements have been made with responsible  
24 relatives or supervised residential program approved by  
25 the Department; or

1           (c) requires further personal care or general  
2 oversight as defined by the Nursing Home Care Act, for  
3 which placement arrangements have been made with a suitable  
4 family home or other licensed facility approved by the  
5 Department under this Section; or

6           (d) requires community mental health services for  
7 which arrangements have been made with a community mental  
8 health provider in accordance with criteria, standards,  
9 and procedures promulgated by rule.

10          Such determination shall be made in writing and shall  
11 become a part of the facility record of such absolutely or  
12 conditionally discharged person. When the determination  
13 indicates that the condition of the person to be granted an  
14 absolute discharge or a conditional discharge is described  
15 under subparagraph (c) or (d) of this Section, the name and  
16 address of the continuing care facility or home to which such  
17 person is to be released shall be entered in the facility  
18 record. Where a discharge from a mental health facility is made  
19 under subparagraph (c), the Department shall assign the person  
20 so discharged to an existing community based not-for-profit  
21 agency for participation in day activities suitable to the  
22 person's needs, such as but not limited to social and  
23 vocational rehabilitation, and other recreational, educational  
24 and financial activities unless the community based  
25 not-for-profit agency is unqualified to accept such  
26 assignment. Where the clientele of any not-for-profit agency

1 increases as a result of assignments under this amendatory Act  
2 of 1977 by more than 3% over the prior year, the Department  
3 shall fully reimburse such agency for the costs of providing  
4 services to such persons in excess of such 3% increase. The  
5 Department shall keep written records detailing how many  
6 persons have been assigned to a community based not-for-profit  
7 agency and how many persons were not so assigned because the  
8 community based agency was unable to accept the assignments, in  
9 accordance with criteria, standards, and procedures  
10 promulgated by rule. Whenever a community based agency is found  
11 to be unable to accept the assignments, the name of the agency  
12 and the reason for the finding shall be included in the report.

13 Insofar as desirable in the interests of the former  
14 recipient, the facility, program or home in which the  
15 discharged person is to be placed shall be located in or near  
16 the community in which the person resided prior to  
17 hospitalization or in the community in which the person's  
18 family or nearest next of kin presently reside. Placement of  
19 the discharged person in facilities, programs or homes located  
20 outside of this State shall not be made by the Department  
21 unless there are no appropriate facilities, programs or homes  
22 available within this State. Out-of-state placements shall be  
23 subject to return of recipients so placed upon the availability  
24 of facilities, programs or homes within this State to  
25 accommodate these recipients, except where placement in a  
26 contiguous state results in locating a recipient in a facility

1 or program closer to the recipient's home or family. If an  
2 appropriate facility or program becomes available equal to or  
3 closer to the recipient's home or family, the recipient shall  
4 be returned to and placed at the appropriate facility or  
5 program within this State.

6 To place any person who is under a program of the  
7 Department at board in a suitable family home or in such other  
8 facility or program as the Department may consider desirable.  
9 The Department may place in licensed nursing homes, sheltered  
10 care homes, or homes for the aged those persons whose  
11 behavioral manifestations and medical and nursing care needs  
12 are such as to be substantially indistinguishable from persons  
13 already living in such facilities. Prior to any placement by  
14 the Department under this Section, a determination shall be  
15 made by the personnel of the Department, as to the capability  
16 and suitability of such facility to adequately meet the needs  
17 of the person to be discharged. When specialized programs are  
18 necessary in order to enable persons in need of supervised  
19 living to develop and improve in the community, the Department  
20 shall place such persons only in specialized residential care  
21 facilities which shall meet Department standards including  
22 restricted admission policy, special staffing and programming  
23 for social and vocational rehabilitation, in addition to the  
24 requirements of the appropriate State licensing agency. The  
25 Department shall not place any new person in a facility the  
26 license of which has been revoked or not renewed on grounds of

1 inadequate programming, staffing, or medical or adjunctive  
2 services, regardless of the pendency of an action for  
3 administrative review regarding such revocation or failure to  
4 renew. Before the Department may transfer any person to a  
5 licensed nursing home, sheltered care home or home for the aged  
6 or place any person in a specialized residential care facility  
7 the Department shall notify the person to be transferred, or a  
8 responsible relative of such person, in writing, at least 30  
9 days before the proposed transfer, with respect to all the  
10 relevant facts concerning such transfer, except in cases of  
11 emergency when such notice is not required. If either the  
12 person to be transferred or a responsible relative of such  
13 person objects to such transfer, in writing to the Department,  
14 at any time after receipt of notice and before the transfer,  
15 the facility director of the facility in which the person was a  
16 recipient shall immediately schedule a hearing at the facility  
17 with the presence of the facility director, the person who  
18 objected to such proposed transfer, and a psychiatrist who is  
19 familiar with the record of the person to be transferred. Such  
20 person to be transferred or a responsible relative may be  
21 represented by such counsel or interested party as he may  
22 appoint, who may present such testimony with respect to the  
23 proposed transfer. Testimony presented at such hearing shall  
24 become a part of the facility record of the  
25 person-to-be-transferred. The record of testimony shall be  
26 held in the person-to-be-transferred's record in the central

1 files of the facility. If such hearing is held a transfer may  
2 only be implemented, if at all, in accordance with the results  
3 of such hearing. Within 15 days after such hearing the facility  
4 director shall deliver his findings based on the record of the  
5 case and the testimony presented at the hearing, by registered  
6 or certified mail, to the parties to such hearing. The findings  
7 of the facility director shall be deemed a final administrative  
8 decision of the Department. For purposes of this Section, "case  
9 of emergency" means those instances in which the health of the  
10 person to be transferred is imperiled and the most appropriate  
11 mental health care or medical care is available at a licensed  
12 nursing home, sheltered care home or home for the aged or a  
13 specialized residential care facility.

14 Prior to placement of any person in a facility under this  
15 Section the Department shall ensure that an appropriate  
16 training plan for staff is provided by the facility. Said  
17 training may include instruction and demonstration by  
18 Department personnel qualified in the area of mental illness or  
19 mental retardation, as applicable to the person to be placed.  
20 Training may be given both at the facility from which the  
21 recipient is transferred and at the facility receiving the  
22 recipient, and may be available on a continuing basis  
23 subsequent to placement. In a facility providing services to  
24 former Department recipients, training shall be available as  
25 necessary for facility staff. Such training will be on a  
26 continuing basis as the needs of the facility and recipients

1 change and further training is required.

2 The Department shall not place any person in a facility  
3 which does not have appropriately trained staff in sufficient  
4 numbers to accommodate the recipient population already at the  
5 facility. As a condition of further or future placements of  
6 persons, the Department shall require the employment of  
7 additional trained staff members at the facility where said  
8 persons are to be placed. The Secretary, or his or her  
9 designate, shall establish written guidelines for placement of  
10 persons in facilities under this Act. The Department shall keep  
11 written records detailing which facilities have been  
12 determined to have staff who have been appropriately trained by  
13 the Department and all training which it has provided or  
14 required under this Section.

15 Bills for the support for a person boarded out shall be  
16 payable monthly out of the proper maintenance funds and shall  
17 be audited as any other accounts of the Department. If a person  
18 is placed in a facility or program outside the Department, the  
19 Department may pay the actual costs of residence, treatment or  
20 maintenance in such facility and may collect such actual costs  
21 or a portion thereof from the recipient or the estate of a  
22 person placed in accordance with this Section.

23 Other than those placed in a family home the Department  
24 shall cause all persons who are placed in a facility, as  
25 defined by the Nursing Home Care Act, or in designated  
26 community living situations or programs, to be visited at least



1 once during the first month following placement, and once every  
2 month thereafter for the first year following placement when  
3 indicated, but at least quarterly. After the first year, the  
4 Department shall determine at what point the appropriate  
5 licensing entity for the facility or designated community  
6 living situation or program will assume the responsibility of  
7 ensuring that appropriate services are being provided to the  
8 resident. Once that responsibility is assumed, the Department  
9 may discontinue such visits. If a long term care facility has  
10 periodic care plan conferences, the visitor may participate in  
11 those conferences, if such participation is approved by the  
12 resident or the resident's guardian. Visits shall be made by  
13 qualified and trained Department personnel, or their designee,  
14 in the area of mental health or developmental disabilities  
15 applicable to the person visited, and shall be made on a more  
16 frequent basis when indicated. The Department may not use as  
17 designee any personnel connected with or responsible to the  
18 representatives of any facility in which persons who have been  
19 transferred under this Section are placed. In the course of  
20 such visit there shall be consideration of the following areas,  
21 but not limited thereto: effects of transfer on physical and  
22 mental health of the person, sufficiency of nursing care and  
23 medical coverage required by the person, sufficiency of staff  
24 personnel and ability to provide basic care for the person,  
25 social, recreational and programmatic activities available for  
26 the person, and other appropriate aspects of the person's

1 environment.

2 A report containing the above observations shall be made to  
3 the Department, to the licensing agency, and to any other  
4 appropriate agency subsequent to each visitation. The report  
5 shall contain recommendations to improve the care and treatment  
6 of the resident, as necessary, which shall be reviewed by the  
7 facility's interdisciplinary team and the resident or the  
8 resident's legal guardian.

9 Upon the complaint of any person placed in accordance with  
10 this Section or any responsible citizen or upon discovery that  
11 such person has been abused, neglected, or improperly cared  
12 for, or that the placement does not provide the type of care  
13 required by the recipient's current condition, the Department  
14 immediately shall investigate, and determine if the  
15 well-being, health, care, or safety of any person is affected  
16 by any of the above occurrences, and if any one of the above  
17 occurrences is verified, the Department shall remove such  
18 person at once to a facility of the Department or to another  
19 facility outside the Department, provided such person's needs  
20 can be met at said facility. The Department may also provide  
21 any person placed in accordance with this Section who is  
22 without available funds, and who is permitted to engage in  
23 employment outside the facility, such sums for the  
24 transportation, and other expenses as may be needed by him  
25 until he receives his wages for such employment.

26 The Department shall promulgate rules and regulations

1 governing the purchase of care for persons who are wards of or  
2 who are receiving services from the Department. Such rules and  
3 regulations shall apply to all monies expended by any agency of  
4 the State of Illinois for services rendered by any person,  
5 corporate entity, agency, governmental agency or political  
6 subdivision whether public or private outside of the Department  
7 whether payment is made through a contractual, per-diem or  
8 other arrangement. No funds shall be paid to any person,  
9 corporation, agency, governmental entity or political  
10 subdivision without compliance with such rules and  
11 regulations.

12 The rules and regulations governing purchase of care shall  
13 describe categories and types of service deemed appropriate for  
14 purchase by the Department.

15 Any provider of services under this Act may elect to  
16 receive payment for those services, and the Department is  
17 authorized to arrange for that payment, by means of direct  
18 deposit transmittals to the service provider's account  
19 maintained at a bank, savings and loan association, or other  
20 financial institution. The financial institution shall be  
21 approved by the Department, and the deposits shall be in  
22 accordance with rules and regulations adopted by the  
23 Department.

24 (Source: P.A. 93-636, eff. 6-1-04.)

25 (Text of Section after amendment by P.A. 96-339)

1           Sec. 15. Before any person is released from a facility  
2 operated by the State pursuant to an absolute discharge or a  
3 conditional discharge from hospitalization under this Act, the  
4 facility director of the facility in which such person is  
5 hospitalized shall determine that such person is not currently  
6 in need of hospitalization and:

7           (a) is able to live independently in the community; or

8           (b) requires further oversight and supervisory care  
9 for which arrangements have been made with responsible  
10 relatives or supervised residential program approved by  
11 the Department; or

12           (c) requires further personal care or general  
13 oversight as defined by the MR/DD Community Care Act, for  
14 which placement arrangements have been made with a suitable  
15 family home or other licensed facility approved by the  
16 Department under this Section; or

17           (d) requires community mental health services for  
18 which arrangements have been made with a community mental  
19 health provider in accordance with criteria, standards,  
20 and procedures promulgated by rule.

21           Such determination shall be made in writing and shall  
22 become a part of the facility record of such absolutely or  
23 conditionally discharged person. When the determination  
24 indicates that the condition of the person to be granted an  
25 absolute discharge or a conditional discharge is described  
26 under subparagraph (c) or (d) of this Section, the name and

1 address of the continuing care facility or home to which such  
2 person is to be released shall be entered in the facility  
3 record. Where a discharge from a mental health facility is made  
4 under subparagraph (c), the Department shall assign the person  
5 so discharged to an existing community based not-for-profit  
6 agency for participation in day activities suitable to the  
7 person's needs, such as but not limited to social and  
8 vocational rehabilitation, and other recreational, educational  
9 and financial activities unless the community based  
10 not-for-profit agency is unqualified to accept such  
11 assignment. Where the clientele of any not-for-profit agency  
12 increases as a result of assignments under this amendatory Act  
13 of 1977 by more than 3% over the prior year, the Department  
14 shall fully reimburse such agency for the costs of providing  
15 services to such persons in excess of such 3% increase. The  
16 Department shall keep written records detailing how many  
17 persons have been assigned to a community based not-for-profit  
18 agency and how many persons were not so assigned because the  
19 community based agency was unable to accept the assignments, in  
20 accordance with criteria, standards, and procedures  
21 promulgated by rule. Whenever a community based agency is found  
22 to be unable to accept the assignments, the name of the agency  
23 and the reason for the finding shall be included in the report.

24 Insofar as desirable in the interests of the former  
25 recipient, the facility, program or home in which the  
26 discharged person is to be placed shall be located in or near

1 the community in which the person resided prior to  
2 hospitalization or in the community in which the person's  
3 family or nearest next of kin presently reside. Placement of  
4 the discharged person in facilities, programs or homes located  
5 outside of this State shall not be made by the Department  
6 unless there are no appropriate facilities, programs or homes  
7 available within this State. Out-of-state placements shall be  
8 subject to return of recipients so placed upon the availability  
9 of facilities, programs or homes within this State to  
10 accommodate these recipients, except where placement in a  
11 contiguous state results in locating a recipient in a facility  
12 or program closer to the recipient's home or family. If an  
13 appropriate facility or program becomes available equal to or  
14 closer to the recipient's home or family, the recipient shall  
15 be returned to and placed at the appropriate facility or  
16 program within this State.

17 To place any person who is under a program of the  
18 Department at board in a suitable family home or in such other  
19 facility or program as the Department may consider desirable.  
20 The Department may place in licensed nursing homes, sheltered  
21 care homes, or homes for the aged those persons whose  
22 behavioral manifestations and medical and nursing care needs  
23 are such as to be substantially indistinguishable from persons  
24 already living in such facilities. Prior to any placement by  
25 the Department under this Section, a determination shall be  
26 made by the personnel of the Department, as to the capability

1 and suitability of such facility to adequately meet the needs  
2 of the person to be discharged. When specialized programs are  
3 necessary in order to enable persons in need of supervised  
4 living to develop and improve in the community, the Department  
5 shall place such persons only in specialized residential care  
6 facilities which shall meet Department standards including  
7 restricted admission policy, special staffing and programming  
8 for social and vocational rehabilitation, in addition to the  
9 requirements of the appropriate State licensing agency. The  
10 Department shall not place any new person in a facility the  
11 license of which has been revoked or not renewed on grounds of  
12 inadequate programming, staffing, or medical or adjunctive  
13 services, regardless of the pendency of an action for  
14 administrative review regarding such revocation or failure to  
15 renew. Before the Department may transfer any person to a  
16 licensed nursing home, sheltered care home or home for the aged  
17 or place any person in a specialized residential care facility  
18 the Department shall notify the person to be transferred, or a  
19 responsible relative of such person, in writing, at least 30  
20 days before the proposed transfer, with respect to all the  
21 relevant facts concerning such transfer, except in cases of  
22 emergency when such notice is not required. If either the  
23 person to be transferred or a responsible relative of such  
24 person objects to such transfer, in writing to the Department,  
25 at any time after receipt of notice and before the transfer,  
26 the facility director of the facility in which the person was a

1 recipient shall immediately schedule a hearing at the facility  
2 with the presence of the facility director, the person who  
3 objected to such proposed transfer, and a psychiatrist who is  
4 familiar with the record of the person to be transferred. Such  
5 person to be transferred or a responsible relative may be  
6 represented by such counsel or interested party as he may  
7 appoint, who may present such testimony with respect to the  
8 proposed transfer. Testimony presented at such hearing shall  
9 become a part of the facility record of the  
10 person-to-be-transferred. The record of testimony shall be  
11 held in the person-to-be-transferred's record in the central  
12 files of the facility. If such hearing is held a transfer may  
13 only be implemented, if at all, in accordance with the results  
14 of such hearing. Within 15 days after such hearing the facility  
15 director shall deliver his findings based on the record of the  
16 case and the testimony presented at the hearing, by registered  
17 or certified mail, to the parties to such hearing. The findings  
18 of the facility director shall be deemed a final administrative  
19 decision of the Department. For purposes of this Section, "case  
20 of emergency" means those instances in which the health of the  
21 person to be transferred is imperiled and the most appropriate  
22 mental health care or medical care is available at a licensed  
23 nursing home, sheltered care home or home for the aged or a  
24 specialized residential care facility.

25 Prior to placement of any person in a facility under this  
26 Section the Department shall ensure that an appropriate



1 training plan for staff is provided by the facility. Said  
2 training may include instruction and demonstration by  
3 Department personnel qualified in the area of mental illness or  
4 mental retardation, as applicable to the person to be placed.  
5 Training may be given both at the facility from which the  
6 recipient is transferred and at the facility receiving the  
7 recipient, and may be available on a continuing basis  
8 subsequent to placement. In a facility providing services to  
9 former Department recipients, training shall be available as  
10 necessary for facility staff. Such training will be on a  
11 continuing basis as the needs of the facility and recipients  
12 change and further training is required.

13 The Department shall not place any person in a facility  
14 which does not have appropriately trained staff in sufficient  
15 numbers to accommodate the recipient population already at the  
16 facility. As a condition of further or future placements of  
17 persons, the Department shall require the employment of  
18 additional trained staff members at the facility where said  
19 persons are to be placed. The Director or the Secretary, or his  
20 or her designate, shall establish written guidelines for  
21 placement of persons in facilities under this Act. The  
22 Department shall keep written records detailing which  
23 facilities have been determined to have staff who have been  
24 appropriately trained by the Department and all training which  
25 it has provided or required under this Section.

26 Bills for the support for a person boarded out shall be

1 payable monthly out of the proper maintenance funds and shall  
2 be audited as any other accounts of the Department. If a person  
3 is placed in a facility or program outside the Department, the  
4 Department may pay the actual costs of residence, treatment or  
5 maintenance in such facility and may collect such actual costs  
6 or a portion thereof from the recipient or the estate of a  
7 person placed in accordance with this Section.

8 Other than those placed in a family home the Department  
9 shall cause all persons who are placed in a facility, as  
10 defined by the MR/DD Community Care Act, or in designated  
11 community living situations or programs, to be visited at least  
12 once during the first month following placement, and once every  
13 month thereafter for the first year following placement when  
14 indicated, but at least quarterly. After the first year, the  
15 Department shall determine at what point the appropriate  
16 licensing entity for the facility or designated community  
17 living situation or program will assume the responsibility of  
18 ensuring that appropriate services are being provided to the  
19 resident. Once that responsibility is assumed, the Department  
20 may discontinue such visits. If a long term care facility has  
21 periodic care plan conferences, the visitor may participate in  
22 those conferences, if such participation is approved by the  
23 resident or the resident's guardian. Visits shall be made by  
24 qualified and trained Department personnel, or their designee,  
25 in the area of mental health or developmental disabilities  
26 applicable to the person visited, and shall be made on a more

1 frequent basis when indicated. The Department may not use as  
2 designee any personnel connected with or responsible to the  
3 representatives of any facility in which persons who have been  
4 transferred under this Section are placed. In the course of  
5 such visit there shall be consideration of the following areas,  
6 but not limited thereto: effects of transfer on physical and  
7 mental health of the person, sufficiency of nursing care and  
8 medical coverage required by the person, sufficiency of staff  
9 personnel and ability to provide basic care for the person,  
10 social, recreational and programmatic activities available for  
11 the person, and other appropriate aspects of the person's  
12 environment.

13 A report containing the above observations shall be made to  
14 the Department, to the licensing agency, and to any other  
15 appropriate agency subsequent to each visitation. The report  
16 shall contain recommendations to improve the care and treatment  
17 of the resident, as necessary, which shall be reviewed by the  
18 facility's interdisciplinary team and the resident or the  
19 resident's legal guardian.

20 Upon the complaint of any person placed in accordance with  
21 this Section or any responsible citizen or upon discovery that  
22 such person has been abused, neglected, or improperly cared  
23 for, or that the placement does not provide the type of care  
24 required by the recipient's current condition, the Department  
25 immediately shall investigate, and determine if the  
26 well-being, health, care, or safety of any person is affected

1 by any of the above occurrences, and if any one of the above  
2 occurrences is verified, the Department shall remove such  
3 person at once to a facility of the Department or to another  
4 facility outside the Department, provided such person's needs  
5 can be met at said facility. The Department may also provide  
6 any person placed in accordance with this Section who is  
7 without available funds, and who is permitted to engage in  
8 employment outside the facility, such sums for the  
9 transportation, and other expenses as may be needed by him  
10 until he receives his wages for such employment.

11 The Department shall promulgate rules and regulations  
12 governing the purchase of care for persons who are wards of or  
13 who are receiving services from the Department. Such rules and  
14 regulations shall apply to all monies expended by any agency of  
15 the State of Illinois for services rendered by any person,  
16 corporate entity, agency, governmental agency or political  
17 subdivision whether public or private outside of the Department  
18 whether payment is made through a contractual, per-diem or  
19 other arrangement. No funds shall be paid to any person,  
20 corporation, agency, governmental entity or political  
21 subdivision without compliance with such rules and  
22 regulations.

23 The rules and regulations governing purchase of care shall  
24 describe categories and types of service deemed appropriate for  
25 purchase by the Department.

26 Any provider of services under this Act may elect to

1 receive payment for those services, and the Department is  
2 authorized to arrange for that payment, by means of direct  
3 deposit transmittals to the service provider's account  
4 maintained at a bank, savings and loan association, or other  
5 financial institution. The financial institution shall be  
6 approved by the Department, and the deposits shall be in  
7 accordance with rules and regulations adopted by the  
8 Department.

9 (Source: P.A. 96-339, eff. 7-1-10.)

10 (20 ILCS 1705/16.1) (from Ch. 91 1/2, par. 100-16.1)

11 Sec. 16.1. At the discretion of the Director or the  
12 Secretary, to provide recipients under Department jurisdiction  
13 with monetary remuneration or other incentives on a graduated  
14 scale for work performed as part of their training for useful  
15 employment. Such recipient-workers are exempt from the  
16 Personnel Code.

17 Such remuneration or incentives must be paid solely from  
18 funds received by gift or grant from private sources or the  
19 federal government or the Mental Health Fund or from funds  
20 received from the sale of articles from habilitation workshops.  
21 No general revenue funds appropriated to the Department may be  
22 used to pay such remuneration or incentives.

23 The category of Institutional Helpers may still be paid out  
24 of General Revenue funds.

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

1 (20 ILCS 1705/17) (from Ch. 91 1/2, par. 100-17)

2 Sec. 17. To make such investigations as may be necessary to  
3 the performance of its duties. In the course of any such  
4 investigation, any qualified person authorized by the Director  
5 or the Secretary may administer oaths and secure by its  
6 subpoena both the attendance and testimony of witnesses and the  
7 production of books and papers relevant to such investigation.  
8 Any person who is served with a subpoena by the Department to  
9 appear and testify or to produce books and papers, in the  
10 course of an investigation authorized by law, and who refuses  
11 or neglects to appear, or to testify, or to produce books and  
12 papers relevant to such investigation, as commanded in such  
13 subpoena, commits a Class B misdemeanor. The fees of witnesses  
14 for attendance and travel shall be the same as the fees of  
15 witnesses before the circuit courts of this State. Any circuit  
16 court of this State, upon application of the Department, may  
17 compel the attendance of witnesses, the production of books and  
18 papers, and giving of testimony before the Department or before  
19 any authorized officer or employee thereof, by an attachment  
20 for contempt or otherwise, in the same manner as production of  
21 evidence may be compelled before such court. Every person who,  
22 having taken an oath or made affirmation before the Department  
23 or any authorized officer or employee thereof, shall wilfully  
24 swear or affirm falsely, shall be guilty of perjury and upon  
25 conviction shall be punished accordingly.

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

2 (20 ILCS 1705/18.3)

3 Sec. 18.3. Integrated system for services for the mentally  
4 ill. The Department shall develop an effective, integrated  
5 system for delivering State-funded and State-operated services  
6 to persons with mental illness. No later than June 30, 1994,  
7 the Department shall enter into one or more cooperative  
8 arrangements with the Department of Public Aid, the Department  
9 of Rehabilitation Services, the Department of Public Health,  
10 and any other appropriate entities for administration or  
11 supervision by the Department of Mental Health and  
12 Developmental Disabilities of all State programs for services  
13 to persons in community care facilities for persons with mental  
14 illness, including but not limited to intermediate care  
15 facilities, that are supported by State funds or by funding  
16 under Title XIX of the federal Social Security Act. The  
17 Department shall form a medical advisory panel, appointed by  
18 the Director or the Secretary, comprised of 5 physicians  
19 licensed to practice medicine in all its branches with a  
20 special emphasis in treating mental illness, to provide advice  
21 on care rendered to patients in any integrated delivery system.  
22 The Department of Human Services shall succeed to the  
23 responsibilities of the Department of Mental Health and  
24 Developmental Disabilities and the Department of  
25 Rehabilitation Services under any such cooperative arrangement

1 in existence on July 1, 1997. The Department of Healthcare and  
2 Family Services shall succeed to the responsibilities of the  
3 Department of Human Services under any such cooperative  
4 arrangement in existence on January 1, 2011.

5 (Source: P.A. 88-388; 89-507, eff. 7-1-97.)

6 (20 ILCS 1705/18.4)

7 (Text of Section before amendment by P.A. 96-868)

8 Sec. 18.4. Community Mental Health Medicaid Trust Fund;  
9 reimbursement.

10 (a) The Community Mental Health Medicaid Trust Fund is  
11 hereby created in the State Treasury.

12 (b) Amounts paid to the State during each State fiscal year  
13 by the federal government under Title XIX or Title XXI of the  
14 Social Security Act for services delivered by community mental  
15 health providers, and any interest earned thereon, shall be  
16 deposited as follows:

17 (1) The first \$75,000,000 shall be deposited directly  
18 into the Community Mental Health Medicaid Trust Fund to be  
19 used for the purchase of community mental health services;

20 (2) The next \$4,500,000 shall be deposited directly  
21 into the Community Mental Health Medicaid Trust Fund to be  
22 used by the Department of Healthcare and Family ~~Human~~  
23 Services' Division of Mental Health for the oversight and  
24 administration of community mental health services and up  
25 to \$1,000,000 of this amount may be used for support of



1 community mental health service initiatives;

2 (3) The next \$3,500,000 shall be deposited directly  
3 into the General Revenue Fund;

4 (4) Any additional amounts shall be deposited into the  
5 Community Mental Health Medicaid Trust Fund to be used for  
6 the purchase of community mental health services.

7 (b-5) Whenever a State mental health facility operated by  
8 the Department is closed and the real estate on which the  
9 facility is located is sold by the State, the net proceeds of  
10 the sale of the real estate shall be deposited into the  
11 Community Mental Health Medicaid Trust Fund.

12 (c) The Department shall reimburse community mental health  
13 providers for services provided to eligible individuals.  
14 Moneys in the Community Mental Health Medicaid Trust Fund may  
15 be used for that purpose.

16 (d) As used in this Section:

17 "Community mental health provider" means a community  
18 agency that is funded by the Department to provide a service.

19 "Service" means a mental health service provided pursuant  
20 to the provisions of administrative rules adopted by the  
21 Department and funded by or claimed through the Department of  
22 Healthcare and Family ~~Human~~ Services' Division of Mental  
23 Health.

24 (Source: P.A. 95-707, eff. 1-11-08; 96-660, eff. 8-25-09;  
25 96-820, eff. 11-18-09.)

1 (Text of Section after amendment by P.A. 96-868)

2 Sec. 18.4. Community Mental Health Medicaid Trust Fund;  
3 reimbursement.

4 (a) The Community Mental Health Medicaid Trust Fund is  
5 hereby created in the State Treasury.

6 (b) Amounts paid to the State during each State fiscal year  
7 by the federal government under Title XIX or Title XXI of the  
8 Social Security Act for services delivered by community mental  
9 health providers, and any interest earned thereon, shall be  
10 deposited 100% into the Community Mental Health Medicaid Trust  
11 Fund. Not more than \$4,500,000 of the Community Mental Health  
12 Medicaid Trust Fund may be used by the Department of Healthcare  
13 and Family ~~Human~~ Services' Division of Mental Health for  
14 oversight and administration of community mental health  
15 services, and of that amount no more than \$1,000,000 may be  
16 used for the support of community mental health service  
17 initiatives. The remainder shall be used for the purchase of  
18 community mental health services.

19 (b-5) Whenever a State mental health facility operated by  
20 the Department is closed and the real estate on which the  
21 facility is located is sold by the State, the net proceeds of  
22 the sale of the real estate shall be deposited into the  
23 Community Mental Health Medicaid Trust Fund.

24 (c) The Department shall reimburse community mental health  
25 providers for services provided to eligible individuals.  
26 Moneys in the Trust Fund may be used for that purpose.

1 (c-5) The Community Mental Health Medicaid Trust Fund is  
2 not subject to administrative charge-backs.

3 (c-10) The Department of Human Services shall annually  
4 report to the Governor and the General Assembly, by September  
5 1, on both the total revenue deposited into the Trust Fund and  
6 the total expenditures made from the Trust Fund for the  
7 previous fiscal year. This report shall include detailed  
8 descriptions of both revenues and expenditures regarding the  
9 Trust Fund from the previous fiscal year. This report shall be  
10 presented by the Secretary of Human Services to the appropriate  
11 Appropriations Committee in the House of Representatives, as  
12 determined by the Speaker of the House, and in the Senate, as  
13 determined by the President of the Senate. This report shall be  
14 made available to the public and shall be published on the  
15 Department of Human Services' website in an appropriate  
16 location, a minimum of one week prior to presentation of the  
17 report to the General Assembly.

18 (d) As used in this Section:

19 "Trust Fund" means the Community Mental Health Medicaid  
20 Trust Fund.

21 "Community mental health provider" means a community  
22 agency that is funded by the Department to provide a service.

23 "Service" means a mental health service provided pursuant  
24 to the provisions of administrative rules adopted by the  
25 Department and funded by or claimed through the Department of  
26 Healthcare and Family ~~Human~~ Services' Division of Mental

1 Health.

2 (Source: P.A. 95-707, eff. 1-11-08; 96-660, eff. 8-25-09;  
3 96-820, eff. 11-18-09; 96-868, eff. 7-1-12; revised 1-25-10.)

4 (20 ILCS 1705/31a) (from Ch. 91 1/2, par. 100-31a)

5 Sec. 31a. Computer records. If computer printouts of the  
6 Department's records are offered as evidence, the Director or  
7 the Secretary shall certify that those computer records are  
8 true and exact representations of records properly entered into  
9 standard electronic computing equipment, in the regular course  
10 of the Department's business, at or reasonably near the time of  
11 occurrence of the facts recorded, from trustworthy and reliable  
12 information. Such a certified computer printout shall without  
13 further proof, be admitted into evidence before the Department  
14 or in any legal proceeding and shall be prima facie proof of  
15 the correctness of the entries therein.

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

17 (20 ILCS 1705/33.1) (from Ch. 91 1/2, par. 100-33.1)

18 Sec. 33.1. To make assignments for educational or training  
19 purposes to qualified persons, and to make payments for such  
20 purposes in the manner authorized by this Section.

21 (a) To qualify for an assignment for educational or  
22 training purposes under this Section, a person must:

23 1. be enrolled in the final 2 years of accredited  
24 specialized training which is required to meet the

1 qualifications for the position, as established by the  
2 Department of Central Management Services, or be a current  
3 employee of the Department who has continuously served in a  
4 full-time capacity for at least one year prior to  
5 assignment;

6 2. have completed 4 years of high school education;

7 3. possess such qualities and attributes as the  
8 Director or the Secretary of the Department deems necessary  
9 for achieving the purposes for which the assignment was  
10 made;

11 4. sign an agreement to serve as an employee of the  
12 Department for one calendar year for each academic year of  
13 subsidized training for educational or training purposes  
14 under this Section;

15 5. sign a promissory note agreeing to repay the  
16 Department for the funds expended if the employee fails to  
17 return to employment with, or remain an employee of the  
18 Department for the period of time required by paragraph 4;  
19 and

20 6. agree in writing to such other terms and conditions  
21 as the Department may reasonably require when granting the  
22 assignment.

23 (b) When granting an assignment for educational or training  
24 purposes to an eligible person under this Section, the  
25 Department may pay:

26 1. such amounts as are established by Department

1 regulations; and

2 2. for school expenses, not to exceed 80% of the cost  
3 to the person of all tuition, laboratory fees,  
4 matriculation fees and other general student charges made  
5 by the institution of higher learning, but not including  
6 charges for food or residence halls, which charges shall be  
7 payable from the funds for support and living expenses  
8 within the limitations provided in paragraph 1.

9 (c) Except for the purpose of receiving salary, vacation  
10 pay or any other similar remuneration payable to State  
11 employees, the status of an employee of the Department as an  
12 employee of the State is not affected by the employee serving  
13 on an educational or training assignment under this Section as  
14 specified under the rules and regulations of the Department of  
15 Central Management Services.

16 (d) Training programs such as tuition only refunds and  
17 special workshops for employees with one year or more of  
18 service and/or training which is a part of collaborative  
19 arrangements with institutions of higher learning or other  
20 public agencies are not affected by this Section.

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

22 (20 ILCS 1705/33.2) (from Ch. 91 1/2, par. 100-33.2)

23 Sec. 33.2. To require of each physician, of whatever  
24 specialty, employed by the Department or practicing under its  
25 supervision, to be trained in the techniques of

1 psychopharmacology. The Department shall:

2 (a) insure that each physician employed by it after the  
3 effective date of this amendatory Act of 1975 has completed  
4 course work during his medical training in the techniques of  
5 administering drugs for the purpose of treating mental disease  
6 or disability, or that a physician who is unable to show  
7 evidence of completion of such training attends a seminar on  
8 psychopharmacology sponsored by the Department within 30 days  
9 of the beginning of his employment or practice under the  
10 supervision of the Department; and

11 (b) insure that each physician employed by it on the  
12 effective date of this amendatory Act of 1975 attends a seminar  
13 on psychopharmacology sponsored by the Department within 30  
14 days of that effective date.

15 The Director or the Secretary may require periodic  
16 refresher seminars on the subject of psychopharmacology for  
17 each physician and such other employees of the Department as he  
18 or she may deem appropriate.

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

20 (20 ILCS 1705/34) (from Ch. 91 1/2, par. 100-34)

21 Sec. 34. To make grants-in-aid to community clinics and  
22 agencies for psychiatric or clinical services, training,  
23 research and other mental health, mental retardation and other  
24 developmental disabilities programs, for persons of all ages  
25 including those aged 3 to 21.

1           In addition to other standards and procedures governing the  
2           disbursement of grants-in-aid implemented under this Section,  
3           the Director or the Secretary shall require that each  
4           application for such aid submitted by public agencies or public  
5           clinics with respect to services to be provided by a  
6           municipality with a population of 500,000 or more shall include  
7           review and comment by a community mental health board that is  
8           organized under local authority and broadly representative of  
9           the geographic, social, cultural, and economic interests of the  
10          area to be served, and which includes persons who are  
11          professionals in the field of mental health, consumers of  
12          services or representative of the general public. Within  
13          planning and service areas designated by the Director or the  
14          Secretary where more than one clinic or agency applies under  
15          this paragraph, each application shall be reviewed by a single  
16          community mental health board that is representative of the  
17          areas to be served by each clinic or agency.

18          The Director or the Secretary may authorize advance  
19          disbursements to any clinic or agency that has been awarded a  
20          grant-in-aid, provided that the Director or the Secretary  
21          shall, within 30 days before the making of such disbursement,  
22          certify to the Comptroller that (a) the provider is eligible to  
23          receive that disbursement, and (b) the disbursement is made as  
24          compensation for services to be rendered within 60 days of that  
25          certification.

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



1 (20 ILCS 1705/47) (from Ch. 91 1/2, par. 100-47)

2 Sec. 47. The facility director of each facility under the  
3 jurisdiction of the Department shall develop and implement  
4 written policies and procedures to insure that employees and  
5 visitors are properly identified at all times they are on the  
6 grounds of the facility. Proper identification or other  
7 specified credentials shall be required for all persons,  
8 including employees, entering and exiting grounds of any mental  
9 health facility. The Director or the Secretary of the  
10 Department may establish uniform procedures for identification  
11 pursuant to the provisions of this Section that shall apply to  
12 all facilities under the jurisdiction of the Department.

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

14 (20 ILCS 1705/56) (from Ch. 91 1/2, par. 100-56)

15 Sec. 56. The Director or the Secretary, upon making a  
16 determination based upon information in the possession of the  
17 Department, that continuation in practice of a licensed health  
18 care professional would constitute an immediate danger to the  
19 public, shall submit a written communication to the Director of  
20 Financial and Professional Regulation indicating such  
21 determination and additionally providing a complete summary of  
22 the information upon which such determination is based, and  
23 recommending that the Director of Financial and Professional  
24 Regulation immediately suspend such person's license. All

1 relevant evidence, or copies thereof, in the Department's  
2 possession may also be submitted in conjunction with the  
3 written communication. A copy of such written communication,  
4 which is exempt from the copying and inspection provisions of  
5 the Freedom of Information Act, shall at the time of submittal  
6 to the Director of Financial and Professional Regulation be  
7 simultaneously mailed to the last known business address of  
8 such licensed health care professional by certified or  
9 registered postage, United States Mail, return receipt  
10 requested. Any evidence, or copies thereof, which is submitted  
11 in conjunction with the written communication is also exempt  
12 from the copying and inspection provisions of the Freedom of  
13 Information Act.

14 For the purposes of this Section, "licensed health care  
15 professional" means any person licensed under the Illinois  
16 Dental Practice Act, the Nurse Practice Act, the Medical  
17 Practice Act of 1987, the Pharmacy Practice Act, the Podiatric  
18 Medical Practice Act of 1987, and the Illinois Optometric  
19 Practice Act of 1987.

20 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;  
21 95-876, eff. 8-21-08.)

22 (20 ILCS 1705/63) (from Ch. 91 1/2, par. 100-63)

23 Sec. 63. Mental health pilot program.

24 (a) The Director or the Secretary is hereby authorized,  
25 from appropriations made available for purposes of this

1 Section, to establish elderly mental health pilot programs with  
2 an emphasis on deterring homelessness, institutionalization,  
3 and premature death among elderly persons with mental illness.  
4 These shall be coordinated with other programs for the aged  
5 administered by the Department on Aging and area agencies on  
6 aging. The programs shall provide community-based mental  
7 health services including the following services provided on an  
8 in-home basis:

9 (1) Case management.

10 (2) Assessment.

11 (3) Counseling.

12 (4) Outreach.

13 (b) Additionally, other services may include, but are not  
14 limited to, any or all of the following:

15 (1) Outpatient assessment and diagnostic services.

16 (2) Outpatient counseling.

17 (3) Crisis intervention.

18 (4) Money management.

19 (5) Medication monitoring.

20 (6) Psychiatric services.

21 (c) The Department shall establish eligibility standards  
22 for these services taking into consideration the unique  
23 economic and social needs of the target population for whom  
24 they are to be provided. The target population identified for  
25 the purposes of this Act includes persons 60 years of age or  
26 older who:

1 (1) Are suffering an acute episode of mental illness.

2 (2) Are suffering from a mental disorder which has led  
3 or will lead to the need for long-term institutional care.

4 (3) Have undergone psychiatric treatment or intensive  
5 outpatient care more than once in a lifetime.

6 (4) Are exhibiting behavior that severely impacts on  
7 themselves or their environment and which may indicate the  
8 development of mental illness.

9 (d) The Department shall include a review of the progress  
10 of any model program under this Act in its annual report to the  
11 Governor and the General Assembly.

12 (Source: P.A. 88-380; 89-507, eff. 7-1-97.)

13 (20 ILCS 1705/64) (from Ch. 91 1/2, par. 100-64)

14 Sec. 64. Advisory Committee on Geriatric Services.

15 (a) The Department shall establish an Advisory Committee on  
16 Geriatric Services to advise the Department on matters  
17 pertaining to the mental health needs of the elderly population  
18 within the State. The Director or the Secretary shall designate  
19 a person to serve as a liaison to the Advisory Committee and to  
20 the public.

21 (b) The Committee shall consist of 13 members.

22 (c) The members shall be appointed by the Director or the  
23 Secretary, and shall be representative of different  
24 geographical sections of the State and Statewide  
25 organizations, so far as possible, representing the limited

1 English-speaking elderly, the protective service interests of  
2 vulnerable adults, the agencies providing case management  
3 services to the elderly, and administrators of model projects  
4 serving the mental health needs of the elderly through  
5 coordination of service delivery systems. One member of the  
6 Committee shall be the Director of the Department on Aging or  
7 his or her designee.

8 (d) The appointments of the Committee shall be for 2 year  
9 terms. Members may serve more than one term. Vacancies among  
10 the members shall be filled by the Director.

11 (e) The Committee shall provide for its organization and  
12 procedure including the election of the Chairperson and such  
13 other officers as deemed necessary.

14 (f) The members of the committee shall receive no  
15 compensation for their services but shall be reimbursed by the  
16 Department for any ordinary and necessary expenses incurred in  
17 the performance of their duties.

18 (g) The Committee shall have the following duties:

19 (1) To assess the mental health needs of the elderly  
20 population in the State.

21 (2) To recommend treatment methods and programs that  
22 are sensitive and relevant to the characteristics of the  
23 elderly population.

24 (3) To provide consultation, technical assistance,  
25 training programs, and reference materials to service  
26 providers, organizations, and other agencies.

1           (4) To promote awareness of geriatric mental health  
2           concerns, and encourage, promote, and aid in the  
3           establishment of geriatric services.

4           (5) To disseminate information on available geriatric  
5           services.

6           (6) To provide adequate and effective opportunities  
7           for the elderly population to express their views on  
8           Departmental policy development and program  
9           implementation.

10          (h) For the purpose of this Section "geriatric" or "elderly  
11          population" shall mean and include any persons who are 60 years  
12          of age or older.

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

14          Section 940. The Department of Human Services (Mental  
15          Health and Developmental Disabilities) Law of the Civil  
16          Administrative Code of Illinois is amended by changing the  
17          heading of Article 1710 and Sections 1710-1, 1710-5, and  
18          1710-20 as follows:

19                 (20 ILCS 1710/Art. 1710 heading)

20          ARTICLE 1710. DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES AS

21   SUCCESSOR TO

22   DEPARTMENT OF HUMAN SERVICES

23                                 (WHICH WAS ~~AS~~ SUCCESSOR TO DEPARTMENT OF

24                                 MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES)

1 (20 ILCS 1710/1710-1)

2 Sec. 1710-1. Article short title. This Article 1710 of the  
3 Civil Administrative Code of Illinois may be cited as the  
4 Departments of Healthcare and Family Services (Mental Health)  
5 and Department of Human Services (~~Mental Health and~~  
6 ~~Developmental Disabilities~~) Law.

7 (Source: P.A. 91-239, eff. 1-1-00; revised 10-30-09.)

8 (20 ILCS 1710/1710-5)

9 Sec. 1710-5. Definitions. In this Law:

10 "Department" means the Department of Human Services with  
11 respect to functions relating to developmental disabilities.

12 With respect to functions relating to mental health:

13 (1) Before January 1, 2011, "Department" means the  
14 Department of Human Services.

15 (2) On and after January 1, 2011, "Department" means  
16 the Department of Healthcare and Family Services.

17 "Director means the Director of Healthcare and Family  
18 Services.

19 "Secretary" means the Secretary of Human Services.

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

21 (20 ILCS 1710/1710-20) (was 20 ILCS 1710/53 in part)

22 Sec. 1710-20. Mental Health and Developmental Disabilities  
23 Code.

1           (a) The Department has the power to administer the  
2 provisions of the Mental Health and Developmental Disabilities  
3 Code that pertain to the responsibilities of the Department.

4           (b) The Department has the power to initiate injunction  
5 proceedings wherever it appears to the Secretary or the  
6 Director that any person, group of persons, or corporation is  
7 engaged or about to engage in any acts or practices that  
8 constitute or will constitute a violation of the Mental Health  
9 and Developmental Disabilities Code or any rule or regulation  
10 prescribed under authority of that Code. The Secretary or the  
11 Director may, in his or her discretion, through the Attorney  
12 General, file a complaint and apply for an injunction, and upon  
13 a proper showing, any circuit court may issue a permanent or  
14 preliminary injunction or a temporary restraining order  
15 without bond to enforce that Code, rule, or regulation in  
16 addition to the penalties and other remedies provided in that  
17 Code, rule, or regulation. Either party may appeal as in other  
18 civil cases.

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

20           Section 945. The Department of Public Health Powers and  
21 Duties Law of the Civil Administrative Code of Illinois is  
22 amended by changing Section 2310-392 as follows:

23           (20 ILCS 2310/2310-392) (was 20 ILCS 2310/55.85)

24           Sec. 2310-392. Grants from the Mental Health Research Fund.



1 From funds appropriated from the Mental Health Research Fund,  
2 the Department of Human Services (before January 1, 2011) or  
3 the Department of Healthcare and Family Services (on and after  
4 January 1, 2011) shall award grants to organizations in  
5 Illinois for the purpose of research of mental illness.

6 (Source: P.A. 90-171, eff. 7-23-97; 90-655, eff. 7-30-98;  
7 91-239, eff. 1-1-00.)

8 Section 950. The Blind Vendors Act is amended by changing  
9 Section 30 as follows:

10 (20 ILCS 2421/30)

11 Sec. 30. Vending machine income and compliance.

12 (a) Except as provided in subsections (b), (c), (d), (e),  
13 and (i) of this Section, after July 1, 2010, all vending  
14 machine income, as defined by this Act, from vending machines  
15 on State property shall accrue to (1) the blind vendor  
16 operating the vending facilities on the property or (2) in the  
17 event there is no blind vendor operating a facility on the  
18 property, the Blind Vendors Trust Fund for use exclusively as  
19 set forth in subsection (a) of Section 25 of this Act.

20 (b) Notwithstanding the provisions of subsection (a) of  
21 this Section, all State university cafeterias and vending  
22 machines are exempt from this Act.

23 (c) Notwithstanding the provisions of subsection (a) of  
24 this Section, all vending facilities at the Governor Samuel H.

1 Shapiro Developmental Center in Kankakee are exempt from this  
2 Act.

3 (d) Notwithstanding the provisions of subsection (a) of  
4 this Section, in the event there is no blind vendor operating a  
5 vending facility on the State property, all vending machine  
6 income, as defined in this Act, from vending machines on the  
7 State property of the Department of Corrections and the  
8 Department of Juvenile Justice shall accrue to the State agency  
9 and be allocated in accordance with the commissary provisions  
10 in the Unified Code of Corrections.

11 (e) Notwithstanding the provisions of subsection (a) of  
12 this Section, in the event a blind vendor is operating a  
13 vending facility on the State property of the Department or  
14 Corrections or the Department of Juvenile Justice, a commission  
15 shall be paid to the State agency equal to 10% of the net  
16 proceeds from vending machines servicing State employees and  
17 25% of the net proceeds from vending machines servicing  
18 visitors on the State property.

19 (f) The Secretary, directly or by delegation of authority,  
20 shall ensure compliance with this Section and Section 15 of  
21 this Act with respect to buildings, installations, facilities,  
22 roadside rest stops, and any other State property, and shall be  
23 responsible for the collection of, and accounting for, all  
24 vending machine income on this property. The Secretary shall  
25 enforce these provisions through litigation, arbitration, or  
26 any other legal means available to the State, and each State

1 agency in control of this property shall be subject to the  
2 enforcement. State agencies or departments failing to comply  
3 with an order of the Department may be held in contempt in any  
4 court of general jurisdiction.

5 (g) Any limitation on the placement or operation of a  
6 vending machine by a State agency based on a determination that  
7 such placement or operation would adversely affect the  
8 interests of the State must be explained in writing to the  
9 Secretary. The Secretary shall promptly determine whether the  
10 limitation is justified. If the Secretary determines that the  
11 limitation is not justified, the State agency seeking the  
12 limitation shall immediately remove the limitation.

13 (h) The amount of vending machine income accruing from  
14 vending machines on State property that may be used for the  
15 functions of the Committee shall be determined annually by a  
16 two-thirds vote of the Committee, except that no more than 25%  
17 of the annual vending machine income may be used by the  
18 Committee for this purpose, based upon the income accruing to  
19 the Blind Vendors Trust Fund in the preceding year. The  
20 Committee may establish its budget and expend funds through  
21 contract or otherwise without the approval of the Department.

22 (i) Notwithstanding the provisions of subsection (a) of  
23 this Section, with respect to vending machines located on any  
24 facility or property controlled or operated by the Division of  
25 Mental Health within the Department of Human Services (before  
26 January 1, 2011) or the Department of Healthcare and Family

1 Services (on and after January 1, 2011) or the Division of  
2 Developmental Disabilities within the Department of Human  
3 Services:

4 (1) Any written contract in place as of the effective  
5 date of this Act between the Division and the Business  
6 Enterprise Program for the Blind shall be maintained and  
7 fully adhered to including any moneys paid to the  
8 individual facilities.

9 (2) With respect to existing vending machines with no  
10 written contract or agreement in place as of the effective  
11 date of this Act between the Division and a private vendor,  
12 bottler, or vending machine supplier, the Business  
13 Enterprise Program for the Blind has the right to provide  
14 the vending services as provided in this Act, provided that  
15 the blind vendor must provide 10% of gross sales from those  
16 machines to the individual facilities.

17 (Source: P.A. 96-644, eff. 1-1-10.)

18 Section 955. The Department of Veterans Affairs Act is  
19 amended by changing Section 8 as follows:

20 (20 ILCS 2805/8)

21 Sec. 8. Post-Traumatic Stress Disorder Outpatient  
22 Counseling Program. Subject to appropriations for that  
23 purpose, the Department, in consultation with the Department of  
24 Healthcare and Family ~~Human~~ Services, shall contract with

1 professional counseling specialists to provide a range of  
2 confidential counseling and direct treatment services to  
3 war-affected Southwest Asia combat veterans and their family  
4 members, and to provide additional treatment services to Viet  
5 Nam War veterans for post-traumatic stress disorder,  
6 particularly those Viet Nam veterans whose post-traumatic  
7 stress disorder has intensified or initially emerged due to the  
8 war in the Middle East. Any such contracts entered into by the  
9 Department must be with individuals and entities pre-approved  
10 by the U.S. Department of Veterans Affairs and must be for the  
11 provision of services pre-approved by the U.S. Department of  
12 Veterans Affairs. In consultation with the Department of  
13 Healthcare and Family ~~Human~~ Services, the Department shall:

14 (1) develop an educational program designed to inform  
15 and train primary health care professionals, including  
16 mental health professionals, about the effects of  
17 war-related stress and trauma;

18 (2) provide informational and counseling services for  
19 the purpose of establishing and fostering peer-support  
20 networks throughout the State for families of deployed  
21 members of the reserves and the Illinois National Guard;  
22 and

23 (3) provide for veterans' families a referral network  
24 of mental health providers who are skilled in treating  
25 deployment stress, combat stress, and post-traumatic  
26 stress.

1           As used in this Section, "Southwest Asia combat veteran"  
2 means an Illinois resident who is, or who was honorably  
3 discharged as, a member of the Armed Forces of the United  
4 States, a member of the Illinois National Guard, or a member of  
5 any reserve component of the Armed Forces of the United States  
6 and who served on active duty in connection with Operation  
7 Desert Storm, Operation Enduring Freedom, or Operation Iraqi  
8 Freedom.

9           (Source: P.A. 95-576, eff. 8-31-07.)

10           Section 960. The Guardianship and Advocacy Act is amended  
11 by changing Section 35 as follows:

12           (20 ILCS 3955/35) (from Ch. 91 1/2, par. 735)

13           Sec. 35. The annual appropriation for the Commission shall  
14 not exceed 1% of the total annual appropriation from the  
15 General Revenue Fund to the Department of Human Services for  
16 its ordinary and contingent expenses relating to mental health  
17 (before January 1, 2011) and developmental disabilities and to  
18 the Department of Healthcare and Family Services for its  
19 ordinary and contingent expenses relating to mental health (on  
20 and after January 1, 2011).

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

22           Section 965. The Fiscal Note Act is amended by changing  
23 Sections 2 and 7 as follows:

1 (25 ILCS 50/2) (from Ch. 63, par. 42.32)

2 Sec. 2. The sponsor of each bill, referred to in Section 1,  
3 shall present a copy of the bill, with his request for a fiscal  
4 note, to the board, commission, department, agency, or other  
5 entity of the State which is to receive or expend the  
6 appropriation proposed or which is responsible for collection  
7 of the revenue proposed to be increased or decreased, or to be  
8 levied or provided for. The sponsor of a bill that amends the  
9 Mental Health and Developmental Disabilities Code or the  
10 Developmental Disability and Mental Disability Services Act  
11 shall present a copy of the bill, with his or her request for a  
12 fiscal note, to the Department of Human Services or the  
13 Department of Healthcare and Family Services, as appropriate.

14 The fiscal note shall be prepared by such board, commission,  
15 department, agency, or other entity and furnished to the  
16 sponsor of the bill within 5 calendar days thereafter; except  
17 that whenever, because of the complexity of the measure,  
18 additional time is required for preparation of the fiscal note,  
19 the board, commission, department, agency, or other entity may  
20 so inform the sponsor of the bill and he may approve an  
21 extension of the time within which the note is to be furnished,  
22 not to extend, however, beyond June 15, following the date of  
23 the request. Whenever any measure for which a fiscal note is  
24 required affects more than one State board, commission,  
25 department, agency, or other entity, the board, commission,

1 department, agency, or other entity most affected by its  
2 provisions according to the sponsor shall be responsible for  
3 preparation of the fiscal note. Whenever any measure for which  
4 a fiscal note is required does not affect a specific board,  
5 commission, department, agency or other such entity, or does  
6 not amend the Mental Health and Developmental Disabilities Code  
7 or the Developmental Disability and Mental Disability Services  
8 Act, the sponsor of the measure shall be responsible for  
9 preparation of the fiscal note.

10 In the case of bills having a potential fiscal impact on  
11 units of local government, the fiscal note shall be prepared by  
12 the Department of Commerce and Economic Opportunity. In the  
13 case of bills having a potential fiscal impact on school  
14 districts, the fiscal note shall be prepared by the State  
15 Superintendent of Education. In the case of bills having a  
16 potential fiscal impact on community college districts, the  
17 fiscal note shall be prepared by the Illinois Community College  
18 Board.

19 (Source: P.A. 94-793, eff. 5-19-06.)

20 (25 ILCS 50/7) (from Ch. 63, par. 42.37)

21 Sec. 7. Whenever any committee of either house reports any  
22 bill with an amendment of such nature as will substantially  
23 affect the costs to or the revenues of the State, units of  
24 local government, school districts, or community college  
25 districts, as stated in the fiscal note attached to the measure



1 at the time of its referral to the committee, there shall be  
2 included with the report of the committee a statement of the  
3 effect of the change proposed by the amendment reported if  
4 desired by a majority of the committee. In like manner,  
5 whenever any measure is amended on the floor of either house in  
6 such manner as to substantially affect the costs thereof or the  
7 revenues to be derived thereunder as stated in the fiscal note  
8 attached to the measure prior to such amendment, a majority of  
9 such house may propose that no action shall be taken upon the  
10 amendment until the sponsor of the amendment presents to the  
11 members a statement of the fiscal effect of his proposed  
12 amendment. Whenever an amendment to a bill, whether reported by  
13 a committee of either house or proposed upon the floor of  
14 either house, amends the Mental Health and Developmental  
15 Disabilities Code or the Developmental Disability and Mental  
16 Disability Services Act, no action shall be taken upon the  
17 amendment until the sponsor of the amendment presents to the  
18 members a statement prepared by the Department of Human  
19 Services or the Department of Healthcare and Family Services,  
20 as appropriate, of the fiscal effect of his or her proposed  
21 amendment upon community agencies.

22 (Source: P.A. 92-567, eff. 1-1-03.)

23 Section 970. The Illinois State Auditing Act is amended by  
24 changing Section 3-2 as follows:

1 (30 ILCS 5/3-2) (from Ch. 15, par. 303-2)

2 Sec. 3-2. Mandatory and directed post audits. The Auditor  
3 General shall conduct a financial audit, a compliance audit, or  
4 other attestation engagement, as is appropriate to the agency's  
5 operations under generally accepted government auditing  
6 standards, of each State agency except the Auditor General or  
7 his office at least once during every biennium, except as is  
8 otherwise provided in regulations adopted under Section 3-8.  
9 The general direction and supervision of the financial audit  
10 program may be delegated only to an individual who is a  
11 Certified Public Accountant and a payroll employee of the  
12 Office of the Auditor General. In the conduct of financial  
13 audits, compliance audits, and other attestation engagements,  
14 the Auditor General may inquire into and report upon matters  
15 properly within the scope of a performance audit, provided that  
16 such inquiry shall be limited to matters arising during the  
17 ordinary course of the financial audit.

18 In any year the Auditor General shall conduct any special  
19 audits as may be necessary to form an opinion on the financial  
20 statements of this State, as prepared by the Comptroller, and  
21 to certify that this presentation is in accordance with  
22 generally accepted accounting principles for government.

23 Simultaneously with the biennial compliance audits ~~audit~~  
24 of the Department of Human Services and the Department of  
25 Healthcare and Family Services, the Auditor General shall  
26 conduct a program audit of each facility under the jurisdiction

1 of each ~~that~~ Department that is described in Section 4 of the  
2 Mental Health and Developmental Disabilities Administrative  
3 Act. The program audit shall include an examination of the  
4 records of each facility concerning (i) reports of suspected  
5 abuse or neglect of any patient or resident of the facility and  
6 (ii) reports of violent acts against facility staff by patients  
7 or residents. The Auditor General shall report the findings of  
8 the program audit to the Governor and the General Assembly,  
9 including findings concerning patterns or trends relating to  
10 (i) abuse or neglect of facility patients and residents or (ii)  
11 violent acts against facility staff by patients or residents.  
12 However, for any year for which the Inspector General appointed  
13 under Section 1-17 of the Department of Human Services Act or  
14 the Inspector General appointed under Section 12-13.1 of the  
15 Illinois Public Aid Code submits a report to the Governor and  
16 General Assembly as required under either of those Sections  
17 ~~Section 6.7 of the Abused and Neglected Long Term Care Facility~~  
18 ~~Residents Reporting Act~~, the Auditor General need not conduct  
19 the program audit otherwise required under this paragraph.

20 The Auditor General shall conduct a performance audit of a  
21 State agency when so directed by the Commission, or by either  
22 house of the General Assembly, in a resolution identifying the  
23 subject, parties and scope. Such a directing resolution may:

24 (a) require the Auditor General to examine and report  
25 upon specific management efficiencies or cost  
26 effectiveness proposals specified therein;

1 (b) in the case of a program audit, set forth specific  
2 program objectives, responsibilities or duties or may  
3 specify the program performance standards or program  
4 evaluation standards to be the basis of the program audit;

5 (c) be directed at particular procedures or functions  
6 established by statute, by administrative regulation or by  
7 precedent; and

8 (d) require the Auditor General to examine and report  
9 upon specific proposals relating to state programs  
10 specified in the resolution.

11 The Commission may by resolution clarify, further direct,  
12 or limit the scope of any audit directed by a resolution of the  
13 House or Senate, provided that any such action by the  
14 Commission must be consistent with the terms of the directing  
15 resolution.

16 (Source: P.A. 93-630, eff. 12-23-03; 94-347, eff. 7-28-05.)

17 Section 975. The State Finance Act is amended by changing  
18 Sections 6b, 8.8, and 30c as follows:

19 (30 ILCS 105/6b) (from Ch. 127, par. 142b)

20 Sec. 6b. The gross or total proceeds, receipts and income  
21 of all the several State institutions, clinics, rehabilitation  
22 centers and services, except the Illinois Veterans Home at  
23 Quincy, derived from the Veterans' Administration for the care  
24 and treatment of veterans of World War I or World War II or

1 those who served during the national emergency between June 25,  
2 1950 and January 31, 1955, who are patients or residents in the  
3 State institutions, clinics, rehabilitation centers and  
4 services, shall be covered into the State treasury into the  
5 Mental Health Fund. Of the money in the United States Veterans'  
6 Bureau Fund on the effective date of this amendatory Act of  
7 1977, \$199,800 shall be transferred to the Quincy Veterans'  
8 Home Fund and the balance shall be transferred to the Mental  
9 Health Fund.

10 The gross receipts of the Department of Human Services  
11 relating to mental health (before January 1, 2011) and  
12 developmental disabilities and the gross receipts of the  
13 Department of Healthcare and Family Services relating to mental  
14 health (on and after January 1, 2011) that are obtained for  
15 services, commodities, equipment and personnel provided to  
16 other agencies and branches of State government, to units of  
17 local government, to the government of other states or to the  
18 federal government shall be deposited with the State Treasurer  
19 for deposit into the Mental Health Fund.

20 The gross receipts of the Department of Human Services  
21 relating to mental health (before January 1, 2011) and  
22 developmental disabilities and the gross receipts of the  
23 Department of Healthcare and Family Services relating to mental  
24 health (on and after January 1, 2011) that are obtained in  
25 connection with the retention, receipt, assignment, license,  
26 sale or transfer of interests in, rights to, or income from

1 discoveries, inventions, patents, or copyrightable works to  
2 governmental, public or private agencies or persons including  
3 units, branches, or agencies of local, State, federal and  
4 foreign governments shall be deposited with the State Treasurer  
5 for deposit into the Mental Health Fund.

6 Remittances from or on behalf of licensed long-term care  
7 facilities through Department of Healthcare and Family  
8 Services (formerly Department of Public Aid) reimbursement and  
9 monies from other funds for Day Training Programs for clients  
10 with a developmental disability shall be deposited with the  
11 State Treasurer and placed in the Mental Health Fund.

12 (Source: P.A. 95-331, eff. 8-21-07.)

13 (30 ILCS 105/8.8) (from Ch. 127, par. 144.8)

14 Sec. 8.8. Appropriations for the improvement, development,  
15 addition or expansion of services for the care, treatment, and  
16 training of persons who are mentally retarded or subject to  
17 involuntary admission under the Mental Health and  
18 Developmental Disabilities Code or for the financing of any  
19 program designed to provide such improvement, development,  
20 addition or expansion of services or for expenses incurred in  
21 administering the provisions of Sections 5-105 to 5-115,  
22 inclusive, of the Mental Health and Developmental Disabilities  
23 Code, or other ordinary and contingent expenses of the  
24 Department of Human Services relating to mental health before  
25 January 1, 2011) and developmental disabilities or of the

1 Department of Healthcare and Family Services relating to mental  
2 health (on and after January 1, 2011), are payable from the  
3 Mental Health Fund. However, no expenditures shall be made for  
4 the purchase, construction, lease, or rental of buildings for  
5 use as State-operated mental health or developmental  
6 disability facilities or for renovating or rehabilitating  
7 those buildings.

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

9 (30 ILCS 105/30c) (from Ch. 127, par. 166c)

10 Sec. 30c. The acceptance of a reduction in earnings or the  
11 foregoing of an increase in earnings by an employee in  
12 consideration for which an employer pays the amount of the  
13 adjustment in earnings to an insurance company or companies  
14 selected by the employer to be applied as a premium on an  
15 annuity contract, with or without incidental life insurance  
16 benefits, under which the employee's rights are  
17 non-forfeitable except for failure to pay future premiums may  
18 be permitted in the following cases:

19 (a) By any employer as defined in Section 15-106 of the  
20 "Illinois Pension Code", for any employee;

21 (b) By any Department as defined in Section 14-103.04 of  
22 the "Illinois Pension Code", for any employee;

23 (c) By the State Board of Education with the State  
24 Comptroller for any employee who is certified under the laws  
25 governing certification of teachers and is covered by the

1 Teachers' Retirement System of the State of Illinois;

2 (d) By the State Board of Education with the Comptroller  
3 for any regional superintendent of schools or assistant  
4 regional superintendent of schools; or

5 (e) By the Department of Children and Family Services, the  
6 Department of Healthcare and Family Services, the Department of  
7 Human Services, or the Department of Corrections, each with the  
8 Comptroller for any teacher at any of the institutions listed  
9 in Section 9 of the Children and Family Services Act, in  
10 Section 4 of the Mental Health and Developmental Disabilities  
11 Administrative Act, or in the Unified Code of Corrections.

12 The State may enter into agreements whereby individual  
13 employees elect to receive, in lieu of salary or wages,  
14 benefits which are not taxable under the federal Internal  
15 Revenue Code. Such agreements may include the acceptance of a  
16 reduction in earnings or the foregoing of an increase in  
17 earnings by an employee and the employer's payment of such  
18 amounts, as employer contributions, for benefits which the  
19 employee selects from a list of employee benefits offered by  
20 the employer.

21 The selection of the insurance company or companies, health  
22 care provider or organization and the purchase of the contracts  
23 shall not be subject to "The Illinois Purchasing Act".

24 Each employer, or Department, as specified in this Section,  
25 the Department of Children and Family Services with the  
26 Comptroller, the Department of Healthcare and Family Services



1 with the Comptroller, the Department of Human Services with the  
2 Comptroller or the Department of Corrections with the  
3 Comptroller or the State Board of Education with the  
4 Comptroller, as the case may be, may adopt rules to implement  
5 this Act including, but not by way of limitation, (a) the  
6 method of filing an election to accept an adjustment in  
7 earnings and revocation of the election, (b) the effective date  
8 of an election, (c) changes in the amount of the adjustment in  
9 earnings, and (d) selection of the organization, company or  
10 companies from which contracts are to be purchased.

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

12 Section 980. The State Property Control Act is amended by  
13 changing Sections 7.1 and 8.3 as follows:

14 (30 ILCS 605/7.1) (from Ch. 127, par. 133b10.1)

15 Sec. 7.1. (a) Except as otherwise provided by law, all  
16 surplus real property held by the State of Illinois shall be  
17 disposed of by the administrator as provided in this Section.  
18 "Surplus real property," as used in this Section, means any  
19 real property to which the State holds fee simple title or  
20 lesser interest, and is vacant, unoccupied or unused and which  
21 has no foreseeable use by the owning agency.

22 (b) All responsible officers shall submit an Annual Real  
23 Property Utilization Report to the Administrator, or annual  
24 update of such report, on forms required by the Administrator,

1 by July 31 of each year. The Administrator may require such  
2 documentation as he deems reasonably necessary in connection  
3 with this Report, and shall require that such Report include  
4 the following information:

5 (1) A legal description of all real property owned by the  
6 State under the control of the responsible officer.

7 (2) A description of the use of the real property listed  
8 under (1).

9 (3) A list of any improvements made to such real property  
10 during the previous year.

11 (4) The dates on which the State first acquired its  
12 interest in such real property, and the purchase price and  
13 source of the funds used to acquire the property.

14 (5) Plans for the future use of currently unused real  
15 property.

16 (6) A declaration of any surplus real property. On or  
17 before October 31 of each year the Administrator shall furnish  
18 copies of each responsible officer's report along with a list  
19 of surplus property indexed by legislative district to the  
20 General Assembly.

21 This report shall be filed with the Speaker, the Minority  
22 Leader and the Clerk of the House of Representatives and the  
23 President, the Minority Leader and the Secretary of the Senate  
24 and shall be duplicated and made available to the members of  
25 the General Assembly for evaluation by such members for  
26 possible liquidation of unused public property at public sale.

1 (c) Following receipt of the Annual Real Property  
2 Utilization Report required under paragraph (b), the  
3 Administrator shall notify all State agencies by October 31 of  
4 all declared surplus real property. Any State agency may submit  
5 a written request to the Administrator, within 60 days of the  
6 date of such notification, to have control of surplus real  
7 property transferred to that agency. Such request must indicate  
8 the reason for the transfer and the intended use to be made of  
9 such surplus real property. The Administrator may deny any or  
10 all such requests by a State agency or agencies if the  
11 Administrator determines that it is more advantageous to the  
12 State to dispose of the surplus real property under paragraph  
13 (d). In case requests for the same surplus real property are  
14 received from more than one State agency, the Administrator  
15 shall weigh the benefits to the State and determine to which  
16 agency, if any, to transfer control of such property. The  
17 Administrator shall coordinate the use and disposal of State  
18 surplus real property with any State space utilization program.

19 (d) Any surplus real property which is not transferred to  
20 the control of another State agency under paragraph (c) shall  
21 be disposed of by the Administrator. No appraisal is required  
22 if during his initial survey of surplus real property the  
23 Administrator determines such property has a fair market value  
24 of less than \$5,000. If the value of such property is  
25 determined by the Administrator in his initial survey to be  
26 \$5,000 or more, then the Administrator shall obtain 3

1 appraisals of such real property, one of which shall be  
2 performed by an appraiser residing in the county in which said  
3 surplus real property is located. The average of these 3  
4 appraisals, plus the costs of obtaining the appraisals, shall  
5 represent the fair market value of the surplus real property.  
6 No surplus real property may be conveyed by the Administrator  
7 for less than the fair market value. Prior to offering the  
8 surplus real property for sale to the public the Administrator  
9 shall give notice in writing of the existence and fair market  
10 value of the surplus real property to the governing bodies of  
11 the county and of all cities, villages and incorporated towns  
12 in the county in which such real property is located. Any such  
13 governing body may exercise its option to acquire the surplus  
14 real property for the fair market value within 60 days of the  
15 notice. After the 60 day period has passed, the Administrator  
16 may sell the surplus real property by public auction following  
17 notice of such sale by publication on 3 separate days not less  
18 than 15 nor more than 30 days prior to the sale in the State  
19 newspaper and in a newspaper having general circulation in the  
20 county in which the surplus real property is located. The  
21 Administrator shall post "For Sale" signs of a conspicuous  
22 nature on such surplus real property offered for sale to the  
23 public. If no acceptable offers for the surplus real property  
24 are received, the Administrator may have new appraisals of such  
25 property made. The Administrator shall have all power necessary  
26 to convey surplus real property under this Section. All moneys

1 received for the sale of surplus real property shall be  
2 deposited in the General Revenue Fund, except that:

3 (1) Where moneys expended for the acquisition of such  
4 real property were from a special fund which is still a  
5 special fund in the State treasury, this special fund shall  
6 be reimbursed in the amount of the original expenditure and  
7 any amount in excess thereof shall be deposited in the  
8 General Revenue Fund.

9 (2) Whenever a State mental health facility operated by  
10 the Department of Human Services or the Department of  
11 Healthcare and Family Services is closed and the real  
12 estate on which the facility is located is sold by the  
13 State, the net proceeds of the sale of the real estate  
14 shall be deposited into the Community Mental Health  
15 Medicaid Trust Fund.

16 (3) Whenever a State developmental disabilities  
17 facility operated by the Department of Human Services is  
18 closed and the real estate on which the facility is located  
19 is sold by the State, the net proceeds of the sale of the  
20 real estate shall be deposited into the Community  
21 Developmental Disability Services Medicaid Trust Fund.

22 The Administrator shall have authority to order such  
23 surveys, abstracts of title, or commitments for title insurance  
24 as may, in his reasonable discretion, be deemed necessary to  
25 demonstrate to prospective purchasers or bidders good and  
26 marketable title in any property offered for sale pursuant to

1 this Section. Unless otherwise specifically authorized by the  
2 General Assembly, all conveyances of property made by the  
3 Administrator shall be by quit claim deed.

4 (e) The Administrator shall submit an annual report on or  
5 before February 1 to the Governor and the General Assembly  
6 containing a detailed statement of surplus real property either  
7 transferred or conveyed under this Section.

8 (Source: P.A. 96-527, eff. 1-1-10; 96-660, eff. 8-25-09;  
9 revised 9-15-09.)

10 (30 ILCS 605/8.3)

11 Sec. 8.3. John J. Madden Mental Health Center.

12 (a) Notwithstanding any other provision of this Act or any  
13 other law to the contrary, the administrator is authorized  
14 under this Section to sell all or any part, from time to time,  
15 of the property in Cook County known as the John J. Madden  
16 Mental Health Center, if ever it is declared no longer needed  
17 by the Secretary of Human Services (before January 1, 2011) or  
18 the Director of Healthcare and Family Services (on or after  
19 January 1, 2011), to Loyola University Medical Center at its  
20 fair market value as determined under subsection (b).

21 (b) The administrator shall obtain 3 appraisals of property  
22 to be sold under subsection (a). Each appraiser must be  
23 licensed under the Real Estate Appraiser Licensing Act of 2002,  
24 or a successor Act. At least 2 of the appraisals must be  
25 performed by appraisers residing in Cook County. The average of

1 these 3 appraisals, plus the cost of obtaining the appraisals,  
2 shall represent the fair market value of the property to be  
3 sold.

4 (c) Neither all nor any part of the property may be sold or  
5 leased to any other party by the administrator or by any other  
6 State officer or agency, at any time, unless it has first been  
7 offered for sale to Loyola University Medical Center as  
8 provided in this Section.

9 (Source: P.A. 94-1107, eff. 2-16-07.)

10 Section 985. The State Facilities Closure Act is amended by  
11 changing Section 5-10 as follows:

12 (30 ILCS 608/5-10)

13 Sec. 5-10. Facility closure process.

14 (a) Before a State facility may be closed, the State  
15 executive branch officer with jurisdiction over the facility  
16 shall file notice of the proposed closure with the Commission.  
17 The notice must be filed within 2 days after the first public  
18 announcement of any planned or proposed closure. Within 10 days  
19 after it receives notice of the proposed closure, the  
20 Commission, in its discretion, may require the State executive  
21 branch officer with jurisdiction over the facility to file a  
22 recommendation for the closure of the facility with the  
23 Commission. In the case of a proposed closure of: (i) a prison,  
24 youth center, work camp, or work release center operated by the

1 Department of Corrections; (ii) a school, mental health center,  
2 or center for the developmentally disabled operated by the  
3 Department of Human Services or the Department of Healthcare  
4 and Family Services; or (iii) a residential facility operated  
5 by the Department of Veterans' Affairs, the Commission must  
6 require the executive branch officers to file a recommendation  
7 for closure. The recommendation must be filed within 30 days  
8 after the Commission delivers the request for recommendation to  
9 the State executive branch officer. The recommendation must  
10 include, but is not limited to, the following:

11 (1) the location and identity of the State facility  
12 proposed to be closed;

13 (2) the number of employees for which the State  
14 facility is the primary stationary work location and the  
15 effect of the closure of the facility on those employees;

16 (3) the location or locations to which the functions  
17 and employees of the State facility would be moved;

18 (4) the availability and condition of land and  
19 facilities at both the existing location and any potential  
20 locations;

21 (5) the ability to accommodate the functions and  
22 employees at the existing and at any potential locations;

23 (6) the cost of operations of the State facility and at  
24 any potential locations and any other related budgetary  
25 impacts;

26 (7) the economic impact on existing communities in the



1 vicinity of the State facility and any potential facility;

2 (8) the ability of the existing and any potential  
3 community's infrastructure to support the functions and  
4 employees;

5 (9) the impact on State services delivered at the  
6 existing location, in direct relation to the State services  
7 expected to be delivered at any potential locations; and

8 (10) the environmental impact, including the impact of  
9 costs related to potential environmental restoration,  
10 waste management, and environmental compliance activities.

11 (b) If a recommendation is required by the Commission, a  
12 30-day public comment period must follow the filing of the  
13 recommendation. The Commission, in its discretion, may conduct  
14 one or more public hearings on the recommendation. In the case  
15 of a proposed closure of: (i) a prison, youth center, work  
16 camp, or work release center operated by the Department of  
17 Corrections; (ii) a school, mental health center, or center for  
18 the developmentally disabled operated by the Department of  
19 Human Services or the Department of Healthcare and Family  
20 Services; or (iii) a residential facility operated by the  
21 Department of Veterans' Affairs, the Commission must conduct  
22 one or more public hearings on the recommendation. Public  
23 hearings conducted by the Commission shall be conducted no  
24 later than 35 days after the filing of the recommendation. At  
25 least one of the public hearings on the recommendation shall be  
26 held at a convenient location within 25 miles of the facility

1 for which closure is recommended. The Commission shall provide  
2 reasonable notice of the comment period and of any public  
3 hearings to the public and to units of local government and  
4 school districts that are located within 25 miles of the  
5 facility.

6 (c) Within 50 days after the State executive branch officer  
7 files the required recommendation, the Commission shall issue  
8 an advisory opinion on that recommendation. The Commission  
9 shall file the advisory opinion with the appropriate State  
10 executive branch officer, the Governor, the General Assembly,  
11 and the Index Department of the Office of the Secretary of  
12 State and shall make copies of the advisory opinion available  
13 to the public upon request.

14 (d) No action may be taken to implement the recommendation  
15 for closure of a State facility until 50 days after the filing  
16 of any required recommendation.

17 (e) The requirements of this Section do not apply if all of  
18 the functions and employees of a State facility are relocated  
19 to another State facility that is within 10 miles of the closed  
20 facility.

21 (Source: P.A. 93-839, eff. 7-30-04; 94-688, eff. 1-1-06.)

22 Section 990. The Illinois Pension Code is amended by  
23 changing Section 14-110 as follows:

24 (40 ILCS 5/14-110) (from Ch. 108 1/2, par. 14-110)

1           Sec. 14-110. Alternative retirement annuity.

2           (a) Any member who has withdrawn from service with not less  
3 than 20 years of eligible creditable service and has attained  
4 age 55, and any member who has withdrawn from service with not  
5 less than 25 years of eligible creditable service and has  
6 attained age 50, regardless of whether the attainment of either  
7 of the specified ages occurs while the member is still in  
8 service, shall be entitled to receive at the option of the  
9 member, in lieu of the regular or minimum retirement annuity, a  
10 retirement annuity computed as follows:

11           (i) for periods of service as a noncovered employee: if  
12 retirement occurs on or after January 1, 2001, 3% of final  
13 average compensation for each year of creditable service;  
14 if retirement occurs before January 1, 2001, 2 1/4% of  
15 final average compensation for each of the first 10 years  
16 of creditable service, 2 1/2% for each year above 10 years  
17 to and including 20 years of creditable service, and 2 3/4%  
18 for each year of creditable service above 20 years; and

19           (ii) for periods of eligible creditable service as a  
20 covered employee: if retirement occurs on or after January  
21 1, 2001, 2.5% of final average compensation for each year  
22 of creditable service; if retirement occurs before January  
23 1, 2001, 1.67% of final average compensation for each of  
24 the first 10 years of such service, 1.90% for each of the  
25 next 10 years of such service, 2.10% for each year of such  
26 service in excess of 20 but not exceeding 30, and 2.30% for

1 each year in excess of 30.

2 Such annuity shall be subject to a maximum of 75% of final  
3 average compensation if retirement occurs before January 1,  
4 2001 or to a maximum of 80% of final average compensation if  
5 retirement occurs on or after January 1, 2001.

6 These rates shall not be applicable to any service  
7 performed by a member as a covered employee which is not  
8 eligible creditable service. Service as a covered employee  
9 which is not eligible creditable service shall be subject to  
10 the rates and provisions of Section 14-108.

11 (b) For the purpose of this Section, "eligible creditable  
12 service" means creditable service resulting from service in one  
13 or more of the following positions:

14 (1) State policeman;

15 (2) fire fighter in the fire protection service of a  
16 department;

17 (3) air pilot;

18 (4) special agent;

19 (5) investigator for the Secretary of State;

20 (6) conservation police officer;

21 (7) investigator for the Department of Revenue or the  
22 Illinois Gaming Board;

23 (8) security employee of the Department of Human  
24 Services or the Department of Healthcare and Family  
25 Services;

26 (9) Central Management Services security police

1 officer;

2 (10) security employee of the Department of  
3 Corrections or the Department of Juvenile Justice;

4 (11) dangerous drugs investigator;

5 (12) investigator for the Department of State Police;

6 (13) investigator for the Office of the Attorney  
7 General;

8 (14) controlled substance inspector;

9 (15) investigator for the Office of the State's  
10 Attorneys Appellate Prosecutor;

11 (16) Commerce Commission police officer;

12 (17) arson investigator;

13 (18) State highway maintenance worker.

14 A person employed in one of the positions specified in this  
15 subsection is entitled to eligible creditable service for  
16 service credit earned under this Article while undergoing the  
17 basic police training course approved by the Illinois Law  
18 Enforcement Training Standards Board, if completion of that  
19 training is required of persons serving in that position. For  
20 the purposes of this Code, service during the required basic  
21 police training course shall be deemed performance of the  
22 duties of the specified position, even though the person is not  
23 a sworn peace officer at the time of the training.

24 (c) For the purposes of this Section:

25 (1) The term "state policeman" includes any title or  
26 position in the Department of State Police that is held by

1 an individual employed under the State Police Act.

2 (2) The term "fire fighter in the fire protection  
3 service of a department" includes all officers in such fire  
4 protection service including fire chiefs and assistant  
5 fire chiefs.

6 (3) The term "air pilot" includes any employee whose  
7 official job description on file in the Department of  
8 Central Management Services, or in the department by which  
9 he is employed if that department is not covered by the  
10 Personnel Code, states that his principal duty is the  
11 operation of aircraft, and who possesses a pilot's license;  
12 however, the change in this definition made by this  
13 amendatory Act of 1983 shall not operate to exclude any  
14 noncovered employee who was an "air pilot" for the purposes  
15 of this Section on January 1, 1984.

16 (4) The term "special agent" means any person who by  
17 reason of employment by the Division of Narcotic Control,  
18 the Bureau of Investigation or, after July 1, 1977, the  
19 Division of Criminal Investigation, the Division of  
20 Internal Investigation, the Division of Operations, or any  
21 other Division or organizational entity in the Department  
22 of State Police is vested by law with duties to maintain  
23 public order, investigate violations of the criminal law of  
24 this State, enforce the laws of this State, make arrests  
25 and recover property. The term "special agent" includes any  
26 title or position in the Department of State Police that is

1 held by an individual employed under the State Police Act.

2 (5) The term "investigator for the Secretary of State"  
3 means any person employed by the Office of the Secretary of  
4 State and vested with such investigative duties as render  
5 him ineligible for coverage under the Social Security Act  
6 by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and  
7 218(1)(1) of that Act.

8 A person who became employed as an investigator for the  
9 Secretary of State between January 1, 1967 and December 31,  
10 1975, and who has served as such until attainment of age  
11 60, either continuously or with a single break in service  
12 of not more than 3 years duration, which break terminated  
13 before January 1, 1976, shall be entitled to have his  
14 retirement annuity calculated in accordance with  
15 subsection (a), notwithstanding that he has less than 20  
16 years of credit for such service.

17 (6) The term "Conservation Police Officer" means any  
18 person employed by the Division of Law Enforcement of the  
19 Department of Natural Resources and vested with such law  
20 enforcement duties as render him ineligible for coverage  
21 under the Social Security Act by reason of Sections  
22 218(d)(5)(A), 218(d)(8)(D), and 218(1)(1) of that Act. The  
23 term "Conservation Police Officer" includes the positions  
24 of Chief Conservation Police Administrator and Assistant  
25 Conservation Police Administrator.

26 (7) The term "investigator for the Department of

1 Revenue" means any person employed by the Department of  
2 Revenue and vested with such investigative duties as render  
3 him ineligible for coverage under the Social Security Act  
4 by reason of Sections 218(d)(5)(A), 218(d)(8)(D) and  
5 218(1)(1) of that Act.

6 The term "investigator for the Illinois Gaming Board"  
7 means any person employed as such by the Illinois Gaming  
8 Board and vested with such peace officer duties as render  
9 the person ineligible for coverage under the Social  
10 Security Act by reason of Sections 218(d)(5)(A),  
11 218(d)(8)(D), and 218(1)(1) of that Act.

12 (8) The term "security employee of the Department of  
13 Human Services or the Department of Healthcare and Family  
14 Services" means any person employed by the Department of  
15 Human Services (before January 1, 2011) or the Department  
16 of Healthcare and Family Services (on or after January 1,  
17 2011) who (i) is employed at the Chester Mental Health  
18 Center and has daily contact with the residents thereof,  
19 (ii) is employed within a security unit at a facility  
20 operated by the Department and has daily contact with the  
21 residents of the security unit, (iii) is employed at a  
22 facility operated by the Department that includes a  
23 security unit and is regularly scheduled to work at least  
24 50% of his or her working hours within that security unit,  
25 or (iv) is a mental health police officer. "Mental health  
26 police officer" means any person employed by the Department



1 of Human Services (before January 1, 2011) or the  
2 Department of Healthcare and Family Services (on or after  
3 January 1, 2011) in a position pertaining to the  
4 Department's mental health ~~and developmental disabilities~~  
5 functions who is vested with such law enforcement duties as  
6 render the person ineligible for coverage under the Social  
7 Security Act by reason of Sections 218(d)(5)(A),  
8 218(d)(8)(D) and 218(1)(1) of that Act. "Security unit"  
9 means that portion of a facility that is devoted to the  
10 care, containment, and treatment of persons committed to  
11 the Department of Human Services or the Department of  
12 Healthcare and Family Services as sexually violent  
13 persons, persons unfit to stand trial, or persons not  
14 guilty by reason of insanity. With respect to past  
15 employment, references to the Department of Human Services  
16 or the Department of Healthcare and Family Services include  
17 their ~~its~~ predecessor, the Department of Mental Health and  
18 Developmental Disabilities.

19 The changes made to this subdivision (c)(8) by Public  
20 Act 92-14 apply to persons who retire on or after January  
21 1, 2001, notwithstanding Section 1-103.1.

22 (9) "Central Management Services security police  
23 officer" means any person employed by the Department of  
24 Central Management Services who is vested with such law  
25 enforcement duties as render him ineligible for coverage  
26 under the Social Security Act by reason of Sections

1 218(d) (5) (A), 218(d) (8) (D) and 218(1) (1) of that Act.

2 (10) For a member who first became an employee under  
3 this Article before July 1, 2005, the term "security  
4 employee of the Department of Corrections or the Department  
5 of Juvenile Justice" means any employee of the Department  
6 of Corrections or the Department of Juvenile Justice or the  
7 former Department of Personnel, and any member or employee  
8 of the Prisoner Review Board, who has daily contact with  
9 inmates or youth by working within a correctional facility  
10 or Juvenile facility operated by the Department of Juvenile  
11 Justice or who is a parole officer or an employee who has  
12 direct contact with committed persons in the performance of  
13 his or her job duties. For a member who first becomes an  
14 employee under this Article on or after July 1, 2005, the  
15 term means an employee of the Department of Corrections or  
16 the Department of Juvenile Justice who is any of the  
17 following: (i) officially headquartered at a correctional  
18 facility or Juvenile facility operated by the Department of  
19 Juvenile Justice, (ii) a parole officer, (iii) a member of  
20 the apprehension unit, (iv) a member of the intelligence  
21 unit, (v) a member of the sort team, or (vi) an  
22 investigator.

23 (11) The term "dangerous drugs investigator" means any  
24 person who is employed as such by the Department of Human  
25 Services or the Department of Healthcare and Family  
26 Services.

1           (12) The term "investigator for the Department of State  
2           Police" means a person employed by the Department of State  
3           Police who is vested under Section 4 of the Narcotic  
4           Control Division Abolition Act with such law enforcement  
5           powers as render him ineligible for coverage under the  
6           Social Security Act by reason of Sections 218(d)(5)(A),  
7           218(d)(8)(D) and 218(1)(1) of that Act.

8           (13) "Investigator for the Office of the Attorney  
9           General" means any person who is employed as such by the  
10          Office of the Attorney General and is vested with such  
11          investigative duties as render him ineligible for coverage  
12          under the Social Security Act by reason of Sections  
13          218(d)(5)(A), 218(d)(8)(D) and 218(1)(1) of that Act. For  
14          the period before January 1, 1989, the term includes all  
15          persons who were employed as investigators by the Office of  
16          the Attorney General, without regard to social security  
17          status.

18          (14) "Controlled substance inspector" means any person  
19          who is employed as such by the Department of Professional  
20          Regulation and is vested with such law enforcement duties  
21          as render him ineligible for coverage under the Social  
22          Security Act by reason of Sections 218(d)(5)(A),  
23          218(d)(8)(D) and 218(1)(1) of that Act. The term  
24          "controlled substance inspector" includes the Program  
25          Executive of Enforcement and the Assistant Program  
26          Executive of Enforcement.

1           (15) The term "investigator for the Office of the  
2 State's Attorneys Appellate Prosecutor" means a person  
3 employed in that capacity on a full time basis under the  
4 authority of Section 7.06 of the State's Attorneys  
5 Appellate Prosecutor's Act.

6           (16) "Commerce Commission police officer" means any  
7 person employed by the Illinois Commerce Commission who is  
8 vested with such law enforcement duties as render him  
9 ineligible for coverage under the Social Security Act by  
10 reason of Sections 218(d)(5)(A), 218(d)(8)(D), and  
11 218(1)(1) of that Act.

12           (17) "Arson investigator" means any person who is  
13 employed as such by the Office of the State Fire Marshal  
14 and is vested with such law enforcement duties as render  
15 the person ineligible for coverage under the Social  
16 Security Act by reason of Sections 218(d)(5)(A),  
17 218(d)(8)(D), and 218(1)(1) of that Act. A person who was  
18 employed as an arson investigator on January 1, 1995 and is  
19 no longer in service but not yet receiving a retirement  
20 annuity may convert his or her creditable service for  
21 employment as an arson investigator into eligible  
22 creditable service by paying to the System the difference  
23 between the employee contributions actually paid for that  
24 service and the amounts that would have been contributed if  
25 the applicant were contributing at the rate applicable to  
26 persons with the same social security status earning

1 eligible creditable service on the date of application.

2 (18) The term "State highway maintenance worker" means  
3 a person who is either of the following:

4 (i) A person employed on a full-time basis by the  
5 Illinois Department of Transportation in the position  
6 of highway maintainer, highway maintenance lead  
7 worker, highway maintenance lead/lead worker, heavy  
8 construction equipment operator, power shovel  
9 operator, or bridge mechanic; and whose principal  
10 responsibility is to perform, on the roadway, the  
11 actual maintenance necessary to keep the highways that  
12 form a part of the State highway system in serviceable  
13 condition for vehicular traffic.

14 (ii) A person employed on a full-time basis by the  
15 Illinois State Toll Highway Authority in the position  
16 of equipment operator/laborer H-4, equipment  
17 operator/laborer H-6, welder H-4, welder H-6,  
18 mechanical/electrical H-4, mechanical/electrical H-6,  
19 water/sewer H-4, water/sewer H-6, sign maker/hanger  
20 H-4, sign maker/hanger H-6, roadway lighting H-4,  
21 roadway lighting H-6, structural H-4, structural H-6,  
22 painter H-4, or painter H-6; and whose principal  
23 responsibility is to perform, on the roadway, the  
24 actual maintenance necessary to keep the Authority's  
25 tollways in serviceable condition for vehicular  
26 traffic.

1 (d) A security employee of the Department of Corrections or  
2 the Department of Juvenile Justice, and a security employee of  
3 the Department of Human Services or the Department of  
4 Healthcare and Family Services who is not a mental health  
5 police officer, shall not be eligible for the alternative  
6 retirement annuity provided by this Section unless he or she  
7 meets the following minimum age and service requirements at the  
8 time of retirement:

9 (i) 25 years of eligible creditable service and age 55;

10 or

11 (ii) beginning January 1, 1987, 25 years of eligible  
12 creditable service and age 54, or 24 years of eligible  
13 creditable service and age 55; or

14 (iii) beginning January 1, 1988, 25 years of eligible  
15 creditable service and age 53, or 23 years of eligible  
16 creditable service and age 55; or

17 (iv) beginning January 1, 1989, 25 years of eligible  
18 creditable service and age 52, or 22 years of eligible  
19 creditable service and age 55; or

20 (v) beginning January 1, 1990, 25 years of eligible  
21 creditable service and age 51, or 21 years of eligible  
22 creditable service and age 55; or

23 (vi) beginning January 1, 1991, 25 years of eligible  
24 creditable service and age 50, or 20 years of eligible  
25 creditable service and age 55.

26 Persons who have service credit under Article 16 of this

1 Code for service as a security employee of the Department of  
2 Corrections or the Department of Juvenile Justice, the  
3 Department of Healthcare and Family Services, or the Department  
4 of Human Services in a position requiring certification as a  
5 teacher may count such service toward establishing their  
6 eligibility under the service requirements of this Section; but  
7 such service may be used only for establishing such  
8 eligibility, and not for the purpose of increasing or  
9 calculating any benefit.

10 (e) If a member enters military service while working in a  
11 position in which eligible creditable service may be earned,  
12 and returns to State service in the same or another such  
13 position, and fulfills in all other respects the conditions  
14 prescribed in this Article for credit for military service,  
15 such military service shall be credited as eligible creditable  
16 service for the purposes of the retirement annuity prescribed  
17 in this Section.

18 (f) For purposes of calculating retirement annuities under  
19 this Section, periods of service rendered after December 31,  
20 1968 and before October 1, 1975 as a covered employee in the  
21 position of special agent, conservation police officer, mental  
22 health police officer, or investigator for the Secretary of  
23 State, shall be deemed to have been service as a noncovered  
24 employee, provided that the employee pays to the System prior  
25 to retirement an amount equal to (1) the difference between the  
26 employee contributions that would have been required for such

1 service as a noncovered employee, and the amount of employee  
2 contributions actually paid, plus (2) if payment is made after  
3 July 31, 1987, regular interest on the amount specified in item  
4 (1) from the date of service to the date of payment.

5 For purposes of calculating retirement annuities under  
6 this Section, periods of service rendered after December 31,  
7 1968 and before January 1, 1982 as a covered employee in the  
8 position of investigator for the Department of Revenue shall be  
9 deemed to have been service as a noncovered employee, provided  
10 that the employee pays to the System prior to retirement an  
11 amount equal to (1) the difference between the employee  
12 contributions that would have been required for such service as  
13 a noncovered employee, and the amount of employee contributions  
14 actually paid, plus (2) if payment is made after January 1,  
15 1990, regular interest on the amount specified in item (1) from  
16 the date of service to the date of payment.

17 (g) A State policeman may elect, not later than January 1,  
18 1990, to establish eligible creditable service for up to 10  
19 years of his service as a policeman under Article 3, by filing  
20 a written election with the Board, accompanied by payment of an  
21 amount to be determined by the Board, equal to (i) the  
22 difference between the amount of employee and employer  
23 contributions transferred to the System under Section 3-110.5,  
24 and the amounts that would have been contributed had such  
25 contributions been made at the rates applicable to State  
26 policemen, plus (ii) interest thereon at the effective rate for



1 each year, compounded annually, from the date of service to the  
2 date of payment.

3 Subject to the limitation in subsection (i), a State  
4 policeman may elect, not later than July 1, 1993, to establish  
5 eligible creditable service for up to 10 years of his service  
6 as a member of the County Police Department under Article 9, by  
7 filing a written election with the Board, accompanied by  
8 payment of an amount to be determined by the Board, equal to  
9 (i) the difference between the amount of employee and employer  
10 contributions transferred to the System under Section 9-121.10  
11 and the amounts that would have been contributed had those  
12 contributions been made at the rates applicable to State  
13 policemen, plus (ii) interest thereon at the effective rate for  
14 each year, compounded annually, from the date of service to the  
15 date of payment.

16 (h) Subject to the limitation in subsection (i), a State  
17 policeman or investigator for the Secretary of State may elect  
18 to establish eligible creditable service for up to 12 years of  
19 his service as a policeman under Article 5, by filing a written  
20 election with the Board on or before January 31, 1992, and  
21 paying to the System by January 31, 1994 an amount to be  
22 determined by the Board, equal to (i) the difference between  
23 the amount of employee and employer contributions transferred  
24 to the System under Section 5-236, and the amounts that would  
25 have been contributed had such contributions been made at the  
26 rates applicable to State policemen, plus (ii) interest thereon

1 at the effective rate for each year, compounded annually, from  
2 the date of service to the date of payment.

3 Subject to the limitation in subsection (i), a State  
4 policeman, conservation police officer, or investigator for  
5 the Secretary of State may elect to establish eligible  
6 creditable service for up to 10 years of service as a sheriff's  
7 law enforcement employee under Article 7, by filing a written  
8 election with the Board on or before January 31, 1993, and  
9 paying to the System by January 31, 1994 an amount to be  
10 determined by the Board, equal to (i) the difference between  
11 the amount of employee and employer contributions transferred  
12 to the System under Section 7-139.7, and the amounts that would  
13 have been contributed had such contributions been made at the  
14 rates applicable to State policemen, plus (ii) interest thereon  
15 at the effective rate for each year, compounded annually, from  
16 the date of service to the date of payment.

17 Subject to the limitation in subsection (i), a State  
18 policeman, conservation police officer, or investigator for  
19 the Secretary of State may elect to establish eligible  
20 creditable service for up to 5 years of service as a police  
21 officer under Article 3, a policeman under Article 5, a  
22 sheriff's law enforcement employee under Article 7, a member of  
23 the county police department under Article 9, or a police  
24 officer under Article 15 by filing a written election with the  
25 Board and paying to the System an amount to be determined by  
26 the Board, equal to (i) the difference between the amount of

1 employee and employer contributions transferred to the System  
2 under Section 3-110.6, 5-236, 7-139.8, 9-121.10, or 15-134.4  
3 and the amounts that would have been contributed had such  
4 contributions been made at the rates applicable to State  
5 policemen, plus (ii) interest thereon at the effective rate for  
6 each year, compounded annually, from the date of service to the  
7 date of payment.

8 Subject to the limitation in subsection (i), an  
9 investigator for the Office of the Attorney General, or an  
10 investigator for the Department of Revenue, may elect to  
11 establish eligible creditable service for up to 5 years of  
12 service as a police officer under Article 3, a policeman under  
13 Article 5, a sheriff's law enforcement employee under Article  
14 7, or a member of the county police department under Article 9  
15 by filing a written election with the Board within 6 months  
16 after August 25, 2009 (the effective date of Public Act 96-745)  
17 ~~this amendatory Act of the 96th General Assembly~~ and paying to  
18 the System an amount to be determined by the Board, equal to  
19 (i) the difference between the amount of employee and employer  
20 contributions transferred to the System under Section 3-110.6,  
21 5-236, 7-139.8, or 9-121.10 and the amounts that would have  
22 been contributed had such contributions been made at the rates  
23 applicable to State policemen, plus (ii) interest thereon at  
24 the actuarially assumed rate for each year, compounded  
25 annually, from the date of service to the date of payment.

26 Subject to the limitation in subsection (i), a State

1 policeman, conservation police officer, investigator for the  
2 Office of the Attorney General, an investigator for the  
3 Department of Revenue, or investigator for the Secretary of  
4 State may elect to establish eligible creditable service for up  
5 to 5 years of service as a person employed by a participating  
6 municipality to perform police duties, or law enforcement  
7 officer employed on a full-time basis by a forest preserve  
8 district under Article 7, a county corrections officer, or a  
9 court services officer under Article 9, by filing a written  
10 election with the Board within 6 months after August 25, 2009  
11 (the effective date of Public Act 96-745) ~~this amendatory Act~~  
12 ~~of the 96th General Assembly~~ and paying to the System an amount  
13 to be determined by the Board, equal to (i) the difference  
14 between the amount of employee and employer contributions  
15 transferred to the System under Sections 7-139.8 and 9-121.10  
16 and the amounts that would have been contributed had such  
17 contributions been made at the rates applicable to State  
18 policemen, plus (ii) interest thereon at the actuarially  
19 assumed rate for each year, compounded annually, from the date  
20 of service to the date of payment.

21 (i) The total amount of eligible creditable service  
22 established by any person under subsections (g), (h), (j), (k),  
23 and (l) of this Section shall not exceed 12 years.

24 (j) Subject to the limitation in subsection (i), an  
25 investigator for the Office of the State's Attorneys Appellate  
26 Prosecutor or a controlled substance inspector may elect to

1 establish eligible creditable service for up to 10 years of his  
2 service as a policeman under Article 3 or a sheriff's law  
3 enforcement employee under Article 7, by filing a written  
4 election with the Board, accompanied by payment of an amount to  
5 be determined by the Board, equal to (1) the difference between  
6 the amount of employee and employer contributions transferred  
7 to the System under Section 3-110.6 or 7-139.8, and the amounts  
8 that would have been contributed had such contributions been  
9 made at the rates applicable to State policemen, plus (2)  
10 interest thereon at the effective rate for each year,  
11 compounded annually, from the date of service to the date of  
12 payment.

13 (k) Subject to the limitation in subsection (i) of this  
14 Section, an alternative formula employee may elect to establish  
15 eligible creditable service for periods spent as a full-time  
16 law enforcement officer or full-time corrections officer  
17 employed by the federal government or by a state or local  
18 government located outside of Illinois, for which credit is not  
19 held in any other public employee pension fund or retirement  
20 system. To obtain this credit, the applicant must file a  
21 written application with the Board by March 31, 1998,  
22 accompanied by evidence of eligibility acceptable to the Board  
23 and payment of an amount to be determined by the Board, equal  
24 to (1) employee contributions for the credit being established,  
25 based upon the applicant's salary on the first day as an  
26 alternative formula employee after the employment for which

1 credit is being established and the rates then applicable to  
2 alternative formula employees, plus (2) an amount determined by  
3 the Board to be the employer's normal cost of the benefits  
4 accrued for the credit being established, plus (3) regular  
5 interest on the amounts in items (1) and (2) from the first day  
6 as an alternative formula employee after the employment for  
7 which credit is being established to the date of payment.

8 (l) Subject to the limitation in subsection (i), a security  
9 employee of the Department of Corrections may elect, not later  
10 than July 1, 1998, to establish eligible creditable service for  
11 up to 10 years of his or her service as a policeman under  
12 Article 3, by filing a written election with the Board,  
13 accompanied by payment of an amount to be determined by the  
14 Board, equal to (i) the difference between the amount of  
15 employee and employer contributions transferred to the System  
16 under Section 3-110.5, and the amounts that would have been  
17 contributed had such contributions been made at the rates  
18 applicable to security employees of the Department of  
19 Corrections, plus (ii) interest thereon at the effective rate  
20 for each year, compounded annually, from the date of service to  
21 the date of payment.

22 (m) The amendatory changes to this Section made by this  
23 amendatory Act of the 94th General Assembly apply only to: (1)  
24 security employees of the Department of Juvenile Justice  
25 employed by the Department of Corrections before the effective  
26 date of this amendatory Act of the 94th General Assembly and

1 transferred to the Department of Juvenile Justice by this  
2 amendatory Act of the 94th General Assembly; and (2) persons  
3 employed by the Department of Juvenile Justice on or after the  
4 effective date of this amendatory Act of the 94th General  
5 Assembly who are required by subsection (b) of Section 3-2.5-15  
6 of the Unified Code of Corrections to have a bachelor's or  
7 advanced degree from an accredited college or university with a  
8 specialization in criminal justice, education, psychology,  
9 social work, or a closely related social science or, in the  
10 case of persons who provide vocational training, who are  
11 required to have adequate knowledge in the skill for which they  
12 are providing the vocational training.

13 (n) A person employed in a position under subsection (b) of  
14 this Section who has purchased service credit under subsection  
15 (j) of Section 14-104 or subsection (b) of Section 14-105 in  
16 any other capacity under this Article may convert up to 5 years  
17 of that service credit into service credit covered under this  
18 Section by paying to the Fund an amount equal to (1) the  
19 additional employee contribution required under Section  
20 14-133, plus (2) the additional employer contribution required  
21 under Section 14-131, plus (3) interest on items (1) and (2) at  
22 the actuarially assumed rate from the date of the service to  
23 the date of payment.

24 (Source: P.A. 95-530, eff. 8-28-07; 95-1036, eff. 2-17-09;  
25 96-37, eff. 7-13-09; 96-745, eff. 8-25-09; revised 10-1-09.)

1 Section 995. The Counties Code is amended by changing  
2 Sections 3-3013, 4-2001, 5-25013, and 6-30002 as follows:

3 (55 ILCS 5/3-3013) (from Ch. 34, par. 3-3013)

4 Sec. 3-3013. Preliminary investigations; blood and urine  
5 analysis; summoning jury. Every coroner, whenever, as soon as  
6 he knows or is informed that the dead body of any person is  
7 found, or lying within his county, whose death is suspected of  
8 being:

9 (a) A sudden or violent death, whether apparently  
10 suicidal, homicidal or accidental, including but not  
11 limited to deaths apparently caused or contributed to by  
12 thermal, traumatic, chemical, electrical or radiational  
13 injury, or a complication of any of them, or by drowning or  
14 suffocation, or as a result of domestic violence as defined  
15 in the Illinois Domestic Violence Act of 1986;

16 (b) A maternal or fetal death due to abortion, or any  
17 death due to a sex crime or a crime against nature;

18 (c) A death where the circumstances are suspicious,  
19 obscure, mysterious or otherwise unexplained or where, in  
20 the written opinion of the attending physician, the cause  
21 of death is not determined;

22 (d) A death where addiction to alcohol or to any drug  
23 may have been a contributory cause; or

24 (e) A death where the decedent was not attended by a  
25 licensed physician;



1 shall go to the place where the dead body is, and take charge  
2 of the same and shall make a preliminary investigation into the  
3 circumstances of the death. In the case of death without  
4 attendance by a licensed physician the body may be moved with  
5 the coroner's consent from the place of death to a mortuary in  
6 the same county. Coroners in their discretion shall notify such  
7 physician as is designated in accordance with Section 3-3014 to  
8 attempt to ascertain the cause of death, either by autopsy or  
9 otherwise.

10 In cases of accidental death involving a motor vehicle in  
11 which the decedent was (1) the operator or a suspected operator  
12 of a motor vehicle, or (2) a pedestrian 16 years of age or  
13 older, the coroner shall require that a blood specimen of at  
14 least 30 cc., and if medically possible a urine specimen of at  
15 least 30 cc. or as much as possible up to 30 cc., be withdrawn  
16 from the body of the decedent in a timely fashion after the  
17 accident causing his death, by such physician as has been  
18 designated in accordance with Section 3-3014, or by the coroner  
19 or deputy coroner or a qualified person designated by such  
20 physician, coroner, or deputy coroner. If the county does not  
21 maintain laboratory facilities for making such analysis, the  
22 blood and urine so drawn shall be sent to the Department of  
23 State Police or any other accredited or State-certified  
24 laboratory for analysis of the alcohol, carbon monoxide, and  
25 dangerous or narcotic drug content of such blood and urine  
26 specimens. Each specimen submitted shall be accompanied by

1 pertinent information concerning the decedent upon a form  
2 prescribed by such laboratory. Any person drawing blood and  
3 urine and any person making any examination of the blood and  
4 urine under the terms of this Division shall be immune from all  
5 liability, civil or criminal, that might otherwise be incurred  
6 or imposed.

7 In all other cases coming within the jurisdiction of the  
8 coroner and referred to in subparagraphs (a) through (e) above,  
9 blood, and whenever possible, urine samples shall be analyzed  
10 for the presence of alcohol and other drugs. When the coroner  
11 suspects that drugs may have been involved in the death, either  
12 directly or indirectly, a toxicological examination shall be  
13 performed which may include analyses of blood, urine, bile,  
14 gastric contents and other tissues. When the coroner suspects a  
15 death is due to toxic substances, other than drugs, the coroner  
16 shall consult with the toxicologist prior to collection of  
17 samples. Information submitted to the toxicologist shall  
18 include information as to height, weight, age, sex and race of  
19 the decedent as well as medical history, medications used by  
20 and the manner of death of decedent.

21 When the coroner or medical examiner finds that the cause  
22 of death is due to homicidal means, the coroner or medical  
23 examiner shall cause blood and buccal specimens (tissue may be  
24 submitted if no uncontaminated blood or buccal specimen can be  
25 obtained), whenever possible, to be withdrawn from the body of  
26 the decedent in a timely fashion. Within 45 days after the

1 collection of the specimens, the coroner or medical examiner  
2 shall deliver those specimens, dried, to the Illinois  
3 Department of State Police, Division of Forensic Services, for  
4 analysis and categorizing into genetic marker groupings to be  
5 maintained by the Illinois Department of State Police in the  
6 State central repository in the same manner, and subject to the  
7 same conditions, as provided in Section 5-4-3 of the Unified  
8 Code of Corrections. The requirements of this paragraph are in  
9 addition to any other findings, specimens, or information that  
10 the coroner or medical examiner is required to provide during  
11 the conduct of a criminal investigation.

12 In all counties, in cases of apparent suicide, homicide, or  
13 accidental death or in other cases, within the discretion of  
14 the coroner, the coroner may summon 8 persons of lawful age  
15 from those persons drawn for petit jurors in the county. The  
16 summons shall command these persons to present themselves  
17 personally at such a place and time as the coroner shall  
18 determine, and may be in any form which the coroner shall  
19 determine and may incorporate any reasonable form of request  
20 for acknowledgement which the coroner deems practical and  
21 provides a reliable proof of service. The summons may be served  
22 by first class mail. From the 8 persons so summoned, the  
23 coroner shall select 6 to serve as the jury for the inquest.  
24 Inquests may be continued from time to time, as the coroner may  
25 deem necessary. The 6 jurors selected in a given case may view  
26 the body of the deceased. If at any continuation of an inquest

1 one or more of the original jurors shall be unable to continue  
2 to serve, the coroner shall fill the vacancy or vacancies. A  
3 juror serving pursuant to this paragraph shall receive  
4 compensation from the county at the same rate as the rate of  
5 compensation that is paid to petit or grand jurors in the  
6 county. The coroner shall furnish to each juror without fee at  
7 the time of his discharge a certificate of the number of days  
8 in attendance at an inquest, and, upon being presented with  
9 such certificate, the county treasurer shall pay to the juror  
10 the sum provided for his services.

11 In counties which have a jury commission, in cases of  
12 apparent suicide or homicide or of accidental death, the  
13 coroner may conduct an inquest. The jury commission shall  
14 provide at least 8 jurors to the coroner, from whom the coroner  
15 shall select any 6 to serve as the jury for the inquest.  
16 Inquests may be continued from time to time as the coroner may  
17 deem necessary. The 6 jurors originally chosen in a given case  
18 may view the body of the deceased. If at any continuation of an  
19 inquest one or more of the 6 jurors originally chosen shall be  
20 unable to continue to serve, the coroner shall fill the vacancy  
21 or vacancies. At the coroner's discretion, additional jurors to  
22 fill such vacancies shall be supplied by the jury commission. A  
23 juror serving pursuant to this paragraph in such county shall  
24 receive compensation from the county at the same rate as the  
25 rate of compensation that is paid to petit or grand jurors in  
26 the county.

1           In addition, in every case in which domestic violence is  
2 determined to be a contributing factor in a death, the coroner  
3 shall report the death to the Department of State Police.

4           All deaths in State institutions and all deaths of wards of  
5 the State in private care facilities or in programs funded by  
6 the Department of Human Services or the Department of  
7 Healthcare and Family Services under its powers relating to  
8 mental health, ~~and~~ developmental disabilities, or alcoholism  
9 and substance abuse or funded by the Department of Children and  
10 Family Services shall be reported to the coroner of the county  
11 in which the facility is located. If the coroner has reason to  
12 believe that an investigation is needed to determine whether  
13 the death was caused by maltreatment or negligent care of the  
14 ward of the State, the coroner may conduct a preliminary  
15 investigation of the circumstances of such death as in cases of  
16 death under circumstances set forth in paragraphs (a) through  
17 (e) of this Section.

18           (Source: P.A. 94-924, eff. 1-1-07; 95-484, eff. 6-1-08.)

19           (55 ILCS 5/4-2001) (from Ch. 34, par. 4-2001)

20           Sec. 4-2001. State's attorney salaries.

21           (a) There shall be allowed to the several state's attorneys  
22 in this State, except the state's attorney of Cook County, the  
23 following annual salary:

24                   (1) Subject to paragraph (5), to each state's attorney  
25 in counties containing less than 10,000 inhabitants,

1           \$40,500 until December 31, 1988, \$45,500 until June 30,  
2           1994, and \$55,500 thereafter or as set by the Compensation  
3           Review Board, whichever is greater.

4           (2) Subject to paragraph (5), to each state's attorney  
5           in counties containing 10,000 or more inhabitants but less  
6           than 20,000 inhabitants, \$46,500 until December 31, 1988,  
7           \$61,500 until June 30, 1994, and \$71,500 thereafter or as  
8           set by the Compensation Review Board, whichever is greater.

9           (3) Subject to paragraph (5), to each state's attorney  
10          in counties containing 20,000 or more but less than 30,000  
11          inhabitants, \$51,000 until December 31, 1988, \$65,000  
12          until June 30, 1994, and \$75,000 thereafter or as set by  
13          the Compensation Review Board, whichever is greater.

14          (4) To each state's attorney in counties of 30,000 or  
15          more inhabitants, \$65,500 until December 31, 1988, \$80,000  
16          until June 30, 1994, and \$96,837 thereafter or as set by  
17          the Compensation Review Board, whichever is greater.

18          (5) Effective December 1, 2000, to each state's  
19          attorney in counties containing fewer than 30,000  
20          inhabitants, the same salary plus any cost of living  
21          adjustments as authorized by the Compensation Review Board  
22          to take effect after January 1, 1999, for state's attorneys  
23          in counties containing 20,000 or more but fewer than 30,000  
24          inhabitants, or as set by the Compensation Review Board  
25          whichever is greater.

26          The State shall furnish 66 2/3% of the total annual

1 compensation to be paid to each state's attorney in Illinois  
2 based on the salary in effect on December 31, 1988, and 100% of  
3 the increases in salary taking effect after December 31, 1988.

4 Said amounts furnished by the State shall be payable  
5 monthly from the state treasury to the county in which each  
6 state's attorney is elected.

7 Each county shall be required to furnish 33 1/3% of the  
8 total annual compensation to be paid to each state's attorney  
9 in Illinois based on the salary in effect on December 31, 1988.

10 Within 90 days after the effective date of this amendatory  
11 Act of the 96th General Assembly, the county board of any  
12 county with a population between 15,000 and 50,000 by  
13 resolution or ordinance may increase the amount of compensation  
14 to be paid to each eligible state's attorney in their county in  
15 the form of a longevity stipend which shall be added to and  
16 become part of the salary of the state's attorney for that  
17 year. To be eligible, the state's attorney must have served in  
18 the elected position for at least 20 continuous years and elect  
19 to participate in a program for an alternative annuity for  
20 county officers and make the required additional optional  
21 contributions as authorized by P.A. 90-32.

22 (b) Effective December 1, 2000, no state's attorney may  
23 engage in the private practice of law. However, until November  
24 30, 2000, (i) the state's attorneys in counties containing  
25 fewer than 10,000 inhabitants may engage in the practice of  
26 law, and (ii) in any county between 10,000 and 30,000

1 inhabitants or in any county containing 30,000 or more  
2 inhabitants which reached that population between 1970 and  
3 December 31, 1981, the state's attorney may declare his or her  
4 intention to engage in the private practice of law, and may do  
5 so through no later than November 30, 2000, by filing a written  
6 declaration of intent to engage in the private practice of law  
7 with the county clerk. The declaration of intention shall be  
8 irrevocable during the remainder of the term of office. The  
9 declaration shall be filed with the county clerk within 30 days  
10 of certification of election or appointment, or within 60 days  
11 of March 15, 1989, whichever is later. In that event the annual  
12 salary of such state's attorney shall be as follows:

13 (1) In counties containing 10,000 or more inhabitants  
14 but less than 20,000 inhabitants, \$46,500 until December  
15 31, 1988, \$51,500 until June 30, 1994, and \$61,500  
16 thereafter or as set by the Compensation Review Board,  
17 whichever is greater. The State shall furnish 100% of the  
18 increases taking effect after December 31, 1988.

19 (2) In counties containing 20,000 or more inhabitants  
20 but less than 30,000 inhabitants, and in counties  
21 containing 30,000 or more inhabitants which reached said  
22 population between 1970 and December 31, 1981, \$51,500  
23 until December 31, 1988, \$56,000 until June 30, 1994, and  
24 \$65,000 thereafter or as set by the Compensation Review  
25 Board, whichever is greater. The State shall furnish 100%  
26 of the increases taking effect after December 31, 1988.



1           (c) In counties where a state mental health institution, as  
2 hereinafter defined, is located, one assistant state's  
3 attorney shall receive for his services, payable monthly from  
4 the state treasury to the county in which he is appointed, the  
5 following:

6           (1) To each assistant state's attorney in counties  
7 containing less than 10,000 inhabitants, the sum of \$2,500  
8 per annum;

9           (2) To each assistant state's attorney in counties  
10 containing not less than 10,000 inhabitants and not more  
11 than 20,000 inhabitants, the sum of \$3,500 per annum;

12           (3) To each assistant state's attorney in counties  
13 containing not less than 20,000 inhabitants and not more  
14 than 30,000 inhabitants, the sum of \$4,000 per annum;

15           (4) To each assistant state's attorney in counties  
16 containing not less than 30,000 inhabitants and not more  
17 than 40,000 inhabitants, the sum of \$4,500 per annum;

18           (5) To each assistant state's attorney in counties  
19 containing not less than 40,000 inhabitants and not more  
20 than 70,000 inhabitants, the sum of \$5,000 per annum;

21           (6) To each assistant state's attorney in counties  
22 containing not less than 70,000 inhabitants and not more  
23 than 1,000,000 inhabitants, the sum of \$6,000 per annum.

24           (d) The population of all counties for the purpose of  
25 fixing salaries as herein provided shall be based upon the last  
26 Federal census immediately previous to the appointment of an

1 assistant state's attorney in each county.

2 (e) At the request of the county governing authority, in  
3 counties where one or more state correctional institutions, as  
4 hereinafter defined, are located, one or more assistant state's  
5 attorneys shall receive for their services, provided that such  
6 services are performed in connection with the state  
7 correctional institution, payable monthly from the state  
8 treasury to the county in which they are appointed, the  
9 following:

10 (1) \$22,000 for each assistant state's attorney in  
11 counties with one or more State correctional institutions  
12 with a total average daily inmate population in excess of  
13 2,000, on the basis of 2 assistant state's attorneys when  
14 the total average daily inmate population exceeds 2,000 but  
15 is less than 4,000; and 3 assistant state's attorneys when  
16 such population exceeds 4,000; with reimbursement to be  
17 based on actual services rendered.

18 (2) \$15,000 per year for one assistant state's attorney  
19 in counties having one or more correctional institutions  
20 with a total average daily inmate population of between 750  
21 and 2,000 inmates, with reimbursement to be based on actual  
22 services rendered.

23 (3) A maximum of \$12,000 per year for one assistant  
24 state's attorney in counties having less than 750 inmates,  
25 with reimbursement to be based on actual services rendered.

26 Upon application of the county governing authority and

1 certification of the State's Attorney, the Director of  
2 Corrections may, in his discretion and subject to  
3 appropriation, increase the amount of salary reimbursement  
4 to a county in the event special circumstances require the  
5 county to incur extraordinary salary expenditures as a  
6 result of services performed in connection with State  
7 correctional institutions in that county.

8 In determining whether or not to increase the amount of  
9 salary reimbursement, the Director shall consider, among other  
10 matters:

- 11 (1) the nature of the services rendered;
- 12 (2) the results or dispositions obtained;
- 13 (3) whether or not the county was required to employ  
14 additional attorney personnel as a direct result of the  
15 services actually rendered in connection with a particular  
16 service to a State correctional institution.

17 (f) In counties where a State senior institution of higher  
18 education is located, the assistant state's attorneys  
19 specified by this Section shall receive for their services,  
20 payable monthly from the State treasury to the county in which  
21 appointed, the following:

- 22 (1) \$14,000 per year each for employment on a full time  
23 basis for 2 assistant state's attorneys in counties having  
24 a State university or State universities with combined full  
25 time enrollment of more than 15,000 students.

- 26 (2) \$7,200 per year for one assistant state's attorney

1 with no limitation on other practice in counties having a  
2 State university or State universities with combined full  
3 time enrollment of 10,000 to 15,000 students.

4 (3) \$4,000 per year for one assistant state's attorney  
5 with no limitation on other practice in counties having a  
6 State university or State universities with combined full  
7 time enrollment of less than 10,000 students.

8 Such salaries shall be paid to the state's attorney and the  
9 assistant state's attorney in equal monthly installments by  
10 such county out of the county treasury provided that the State  
11 of Illinois shall reimburse each county monthly from the state  
12 treasury the amount of such salary. This Section shall not  
13 prevent the payment of such additional compensation to the  
14 state's attorney or assistant state's attorney of any county,  
15 out of the treasury of that county as may be provided by law.

16 (g) For purposes of this Section, "State mental health  
17 institution" means any institution under the jurisdiction of  
18 the Department of Human Services or the Department of  
19 Healthcare and Family Services that is listed in Section 4 of  
20 the Mental Health and Developmental Disabilities  
21 Administrative Act.

22 For purposes of this Section, "State correctional  
23 institution" means any facility of the Department of  
24 Corrections including adult facilities, juvenile facilities,  
25 pre-release centers, community correction centers, and work  
26 camps.

1           For purposes of this Section, "State university" means the  
2 University of Illinois, Southern Illinois University, Chicago  
3 State University, Eastern Illinois University, Governors State  
4 University, Illinois State University, Northeastern Illinois  
5 University, Northern Illinois University, Western Illinois  
6 University, and any public community college which has  
7 established a program of interinstitutional cooperation with  
8 one of the foregoing institutions whereby a student, after  
9 earning an associate degree from the community college, pursues  
10 a course of study at the community college campus leading to a  
11 baccalaureate degree from the foregoing institution (also  
12 known as a "2 Plus 2" degree program).

13           (h) A number of assistant state's attorneys shall be  
14 appointed in each county that chooses to participate, as  
15 provided in this subsection, for the prosecution of  
16 alcohol-related traffic offenses. Each county shall receive  
17 monthly a subsidy for payment of the salaries and benefits of  
18 these assistant state's attorneys from State funds  
19 appropriated to the county for that purpose. The amounts of  
20 subsidies provided by this subsection shall be adjusted for  
21 inflation each July 1 using the Consumer Price Index of the  
22 Bureau of Labor Statistics of the U.S. Department of Labor.

23           When a county chooses to participate in the subsidy program  
24 described in this subsection (h), the number of assistant  
25 state's attorneys who are prosecuting alcohol-related traffic  
26 offenses must increase according to the subsidy provided in

1 this subsection. These appointed assistant state's attorneys  
2 shall be in addition to any other assistant state's attorneys  
3 assigned to those cases on the effective date of this  
4 amendatory Act of the 91st General Assembly, and may not  
5 replace those assistant state's attorneys. In counties where  
6 the state's attorney is the sole prosecutor, this subsidy shall  
7 be used to provide an assistant state's attorney to prosecute  
8 alcohol-related traffic offenses along with the state's  
9 attorney. In counties where the state's attorney is the sole  
10 prosecutor, and in counties where a judge presides over cases  
11 involving a variety of misdemeanors, including alcohol-related  
12 traffic matters, assistant state's attorneys appointed and  
13 subsidized by this subsection (h) may also prosecute the  
14 different misdemeanor cases at the direction of the state's  
15 attorney.

16 Assistant state's attorneys shall be appointed under this  
17 subsection in the following number and counties shall receive  
18 the following annual subsidies:

19 (1) In counties with fewer than 30,000 inhabitants, one  
20 at \$35,000.

21 (2) In counties with 30,000 or more but fewer than  
22 100,000 inhabitants, one at \$45,000.

23 (3) In counties with 100,000 or more but fewer than  
24 300,000 inhabitants, 2 at \$45,000 each.

25 (4) In counties, other than Cook County, with 300,000  
26 or more inhabitants, 4 at \$50,000 each.

1           The amounts appropriated under this Section must be  
2 segregated by population classification and disbursed monthly.

3           If in any year the amount appropriated for the purposes of  
4 this subsection (h) is insufficient to pay all of the subsidies  
5 specified in this subsection, the amount appropriated shall  
6 first be prorated by the population classifications of this  
7 subsection (h) and then among the counties choosing to  
8 participate within each of those classifications. If any of the  
9 appropriated moneys for each population classification remain  
10 at the end of a fiscal year, the remainder of the moneys may be  
11 allocated to participating counties that were not fully funded  
12 during the course of the year. Nothing in this subsection  
13 prohibits 2 or more State's attorneys from combining their  
14 subsidies to appoint a joint assistant State's attorney to  
15 prosecute alcohol-related traffic offenses in multiple  
16 counties. Nothing in this subsection prohibits a State's  
17 attorney from appointing an assistant State's attorney by  
18 contract or otherwise.

19           (Source: P.A. 96-259, eff. 8-11-09.)

20           (55 ILCS 5/5-25013) (from Ch. 34, par. 5-25013)

21           Sec. 5-25013. Organization of board; powers and duties.

22           (A) The board of health of each county or multiple-county  
23 health department shall, immediately after appointment, meet  
24 and organize, by the election of one of its number as president  
25 and one as secretary, and either from its number or otherwise,

1 a treasurer and such other officers as it may deem necessary. A  
2 board of health may make and adopt such rules for its own  
3 guidance and for the government of the health department as may  
4 be deemed necessary to protect and improve public health not  
5 inconsistent with this Division. It shall:

6 1. Hold a meeting prior to the end of each operating  
7 fiscal year, at which meeting officers shall be elected for  
8 the ensuing operating fiscal year;

9 2. Hold meetings at least quarterly;

10 3. Hold special meetings upon a written request signed  
11 by two members and filed with the Secretary or on request  
12 of the medical health officer or public health  
13 administrator;

14 4. Provide, equip and maintain suitable offices,  
15 facilities and appliances for the health department;

16 5. Publish annually, within 90 days after the end of  
17 the county's operating fiscal year, in pamphlet form, for  
18 free distribution, an annual report showing the condition  
19 of its trust on the last day of the most recently completed  
20 operating fiscal year, the sums of money received from all  
21 sources, giving the name of any donor, how all moneys have  
22 been expended and for what purpose, and such other  
23 statistics and information in regard to the work of the  
24 health department as it may deem of general interest;

25 6. Within its jurisdiction, and professional and  
26 technical competence, enforce and observe all State laws



1       pertaining to the preservation of health, and all county  
2       and municipal ordinances except as otherwise provided in  
3       this Division;

4             7. Within its jurisdiction, and professional and  
5       technical competence, investigate the existence of any  
6       contagious or infectious disease and adopt measures, not  
7       inconsistent with the regulations of the State Department  
8       of Public Health, to arrest the progress of the same;

9             8. Within its jurisdiction, and professional and  
10      technical competence, make all necessary sanitary and  
11      health investigations and inspections;

12            9. Upon request, give professional advice and  
13      information to all city, village, incorporated town and  
14      school authorities, within its jurisdiction, in all  
15      matters pertaining to sanitation and public health;

16            10. Appoint a medical health officer as the executive  
17      officer for the department, who shall be a citizen of the  
18      United States and shall possess such qualifications as may  
19      be prescribed by the State Department of Public Health; or  
20      appoint a public health administrator who shall possess  
21      such qualifications as may be prescribed by the State  
22      Department of Public Health as the executive officer for  
23      the department, provided that the board of health shall  
24      make available medical supervision which is considered  
25      adequate by the Director of Public Health;

26            10 1/2. Appoint such professional employees as may be

1 approved by the executive officer who meet the  
2 qualification requirements of the State Department of  
3 Public Health for their respective positions provided,  
4 that in those health departments temporarily without a  
5 medical health officer or public health administrator  
6 approval by the State Department of Public Health shall  
7 suffice;

8 11. Appoint such other officers and employees as may be  
9 necessary;

10 12. Prescribe the powers and duties of all officers and  
11 employees, fix their compensation, and authorize payment  
12 of the same and all other department expenses from the  
13 County Health Fund of the county or counties concerned;

14 13. Submit an annual budget to the county board or  
15 boards;

16 14. Submit an annual report to the county board or  
17 boards, explaining all of its activities and expenditures;

18 15. Establish and carry out programs and services in  
19 mental health, including mental retardation and alcoholism  
20 and substance abuse, not inconsistent with the regulations  
21 of the Department of Human Services or the Department of  
22 Healthcare and Family Services;

23 16. Consult with all other private and public health  
24 agencies in the county in the development of local plans  
25 for the most efficient delivery of health services.

26 (B) The board of health of each county or multiple-county

1 health department may:

2 1. Initiate and carry out programs and activities of  
3 all kinds, not inconsistent with law, that may be deemed  
4 necessary or desirable in the promotion and protection of  
5 health and in the control of disease including  
6 tuberculosis;

7 2. Receive contributions of real and personal  
8 property;

9 3. Recommend to the county board or boards the adoption  
10 of such ordinances and of such rules and regulations as may  
11 be deemed necessary or desirable for the promotion and  
12 protection of health and control of disease;

13 4. Appoint a medical and dental advisory committee and  
14 a non-medical advisory committee to the health department;

15 5. Enter into contracts with the State,  
16 municipalities, other political subdivisions and  
17 non-official agencies for the purchase, sale or exchange of  
18 health services;

19 6. Set fees it deems reasonable and necessary (i) to  
20 provide services or perform regulatory activities, (ii)  
21 when required by State or federal grant award conditions,  
22 (iii) to support activities delegated to the board of  
23 health by the Illinois Department of Public Health, or (iv)  
24 when required by an agreement between the board of health  
25 and other private or governmental organizations, unless  
26 the fee has been established as a part of a regulatory

1 ordinance adopted by the county board, in which case the  
2 board of health shall make recommendations to the county  
3 board concerning those fees. Revenue generated under this  
4 Section shall be deposited into the County Health Fund or  
5 to the account of the multiple-county health department.

6 7. Enter into multiple year employment contracts with  
7 the medical health officer or public health administrator  
8 as may be necessary for the recruitment and retention of  
9 personnel and the proper functioning of the health  
10 department.

11 (C) The board of health of a multiple-county health  
12 department may hire attorneys to represent and advise the  
13 department concerning matters that are not within the exclusive  
14 jurisdiction of the State's Attorney of one of the counties  
15 that created the department.

16 (Source: P.A. 89-272, eff. 8-10-95; 89-507, eff. 7-1-97.)

17 (55 ILCS 5/6-30002) (from Ch. 34, par. 6-30002)

18 Sec. 6-30002. Disbursement to county treasurer for  
19 distribution to appropriate recipient. Notwithstanding any  
20 other provision to the contrary, any State funds disbursed by  
21 the State, or federal funds authorized to be disbursed by the  
22 State, to any county official of a county with a population of  
23 less than 2,000,000, or to any county department, agency  
24 program or entity of a such county shall be disbursed only to  
25 the county treasurer of such county for distribution by the

1 county treasurer to the appropriate county recipient. This  
2 Division shall not apply to funds disbursed by a regional  
3 superintendent of schools, a regional educational service  
4 center, or the Department of Human Services or the Department  
5 of Healthcare and Family Services with respect to its functions  
6 pertaining to mental health or ~~and~~ developmental disabilities.  
7 (Source: P.A. 89-262, eff. 8-10-95; 89-507, eff. 7-1-97.)

8 Section 1000. The Township Code is amended by changing  
9 Sections 30-145 and 190-10 as follows:

10 (60 ILCS 1/30-145)

11 Sec. 30-145. Mental health services. If a township is not  
12 included in a mental health district organized under the  
13 Community Mental Health Act, the electors may authorize the  
14 board of trustees to provide mental health services, including  
15 services for the alcoholic, the drug addicted, and the mentally  
16 retarded, for residents of the township by disbursing existing  
17 funds if available by contracting with mental health agencies  
18 approved by the Department of Human Services or the Department  
19 of Healthcare and Family Services, alcoholism treatment  
20 programs licensed by the Department of Public Health, and drug  
21 abuse facilities and other alcohol and drug abuse services  
22 approved by the Department of Human Services or the Department  
23 of Healthcare and Family Services. To be eligible to receive  
24 township funds, an agency, program, facility, or other service

1 provider must have been in existence for more than one year and  
2 must serve the township area.

3 (Source: P.A. 89-507, eff. 7-1-97; 90-210, eff. 7-25-97.)

4 (60 ILCS 1/190-10)

5 Sec. 190-10. Mental health services. If a township is not  
6 included in a mental health district organized under the  
7 Community Mental Health Act, the township board may provide  
8 mental health services (including services for the alcoholic,  
9 the drug addicted, and the mentally retarded) for residents of  
10 the township by disbursing funds, pursuant to an appropriation,  
11 to mental health agencies approved by the Department of Human  
12 Services or the Department of Healthcare and Family Services,  
13 alcoholism treatment programs licensed by the Department of  
14 Public Health, drug abuse facilities approved by the Department  
15 of Human Services or the Department of Healthcare and Family  
16 Services, and other alcoholism and drug abuse services approved  
17 by the Department of Human Services or the Department of  
18 Healthcare and Family Services. To be eligible for township  
19 funds disbursed under this Section, an agency, program,  
20 facility, or other service provider must have been in existence  
21 for more than one year and serve the township area.

22 (Source: P.A. 88-62; 89-507, eff. 7-1-97.)

23 Section 1005. The Illinois Municipal Code is amended by  
24 changing Sections 11-22-2 and 11-23-3 as follows:

1 (65 ILCS 5/11-22-2) (from Ch. 24, par. 11-22-2)

2 Sec. 11-22-2. In the event any municipality has established  
3 a public hospital in accordance with the provisions of this  
4 Division 22 and in the further event the corporate authorities  
5 shall determine that the hospital is no longer needed for the  
6 purposes for which it was established, or that those purposes  
7 would be better served through the operation of the hospital by  
8 a corporation, hospital, health care facility, unit of local  
9 government or institution of higher education, the corporate  
10 authorities may by ordinance authorize the transfer, sale or  
11 lease of the hospital to such corporation, hospital, health  
12 care facility, unit of local government or institution of  
13 higher education within or without the corporate limits of the  
14 municipality, or may authorize the sale or lease of the  
15 hospital to any mental health clinic which obtains any portion  
16 of its funds from the Department of Human Services (as  
17 successor to the Department of Mental Health and Developmental  
18 Disabilities) or the Department of Healthcare and Family  
19 Services (as successor to the Department of Human Services with  
20 respect to functions relating to mental health). Such transfer,  
21 sale or lease may be on such terms and under such conditions as  
22 the corporate authorities may deem proper without regard to any  
23 provisions of Division 9 or 10 of Article 8 or Divisions 75,  
24 76, 77 and 78 of this Article 11. At least 10 days prior to the  
25 adoption of an ordinance under this Section, the corporate

1 authorities shall make the proposed ordinance conveniently  
2 available for public inspection and shall hold at least one  
3 public hearing thereon. Notice of this hearing shall be  
4 published in one or more newspapers published in the  
5 municipality, or if there is none published in the  
6 municipality, in a newspaper having general circulation in the  
7 municipality, at least 10 days prior to the time of the public  
8 hearing. Such notice shall state the time and place of the  
9 hearing and the place where copies of the proposed ordinance  
10 will be accessible for examination.

11 In the event that prior to the sale or lease of the  
12 hospital pursuant to this Section, a labor organization has  
13 been recognized by the hospital as the exclusive representative  
14 of the majority of employees in a bargaining unit for purposes  
15 of collective bargaining, and in the further event that a  
16 purchaser or lessor subject to the National Labor Relations Act  
17 retains or hires a majority of the employees in such a  
18 bargaining unit, such purchaser or lessor shall recognize the  
19 labor organization as the exclusive representative of the  
20 majority of employees in that bargaining unit for purposes of  
21 collective bargaining, provided that the labor organization  
22 makes a timely written assertion of its representational  
23 capacity to the purchaser or lessor.

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

25 (65 ILCS 5/11-23-3) (from Ch. 24, par. 11-23-3)



1           Sec. 11-23-3. In the event any municipality has established  
2 a city public hospital in accordance with the provisions of  
3 Section 11-23-1 and in the further event the corporate  
4 authorities shall determine that the hospital is no longer  
5 needed for the purposes for which it was established or that  
6 those purposes would be better served through the operation of  
7 the city hospital by a corporation, hospital, health care  
8 facility, unit of local government or institution of higher  
9 education, the corporate authorities by ordinance may  
10 authorize the transfer, sale or lease of the hospital to such  
11 corporation, hospital, health care facility, unit of local  
12 government or institution of higher education within or without  
13 the corporate limits of the city, or may authorize the sale or  
14 lease of the hospital to any mental health clinic which obtains  
15 any portion of its funds from the Department of Human Services  
16 (as successor to the Department of Mental Health and  
17 Developmental Disabilities) or the Department of Healthcare  
18 and Family Services (as successor to the Department of Human  
19 Services with respect to functions relating to mental health).

20 Such transfer, sale or lease may be on such terms and under  
21 such conditions as the corporate authorities may deem proper  
22 without regard to any provisions of Division 9 of Article 8 or  
23 Divisions 75, 76, 77 and 78 of this Article 11. At least 10  
24 days prior to the adoption of an ordinance under this Section  
25 the corporate authorities shall make the proposed ordinance  
26 conveniently available for public inspection and shall hold at

1 least one public hearing thereon. Notice of this hearing shall  
2 be published in one or more newspapers published in the  
3 municipality, or if there is none published in the  
4 municipality, in a newspaper having general circulation in the  
5 municipality, at least 10 days prior to the time of the public  
6 hearing. Such notice shall state the time and place of the  
7 hearing and the place where copies of the proposed ordinance  
8 will be accessible for examination.

9 If a city public hospital is transferred, sold or leased as  
10 authorized by this section and if no bonds issued under the  
11 provisions of Section 11-23-6 or Section 11-23-13 are  
12 outstanding, the city council may transfer any excess funds  
13 remaining in the Hospital Fund to the general fund of the city  
14 to be expended for capital expenditures only and not for  
15 operating expenses of the city.

16 In the event that prior to the sale or lease of the  
17 hospital pursuant to this Section, a labor organization has  
18 been recognized by the hospital as the exclusive representative  
19 of the majority of employees in a bargaining unit for purposes  
20 of collective bargaining, and in the further event that a  
21 purchaser or lessor subject to the National Labor Relations Act  
22 retains or hires a majority of the employees in such a  
23 bargaining unit, such purchaser or lessor shall recognize the  
24 labor organization as the exclusive representative of the  
25 majority of employees in that bargaining unit for purposes of  
26 collective bargaining, provided that the labor organization

1 makes a timely written assertion of its representational  
2 capacity to the purchaser or lessor.

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

4 Section 1010. The Public Health District Act is amended by  
5 changing Section 17 as follows:

6 (70 ILCS 905/17) (from Ch. 111 1/2, par. 17)

7 Sec. 17. The medical health officer or administrator shall  
8 have power, and it shall be his or her duty:

9 (1) To be the executive officer of the board of health.

10 (2) To enforce and observe the rules, regulations and  
11 orders of the State Department of Public Health and all  
12 State laws pertaining to the preservation of the health of  
13 the people within the public health district, including  
14 regulations in which the State Department of Public Health  
15 shall require provision of home visitation and other  
16 services for pregnant women, new mothers and infants who  
17 are at risk as defined by that Department that encompass  
18 but are not limited to consultation for parental and child  
19 development, comprehensive health education, nutritional  
20 assessment, dental health, and periodic health screening,  
21 referral and follow-up; the services shall be provided  
22 through programs funded by grants from the Department of  
23 Public Health from appropriations to the Department for  
24 that purpose.

1           (3) To exercise the rights, powers and duties of all  
2 township boards of health and county boards of health  
3 within the public health district.

4           (4) To execute and enforce, within the public health  
5 district, all city, village and incorporated town  
6 ordinances relating to public health and sanitation.

7           (5) To investigate the existence of any contagious or  
8 infectious disease within the public health district and to  
9 adopt measures, with the approval of the State Department  
10 of Public Health, to arrest the progress of the same.

11           (6) To make all necessary sanitary and health  
12 investigations and inspections within the public health  
13 district.

14           (7) To establish a dental clinic for the benefit of the  
15 school children of the district.

16           (8) To give professional advice and information to all  
17 city, village, incorporated town and school authorities  
18 within the public health district in all matters pertaining  
19 to sanitation and public health.

20           (9) To devote his or her entire time to his or her  
21 official duties.

22           (10) To establish and execute programs and services in  
23 the field of mental health, including mental retardation,  
24 not inconsistent with the regulations of the Department of  
25 Human Services or the Department of Healthcare and Family  
26 Services.

1 (11) If approved by the board of health, to enter into  
2 contracts with municipalities, other political  
3 subdivisions and private agencies for the purchase, sale,  
4 delivery or exchange of health services.

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

6 Section 1015. The School Code is amended by changing  
7 Section 14-15.01 as follows:

8 (105 ILCS 5/14-15.01) (from Ch. 122, par. 14-15.01)

9 Sec. 14-15.01. Community and Residential Services  
10 Authority.

11 (a) (1) The Community and Residential Services Authority is  
12 hereby created and shall consist of the following members:

13 A representative of the State Board of Education;

14 Three ~~Four~~ representatives of the Department of Human  
15 Services appointed by the Secretary of Human Services, with one  
16 member from the Division of Community Health and Prevention,  
17 one member from the Division of Developmental Disabilities, ~~one~~  
18 ~~member from the Division of Mental Health,~~ and one member from  
19 the Division of Rehabilitation Services;

20 A representative of the Department of Children and Family  
21 Services;

22 A representative of the Department of Juvenile Justice;

23 Two representatives ~~A representative~~ of the Department of  
24 Healthcare and Family Services, with one member from the

1 Division of Mental Health;

2 A representative of the Attorney General's Disability  
3 Rights Advocacy Division;

4 The Chairperson and Minority Spokesperson of the House and  
5 Senate Committees on Elementary and Secondary Education or  
6 their designees; and

7 Six persons appointed by the Governor. Five of such  
8 appointees shall be experienced or knowledgeable relative to  
9 provision of services for individuals with a behavior disorder  
10 or a severe emotional disturbance and shall include  
11 representatives of both the private and public sectors, except  
12 that no more than 2 of those 5 appointees may be from the  
13 public sector and at least 2 must be or have been directly  
14 involved in provision of services to such individuals. The  
15 remaining member appointed by the Governor shall be or shall  
16 have been a parent of an individual with a behavior disorder or  
17 a severe emotional disturbance, and that appointee may be from  
18 either the private or the public sector.

19 (2) Members appointed by the Governor shall be appointed  
20 for terms of 4 years and shall continue to serve until their  
21 respective successors are appointed; provided that the terms of  
22 the original appointees shall expire on August 1, 1990. Any  
23 vacancy in the office of a member appointed by the Governor  
24 shall be filled by appointment of the Governor for the  
25 remainder of the term.

26 A vacancy in the office of a member appointed by the

1 Governor exists when one or more of the following events occur:

2 (i) An appointee dies;

3 (ii) An appointee files a written resignation with the  
4 Governor;

5 (iii) An appointee ceases to be a legal resident of the  
6 State of Illinois; or

7 (iv) An appointee fails to attend a majority of  
8 regularly scheduled Authority meetings in a fiscal year.

9 Members who are representatives of an agency shall serve at  
10 the will of the agency head. Membership on the Authority shall  
11 cease immediately upon cessation of their affiliation with the  
12 agency. If such a vacancy occurs, the appropriate agency head  
13 shall appoint another person to represent the agency.

14 If a legislative member of the Authority ceases to be  
15 Chairperson or Minority Spokesperson of the designated  
16 Committees, they shall automatically be replaced on the  
17 Authority by the person who assumes the position of Chairperson  
18 or Minority Spokesperson.

19 (b) The Community and Residential Services Authority shall  
20 have the following powers and duties:

21 (1) To conduct surveys to determine the extent of need,  
22 the degree to which documented need is currently being met  
23 and feasible alternatives for matching need with  
24 resources.

25 (2) To develop policy statements for interagency  
26 cooperation to cover all aspects of service delivery,

1 including laws, regulations and procedures, and clear  
2 guidelines for determining responsibility at all times.

3 (3) To recommend policy statements and provide  
4 information regarding effective programs for delivery of  
5 services to all individuals under 22 years of age with a  
6 behavior disorder or a severe emotional disturbance in  
7 public or private situations.

8 (4) To review the criteria for service eligibility,  
9 provision and availability established by the governmental  
10 agencies represented on this Authority, and to recommend  
11 changes, additions or deletions to such criteria.

12 (5) To develop and submit to the Governor, the General  
13 Assembly, the Directors of the agencies represented on the  
14 Authority, and the State Board of Education a master plan  
15 for individuals under 22 years of age with a behavior  
16 disorder or a severe emotional disturbance, including  
17 detailed plans of service ranging from the least to the  
18 most restrictive options; and to assist local communities,  
19 upon request, in developing or strengthening collaborative  
20 interagency networks.

21 (6) To develop a process for making determinations in  
22 situations where there is a dispute relative to a plan of  
23 service for individuals or funding for a plan of service.

24 (7) To provide technical assistance to parents,  
25 service consumers, providers, and member agency personnel  
26 regarding statutory responsibilities of human service and



1 educational agencies, and to provide such assistance as  
2 deemed necessary to appropriately access needed services.

3 (c) (1) The members of the Authority shall receive no  
4 compensation for their services but shall be entitled to  
5 reimbursement of reasonable expenses incurred while performing  
6 their duties.

7 (2) The Authority may appoint special study groups to  
8 operate under the direction of the Authority and persons  
9 appointed to such groups shall receive only reimbursement of  
10 reasonable expenses incurred in the performance of their  
11 duties.

12 (3) The Authority shall elect from its membership a  
13 chairperson, vice-chairperson and secretary.

14 (4) The Authority may employ and fix the compensation of  
15 such employees and technical assistants as it deems necessary  
16 to carry out its powers and duties under this Act. Staff  
17 assistance for the Authority shall be provided by the State  
18 Board of Education.

19 (5) Funds for the ordinary and contingent expenses of the  
20 Authority shall be appropriated to the State Board of Education  
21 in a separate line item.

22 (d) (1) The Authority shall have power to promulgate rules  
23 and regulations to carry out its powers and duties under this  
24 Act.

25 (2) The Authority may accept monetary gifts or grants from  
26 the federal government or any agency thereof, from any

1 charitable foundation or professional association or from any  
2 other reputable source for implementation of any program  
3 necessary or desirable to the carrying out of the general  
4 purposes of the Authority. Such gifts and grants may be held in  
5 trust by the Authority and expended in the exercise of its  
6 powers and performance of its duties as prescribed by law.

7 (3) The Authority shall submit an annual report of its  
8 activities and expenditures to the Governor, the General  
9 Assembly, the directors of agencies represented on the  
10 Authority, and the State Superintendent of Education.

11 (Source: P.A. 95-331, eff. 8-21-07; 95-793, eff. 1-1-09.)

12 Section 1025. The Mental Health Graduate Education  
13 Scholarship Act is amended by changing Sections 5, 10, and 35  
14 as follows:

15 (110 ILCS 952/5)

16 Sec. 5. Purpose. The purpose of this Act is to establish a  
17 program in the Department of Healthcare and Family Human  
18 Services to upgrade mental health care services for all  
19 citizens of this State by providing scholarships to graduate  
20 students in mental health fields who agree to practice in areas  
21 of this State demonstrating the greatest need for more mental  
22 health services. The program shall encourage mental health  
23 practitioners to locate in areas where mental health manpower  
24 shortages exist in this State.

1 (Source: P.A. 96-672, eff. 8-25-09.)

2 (110 ILCS 952/10)

3 Sec. 10. Definitions. The following terms, whenever used or  
4 referred to, have the following meanings, except where the  
5 context clearly indicates otherwise:

6 "Advisory Council" means the Mental Health Consortium  
7 Advisory Council created under Section 35 of this Act.

8 "Approved institution" means a public or private college or  
9 university located in this State.

10 Before January 1, 2011, "Department" means the Department  
11 of Human Services. On and after January 1, 2011, "Department"  
12 means the Department of Healthcare and Family Services.

13 "Designated shortage area" means an area designated by the  
14 Secretary or the Director as a shortage area, a mental health  
15 underserved area, or a critical mental health manpower shortage  
16 area, as defined by the United States Department of Health and  
17 Human Services or as further defined by the Illinois Department  
18 of Human Services to enable it to effectively fulfill the  
19 purpose stated in Section 5 of this Act. These areas may  
20 include the following:

21 (1) an urban or rural area;

22 (2) a population group; or

23 (3) a public or nonprofit private mental health  
24 facility.

25 "Director" means the Director of Healthcare and Family

1 Services.

2 "Enrollment" means the establishment and maintenance of an  
3 individual's status as a student in an approved institution,  
4 regardless of the terms used at the institution to describe  
5 such status.

6 "Fees" means those mandatory charges, in addition to  
7 tuition, that all enrolled students must pay, including  
8 required course or lab fees.

9 "Full-time enrollment" means enrollment by a student for at  
10 least 9 hours per school term or as otherwise determined by the  
11 institution of higher learning.

12 "Mental health employment obligation" means employment in  
13 this State as a licensed professional counselor, licensed  
14 clinical professional counselor, licensed clinical  
15 psychologist, licensed social worker, licensed clinical social  
16 worker, or licensed marriage and family therapist in direct  
17 patient care in a human services capacity in a designated  
18 shortage area for at least one year for each year of  
19 scholarship assistance received through the program.

20 "Program" means the Mental Health Graduate Scholarship  
21 Program.

22 "School term" means an academic term, such as a semester,  
23 quarter, trimester, or number of clock hours, as defined by an  
24 approved institution.

25 "Secretary" means the Secretary of Human Services.

26 "Student in good standing" means a student maintaining a

1 cumulative grade point average equivalent to at least the  
2 academic grade of a "C".

3 "Total and permanent disability" means a physical or mental  
4 impairment, disease, or loss of a permanent nature that  
5 prevents employment with or without reasonable accommodation.  
6 Proof of disability shall be a declaration from the federal  
7 Social Security Administration, the Illinois Workers'  
8 Compensation Commission, the federal Department of Defense, or  
9 an insurer authorized to transact business in this State who is  
10 providing disability insurance coverage to a contractor.

11 "Tuition" means the established charges of an institution  
12 of higher learning for instruction at that institution.

13 (Source: P.A. 96-672, eff. 8-25-09.)

14 (110 ILCS 952/35)

15 Sec. 35. Advisory Council.

16 (a) The Mental Health Consortium Advisory Council is  
17 created, consisting of 9 members. Two members must be appointed  
18 by the Illinois Mental Health Counselors Association, 2 members  
19 must be appointed by the Illinois Psychological Association, 2  
20 members must be appointed by the National Association of Social  
21 Workers-Illinois Chapter, 2 members must be appointed by the  
22 Illinois Association for Marriage and Family Therapy, and one  
23 public member must be appointed by the Secretary (before  
24 January 1, 2011) or by the Director (on or after January 1,  
25 2011).

1           (b) The Advisory Council shall assist and advise the  
2 Department in the administration of this Act.

3           (Source: P.A. 96-672, eff. 8-25-09.)

4           Section 1030. The Abuse Prevention Review Team Act is  
5 amended by changing Section 15 as follows:

6           (210 ILCS 28/15)

7           Sec. 15. Residential health care facility resident sexual  
8 assault and death review teams; establishment.

9           (a) The Director, in consultation with the Executive  
10 Council and with law enforcement agencies and other  
11 professionals who work in the field of investigating, treating,  
12 or preventing nursing home resident abuse or neglect in the  
13 State, shall appoint members to two residential health care  
14 facility resident sexual assault and death review teams. The  
15 Director shall appoint more teams if the Director or the  
16 existing teams determine that more teams are necessary to  
17 achieve the purposes of this Act. An Executive Council shall be  
18 organized no later than when at least 4 teams are formed. The  
19 members of a team shall be appointed for 2-year staggered terms  
20 and shall be eligible for reappointment upon the expiration of  
21 their terms.

22           (b) Each review team shall consist of at least one member  
23 from each of the following categories:

24           (1) Geriatrician or other physician knowledgeable

1 about nursing home resident abuse and neglect.

2 (2) Representative of the Department.

3 (3) State's Attorney or State's Attorney's  
4 representative.

5 (4) Representative of a local law enforcement agency.

6 (5) Representative of the Illinois Attorney General.

7 (6) Psychologist or psychiatrist.

8 (7) Representative of a local health department.

9 (8) Representative of a social service or health care  
10 agency that provides services to persons with mental  
11 illness, in a program whose accreditation to provide such  
12 services is recognized by the Division Office of Mental  
13 Health within the Department of Healthcare and Family Human  
14 Services.

15 (9) Representative of a social service or health care  
16 agency that provides services to persons with  
17 developmental disabilities, in a program whose  
18 accreditation to provide such services is recognized by the  
19 Division Office of Developmental Disabilities within the  
20 Department of Human Services.

21 (10) Coroner or forensic pathologist.

22 (11) Representative of the local sub-state ombudsman.

23 (12) Representative of a nursing home resident  
24 advocacy organization.

25 (13) Representative of a local hospital, trauma  
26 center, or provider of emergency medical services.

1           (14) Representative of an organization that represents  
2           nursing homes.

3           Each review team may make recommendations to the Director  
4           concerning additional appointments. Each review team member  
5           must have demonstrated experience and an interest in  
6           investigating, treating, or preventing nursing home resident  
7           abuse or neglect.

8           (c) Each review team shall select a chairperson from among  
9           its members. The chairperson shall also serve on the Illinois  
10          Residential Health Care Facility Sexual Assault and Death  
11          Review Teams Executive Council.

12          (Source: P.A. 93-577, eff. 8-21-03; 94-931, eff. 6-26-06.)

13          Section 1035. The Abused and Neglected Long Term Care  
14          Facility Residents Reporting Act is amended by changing  
15          Sections 3, 6, and 14 as follows:

16                 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

17                 (Text of Section before amendment by P.A. 96-339)

18                 Sec. 3. As used in this Act unless the context otherwise  
19                 requires:

20                 a. "Department" means the Department of Public Health of  
21                 the State of Illinois.

22                 b. "Resident" means a person residing in and receiving  
23                 personal care from a long term care facility, or residing in a  
24                 mental health facility or developmental disability facility as



1 defined in the Mental Health and Developmental Disabilities  
2 Code.

3 c. "Long term care facility" has the same meaning ascribed  
4 to such term in the Nursing Home Care Act, except that the term  
5 as used in this Act shall include any mental health facility or  
6 developmental disability facility as defined in the Mental  
7 Health and Developmental Disabilities Code.

8 d. "Abuse" means any physical injury, sexual abuse or  
9 mental injury inflicted on a resident other than by accidental  
10 means.

11 e. "Neglect" means a failure in a long term care facility  
12 to provide adequate medical or personal care or maintenance,  
13 which failure results in physical or mental injury to a  
14 resident or in the deterioration of a resident's physical or  
15 mental condition.

16 f. "Protective services" means services provided to a  
17 resident who has been abused or neglected, which may include,  
18 but are not limited to alternative temporary institutional  
19 placement, nursing care, counseling, other social services  
20 provided at the nursing home where the resident resides or at  
21 some other facility, personal care and such protective services  
22 of voluntary agencies as are available.

23 g. Unless the context otherwise requires, direct or  
24 indirect references in this Act to the programs, personnel,  
25 facilities, services, service providers, or service recipients  
26 of the Department of Human Services shall be construed to refer

1 only to those programs, personnel, facilities, services,  
2 service providers, or service recipients that pertain to the  
3 Department of Human Services' mental health and developmental  
4 disabilities functions.

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

6 (Text of Section after amendment by P.A. 96-339)

7 Sec. 3. As used in this Act unless the context otherwise  
8 requires:

9 a. "Department" means the Department of Public Health of  
10 the State of Illinois.

11 b. "Resident" means a person residing in and receiving  
12 personal care from a long term care facility, or residing in a  
13 mental health facility or developmental disability facility as  
14 defined in the Mental Health and Developmental Disabilities  
15 Code.

16 c. "Long term care facility" has the same meaning ascribed  
17 to such term in the Nursing Home Care Act, except that the term  
18 as used in this Act shall include any mental health facility or  
19 developmental disability facility as defined in the Mental  
20 Health and Developmental Disabilities Code. The term also  
21 includes any facility licensed under the MR/DD Community Care  
22 Act.

23 d. "Abuse" means any physical injury, sexual abuse or  
24 mental injury inflicted on a resident other than by accidental  
25 means.

1 e. "Neglect" means a failure in a long term care facility  
2 to provide adequate medical or personal care or maintenance,  
3 which failure results in physical or mental injury to a  
4 resident or in the deterioration of a resident's physical or  
5 mental condition.

6 f. "Protective services" means services provided to a  
7 resident who has been abused or neglected, which may include,  
8 but are not limited to alternative temporary institutional  
9 placement, nursing care, counseling, other social services  
10 provided at the nursing home where the resident resides or at  
11 some other facility, personal care and such protective services  
12 of voluntary agencies as are available.

13 g. Unless the context otherwise requires, direct or  
14 indirect references in this Act to the programs, personnel,  
15 facilities, services, service providers, or service recipients  
16 of the Department of Human Services or the Department of  
17 Healthcare and Family Services shall be construed to refer only  
18 to those programs, personnel, facilities, services, service  
19 providers, or service recipients that pertain to the Department  
20 of Human Services' or Department of Healthcare and Family  
21 Services' mental health or ~~and~~ developmental disabilities  
22 functions.

23 (Source: P.A. 96-339, eff. 7-1-10.)

24 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

25 (Text of Section before amendment by P.A. 96-339)

1           Sec. 6. All reports of suspected abuse or neglect made  
2 under this Act shall be made immediately by telephone to the  
3 Department's central register established under Section 14 on  
4 the single, State-wide, toll-free telephone number established  
5 under Section 13, or in person or by telephone through the  
6 nearest Department office. No long term care facility  
7 administrator, agent or employee, or any other person, shall  
8 screen reports or otherwise withhold any reports from the  
9 Department, and no long term care facility, department of State  
10 government, or other agency shall establish any rules,  
11 criteria, standards or guidelines to the contrary. Every long  
12 term care facility, department of State government and other  
13 agency whose employees are required to make or cause to be made  
14 reports under Section 4 shall notify its employees of the  
15 provisions of that Section and of this Section, and provide to  
16 the Department documentation that such notification has been  
17 given. The Department of Human Services shall train all of its  
18 mental health and developmental disabilities employees in the  
19 detection and reporting of suspected abuse and neglect of  
20 residents. Reports made to the central register through the  
21 State-wide, toll-free telephone number shall be transmitted to  
22 appropriate Department offices and municipal health  
23 departments that have responsibility for licensing long term  
24 care facilities under the Nursing Home Care Act. All reports  
25 received through offices of the Department shall be forwarded  
26 to the central register, in a manner and form described by the

1 Department. The Department shall be capable of receiving  
2 reports of suspected abuse and neglect 24 hours a day, 7 days a  
3 week. Reports shall also be made in writing deposited in the  
4 U.S. mail, postage prepaid, within 24 hours after having  
5 reasonable cause to believe that the condition of the resident  
6 resulted from abuse or neglect. Such reports may in addition be  
7 made to the local law enforcement agency in the same manner.  
8 However, in the event a report is made to the local law  
9 enforcement agency, the reporter also shall immediately so  
10 inform the Department. The Department shall initiate an  
11 investigation of each report of resident abuse and neglect  
12 under this Act, whether oral or written, as provided for in  
13 Section 3-702 of the Nursing Home Care Act, except that reports  
14 of abuse which indicate that a resident's life or safety is in  
15 imminent danger shall be investigated within 24 hours of such  
16 report. The Department may delegate to law enforcement  
17 officials or other public agencies the duty to perform such  
18 investigation.

19 With respect to investigations of reports of suspected  
20 abuse or neglect of residents of mental health and  
21 developmental disabilities institutions under the jurisdiction  
22 of the Department of Human Services, the Department shall  
23 transmit copies of such reports to the Department of State  
24 Police, the Department of Human Services, and the Inspector  
25 General appointed under Section 1-17 of the Department of Human  
26 Services Act. If the Department receives a report of suspected

1 abuse or neglect of a recipient of services as defined in  
2 Section 1-123 of the Mental Health and Developmental  
3 Disabilities Code, the Department shall transmit copies of such  
4 report to the Inspector General and the Directors of the  
5 Guardianship and Advocacy Commission and the agency designated  
6 by the Governor pursuant to the Protection and Advocacy for  
7 Developmentally Disabled Persons Act. When requested by the  
8 Director of the Guardianship and Advocacy Commission, the  
9 agency designated by the Governor pursuant to the Protection  
10 and Advocacy for Developmentally Disabled Persons Act, or the  
11 Department of Financial and Professional Regulation, the  
12 Department, the Department of Human Services and the Department  
13 of State Police shall make available a copy of the final  
14 investigative report regarding investigations conducted by  
15 their respective agencies on incidents of suspected abuse or  
16 neglect of residents of mental health and developmental  
17 disabilities institutions or individuals receiving services at  
18 community agencies under the jurisdiction of the Department of  
19 Human Services. Such final investigative report shall not  
20 contain witness statements, investigation notes, draft  
21 summaries, results of lie detector tests, investigative files  
22 or other raw data which was used to compile the final  
23 investigative report. Specifically, the final investigative  
24 report of the Department of State Police shall mean the  
25 Director's final transmittal letter. The Department of Human  
26 Services shall also make available a copy of the results of

1 disciplinary proceedings of employees involved in incidents of  
2 abuse or neglect to the Directors. All identifiable information  
3 in reports provided shall not be further disclosed except as  
4 provided by the Mental Health and Developmental Disabilities  
5 Confidentiality Act. Nothing in this Section is intended to  
6 limit or construe the power or authority granted to the agency  
7 designated by the Governor pursuant to the Protection and  
8 Advocacy for Developmentally Disabled Persons Act, pursuant to  
9 any other State or federal statute.

10 With respect to investigations of reported resident abuse  
11 or neglect, the Department shall effect with appropriate law  
12 enforcement agencies formal agreements concerning methods and  
13 procedures for the conduct of investigations into the criminal  
14 histories of any administrator, staff assistant or employee of  
15 the nursing home or other person responsible for the residents  
16 care, as well as for other residents in the nursing home who  
17 may be in a position to abuse, neglect or exploit the patient.  
18 Pursuant to the formal agreements entered into with appropriate  
19 law enforcement agencies, the Department may request  
20 information with respect to whether the person or persons set  
21 forth in this paragraph have ever been charged with a crime and  
22 if so, the disposition of those charges. Unless the criminal  
23 histories of the subjects involved crimes of violence or  
24 resident abuse or neglect, the Department shall be entitled  
25 only to information limited in scope to charges and their  
26 dispositions. In cases where prior crimes of violence or

1 resident abuse or neglect are involved, a more detailed report  
2 can be made available to authorized representatives of the  
3 Department, pursuant to the agreements entered into with  
4 appropriate law enforcement agencies. Any criminal charges and  
5 their disposition information obtained by the Department shall  
6 be confidential and may not be transmitted outside the  
7 Department, except as required herein, to authorized  
8 representatives or delegates of the Department, and may not be  
9 transmitted to anyone within the Department who is not duly  
10 authorized to handle resident abuse or neglect investigations.

11 The Department shall effect formal agreements with  
12 appropriate law enforcement agencies in the various counties  
13 and communities to encourage cooperation and coordination in  
14 the handling of resident abuse or neglect cases pursuant to  
15 this Act. The Department shall adopt and implement methods and  
16 procedures to promote statewide uniformity in the handling of  
17 reports of abuse and neglect under this Act, and those methods  
18 and procedures shall be adhered to by personnel of the  
19 Department involved in such investigations and reporting. The  
20 Department shall also make information required by this Act  
21 available to authorized personnel within the Department, as  
22 well as its authorized representatives.

23 The Department shall keep a continuing record of all  
24 reports made pursuant to this Act, including indications of the  
25 final determination of any investigation and the final  
26 disposition of all reports.



1           The Department shall report annually to the General  
2 Assembly on the incidence of abuse and neglect of long term  
3 care facility residents, with special attention to residents  
4 who are mentally disabled. The report shall include but not be  
5 limited to data on the number and source of reports of  
6 suspected abuse or neglect filed under this Act, the nature of  
7 any injuries to residents, the final determination of  
8 investigations, the type and number of cases where abuse or  
9 neglect is determined to exist, and the final disposition of  
10 cases.

11       (Source: P.A. 94-852, eff. 6-13-06; 95-545, eff. 8-28-07.)

12           (Text of Section after amendment by P.A. 96-339)

13           Sec. 6. All reports of suspected abuse or neglect made  
14 under this Act shall be made immediately by telephone to the  
15 Department's central register established under Section 14 on  
16 the single, State-wide, toll-free telephone number established  
17 under Section 13, or in person or by telephone through the  
18 nearest Department office. No long term care facility  
19 administrator, agent or employee, or any other person, shall  
20 screen reports or otherwise withhold any reports from the  
21 Department, and no long term care facility, department of State  
22 government, or other agency shall establish any rules,  
23 criteria, standards or guidelines to the contrary. Every long  
24 term care facility, department of State government and other  
25 agency whose employees are required to make or cause to be made

1 reports under Section 4 shall notify its employees of the  
2 provisions of that Section and of this Section, and provide to  
3 the Department documentation that such notification has been  
4 given. The Department of Human Services and the Department of  
5 Healthcare and Family Services shall train all of their ~~its~~  
6 mental health and developmental disabilities employees in the  
7 detection and reporting of suspected abuse and neglect of  
8 residents. Reports made to the central register through the  
9 State-wide, toll-free telephone number shall be transmitted to  
10 appropriate Department offices and municipal health  
11 departments that have responsibility for licensing long term  
12 care facilities under the Nursing Home Care Act or the MR/DD  
13 Community Care Act. All reports received through offices of the  
14 Department shall be forwarded to the central register, in a  
15 manner and form described by the Department. The Department  
16 shall be capable of receiving reports of suspected abuse and  
17 neglect 24 hours a day, 7 days a week. Reports shall also be  
18 made in writing deposited in the U.S. mail, postage prepaid,  
19 within 24 hours after having reasonable cause to believe that  
20 the condition of the resident resulted from abuse or neglect.  
21 Such reports may in addition be made to the local law  
22 enforcement agency in the same manner. However, in the event a  
23 report is made to the local law enforcement agency, the  
24 reporter also shall immediately so inform the Department. The  
25 Department shall initiate an investigation of each report of  
26 resident abuse and neglect under this Act, whether oral or

1 written, as provided for in Section 3-702 of the Nursing Home  
2 Care Act or Section 3-702 of the MR/DD Community Care Act,  
3 except that reports of abuse which indicate that a resident's  
4 life or safety is in imminent danger shall be investigated  
5 within 24 hours of such report. The Department may delegate to  
6 law enforcement officials or other public agencies the duty to  
7 perform such investigation.

8 With respect to investigations of reports of suspected  
9 abuse or neglect of residents of mental health or ~~and~~  
10 developmental disabilities institutions under the jurisdiction  
11 of the Department of Human Services or the Department of  
12 Healthcare and Family Services, the Department shall transmit  
13 copies of such reports to the Department of State Police, the  
14 Department of Human Services or the Department of Healthcare  
15 and Family Services, and the Inspector General appointed under  
16 Section 1-17 of the Department of Human Services Act or the  
17 Inspector General appointed under Section 12-13.1 of the  
18 Illinois Public Aid Code. If the Department receives a report  
19 of suspected abuse or neglect of a recipient of services as  
20 defined in Section 1-123 of the Mental Health and Developmental  
21 Disabilities Code, the Department shall transmit copies of such  
22 report to the appropriate Inspector General and the Directors  
23 of the Guardianship and Advocacy Commission and the agency  
24 designated by the Governor pursuant to the Protection and  
25 Advocacy for Developmentally Disabled Persons Act. When  
26 requested by the Director of the Guardianship and Advocacy

1 Commission, the agency designated by the Governor pursuant to  
2 the Protection and Advocacy for Developmentally Disabled  
3 Persons Act, or the Department of Financial and Professional  
4 Regulation, the Department, the Department of Human Services,  
5 the Department of Healthcare and Family Services, and the  
6 Department of State Police shall make available a copy of the  
7 final investigative report regarding investigations conducted  
8 by their respective agencies on incidents of suspected abuse or  
9 neglect of residents of mental health or ~~and~~ developmental  
10 disabilities institutions or individuals receiving services at  
11 community agencies under the jurisdiction of the Department of  
12 Human Services or the Department of Healthcare and Family  
13 Services. Such final investigative report shall not contain  
14 witness statements, investigation notes, draft summaries,  
15 results of lie detector tests, investigative files or other raw  
16 data which was used to compile the final investigative report.  
17 Specifically, the final investigative report of the Department  
18 of State Police shall mean the Director's final transmittal  
19 letter. The Department of Human Services or the Department of  
20 Healthcare and Family Services shall also make available a copy  
21 of the results of disciplinary proceedings of employees  
22 involved in incidents of abuse or neglect to the Directors. All  
23 identifiable information in reports provided shall not be  
24 further disclosed except as provided by the Mental Health and  
25 Developmental Disabilities Confidentiality Act. Nothing in  
26 this Section is intended to limit or construe the power or

1 authority granted to the agency designated by the Governor  
2 pursuant to the Protection and Advocacy for Developmentally  
3 Disabled Persons Act, pursuant to any other State or federal  
4 statute.

5 With respect to investigations of reported resident abuse  
6 or neglect, the Department shall effect with appropriate law  
7 enforcement agencies formal agreements concerning methods and  
8 procedures for the conduct of investigations into the criminal  
9 histories of any administrator, staff assistant or employee of  
10 the nursing home or other person responsible for the residents  
11 care, as well as for other residents in the nursing home who  
12 may be in a position to abuse, neglect or exploit the patient.  
13 Pursuant to the formal agreements entered into with appropriate  
14 law enforcement agencies, the Department may request  
15 information with respect to whether the person or persons set  
16 forth in this paragraph have ever been charged with a crime and  
17 if so, the disposition of those charges. Unless the criminal  
18 histories of the subjects involved crimes of violence or  
19 resident abuse or neglect, the Department shall be entitled  
20 only to information limited in scope to charges and their  
21 dispositions. In cases where prior crimes of violence or  
22 resident abuse or neglect are involved, a more detailed report  
23 can be made available to authorized representatives of the  
24 Department, pursuant to the agreements entered into with  
25 appropriate law enforcement agencies. Any criminal charges and  
26 their disposition information obtained by the Department shall

1 be confidential and may not be transmitted outside the  
2 Department, except as required herein, to authorized  
3 representatives or delegates of the Department, and may not be  
4 transmitted to anyone within the Department who is not duly  
5 authorized to handle resident abuse or neglect investigations.

6 The Department shall effect formal agreements with  
7 appropriate law enforcement agencies in the various counties  
8 and communities to encourage cooperation and coordination in  
9 the handling of resident abuse or neglect cases pursuant to  
10 this Act. The Department shall adopt and implement methods and  
11 procedures to promote statewide uniformity in the handling of  
12 reports of abuse and neglect under this Act, and those methods  
13 and procedures shall be adhered to by personnel of the  
14 Department involved in such investigations and reporting. The  
15 Department shall also make information required by this Act  
16 available to authorized personnel within the Department, as  
17 well as its authorized representatives.

18 The Department shall keep a continuing record of all  
19 reports made pursuant to this Act, including indications of the  
20 final determination of any investigation and the final  
21 disposition of all reports.

22 The Department shall report annually to the General  
23 Assembly on the incidence of abuse and neglect of long term  
24 care facility residents, with special attention to residents  
25 who are mentally disabled. The report shall include but not be  
26 limited to data on the number and source of reports of

1 suspected abuse or neglect filed under this Act, the nature of  
2 any injuries to residents, the final determination of  
3 investigations, the type and number of cases where abuse or  
4 neglect is determined to exist, and the final disposition of  
5 cases.

6 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

7 (210 ILCS 30/14) (from Ch. 111 1/2, par. 4174)

8 Sec. 14. There shall be a central register of all cases of  
9 suspected long term care facility resident abuse or neglect  
10 reported and maintained by the Department under this Act.  
11 Through the recording of initial, preliminary, progress, and  
12 final reports, the central register shall be operated in such a  
13 manner as to enable the Department to: (1) immediately identify  
14 and locate prior reports or cases of abuse or neglect; (2)  
15 continuously monitor the current status of all cases of abuse  
16 or neglect being provided services under this Act; and (3)  
17 regularly evaluate the effectiveness of existing laws and  
18 programs through the development and analysis of statistical  
19 and other information. The Department shall by rule adopt  
20 appropriate standards and procedures for the operation of the  
21 central register, including criteria to be used by long term  
22 care facility employees in determining whether abuse or neglect  
23 of a resident is suspected, and standards and procedures for  
24 making reports. The Department shall also take appropriate  
25 steps to ensure that all persons required to make reports under

1 Section 4 are aware of those criteria, standards and  
2 procedures. The Department shall establish, in conjunction  
3 with the Department of Human Services and the Department of  
4 Healthcare and Family Services, standards for evaluating  
5 reports of suspected abuse or neglect of recipients of mental  
6 health or developmental disability services to determine if a  
7 recipient's life or safety is in imminent danger, and for  
8 classifying other reports of suspected abuse and neglect for  
9 purposes of determining the necessity and schedule of an  
10 investigation.

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

12 Section 1040. The Nursing Home Care Act is amended by  
13 changing Section 3-108 as follows:

14 (210 ILCS 45/3-108) (from Ch. 111 1/2, par. 4153-108)

15 Sec. 3-108. The Department shall coordinate the functions  
16 within State government affecting facilities licensed under  
17 this Act and shall cooperate with other State agencies which  
18 establish standards or requirements for facilities to assure  
19 necessary, equitable, and consistent State supervision of  
20 licensees without unnecessary duplication of survey,  
21 evaluation, and consultation services or complaint  
22 investigations. The Department shall cooperate with the  
23 Department of Human Services or the Department of Healthcare  
24 and Family Services in regard to facilities containing more



1 than 20% of residents for whom the Department of Human Services  
2 or the Department of Healthcare and Family Services has  
3 mandated follow-up responsibilities under the Mental Health  
4 and Developmental Disabilities Administrative Act.

5 The Department shall cooperate with the Department of  
6 Healthcare and Family Services in regard to facilities where  
7 recipients of public aid are residents.

8 The Department shall immediately refer to the Department of  
9 Professional Regulation for investigation any credible  
10 evidence of which it has knowledge that an individual licensed  
11 by that Department has violated this Act or any rule issued  
12 under this Act.

13 The Department shall enter into agreements with other State  
14 Departments, agencies or commissions to effectuate the purpose  
15 of this Section.

16 (Source: P.A. 95-331, eff. 8-21-07.)

17 Section 1045. The MR/DD Community Care Act is amended by  
18 changing Section 3-108 as follows:

19 (210 ILCS 47/3-108)

20 (This Section may contain text from a Public Act with a  
21 delayed effective date)

22 Sec. 3-108. Cooperation with State agencies. The  
23 Department shall coordinate the functions within State  
24 government affecting facilities licensed under this Act and

1 shall cooperate with other State agencies which establish  
2 standards or requirements for facilities to assure necessary,  
3 equitable, and consistent State supervision of licensees  
4 without unnecessary duplication of survey, evaluation, and  
5 consultation services or complaint investigations. The  
6 Department shall cooperate with the Department of Human  
7 Services or the Department of Healthcare and Family Services in  
8 regard to facilities containing more than 20% of residents for  
9 whom the Department of Human Services or the Department of  
10 Healthcare and Family Services has mandated follow up  
11 responsibilities under the Mental Health and Developmental  
12 Disabilities Administrative Act. The Department shall  
13 cooperate with the Department of Healthcare and Family Services  
14 in regard to facilities where recipients of public aid are  
15 residents. The Department shall immediately refer to the  
16 Department of Financial and Professional Regulation (as  
17 successor to the Department of Professional Regulation) for  
18 investigation any credible evidence of which it has knowledge  
19 that an individual licensed by that Department has violated  
20 this Act or any rule issued under this Act. The Department  
21 shall enter into agreements with other State Departments,  
22 agencies or commissions to effectuate the purpose of this  
23 Section.

24 (Source: P.A. 96-339, eff. 7-1-10.)

25 Section 1050. The Hospital Licensing Act is amended by

1 changing Section 9.1 as follows:

2 (210 ILCS 85/9.1) (from Ch. 111 1/2, par. 150.1)

3 Sec. 9.1. The Department shall regularly inspect each State  
4 mental health or ~~and~~ developmental disabilities institution  
5 under the jurisdiction of the Department of Human Services or  
6 the Department of Healthcare and Family Services to ascertain  
7 if the institution is complying with the regulations applicable  
8 to it. Such inspection shall be made at least annually, and  
9 special inspections may be made at the discretion of the  
10 Director. The results of every inspection shall be reported in  
11 writing to the Governor, the Director of the Department, the  
12 General Assembly, and any permanent mental health committee,  
13 board or commission that may be established by the Governor or  
14 General Assembly.

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

16 Section 1055. The Pharmacy Practice Act is amended by  
17 changing Section 3 as follows:

18 (225 ILCS 85/3)

19 (Text of Section before amendment by P.A. 96-339)

20 (Section scheduled to be repealed on January 1, 2018)

21 Sec. 3. Definitions. For the purpose of this Act, except  
22 where otherwise limited therein:

23 (a) "Pharmacy" or "drugstore" means and includes every

1 store, shop, pharmacy department, or other place where  
2 pharmacist care is provided by a pharmacist (1) where drugs,  
3 medicines, or poisons are dispensed, sold or offered for sale  
4 at retail, or displayed for sale at retail; or (2) where  
5 prescriptions of physicians, dentists, advanced practice  
6 nurses, physician assistants, veterinarians, podiatrists, or  
7 optometrists, within the limits of their licenses, are  
8 compounded, filled, or dispensed; or (3) which has upon it or  
9 displayed within it, or affixed to or used in connection with  
10 it, a sign bearing the word or words "Pharmacist", "Druggist",  
11 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
12 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
13 "Medicines", or any word or words of similar or like import,  
14 either in the English language or any other language; or (4)  
15 where the characteristic prescription sign (Rx) or similar  
16 design is exhibited; or (5) any store, or shop, or other place  
17 with respect to which any of the above words, objects, signs or  
18 designs are used in any advertisement.

19 (b) "Drugs" means and includes (1) articles recognized in  
20 the official United States Pharmacopoeia/National Formulary  
21 (USP/NF), or any supplement thereto and being intended for and  
22 having for their main use the diagnosis, cure, mitigation,  
23 treatment or prevention of disease in man or other animals, as  
24 approved by the United States Food and Drug Administration, but  
25 does not include devices or their components, parts, or  
26 accessories; and (2) all other articles intended for and having

1 for their main use the diagnosis, cure, mitigation, treatment  
2 or prevention of disease in man or other animals, as approved  
3 by the United States Food and Drug Administration, but does not  
4 include devices or their components, parts, or accessories; and  
5 (3) articles (other than food) having for their main use and  
6 intended to affect the structure or any function of the body of  
7 man or other animals; and (4) articles having for their main  
8 use and intended for use as a component or any articles  
9 specified in clause (1), (2) or (3); but does not include  
10 devices or their components, parts or accessories.

11 (c) "Medicines" means and includes all drugs intended for  
12 human or veterinary use approved by the United States Food and  
13 Drug Administration.

14 (d) "Practice of pharmacy" means (1) the interpretation and  
15 the provision of assistance in the monitoring, evaluation, and  
16 implementation of prescription drug orders; (2) the dispensing  
17 of prescription drug orders; (3) participation in drug and  
18 device selection; (4) drug administration limited to the  
19 administration of oral, topical, injectable, and inhalation as  
20 follows: in the context of patient education on the proper use  
21 or delivery of medications; vaccination of patients 14 years of  
22 age and older pursuant to a valid prescription or standing  
23 order, by a physician licensed to practice medicine in all its  
24 branches, upon completion of appropriate training, including  
25 how to address contraindications and adverse reactions set  
26 forth by rule, with notification to the patient's physician and

1 appropriate record retention, or pursuant to hospital pharmacy  
2 and therapeutics committee policies and procedures; (5) drug  
3 regimen review; (6) drug or drug-related research; (7) the  
4 provision of patient counseling; (8) the practice of  
5 telepharmacy; (9) the provision of those acts or services  
6 necessary to provide pharmacist care; (10) medication therapy  
7 management; and (11) the responsibility for compounding and  
8 labeling of drugs and devices (except labeling by a  
9 manufacturer, repackager, or distributor of non-prescription  
10 drugs and commercially packaged legend drugs and devices),  
11 proper and safe storage of drugs and devices, and maintenance  
12 of required records. A pharmacist who performs any of the acts  
13 defined as the practice of pharmacy in this State must be  
14 actively licensed as a pharmacist under this Act.

15 (e) "Prescription" means and includes any written, oral,  
16 facsimile, or electronically transmitted order for drugs or  
17 medical devices, issued by a physician licensed to practice  
18 medicine in all its branches, dentist, veterinarian, or  
19 podiatrist, or optometrist, within the limits of their  
20 licenses, by a physician assistant in accordance with  
21 subsection (f) of Section 4, or by an advanced practice nurse  
22 in accordance with subsection (g) of Section 4, containing the  
23 following: (1) name of the patient; (2) date when prescription  
24 was issued; (3) name and strength of drug or description of the  
25 medical device prescribed; and (4) quantity, (5) directions for  
26 use, (6) prescriber's name, address and signature, and (7) DEA

1 number where required, for controlled substances. DEA numbers  
2 shall not be required on inpatient drug orders.

3 (f) "Person" means and includes a natural person,  
4 copartnership, association, corporation, government entity, or  
5 any other legal entity.

6 (g) "Department" means the Department of Financial and  
7 Professional Regulation.

8 (h) "Board of Pharmacy" or "Board" means the State Board of  
9 Pharmacy of the Department of Financial and Professional  
10 Regulation.

11 (i) "Secretary" means the Secretary of Financial and  
12 Professional Regulation.

13 (j) "Drug product selection" means the interchange for a  
14 prescribed pharmaceutical product in accordance with Section  
15 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
16 Cosmetic Act.

17 (k) "Inpatient drug order" means an order issued by an  
18 authorized prescriber for a resident or patient of a facility  
19 licensed under the Nursing Home Care Act or the Hospital  
20 Licensing Act, or "An Act in relation to the founding and  
21 operation of the University of Illinois Hospital and the  
22 conduct of University of Illinois health care programs",  
23 approved July 3, 1931, as amended, or a facility which is  
24 operated by the Department of Human Services (as successor to  
25 the Department of Mental Health and Developmental  
26 Disabilities) or the Department of Corrections.

1           (k-5) "Pharmacist" means an individual health care  
2 professional and provider currently licensed by this State to  
3 engage in the practice of pharmacy.

4           (1) "Pharmacist in charge" means the licensed pharmacist  
5 whose name appears on a pharmacy license and who is responsible  
6 for all aspects of the operation related to the practice of  
7 pharmacy.

8           (m) "Dispense" or "dispensing" means the interpretation,  
9 evaluation, and implementation of a prescription drug order,  
10 including the preparation and delivery of a drug or device to a  
11 patient or patient's agent in a suitable container  
12 appropriately labeled for subsequent administration to or use  
13 by a patient in accordance with applicable State and federal  
14 laws and regulations. "Dispense" or "dispensing" does not mean  
15 the physical delivery to a patient or a patient's  
16 representative in a home or institution by a designee of a  
17 pharmacist or by common carrier. "Dispense" or "dispensing"  
18 also does not mean the physical delivery of a drug or medical  
19 device to a patient or patient's representative by a  
20 pharmacist's designee within a pharmacy or drugstore while the  
21 pharmacist is on duty and the pharmacy is open.

22           (n) "Nonresident pharmacy" means a pharmacy that is located  
23 in a state, commonwealth, or territory of the United States,  
24 other than Illinois, that delivers, dispenses, or distributes,  
25 through the United States Postal Service, commercially  
26 acceptable parcel delivery service, or other common carrier, to



1 Illinois residents, any substance which requires a  
2 prescription.

3 (o) "Compounding" means the preparation and mixing of  
4 components, excluding flavorings, (1) as the result of a  
5 prescriber's prescription drug order or initiative based on the  
6 prescriber-patient-pharmacist relationship in the course of  
7 professional practice or (2) for the purpose of, or incident  
8 to, research, teaching, or chemical analysis and not for sale  
9 or dispensing. "Compounding" includes the preparation of drugs  
10 or devices in anticipation of receiving prescription drug  
11 orders based on routine, regularly observed dispensing  
12 patterns. Commercially available products may be compounded  
13 for dispensing to individual patients only if all of the  
14 following conditions are met: (i) the commercial product is not  
15 reasonably available from normal distribution channels in a  
16 timely manner to meet the patient's needs and (ii) the  
17 prescribing practitioner has requested that the drug be  
18 compounded.

19 (p) (Blank).

20 (q) (Blank).

21 (r) "Patient counseling" means the communication between a  
22 pharmacist or a student pharmacist under the supervision of a  
23 pharmacist and a patient or the patient's representative about  
24 the patient's medication or device for the purpose of  
25 optimizing proper use of prescription medications or devices.  
26 "Patient counseling" may include without limitation (1)

1 obtaining a medication history; (2) acquiring a patient's  
2 allergies and health conditions; (3) facilitation of the  
3 patient's understanding of the intended use of the medication;  
4 (4) proper directions for use; (5) significant potential  
5 adverse events; (6) potential food-drug interactions; and (7)  
6 the need to be compliant with the medication therapy. A  
7 pharmacy technician may only participate in the following  
8 aspects of patient counseling under the supervision of a  
9 pharmacist: (1) obtaining medication history; (2) providing  
10 the offer for counseling by a pharmacist or student pharmacist;  
11 and (3) acquiring a patient's allergies and health conditions.

12 (s) "Patient profiles" or "patient drug therapy record"  
13 means the obtaining, recording, and maintenance of patient  
14 prescription information, including prescriptions for  
15 controlled substances, and personal information.

16 (t) (Blank).

17 (u) "Medical device" means an instrument, apparatus,  
18 implement, machine, contrivance, implant, in vitro reagent, or  
19 other similar or related article, including any component part  
20 or accessory, required under federal law to bear the label  
21 "Caution: Federal law requires dispensing by or on the order of  
22 a physician". A seller of goods and services who, only for the  
23 purpose of retail sales, compounds, sells, rents, or leases  
24 medical devices shall not, by reasons thereof, be required to  
25 be a licensed pharmacy.

26 (v) "Unique identifier" means an electronic signature,

1 handwritten signature or initials, thumb print, or other  
2 acceptable biometric or electronic identification process as  
3 approved by the Department.

4 (w) "Current usual and customary retail price" means the  
5 price that a pharmacy charges to a non-third-party payor.

6 (x) "Automated pharmacy system" means a mechanical system  
7 located within the confines of the pharmacy or remote location  
8 that performs operations or activities, other than compounding  
9 or administration, relative to storage, packaging, dispensing,  
10 or distribution of medication, and which collects, controls,  
11 and maintains all transaction information.

12 (y) "Drug regimen review" means and includes the evaluation  
13 of prescription drug orders and patient records for (1) known  
14 allergies; (2) drug or potential therapy contraindications;  
15 (3) reasonable dose, duration of use, and route of  
16 administration, taking into consideration factors such as age,  
17 gender, and contraindications; (4) reasonable directions for  
18 use; (5) potential or actual adverse drug reactions; (6)  
19 drug-drug interactions; (7) drug-food interactions; (8)  
20 drug-disease contraindications; (9) therapeutic duplication;  
21 (10) patient laboratory values when authorized and available;  
22 (11) proper utilization (including over or under utilization)  
23 and optimum therapeutic outcomes; and (12) abuse and misuse.

24 (z) "Electronic transmission prescription" means any  
25 prescription order for which a facsimile or electronic image of  
26 the order is electronically transmitted from a licensed

1 prescriber to a pharmacy. "Electronic transmission  
2 prescription" includes both data and image prescriptions.

3 (aa) "Medication therapy management services" means a  
4 distinct service or group of services offered by licensed  
5 pharmacists, physicians licensed to practice medicine in all  
6 its branches, advanced practice nurses authorized in a written  
7 agreement with a physician licensed to practice medicine in all  
8 its branches, or physician assistants authorized in guidelines  
9 by a supervising physician that optimize therapeutic outcomes  
10 for individual patients through improved medication use. In a  
11 retail or other non-hospital pharmacy, medication therapy  
12 management services shall consist of the evaluation of  
13 prescription drug orders and patient medication records to  
14 resolve conflicts with the following:

- 15 (1) known allergies;
- 16 (2) drug or potential therapy contraindications;
- 17 (3) reasonable dose, duration of use, and route of  
18 administration, taking into consideration factors such as  
19 age, gender, and contraindications;
- 20 (4) reasonable directions for use;
- 21 (5) potential or actual adverse drug reactions;
- 22 (6) drug-drug interactions;
- 23 (7) drug-food interactions;
- 24 (8) drug-disease contraindications;
- 25 (9) identification of therapeutic duplication;
- 26 (10) patient laboratory values when authorized and

1 available;

2 (11) proper utilization (including over or under  
3 utilization) and optimum therapeutic outcomes; and

4 (12) drug abuse and misuse.

5 "Medication therapy management services" includes the  
6 following:

7 (1) documenting the services delivered and  
8 communicating the information provided to patients'  
9 prescribers within an appropriate time frame, not to exceed  
10 48 hours;

11 (2) providing patient counseling designed to enhance a  
12 patient's understanding and the appropriate use of his or  
13 her medications; and

14 (3) providing information, support services, and  
15 resources designed to enhance a patient's adherence with  
16 his or her prescribed therapeutic regimens.

17 "Medication therapy management services" may also include  
18 patient care functions authorized by a physician licensed to  
19 practice medicine in all its branches for his or her identified  
20 patient or groups of patients under specified conditions or  
21 limitations in a standing order from the physician.

22 "Medication therapy management services" in a licensed  
23 hospital may also include the following:

24 (1) reviewing assessments of the patient's health  
25 status; and

26 (2) following protocols of a hospital pharmacy and

1           therapeutics committee with respect to the fulfillment of  
2           medication orders.

3           (bb) "Pharmacist care" means the provision by a pharmacist  
4           of medication therapy management services, with or without the  
5           dispensing of drugs or devices, intended to achieve outcomes  
6           that improve patient health, quality of life, and comfort and  
7           enhance patient safety.

8           (cc) "Protected health information" means individually  
9           identifiable health information that, except as otherwise  
10          provided, is:

11                 (1) transmitted by electronic media;

12                 (2) maintained in any medium set forth in the  
13                 definition of "electronic media" in the federal Health  
14                 Insurance Portability and Accountability Act; or

15                 (3) transmitted or maintained in any other form or  
16                 medium.

17          "Protected health information" does not include individually  
18          identifiable health information found in:

19                 (1) education records covered by the federal Family  
20                 Educational Right and Privacy Act; or

21                 (2) employment records held by a licensee in its role  
22                 as an employer.

23           (dd) "Standing order" means a specific order for a patient  
24           or group of patients issued by a physician licensed to practice  
25           medicine in all its branches in Illinois.

26           (ee) "Address of record" means the address recorded by the

1 Department in the applicant's or licensee's application file or  
2 license file, as maintained by the Department's licensure  
3 maintenance unit.

4 (ff) "Home pharmacy" means the location of a pharmacy's  
5 primary operations.

6 (Source: P.A. 95-689, eff. 10-29-07; 96-673, eff. 1-1-10.)

7 (Text of Section after amendment by P.A. 96-339)

8 (Section scheduled to be repealed on January 1, 2018)

9 Sec. 3. Definitions. For the purpose of this Act, except  
10 where otherwise limited therein:

11 (a) "Pharmacy" or "drugstore" means and includes every  
12 store, shop, pharmacy department, or other place where  
13 pharmacist care is provided by a pharmacist (1) where drugs,  
14 medicines, or poisons are dispensed, sold or offered for sale  
15 at retail, or displayed for sale at retail; or (2) where  
16 prescriptions of physicians, dentists, advanced practice  
17 nurses, physician assistants, veterinarians, podiatrists, or  
18 optometrists, within the limits of their licenses, are  
19 compounded, filled, or dispensed; or (3) which has upon it or  
20 displayed within it, or affixed to or used in connection with  
21 it, a sign bearing the word or words "Pharmacist", "Druggist",  
22 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
23 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
24 "Medicines", or any word or words of similar or like import,  
25 either in the English language or any other language; or (4)

1 where the characteristic prescription sign (Rx) or similar  
2 design is exhibited; or (5) any store, or shop, or other place  
3 with respect to which any of the above words, objects, signs or  
4 designs are used in any advertisement.

5 (b) "Drugs" means and includes (1) articles recognized in  
6 the official United States Pharmacopoeia/National Formulary  
7 (USP/NF), or any supplement thereto and being intended for and  
8 having for their main use the diagnosis, cure, mitigation,  
9 treatment or prevention of disease in man or other animals, as  
10 approved by the United States Food and Drug Administration, but  
11 does not include devices or their components, parts, or  
12 accessories; and (2) all other articles intended for and having  
13 for their main use the diagnosis, cure, mitigation, treatment  
14 or prevention of disease in man or other animals, as approved  
15 by the United States Food and Drug Administration, but does not  
16 include devices or their components, parts, or accessories; and  
17 (3) articles (other than food) having for their main use and  
18 intended to affect the structure or any function of the body of  
19 man or other animals; and (4) articles having for their main  
20 use and intended for use as a component or any articles  
21 specified in clause (1), (2) or (3); but does not include  
22 devices or their components, parts or accessories.

23 (c) "Medicines" means and includes all drugs intended for  
24 human or veterinary use approved by the United States Food and  
25 Drug Administration.

26 (d) "Practice of pharmacy" means (1) the interpretation and



1 the provision of assistance in the monitoring, evaluation, and  
2 implementation of prescription drug orders; (2) the dispensing  
3 of prescription drug orders; (3) participation in drug and  
4 device selection; (4) drug administration limited to the  
5 administration of oral, topical, injectable, and inhalation as  
6 follows: in the context of patient education on the proper use  
7 or delivery of medications; vaccination of patients 14 years of  
8 age and older pursuant to a valid prescription or standing  
9 order, by a physician licensed to practice medicine in all its  
10 branches, upon completion of appropriate training, including  
11 how to address contraindications and adverse reactions set  
12 forth by rule, with notification to the patient's physician and  
13 appropriate record retention, or pursuant to hospital pharmacy  
14 and therapeutics committee policies and procedures; (5) drug  
15 regimen review; (6) drug or drug-related research; (7) the  
16 provision of patient counseling; (8) the practice of  
17 telepharmacy; (9) the provision of those acts or services  
18 necessary to provide pharmacist care; (10) medication therapy  
19 management; and (11) the responsibility for compounding and  
20 labeling of drugs and devices (except labeling by a  
21 manufacturer, repackager, or distributor of non-prescription  
22 drugs and commercially packaged legend drugs and devices),  
23 proper and safe storage of drugs and devices, and maintenance  
24 of required records. A pharmacist who performs any of the acts  
25 defined as the practice of pharmacy in this State must be  
26 actively licensed as a pharmacist under this Act.

1           (e) "Prescription" means and includes any written, oral,  
2           facsimile, or electronically transmitted order for drugs or  
3           medical devices, issued by a physician licensed to practice  
4           medicine in all its branches, dentist, veterinarian, or  
5           podiatrist, or optometrist, within the limits of their  
6           licenses, by a physician assistant in accordance with  
7           subsection (f) of Section 4, or by an advanced practice nurse  
8           in accordance with subsection (g) of Section 4, containing the  
9           following: (1) name of the patient; (2) date when prescription  
10          was issued; (3) name and strength of drug or description of the  
11          medical device prescribed; and (4) quantity, (5) directions for  
12          use, (6) prescriber's name, address and signature, and (7) DEA  
13          number where required, for controlled substances. DEA numbers  
14          shall not be required on inpatient drug orders.

15          (f) "Person" means and includes a natural person,  
16          copartnership, association, corporation, government entity, or  
17          any other legal entity.

18          (g) "Department" means the Department of Financial and  
19          Professional Regulation.

20          (h) "Board of Pharmacy" or "Board" means the State Board of  
21          Pharmacy of the Department of Financial and Professional  
22          Regulation.

23          (i) "Secretary" means the Secretary of Financial and  
24          Professional Regulation.

25          (j) "Drug product selection" means the interchange for a  
26          prescribed pharmaceutical product in accordance with Section

1 25 of this Act and Section 3.14 of the Illinois Food, Drug and  
2 Cosmetic Act.

3 (k) "Inpatient drug order" means an order issued by an  
4 authorized prescriber for a resident or patient of a facility  
5 licensed under the Nursing Home Care Act, the MR/DD Community  
6 Care Act, or the Hospital Licensing Act, or "An Act in relation  
7 to the founding and operation of the University of Illinois  
8 Hospital and the conduct of University of Illinois health care  
9 programs", approved July 3, 1931, as amended, or a mental  
10 health or developmental disabilities facility which is  
11 operated by the Department of Healthcare and Family Services or  
12 the Department of Human Services, ~~(as successor to the~~  
13 ~~Department of Mental Health and Developmental Disabilities)~~ or  
14 a facility which is operated by the Department of Corrections.

15 (k-5) "Pharmacist" means an individual health care  
16 professional and provider currently licensed by this State to  
17 engage in the practice of pharmacy.

18 (l) "Pharmacist in charge" means the licensed pharmacist  
19 whose name appears on a pharmacy license and who is responsible  
20 for all aspects of the operation related to the practice of  
21 pharmacy.

22 (m) "Dispense" or "dispensing" means the interpretation,  
23 evaluation, and implementation of a prescription drug order,  
24 including the preparation and delivery of a drug or device to a  
25 patient or patient's agent in a suitable container  
26 appropriately labeled for subsequent administration to or use

1 by a patient in accordance with applicable State and federal  
2 laws and regulations. "Dispense" or "dispensing" does not mean  
3 the physical delivery to a patient or a patient's  
4 representative in a home or institution by a designee of a  
5 pharmacist or by common carrier. "Dispense" or "dispensing"  
6 also does not mean the physical delivery of a drug or medical  
7 device to a patient or patient's representative by a  
8 pharmacist's designee within a pharmacy or drugstore while the  
9 pharmacist is on duty and the pharmacy is open.

10 (n) "Nonresident pharmacy" means a pharmacy that is located  
11 in a state, commonwealth, or territory of the United States,  
12 other than Illinois, that delivers, dispenses, or distributes,  
13 through the United States Postal Service, commercially  
14 acceptable parcel delivery service, or other common carrier, to  
15 Illinois residents, any substance which requires a  
16 prescription.

17 (o) "Compounding" means the preparation and mixing of  
18 components, excluding flavorings, (1) as the result of a  
19 prescriber's prescription drug order or initiative based on the  
20 prescriber-patient-pharmacist relationship in the course of  
21 professional practice or (2) for the purpose of, or incident  
22 to, research, teaching, or chemical analysis and not for sale  
23 or dispensing. "Compounding" includes the preparation of drugs  
24 or devices in anticipation of receiving prescription drug  
25 orders based on routine, regularly observed dispensing  
26 patterns. Commercially available products may be compounded

1 for dispensing to individual patients only if all of the  
2 following conditions are met: (i) the commercial product is not  
3 reasonably available from normal distribution channels in a  
4 timely manner to meet the patient's needs and (ii) the  
5 prescribing practitioner has requested that the drug be  
6 compounded.

7 (p) (Blank).

8 (q) (Blank).

9 (r) "Patient counseling" means the communication between a  
10 pharmacist or a student pharmacist under the supervision of a  
11 pharmacist and a patient or the patient's representative about  
12 the patient's medication or device for the purpose of  
13 optimizing proper use of prescription medications or devices.  
14 "Patient counseling" may include without limitation (1)  
15 obtaining a medication history; (2) acquiring a patient's  
16 allergies and health conditions; (3) facilitation of the  
17 patient's understanding of the intended use of the medication;  
18 (4) proper directions for use; (5) significant potential  
19 adverse events; (6) potential food-drug interactions; and (7)  
20 the need to be compliant with the medication therapy. A  
21 pharmacy technician may only participate in the following  
22 aspects of patient counseling under the supervision of a  
23 pharmacist: (1) obtaining medication history; (2) providing  
24 the offer for counseling by a pharmacist or student pharmacist;  
25 and (3) acquiring a patient's allergies and health conditions.

26 (s) "Patient profiles" or "patient drug therapy record"

1 means the obtaining, recording, and maintenance of patient  
2 prescription information, including prescriptions for  
3 controlled substances, and personal information.

4 (t) (Blank).

5 (u) "Medical device" means an instrument, apparatus,  
6 implement, machine, contrivance, implant, in vitro reagent, or  
7 other similar or related article, including any component part  
8 or accessory, required under federal law to bear the label  
9 "Caution: Federal law requires dispensing by or on the order of  
10 a physician". A seller of goods and services who, only for the  
11 purpose of retail sales, compounds, sells, rents, or leases  
12 medical devices shall not, by reasons thereof, be required to  
13 be a licensed pharmacy.

14 (v) "Unique identifier" means an electronic signature,  
15 handwritten signature or initials, thumb print, or other  
16 acceptable biometric or electronic identification process as  
17 approved by the Department.

18 (w) "Current usual and customary retail price" means the  
19 price that a pharmacy charges to a non-third-party payor.

20 (x) "Automated pharmacy system" means a mechanical system  
21 located within the confines of the pharmacy or remote location  
22 that performs operations or activities, other than compounding  
23 or administration, relative to storage, packaging, dispensing,  
24 or distribution of medication, and which collects, controls,  
25 and maintains all transaction information.

26 (y) "Drug regimen review" means and includes the evaluation

1 of prescription drug orders and patient records for (1) known  
2 allergies; (2) drug or potential therapy contraindications;  
3 (3) reasonable dose, duration of use, and route of  
4 administration, taking into consideration factors such as age,  
5 gender, and contraindications; (4) reasonable directions for  
6 use; (5) potential or actual adverse drug reactions; (6)  
7 drug-drug interactions; (7) drug-food interactions; (8)  
8 drug-disease contraindications; (9) therapeutic duplication;  
9 (10) patient laboratory values when authorized and available;  
10 (11) proper utilization (including over or under utilization)  
11 and optimum therapeutic outcomes; and (12) abuse and misuse.

12 (z) "Electronic transmission prescription" means any  
13 prescription order for which a facsimile or electronic image of  
14 the order is electronically transmitted from a licensed  
15 prescriber to a pharmacy. "Electronic transmission  
16 prescription" includes both data and image prescriptions.

17 (aa) "Medication therapy management services" means a  
18 distinct service or group of services offered by licensed  
19 pharmacists, physicians licensed to practice medicine in all  
20 its branches, advanced practice nurses authorized in a written  
21 agreement with a physician licensed to practice medicine in all  
22 its branches, or physician assistants authorized in guidelines  
23 by a supervising physician that optimize therapeutic outcomes  
24 for individual patients through improved medication use. In a  
25 retail or other non-hospital pharmacy, medication therapy  
26 management services shall consist of the evaluation of

1 prescription drug orders and patient medication records to  
2 resolve conflicts with the following:

- 3 (1) known allergies;
- 4 (2) drug or potential therapy contraindications;
- 5 (3) reasonable dose, duration of use, and route of  
6 administration, taking into consideration factors such as  
7 age, gender, and contraindications;
- 8 (4) reasonable directions for use;
- 9 (5) potential or actual adverse drug reactions;
- 10 (6) drug-drug interactions;
- 11 (7) drug-food interactions;
- 12 (8) drug-disease contraindications;
- 13 (9) identification of therapeutic duplication;
- 14 (10) patient laboratory values when authorized and  
15 available;
- 16 (11) proper utilization (including over or under  
17 utilization) and optimum therapeutic outcomes; and
- 18 (12) drug abuse and misuse.

19 "Medication therapy management services" includes the  
20 following:

- 21 (1) documenting the services delivered and  
22 communicating the information provided to patients'  
23 prescribers within an appropriate time frame, not to exceed  
24 48 hours;
- 25 (2) providing patient counseling designed to enhance a  
26 patient's understanding and the appropriate use of his or



1 her medications; and

2 (3) providing information, support services, and  
3 resources designed to enhance a patient's adherence with  
4 his or her prescribed therapeutic regimens.

5 "Medication therapy management services" may also include  
6 patient care functions authorized by a physician licensed to  
7 practice medicine in all its branches for his or her identified  
8 patient or groups of patients under specified conditions or  
9 limitations in a standing order from the physician.

10 "Medication therapy management services" in a licensed  
11 hospital may also include the following:

12 (1) reviewing assessments of the patient's health  
13 status; and

14 (2) following protocols of a hospital pharmacy and  
15 therapeutics committee with respect to the fulfillment of  
16 medication orders.

17 (bb) "Pharmacist care" means the provision by a pharmacist  
18 of medication therapy management services, with or without the  
19 dispensing of drugs or devices, intended to achieve outcomes  
20 that improve patient health, quality of life, and comfort and  
21 enhance patient safety.

22 (cc) "Protected health information" means individually  
23 identifiable health information that, except as otherwise  
24 provided, is:

25 (1) transmitted by electronic media;

26 (2) maintained in any medium set forth in the

1 definition of "electronic media" in the federal Health  
2 Insurance Portability and Accountability Act; or

3 (3) transmitted or maintained in any other form or  
4 medium.

5 "Protected health information" does not include individually  
6 identifiable health information found in:

7 (1) education records covered by the federal Family  
8 Educational Right and Privacy Act; or

9 (2) employment records held by a licensee in its role  
10 as an employer.

11 (dd) "Standing order" means a specific order for a patient  
12 or group of patients issued by a physician licensed to practice  
13 medicine in all its branches in Illinois.

14 (ee) "Address of record" means the address recorded by the  
15 Department in the applicant's or licensee's application file or  
16 license file, as maintained by the Department's licensure  
17 maintenance unit.

18 (ff) "Home pharmacy" means the location of a pharmacy's  
19 primary operations.

20 (Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10;  
21 96-673, eff. 1-1-10; revised 10-1-09.)

22 Section 1060. The Physician Assistant Practice Act of 1987  
23 is amended by changing Section 7 as follows:

24 (225 ILCS 95/7) (from Ch. 111, par. 4607)

1 (Section scheduled to be repealed on January 1, 2018)

2 Sec. 7. Supervision requirements.

3 (a) No more than 2 physician assistants shall be supervised  
4 by the supervising physician, although a physician assistant  
5 shall be able to hold more than one professional position. Each  
6 supervising physician shall file a notice of supervision of  
7 such physician assistant according to the rules of the  
8 Department. However, the alternate supervising physician may  
9 supervise more than 2 physician assistants when the supervising  
10 physician is unable to provide such supervision consistent with  
11 the definition of alternate physician in Section 4. It is the  
12 responsibility of the supervising physician to maintain  
13 documentation each time he or she has designated an alternative  
14 supervising physician. This documentation shall include the  
15 date alternate supervisory control began, the date alternate  
16 supervisory control ended, and any other changes. A supervising  
17 physician shall provide a copy of this documentation to the  
18 Department, upon request.

19 Physician assistants shall be supervised only by  
20 physicians as defined in this Act who are engaged in clinical  
21 practice, or in clinical practice in public health or other  
22 community health facilities.

23 Nothing in this Act shall be construed to limit the  
24 delegation of tasks or duties by a physician to a nurse or  
25 other appropriately trained personnel.

26 Nothing in this Act shall be construed to prohibit the

1 employment of physician assistants by a hospital, nursing home  
2 or other health care facility where such physician assistants  
3 function under the supervision of a supervising physician.

4 Physician assistants may be employed by the Department of  
5 Corrections or the Department of Human Services or the  
6 Department of Healthcare and Family Services (as successors  
7 ~~successor~~ to the Department of Mental Health and Developmental  
8 Disabilities) for service in facilities maintained by such  
9 Departments and affiliated training facilities in programs  
10 conducted under the authority of the Director of Corrections,  
11 ~~or~~ the Secretary of Human Services, or the Director of  
12 Healthcare and Family Services. Each physician assistant  
13 employed by the Department of Corrections or the Department of  
14 Human Services or the Department of Healthcare and Family  
15 Services (as successors ~~successor~~ to the Department of Mental  
16 Health and Developmental Disabilities) shall be under the  
17 supervision of a physician engaged in clinical practice and  
18 direct patient care. Duties of each physician assistant  
19 employed by such Departments are limited to those within the  
20 scope of practice of the supervising physician who is fully  
21 responsible for all physician assistant activities.

22 A physician assistant may be employed by a practice group  
23 or other entity employing multiple physicians at one or more  
24 locations. In that case, one of the physicians practicing at a  
25 location shall be designated the supervising physician. The  
26 other physicians with that practice group or other entity who

1 practice in the same general type of practice or specialty as  
2 the supervising physician may supervise the physician  
3 assistant with respect to their patients without being deemed  
4 alternate supervising physicians for the purpose of this Act.

5 (b) A physician assistant licensed in this State, or  
6 licensed or authorized to practice in any other U.S.  
7 jurisdiction or credentialed by his or her federal employer as  
8 a physician assistant, who is responding to a need for medical  
9 care created by an emergency or by a state or local disaster  
10 may render such care that the physician assistant is able to  
11 provide without supervision as it is defined in this Section or  
12 with such supervision as is available. For purposes of this  
13 Section, an "emergency situation" shall not include one that  
14 occurs in the place of one's employment.

15 Any physician who supervises a physician assistant  
16 providing medical care in response to such an emergency or  
17 state or local disaster shall not be required to meet the  
18 requirements set forth in this Section for a supervising  
19 physician.

20 (Source: P.A. 95-703, eff. 12-31-07; 96-70, eff. 7-23-09.)

21 Section 1065. The Illinois Public Aid Code is amended by  
22 changing Sections 3-1.4, 4-1.2a, 5-5.23, 6-1.3a, 12-4.5,  
23 12-13.1, and 14-8 and adding Section 12-13.1a as follows:

24 (305 ILCS 5/3-1.4) (from Ch. 23, par. 3-1.4)

1           Sec. 3-1.4. Residents of public institutions. Residents of  
2 municipal, county, state or national institutions for persons  
3 with mental illness or persons with a developmental disability  
4 or for the tuberculous, or residents of a home or other  
5 institution maintained by such governmental bodies when not in  
6 need of institutional care because of sickness, convalescence,  
7 infirmity, or chronic illness, and inmates of penal or  
8 correctional institutions maintained by such governmental  
9 bodies, may qualify for aid under this Article only after they  
10 have ceased to be residents or inmates, but they may apply in  
11 advance of their discharge. Applications received from  
12 residents scheduled for discharge from such institutions shall  
13 be processed by the Department in an expeditious manner. For  
14 persons whose applications are approved, the date of  
15 eligibility shall be the date of release from the institution.

16           A person shall not be deemed a resident of a State  
17 institution for persons with mental illness or persons with a  
18 developmental disability within the meaning of this Section if  
19 he or she has been conditionally discharged by ~~the Department~~  
20 ~~of Mental Health and Developmental Disabilities~~ or the  
21 Department of Human Services or the Department of Healthcare  
22 and Family Services ~~(acting as successor to the Department of~~  
23 ~~Mental Health and Developmental Disabilities)~~ and is no longer  
24 residing in the institution.

25           Recipients of benefits under this Article who become  
26 residents of such institutions shall be permitted a period of

1 up to 30 days in such institutions without suspension or  
2 termination of eligibility; if residency in an institution  
3 extends beyond 30 days the eligibility for all benefits except  
4 Aid to Families with Dependent Children shall be suspended.  
5 Benefits shall be restored, effective on the date of discharge  
6 or release, for persons who are residents of institutions.  
7 Within a reasonable time after the discharge of a person who  
8 was a resident of an institution, the Department shall  
9 redetermine the eligibility of such person.

10 The Department shall provide for procedures to expedite the  
11 determination of disability of persons scheduled to be  
12 discharged from facilities operated by the Department.

13 If federal law or regulations governing grants under this  
14 Article permit the inclusion of persons who are residents of  
15 institutions designated in this Section beyond the period  
16 authorized herein, the Illinois Department, upon a  
17 determination that the appropriations for public aid are  
18 sufficient for such purpose, and upon approval of the Governor,  
19 may provide by general and uniform rule for the waiver of the  
20 provisions of this Section which would otherwise disqualify  
21 such person for aid under this Article.

22 (Source: P.A. 88-380; 89-507, eff. 7-1-97.)

23 (305 ILCS 5/4-1.2a) (from Ch. 23, par. 4-1.2a)

24 Sec. 4-1.2a. Residents of public institutions. Residents  
25 of municipal, county, state or national institutions for

1 persons with mental illness or persons with a developmental  
2 disability or for the tuberculous, or residents of a home or  
3 other institution maintained by such governmental bodies when  
4 not in need of institutional care because of sickness,  
5 convalescence, infirmity, or chronic illness, and inmates of  
6 penal or correctional institutions maintained by such  
7 governmental bodies, may qualify for aid under this Article  
8 only after they have ceased to be residents or inmates.

9 A person shall not be deemed a resident of a State  
10 institution for persons with mental illness or persons with a  
11 developmental disability within the meaning of this Section if  
12 he or she has been conditionally discharged by ~~the Department~~  
13 ~~of Mental Health and Developmental Disabilities~~ or the  
14 Department of Human Services or the Department of Healthcare  
15 and Family Services ~~(acting as successor to the Department of~~  
16 ~~Mental Health and Developmental Disabilities)~~ and is no longer  
17 residing in the institution.

18 Recipients of benefits under this Article who become  
19 residents of such institutions shall be permitted a period of  
20 up to 30 days in such institutions without suspension or  
21 termination of eligibility. Benefits for which such person is  
22 eligible shall be restored, effective on the date of discharge  
23 or release, for persons who are residents of institutions.  
24 Within a reasonable time after the discharge of a person who  
25 was a resident of an institution, the Department shall  
26 redetermine the eligibility of such person.



1           The Department shall provide for procedures to expedite the  
2 determination of incapacity or ability to engage in employment  
3 of persons scheduled to be discharged from facilities operated  
4 by the Department.

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

6           (305 ILCS 5/5-5.23)

7           Sec. 5-5.23. Children's mental health services.

8           (a) The Department of Healthcare and Family Services, by  
9 rule, shall require the screening and assessment of a child  
10 prior to any Medicaid-funded admission to an inpatient hospital  
11 for psychiatric services to be funded by Medicaid. The  
12 screening and assessment shall include a determination of the  
13 appropriateness and availability of out-patient support  
14 services for necessary treatment. The Department, by rule,  
15 shall establish methods and standards of payment for the  
16 screening, assessment, and necessary alternative support  
17 services.

18           (b) The Department of Healthcare and Family Services, to  
19 the extent allowable under federal law, shall secure federal  
20 financial participation for Individual Care Grant expenditures  
21 made by the Department or by the Department of Human Services  
22 for the Medicaid optional service authorized under Section  
23 1905(h) of the federal Social Security Act, pursuant to the  
24 provisions of Section 7.1 of the Mental Health and  
25 Developmental Disabilities Administrative Act.

1 (c) The Department of Healthcare and Family Services shall  
2 work jointly with the Department of Human Services to implement  
3 subsections (a) and (b).

4 (Source: P.A. 95-331, eff. 8-21-07.)

5 (305 ILCS 5/6-1.3a) (from Ch. 23, par. 6-1.3a)

6 Sec. 6-1.3a. Residents of public institutions. Residents  
7 of municipal, county, state or national institutions for  
8 persons with mental illness or persons with a developmental  
9 disability or for the tuberculous, or residents of a home or  
10 other institution maintained by such governmental bodies when  
11 not in need of institutional care because of sickness,  
12 convalescence, infirmity, or chronic illness, and inmates of  
13 penal or correctional institutions maintained by such  
14 governmental bodies, may qualify for aid under this Article  
15 only after they have ceased to be residents or inmates.

16 A person shall not be deemed a resident of a state  
17 institution for persons with mental illness or persons with a  
18 developmental disability within the meaning of this Section if  
19 he has been conditionally discharged by ~~the Department of~~  
20 ~~Mental Health and Developmental Disabilities~~ or the Department  
21 of Human Services or the Department of Healthcare and Family  
22 Services ~~(acting as successor to the Department of Mental~~  
23 ~~Health and Developmental Disabilities)~~ and is no longer  
24 residing in the institution.

25 Recipients of benefits under this Article who become

1 residents of such institutions shall be permitted a period of  
2 up to 30 days in such institutions without suspension or  
3 termination of eligibility. Benefits for which such person is  
4 eligible shall be restored, effective on the date of discharge  
5 or release, for persons who are residents of institutions.  
6 Within a reasonable time after the discharge of a person who  
7 was a resident of an institution, the Department shall  
8 redetermine the eligibility of such person.

9 The Department shall provide for procedures to expedite the  
10 determination of ability to engage in employment of persons  
11 scheduled to be discharged from facilities operated by the  
12 Department.

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

14 (305 ILCS 5/12-4.5) (from Ch. 23, par. 12-4.5)

15 Sec. 12-4.5. Co-operation with Federal Government.  
16 Co-operate with the Federal Department of Health and Human  
17 Services, or with any successor agency thereof, or with any  
18 other agency of the Federal Government providing federal funds,  
19 commodities, or aid, for public aid and other purposes, in any  
20 reasonable manner not contrary to this Code, as may be  
21 necessary to qualify for federal aid for the several public aid  
22 and welfare service programs established under this Code,  
23 including the costs of administration and personnel training  
24 incurred thereunder, and for such other aid, welfare and  
25 related programs for which federal aid may be available.

1           The Department of Human Services may supervise the  
2 administration of food and shelter assistance under this  
3 Section for which the Department of Human Services is  
4 authorized to receive funds from federal, State and private  
5 sources. Under such terms as the Department of Human Services  
6 may establish, such monies may be distributed to units of local  
7 government and non-profit agencies for the purpose of provision  
8 of temporary shelter and food assistance. Temporary shelter  
9 means emergency and transitional living arrangements,  
10 including related ancillary services. Allowable costs shall  
11 include remodeling costs but shall not include other costs not  
12 directly related to direct service provision.

13           The Department of Healthcare and Family Services and the  
14 Department of Human Services may provide low income families  
15 and individuals appropriate supportive services on site to  
16 enhance their ability to maintain independent living  
17 arrangements or may contract for the provision of those  
18 services on site with entities that develop or operate housing  
19 developments, governmental units, community based  
20 organizations, or not for profit organizations. Those living  
21 arrangements may include transitional housing, single-room  
22 occupancy (SRO) housing developments, or family housing  
23 developments. Supportive services may include any service  
24 authorized under this ~~the Public Aid~~ Code including, but not  
25 limited to, services relating to substance abuse, mental  
26 health, transportation, child care, or case management. When

1 appropriate, the Department of Healthcare and Family Services  
2 and the Department of Human Services shall work with other  
3 State agencies in order to coordinate services and to maximize  
4 funding. The Department of Healthcare and Family Services and  
5 the Department of Human Services shall give priority for  
6 services to residents of housing developments which have been  
7 funded by or have a commitment of funds from the Illinois  
8 Housing Development Authority.

9 The Department of Human Services shall promulgate specific  
10 rules governing the selection of Distribution Network Agencies  
11 under the Federal Surplus Commodity Program including, but not  
12 limited to, policies relative to the termination of contracts,  
13 policies relative to fraud and abuse, appeals processes, and  
14 information relative to application and selection processes.  
15 The Department of Human Services shall also promulgate specific  
16 rules that set forth the information required to be contained  
17 in the cost reports to be submitted by each Distribution  
18 Network Agency to the Department of Human Services.

19 The Department of Human Services shall cooperate with units  
20 of local government and non-profit agencies in the development  
21 and implementation of plans to assure the availability of  
22 temporary shelter for persons without a home and/or food  
23 assistance.

24 The Department of Human Services shall report annually to  
25 the House and Senate Appropriations Committees of the General  
26 Assembly regarding the provision of monies for such assistance

1 as provided in this Section, including the number of persons  
2 served, the level and cost of food provided and the level and  
3 cost of each type of shelter provided and any unmet need as to  
4 food and shelter.

5 The Illinois Department of Human Services shall make such  
6 reports to the Federal Department or other Federal agencies in  
7 such form and containing such information as may be required,  
8 and shall comply with such provisions as may be necessary to  
9 assure the correctness and verification of such reports if  
10 funds are contributed by the Federal Government. In cooperating  
11 with any federal agency providing federal funds, commodities,  
12 or aid for public aid and other purposes, the Department of  
13 Human Services, with the consent of the Governor, may make  
14 necessary expenditures from moneys appropriated for such  
15 purposes for any of the subdivisions of public aid, for related  
16 purposes, or for administration.

17 (Source: P.A. 88-332; 89-507, eff. 7-1-97.)

18 (305 ILCS 5/12-13.1)

19 Sec. 12-13.1. Inspector General.

20 (a) The Governor shall appoint, and the Senate shall  
21 confirm, an Inspector General who shall function within the  
22 Illinois Department of Public Aid (now Healthcare and Family  
23 Services) and report to the Governor. The term of the Inspector  
24 General shall expire on the third Monday of January, 1997 and  
25 every 4 years thereafter.

1 (b) In order to prevent, detect, and eliminate fraud,  
2 waste, abuse, mismanagement, and misconduct, the Inspector  
3 General shall oversee the Department of Healthcare and Family  
4 Services' integrity functions, which include, but are not  
5 limited to, the following:

6 (1) Investigation of misconduct by employees, vendors,  
7 contractors and medical providers, except for allegations  
8 of violations of the State Officials and Employees Ethics  
9 Act which shall be referred to the Office of the Governor's  
10 Executive Inspector General for investigation.

11 (2) Audits of medical providers related to ensuring  
12 that appropriate payments are made for services rendered  
13 and to the recovery of overpayments.

14 (3) Monitoring of quality assurance programs generally  
15 related to the medical assistance program and specifically  
16 related to any managed care program.

17 (4) Quality control measurements of the programs  
18 administered by the Department of Healthcare and Family  
19 Services.

20 (5) Investigations of fraud or intentional program  
21 violations committed by clients of the Department of  
22 Healthcare and Family Services.

23 (6) Actions initiated against contractors or medical  
24 providers for any of the following reasons:

25 (A) Violations of the medical assistance program.

26 (B) Sanctions against providers brought in

1 conjunction with the Department of Public Health or the  
2 Department of Human Services (as successor to the  
3 Department of Mental Health and Developmental  
4 Disabilities).

5 (C) Recoveries of assessments against hospitals  
6 and long-term care facilities.

7 (D) Sanctions mandated by the United States  
8 Department of Health and Human Services against  
9 medical providers.

10 (E) Violations of contracts related to any managed  
11 care programs.

12 (7) Representation of the Department of Healthcare and  
13 Family Services at hearings with the Illinois Department of  
14 Professional Regulation in actions taken against  
15 professional licenses held by persons who are in violation  
16 of orders for child support payments.

17 (b-2) On and after January 1, 2011, the Inspector General  
18 shall perform the functions described in Section 12-13.1a in  
19 relation to mental health facilities and agencies.

20 (b-5) At the request of the Secretary of Human Services,  
21 the Inspector General shall, in relation to any function  
22 performed by the Department of Human Services as successor to  
23 the Department of Public Aid, exercise one or more of the  
24 powers provided under this Section as if those powers related  
25 to the Department of Human Services; in such matters, the  
26 Inspector General shall report his or her findings to the



1 Secretary of Human Services.

2 (c) The Inspector General shall have access to all  
3 information, personnel and facilities of the Department of  
4 Healthcare and Family Services and the Department of Human  
5 Services (as successor to the Department of Public Aid), their  
6 employees, vendors, contractors and medical providers and any  
7 federal, State or local governmental agency that are necessary  
8 to perform the duties of the Office as directly related to  
9 public assistance programs administered by those departments.  
10 No medical provider shall be compelled, however, to provide  
11 individual medical records of patients who are not clients of  
12 the Medical Assistance Program. State and local governmental  
13 agencies are authorized and directed to provide the requested  
14 information, assistance or cooperation.

15 (d) The Inspector General shall serve as the Department of  
16 Healthcare and Family Services' primary liaison with law  
17 enforcement, investigatory and prosecutorial agencies,  
18 including but not limited to the following:

19 (1) The Department of State Police.

20 (2) The Federal Bureau of Investigation and other  
21 federal law enforcement agencies.

22 (3) The various Inspectors General of federal agencies  
23 overseeing the programs administered by the Department of  
24 Healthcare and Family Services.

25 (4) The various Inspectors General of any other State  
26 agencies with responsibilities for portions of programs

1 primarily administered by the Department of Healthcare and  
2 Family Services.

3 (5) The Offices of the several United States Attorneys  
4 in Illinois.

5 (6) The several State's Attorneys.

6 The Inspector General shall meet on a regular basis with  
7 these entities to share information regarding possible  
8 misconduct by any persons or entities involved with the public  
9 aid programs administered by the Department of Healthcare and  
10 Family Services.

11 (e) All investigations conducted by the Inspector General  
12 shall be conducted in a manner that ensures the preservation of  
13 evidence for use in criminal prosecutions. If the Inspector  
14 General determines that a possible criminal act relating to  
15 fraud in the provision or administration of the medical  
16 assistance program has been committed, the Inspector General  
17 shall immediately notify the Medicaid Fraud Control Unit. If  
18 the Inspector General determines that a possible criminal act  
19 has been committed within the jurisdiction of the Office, the  
20 Inspector General may request the special expertise of the  
21 Department of State Police. The Inspector General may present  
22 for prosecution the findings of any criminal investigation to  
23 the Office of the Attorney General, the Offices of the several  
24 United States Attorneys in Illinois or the several State's  
25 Attorneys.

26 (f) To carry out his or her duties as described in this

1 Section, the Inspector General and his or her designees shall  
2 have the power to compel by subpoena the attendance and  
3 testimony of witnesses and the production of books, electronic  
4 records and papers as directly related to public assistance  
5 programs administered by the Department of Healthcare and  
6 Family Services or the Department of Human Services (as  
7 successor to the Department of Public Aid). No medical provider  
8 shall be compelled, however, to provide individual medical  
9 records of patients who are not clients of the Medical  
10 Assistance Program.

11 (g) The Inspector General shall report all convictions,  
12 terminations, and suspensions taken against vendors,  
13 contractors and medical providers to the Department of  
14 Healthcare and Family Services and to any agency responsible  
15 for licensing or regulating those persons or entities.

16 (h) The Inspector General shall make annual reports,  
17 findings, and recommendations regarding the Office's  
18 investigations into reports of fraud, waste, abuse,  
19 mismanagement, or misconduct relating to any public aid  
20 programs administered by the Department of Healthcare and  
21 Family Services or the Department of Human Services (as  
22 successor to the Department of Public Aid) to the General  
23 Assembly and the Governor. These reports shall include, but not  
24 be limited to, the following information:

25 (1) Aggregate provider billing and payment  
26 information, including the number of providers at various

1 Medicaid earning levels.

2 (2) The number of audits of the medical assistance  
3 program and the dollar savings resulting from those audits.

4 (3) The number of prescriptions rejected annually  
5 under the Department of Healthcare and Family Services'  
6 Refill Too Soon program and the dollar savings resulting  
7 from that program.

8 (4) Provider sanctions, in the aggregate, including  
9 terminations and suspensions.

10 (5) A detailed summary of the investigations  
11 undertaken in the previous fiscal year. These summaries  
12 shall comply with all laws and rules regarding maintaining  
13 confidentiality in the public aid programs.

14 (i) Nothing in this Section shall limit investigations by  
15 the Department of Healthcare and Family Services or the  
16 Department of Human Services that may otherwise be required by  
17 law or that may be necessary in their capacity as the central  
18 administrative authorities responsible for administration of  
19 public aid programs in this State.

20 (Source: P.A. 95-331, eff. 8-21-07; 96-555, eff. 8-18-09.)

21 (305 ILCS 5/12-13.1a new)

22 Sec. 12-13.1a. Inspector General; mental health facilities  
23 and agencies.

24 (a) Definitions. The following definitions apply to this  
25 Section:

1       "Agency" or "community agency" means (i) a community agency  
2 licensed, funded, or certified by the Department, but not  
3 licensed or certified by any other human services agency of the  
4 State, to provide mental health services or (ii) a program  
5 licensed, funded, or certified by the Department, but not  
6 licensed or certified by any other human services agency of the  
7 State, to provide mental health services.

8       "Aggravating circumstance" means a factor that is  
9 attendant to a finding and that tends to compound or increase  
10 the culpability of the accused.

11       "Allegation" means an assertion, complaint, suspicion, or  
12 incident involving any of the following conduct by an employee,  
13 facility, or agency against an individual or individuals:  
14 mental abuse, physical abuse, sexual abuse, neglect, or  
15 financial exploitation.

16       "Day" means working day, unless otherwise specified.

17       "Deflection" means a situation in which an individual is  
18 presented for admission to a facility or agency, and the  
19 facility staff or agency staff do not admit the individual.  
20 "Deflection" includes triage, redirection, and denial of  
21 admission.

22       "Department" means the Department of Healthcare and Family  
23 Services.

24       "Developmental disability" means "developmental  
25 disability" as defined in the Mental Health and Developmental  
26 Disabilities Code.

1       "Director" means the Director of Healthcare and Family  
2 Services.

3       "Egregious neglect" means a finding of neglect as  
4 determined by the Inspector General that (i) represents a gross  
5 failure to adequately provide for, or a callused indifference  
6 to, the health, safety, or medical needs of an individual and  
7 (ii) results in an individual's death or other serious  
8 deterioration of an individual's physical condition or mental  
9 condition.

10       "Employee" means any person who provides services at the  
11 facility or agency on-site or off-site. The service  
12 relationship can be with the individual or with the facility or  
13 agency. Also, "employee" includes any employee or contractual  
14 agent of the Department or the community agency involved in  
15 providing or monitoring or administering mental health  
16 services. This includes but is not limited to: owners,  
17 operators, payroll personnel, contractors, subcontractors, and  
18 volunteers.

19       "Facility" or "State-operated facility" means a mental  
20 health facility operated by the Department.

21       "Financial exploitation" means taking unjust advantage of  
22 an individual's assets, property, or financial resources  
23 through deception, intimidation, or conversion for the  
24 employee's, facility's, or agency's own advantage or benefit.

25       "Finding" means the Office of the Inspector General's  
26 determination regarding whether an allegation is

1 substantiated, unsubstantiated, or unfounded.

2 "Health care worker registry" or "registry" means the  
3 health care worker registry created by the Nursing Home Care  
4 Act.

5 "Individual" means any person receiving mental health  
6 services, or both mental health services and developmental  
7 disabilities services, from a facility or agency, while either  
8 on-site or off-site.

9 "Inspector General" means the Inspector General appointed  
10 under Section 12-13.1.

11 "Mental abuse" means the use of demeaning, intimidating, or  
12 threatening words, signs, gestures, or other actions by an  
13 employee about an individual and in the presence of an  
14 individual or individuals that results in emotional distress or  
15 maladaptive behavior, or could have resulted in emotional  
16 distress or maladaptive behavior, for any individual present.

17 "Mental illness" means "mental illness" as defined in the  
18 Mental Health and Developmental Disabilities Code.

19 "Mentally ill" means having a mental illness.

20 "Mitigating circumstance" means a condition that (i) is  
21 attendant to a finding, (ii) does not excuse or justify the  
22 conduct in question, but (iii) may be considered in evaluating  
23 the severity of the conduct, the culpability of the accused, or  
24 both the severity of the conduct and the culpability of the  
25 accused.

26 "Neglect" means an employee's, agency's, or facility's

1 failure to provide adequate medical care, personal care, or  
2 maintenance and that, as a consequence, (i) causes an  
3 individual pain, injury, or emotional distress, (ii) results in  
4 either an individual's maladaptive behavior or the  
5 deterioration of an individual's physical condition or mental  
6 condition, or (iii) places the individual's health or safety at  
7 substantial risk.

8 "Physical abuse" means an employee's non-accidental and  
9 inappropriate contact with an individual that causes bodily  
10 harm. "Physical abuse" includes actions that cause bodily harm  
11 as a result of an employee directing an individual or person to  
12 physically abuse another individual.

13 "Recommendation" means an admonition, separate from a  
14 finding, that requires action by the facility, agency, or  
15 Department to correct a systemic issue, problem, or deficiency  
16 identified during an investigation.

17 "Required reporter" means any employee who suspects,  
18 witnesses, or is informed of an allegation of any one or more  
19 of the following: mental abuse, physical abuse, sexual abuse,  
20 neglect, or financial exploitation.

21 "Sexual abuse" means any sexual contact or intimate  
22 physical contact between an employee and an individual,  
23 including an employee's coercion or encouragement of an  
24 individual to engage in sexual behavior that results in sexual  
25 contact, intimate physical contact, sexual behavior, or  
26 intimate physical behavior.



1       "Substantiated" means there is a preponderance of the  
2 evidence to support the allegation.

3       "Unfounded" means there is no credible evidence to support  
4 the allegation.

5       "Unsubstantiated" means there is credible evidence, but  
6 less than a preponderance of evidence to support the  
7 allegation.

8       (b) Investigation of reports. On and after January 1, 2011,  
9 th Inspector General shall investigate reports of suspected  
10 mental abuse, physical abuse, sexual abuse, neglect, or  
11 financial exploitation of individuals in any mental health  
12 facility or agency and shall have authority to take immediate  
13 action to prevent any one or more of the following from  
14 happening to individuals under its jurisdiction: mental abuse,  
15 physical abuse, sexual abuse, neglect, or financial  
16 exploitation. Upon written request of an agency of this State,  
17 the Inspector General may assist another agency of the State in  
18 investigating reports of the abuse, neglect, or abuse and  
19 neglect of persons with mental illness or persons with both  
20 mental illness and developmental disabilities. To comply with  
21 the requirements of subsection (h) of this Section, the  
22 Inspector General shall also review all reportable deaths for  
23 which there is no allegation of abuse or neglect. Nothing in  
24 this Section shall preempt any duties of the Medical Review  
25 Board set forth in the Mental Health and Developmental  
26 Disabilities Code.

1       (c) Limitations. The Inspector General shall not conduct an  
2 investigation within an agency or facility if that  
3 investigation would be redundant to or interfere with an  
4 investigation conducted by another State agency. The Inspector  
5 General shall have no supervision over, or involvement in, the  
6 routine programmatic, licensing, funding, or certification  
7 operations of the Department. Nothing in this subsection limits  
8 investigations by the Department that may otherwise be required  
9 by law or that may be necessary in the Department's capacity as  
10 central administrative authority responsible for the operation  
11 of the State's mental health facilities.

12       (d) Rulemaking authority. The Inspector General shall  
13 promulgate rules establishing minimum requirements for  
14 reporting allegations as well as for initiating, conducting,  
15 and completing investigations based upon the nature of the  
16 allegation or allegations. The rules shall clearly establish  
17 that if 2 or more State agencies could investigate an  
18 allegation, the Inspector General shall not conduct an  
19 investigation that would be redundant to, or interfere with, an  
20 investigation conducted by another State agency. The rules  
21 shall further clarify the method and circumstances under which  
22 the Office of Inspector General may interact with the  
23 licensing, funding, or certification units of the Department in  
24 preventing further occurrences of mental abuse, physical  
25 abuse, sexual abuse, neglect, egregious neglect, and financial  
26 exploitation.

1       (e) Training programs. The Inspector General shall (i)  
2 establish a comprehensive program to ensure that every person  
3 authorized to conduct investigations receives ongoing training  
4 relative to investigation techniques, communication skills,  
5 and the appropriate means of interacting with persons receiving  
6 treatment for mental illness or both mental illness and  
7 developmental disability and (ii) establish and conduct  
8 periodic training programs for facility and agency employees  
9 concerning the prevention and reporting of any one or more of  
10 the following: mental abuse, physical abuse, sexual abuse,  
11 neglect, egregious neglect, or financial exploitation. Nothing  
12 in this Section shall be deemed to prevent the Office of  
13 Inspector General from conducting any other training as  
14 determined by the Inspector General to be necessary or helpful.

15       (f) Duty to cooperate.

16       (1) The Inspector General shall at all times be granted  
17 access to any facility or agency for the purpose of  
18 investigating any allegation, conducting unannounced site  
19 visits, monitoring compliance with a written response, or  
20 completing any other statutorily assigned duty. The  
21 Inspector General shall conduct unannounced site visits to  
22 each facility at least annually for the purpose of  
23 reviewing and making recommendations on systemic issues  
24 relative to preventing, reporting, investigating, and  
25 responding to all of the following: mental abuse, physical  
26 abuse, sexual abuse, neglect, egregious neglect, or

1 financial exploitation.

2 (2) Any employee who fails to cooperate with an Office  
3 of the Inspector General investigation is in violation of  
4 this Section. Failure to cooperate with an investigation  
5 includes, but is not limited to, any one or more of the  
6 following: (i) creating and transmitting a false report to  
7 the Office of the Inspector General hotline, (ii) providing  
8 false information to an Office of the Inspector General  
9 Investigator during an investigation, (iii) colluding with  
10 other employees to cover up evidence, (iv) colluding with  
11 other employees to provide false information to an Office  
12 of the Inspector General investigator, (v) destroying  
13 evidence, (vi) withholding evidence, or (vii) otherwise  
14 obstructing an Office of the Inspector General  
15 investigation. Additionally, any employee who, during an  
16 unannounced site visit or written response compliance  
17 check, fails to cooperate with requests from the Office of  
18 the Inspector General is in violation of this Section.

19 (g) Subpoena powers. The Inspector General shall have the  
20 power to subpoena witnesses and compel the production of all  
21 documents and physical evidence relating to his or her  
22 investigations and any hearings authorized by this Section.  
23 This subpoena power shall not extend to persons or documents of  
24 a labor organization or its representatives insofar as the  
25 persons are acting in a representative capacity to an employee  
26 whose conduct is the subject of an investigation or the

1 documents relate to that representation. Any person who  
2 otherwise fails to respond to a subpoena or who knowingly  
3 provides false information to the Office of the Inspector  
4 General by subpoena during an investigation is guilty of a  
5 Class A misdemeanor.

6 (h) Reporting allegations and deaths.

7 (1) Allegations. If an employee witnesses, is told of,  
8 or has reason to believe an incident of mental abuse,  
9 physical abuse, sexual abuse, neglect, or financial  
10 exploitation has occurred, the employee, agency, or  
11 facility shall report the allegation by phone to the Office  
12 of the Inspector General hotline according to the agency's  
13 or facility's procedures, but in no event later than 4  
14 hours after the initial discovery of the incident,  
15 allegation, or suspicion of any one or more of the  
16 following: mental abuse, physical abuse, sexual abuse,  
17 neglect, or financial exploitation. A required reporter as  
18 defined in subsection (a) of this Section who knowingly or  
19 intentionally fails to comply with these reporting  
20 requirements is guilty of a Class A misdemeanor.

21 (2) Deaths. Absent an allegation, a required reporter  
22 shall, within 24 hours after initial discovery, report by  
23 phone to the Office of the Inspector General hotline each  
24 of the following:

25 (i) Any death of an individual occurring within 14  
26 calendar days after discharge or transfer of the

1 individual from a residential program or facility.

2 (ii) Any death of an individual occurring within 24  
3 hours after deflection from a residential program or  
4 facility.

5 (iii) Any other death of an individual occurring at  
6 an agency or facility or at any Department-funded site.

7 (3) Retaliation. It is a violation of this Section for  
8 any employee or administrator of an agency or facility to  
9 take retaliatory action against an employee who acts in  
10 good faith in conformance with his or her duties as a  
11 required reporter.

12 (i) Reporting criminal acts. Within 24 hours after  
13 determining that there is credible evidence indicating that a  
14 criminal act may have been committed or that special expertise  
15 may be required in an investigation, the Inspector General  
16 shall notify the Department of State Police or other  
17 appropriate law enforcement authority, or ensure that such  
18 notification is made. The Department of State Police shall  
19 investigate any report from a State-operated facility  
20 indicating a possible murder, sexual assault, or other felony  
21 by an employee. All investigations conducted by the Inspector  
22 General shall be conducted in a manner designed to ensure the  
23 preservation of evidence for possible use in a criminal  
24 prosecution.

25 (j) Investigative reports. Upon completion of an  
26 investigation, the Office of the Inspector General shall issue

1 an investigative report identifying whether the allegations  
2 are substantiated, unsubstantiated, or unfounded. Within 10  
3 business days after the transmittal of a completed  
4 investigative report substantiating an allegation, or if a  
5 recommendation is made, the Inspector General shall provide the  
6 investigative report on the case to the Director and to the  
7 director of the facility or agency where any one or more of the  
8 following occurred: mental abuse, physical abuse, sexual  
9 abuse, neglect, egregious neglect, or financial exploitation.  
10 In a substantiated case, the investigative report shall include  
11 any mitigating or aggravating circumstances that were  
12 identified during the investigation. If the case involves  
13 substantiated neglect, the investigative report shall also  
14 state whether egregious neglect was found. An investigative  
15 report may also set forth recommendations. All investigative  
16 reports prepared by the Office of the Inspector General shall  
17 be considered confidential and shall not be released except as  
18 provided by the law of this State or as required under  
19 applicable federal law. Unsubstantiated and unfounded reports  
20 shall not be disclosed except as allowed under Section 6 of the  
21 Abused and Neglected Long Term Care Facility Residents  
22 Reporting Act. Raw data used to compile the investigative  
23 report shall not be subject to release unless required by law  
24 or a court order. "Raw data used to compile the investigative  
25 report" includes, but is not limited to, any one or more of the  
26 following: the initial complaint, witness statements,

1 photographs, investigator's notes, police reports, or incident  
2 reports. If the allegations are substantiated, the accused  
3 shall be provided with a redacted copy of the investigative  
4 report. Death reports where there was no allegation of abuse or  
5 neglect shall only be released pursuant to applicable State or  
6 federal law or a valid court order.

7 (k) Written responses and reconsideration requests.

8 (1) Written responses. Within 30 calendar days from  
9 receipt of a substantiated investigative report or an  
10 investigative report which contains recommendations,  
11 absent a reconsideration request, the facility or agency  
12 shall file a written response that addresses, in a concise  
13 and reasoned manner, the actions taken to: (i) protect the  
14 individual; (ii) prevent recurrences; and (iii) eliminate  
15 the problems identified. The response shall include the  
16 implementation and completion dates of such actions. If the  
17 written response is not filed within the allotted 30  
18 calendar day period, the Director shall determine the  
19 appropriate corrective action to be taken.

20 (2) Reconsideration requests. The facility, agency,  
21 victim or guardian, or the subject employee may request  
22 that the Office of the Inspector General reconsider or  
23 clarify its finding based upon additional information.

24 (l) Disclosure of the finding by the Inspector General. The  
25 Inspector General shall disclose the finding of an  
26 investigation to the following persons: (i) the Governor, (ii)



1 the Director, (iii) the director of the facility or agency,  
2 (iv) the alleged victims and their guardians, (v) the  
3 complainant, and (vi) the accused. This information shall  
4 include whether the allegations were deemed substantiated,  
5 unsubstantiated, or unfounded.

6 (m) Director review. Upon review of the Inspector General's  
7 investigative report and any agency's or facility's written  
8 response, the Director shall accept or reject the written  
9 response and notify the Inspector General of that  
10 determination. The Director may further direct that other  
11 administrative action be taken, including, but not limited to,  
12 any one or more of the following: (i) additional site visits,  
13 (ii) training, (iii) provision of technical assistance  
14 relative to administrative needs, licensure or certification,  
15 or (iv) the imposition of appropriate sanctions.

16 (n) Action by facility or agency. Within 30 days of the  
17 date the Director approves the written response or directs that  
18 further administrative action be taken, the facility or agency  
19 shall provide an implementation report to the Inspector General  
20 that provides the status of the action taken. The facility or  
21 agency shall be allowed an additional 30 days to send notice of  
22 completion of the action or to send an updated implementation  
23 report. If the action has not been completed within the  
24 additional 30 day period, the facility or agency shall send  
25 updated implementation reports every 60 days until completion.  
26 The Inspector General shall conduct a review of any

1 implementation plan that takes more than 120 days after  
2 approval to complete, and shall monitor compliance through a  
3 random review of approved written responses, which may include,  
4 but are not limited to: (i) site visits, (ii) telephone  
5 contact, and (iii) requests for additional documentation  
6 evidencing compliance.

7 (o) Sanctions. Sanctions, if imposed by the Director under  
8 subdivision (m)(iv) of this Section, shall be designed to  
9 prevent further acts of mental abuse, physical abuse, sexual  
10 abuse, neglect, egregious neglect, or financial exploitation  
11 or some combination of one or more of those acts at a facility  
12 or agency, and may include any one or more of the following:

13 (1) Appointment of on-site monitors.

14 (2) Transfer or relocation of an individual or  
15 individuals.

16 (3) Closure of units.

17 (4) Termination of any one or more of the following:

18 (i) Department licensing, (ii) funding, or (iii)  
19 certification.

20 The Inspector General may seek the assistance of the  
21 Illinois Attorney General or the office of any State's Attorney  
22 in implementing sanctions.

23 (p) Health care worker registry.

24 (1) Reporting to the registry. The Inspector General  
25 shall report to the Department of Public Health's health  
26 care worker registry, a public registry, the identity and

1 finding of each employee of a facility or agency against  
2 whom there is a final investigative report containing a  
3 substantiated allegation of physical or sexual abuse or  
4 egregious neglect of an individual.

5 (2) Notice to employee. Prior to reporting the name of  
6 an employee, the employee shall be notified of the  
7 Department's obligation to report and shall be granted an  
8 opportunity to request an administrative hearing, the sole  
9 purpose of which is to determine if the substantiated  
10 finding warrants reporting to the registry. Notice to the  
11 employee shall contain a clear and concise statement of the  
12 grounds on which the report to the registry is based, offer  
13 the employee an opportunity for a hearing, and identify the  
14 process for requesting such a hearing. Notice is sufficient  
15 if provided by certified mail to the employee's last known  
16 address. If the employee fails to request a hearing within  
17 30 days from the date of the notice, the Inspector General  
18 shall report the name of the employee to the registry.  
19 Nothing in this subdivision (p) (2) shall diminish or impair  
20 the rights of a person who is a member of a collective  
21 bargaining unit under the Illinois Public Labor Relations  
22 Act or under any other federal labor statute.

23 (3) Registry hearings. If the employee requests an  
24 administrative hearing, the employee shall be granted an  
25 opportunity to appear before an administrative law judge to  
26 present reasons why the employee's name should not be

1 reported to the registry. The Department shall bear the  
2 burden of presenting evidence that establishes, by a  
3 preponderance of the evidence, that the substantiated  
4 finding warrants reporting to the registry. After  
5 considering all the evidence presented, the administrative  
6 law judge shall make a recommendation to the Director as to  
7 whether the substantiated finding warrants reporting the  
8 name of the employee to the registry. The Director shall  
9 render the final decision. The Department and the employee  
10 shall have the right to request that the administrative law  
11 judge consider a stipulated disposition of these  
12 proceedings.

13 (4) Testimony at registry hearings. A person who makes  
14 a report or who investigates a report under this Section  
15 shall testify fully in any judicial proceeding resulting  
16 from such a report, as to any evidence of abuse or neglect,  
17 or the cause thereof. No evidence shall be excluded by  
18 reason of any common law or statutory privilege relating to  
19 communications between the alleged perpetrator of abuse or  
20 neglect, or the individual alleged as the victim in the  
21 report, and the person making or investigating the report.  
22 Testimony at hearings is exempt from the confidentiality  
23 requirements of subsection (f) of Section 10 of the Mental  
24 Health and Developmental Disabilities Confidentiality Act.

25 (5) Employee's rights to collateral action. No  
26 reporting to the registry shall occur and no hearing shall

1 be set or proceed if an employee notifies the Inspector  
2 General in writing, including any supporting  
3 documentation, that he or she is formally contesting an  
4 adverse employment action resulting from a substantiated  
5 finding by complaint filed with the Illinois Civil Service  
6 Commission, or which otherwise seeks to enforce the  
7 employee's rights pursuant to any applicable collective  
8 bargaining agreement. If an action taken by an employer  
9 against an employee as a result of a finding of physical  
10 abuse, sexual abuse, or egregious neglect is overturned  
11 through an action filed with the Illinois Civil Service  
12 Commission or under any applicable collective bargaining  
13 agreement and if that employee's name has already been sent  
14 to the registry, the employee's name shall be removed from  
15 the registry.

16 (6) Removal from registry. At any time after the report  
17 to the registry, but no more than once in any 12-month  
18 period, an employee may petition the Department in writing  
19 to remove his or her name from the registry. Upon receiving  
20 notice of such request, the Inspector General shall conduct  
21 an investigation into the petition. Upon receipt of such  
22 request, an administrative hearing will be set by the  
23 Department. At the hearing, the employee shall bear the  
24 burden of presenting evidence that establishes, by a  
25 preponderance of the evidence, that removal of the name  
26 from the registry is in the public interest. The parties

1 may jointly request that the administrative law judge  
2 consider a stipulated disposition of these proceedings.

3 (q) Review of administrative decisions. The Department  
4 shall preserve a record of all proceedings at any formal  
5 hearing conducted by the Department involving health care  
6 worker registry hearings. Final administrative decisions of  
7 the Department are subject to judicial review pursuant to  
8 provisions of the Administrative Review Law.

9 (r) Quality Care Board. There is created, within the Office  
10 of the Inspector General, a Quality Care Board to be composed  
11 of 7 members appointed by the Governor with the advice and  
12 consent of the Senate. One of the members shall be designated  
13 as chairman by the Governor. Of the initial appointments made  
14 by the Governor, 4 Board members shall each be appointed for a  
15 term of 4 years and 3 members shall each be appointed for a  
16 term of 2 years. Upon the expiration of each member's term, a  
17 successor shall be appointed for a term of 4 years. In the case  
18 of a vacancy in the office of any member, the Governor shall  
19 appoint a successor for the remainder of the unexpired term.

20 Members appointed by the Governor shall be qualified by  
21 professional knowledge or experience in the area of law,  
22 investigatory techniques, or in the area of care of the  
23 mentally ill. Two members appointed by the Governor shall be  
24 persons with a disability or a parent of a person with a  
25 disability. Members shall serve without compensation, but  
26 shall be reimbursed for expenses incurred in connection with

1 the performance of their duties as members.

2 The Board shall meet quarterly, and may hold other meetings  
3 on the call of the chairman. Four members shall constitute a  
4 quorum allowing the Board to conduct its business. The Board  
5 may adopt rules and regulations it deems necessary to govern  
6 its own procedures.

7 The Board shall monitor and oversee the operations,  
8 policies, and procedures of the Inspector General to ensure the  
9 prompt and thorough investigation of allegations of neglect and  
10 abuse. In fulfilling these responsibilities, the Board may do  
11 the following:

12 (1) Provide independent, expert consultation to the  
13 Inspector General on policies and protocols for  
14 investigations of alleged abuse, neglect, or both abuse and  
15 neglect.

16 (2) Review existing regulations relating to the  
17 operation of facilities.

18 (3) Advise the Inspector General as to the content of  
19 training activities authorized under this Section.

20 (4) Recommend policies concerning methods for  
21 improving the intergovernmental relationships between the  
22 Office of the Inspector General and other State or federal  
23 offices.

24 (s) Annual report. The Inspector General shall provide to  
25 the General Assembly and the Governor, no later than January 1  
26 of each year, a summary of reports and investigations made

1 under this Section for the prior fiscal year with respect to  
2 individuals receiving mental health services. The report shall  
3 detail the imposition of sanctions, if any, and the final  
4 disposition of any corrective or administrative action  
5 directed by the Director. The summaries shall not contain any  
6 confidential or identifying information of any individual, but  
7 shall include objective data identifying any trends in the  
8 number of reported allegations, the timeliness of the Office of  
9 the Inspector General's investigations, and their disposition,  
10 for each facility and Department-wide, for the most recent  
11 3-year time period. The report shall also identify, by  
12 facility, the staff-to-patient ratios taking account of direct  
13 care staff only. The report shall also include detailed  
14 recommended administrative actions and matters for  
15 consideration by the General Assembly.

16 (t) Program audit. The Auditor General shall conduct a  
17 program audit of the Office of the Inspector General on an  
18 as-needed basis, as determined by the Auditor General. The  
19 audit shall specifically include the Inspector General's  
20 compliance with this Section and effectiveness in  
21 investigating reports of allegations occurring in any facility  
22 or agency. The Auditor General shall conduct the program audit  
23 according to the provisions of the Illinois State Auditing Act  
24 and shall report his or her findings to the General Assembly no  
25 later than January 1 following the audit period.

26 (u) Nothing in this Section shall be construed to mean that



1 a patient is a victim of abuse or neglect because of health  
2 care services appropriately provided or not provided by health  
3 care professionals.

4 (v) Nothing in this Section shall require a facility,  
5 including its employees, agents, medical staff members, and  
6 health care professionals, to provide a service to a patient in  
7 contravention of that patient's stated or implied objection to  
8 the provision of that service on the ground that that service  
9 conflicts with the patient's religious beliefs or practices,  
10 nor shall the failure to provide a service to a patient be  
11 considered abuse under this Section if the patient has objected  
12 to the provision of that service based on his or her religious  
13 beliefs or practices.

14 (305 ILCS 5/14-8) (from Ch. 23, par. 14-8)

15 Sec. 14-8. Disbursements to Hospitals.

16 (a) For inpatient hospital services rendered on and after  
17 September 1, 1991, the Illinois Department shall reimburse  
18 hospitals for inpatient services at an inpatient payment rate  
19 calculated for each hospital based upon the Medicare  
20 Prospective Payment System as set forth in Sections 1886(b),  
21 (d), (g), and (h) of the federal Social Security Act, and the  
22 regulations, policies, and procedures promulgated thereunder,  
23 except as modified by this Section. Payment rates for inpatient  
24 hospital services rendered on or after September 1, 1991 and on  
25 or before September 30, 1992 shall be calculated using the

1 Medicare Prospective Payment rates in effect on September 1,  
2 1991. Payment rates for inpatient hospital services rendered on  
3 or after October 1, 1992 and on or before March 31, 1994 shall  
4 be calculated using the Medicare Prospective Payment rates in  
5 effect on September 1, 1992. Payment rates for inpatient  
6 hospital services rendered on or after April 1, 1994 shall be  
7 calculated using the Medicare Prospective Payment rates  
8 (including the Medicare grouping methodology and weighting  
9 factors as adjusted pursuant to paragraph (1) of this  
10 subsection) in effect 90 days prior to the date of admission.  
11 For services rendered on or after July 1, 1995, the  
12 reimbursement methodology implemented under this subsection  
13 shall not include those costs referred to in Sections  
14 1886(d)(5)(B) and 1886(h) of the Social Security Act. The  
15 additional payment amounts required under Section  
16 1886(d)(5)(F) of the Social Security Act, for hospitals serving  
17 a disproportionate share of low-income or indigent patients,  
18 are not required under this Section. For hospital inpatient  
19 services rendered on or after July 1, 1995, the Illinois  
20 Department shall reimburse hospitals using the relative  
21 weighting factors and the base payment rates calculated for  
22 each hospital that were in effect on June 30, 1995, less the  
23 portion of such rates attributed by the Illinois Department to  
24 the cost of medical education.

25 (1) The weighting factors established under Section  
26 1886(d)(4) of the Social Security Act shall not be used in

1 the reimbursement system established under this Section.  
2 Rather, the Illinois Department shall establish by rule  
3 Medicaid weighting factors to be used in the reimbursement  
4 system established under this Section.

5 (2) The Illinois Department shall define by rule those  
6 hospitals or distinct parts of hospitals that shall be  
7 exempt from the reimbursement system established under  
8 this Section. In defining such hospitals, the Illinois  
9 Department shall take into consideration those hospitals  
10 exempt from the Medicare Prospective Payment System as of  
11 September 1, 1991. For hospitals defined as exempt under  
12 this subsection, the Illinois Department shall by rule  
13 establish a reimbursement system for payment of inpatient  
14 hospital services rendered on and after September 1, 1991.  
15 For all hospitals that are children's hospitals as defined  
16 in Section 5-5.02 of this Code, the reimbursement  
17 methodology shall, through June 30, 1992, net of all  
18 applicable fees, at least equal each children's hospital  
19 1990 ICARE payment rates, indexed to the current year by  
20 application of the DRI hospital cost index from 1989 to the  
21 year in which payments are made. Excepting county providers  
22 as defined in Article XV of this Code, hospitals licensed  
23 under the University of Illinois Hospital Act, and  
24 facilities operated by the Department of Mental Health and  
25 Developmental Disabilities (or its successor, the  
26 Department of Human Services; or the Department of

1       Healthcare and Family Services on and after January 1,  
2       2011, as successor of the Department of Human Services with  
3       respect to functions relating to mental health) for  
4       hospital inpatient services rendered on or after July 1,  
5       1995, the Illinois Department shall reimburse children's  
6       hospitals, as defined in 89 Illinois Administrative Code  
7       Section 149.50(c)(3), at the rates in effect on June 30,  
8       1995, and shall reimburse all other hospitals at the rates  
9       in effect on June 30, 1995, less the portion of such rates  
10      attributed by the Illinois Department to the cost of  
11      medical education. For inpatient hospital services  
12      provided on or after August 1, 1998, the Illinois  
13      Department may establish by rule a means of adjusting the  
14      rates of children's hospitals, as defined in 89 Illinois  
15      Administrative Code Section 149.50(c)(3), that did not  
16      meet that definition on June 30, 1995, in order for the  
17      inpatient hospital rates of such hospitals to take into  
18      account the average inpatient hospital rates of those  
19      children's hospitals that did meet the definition of  
20      children's hospitals on June 30, 1995.

21           (3) (Blank)

22           (4) Notwithstanding any other provision of this  
23      Section, hospitals that on August 31, 1991, have a contract  
24      with the Illinois Department under Section 3-4 of the  
25      Illinois Health Finance Reform Act may elect to continue to  
26      be reimbursed at rates stated in such contracts for general

1 and specialty care.

2 (5) In addition to any payments made under this  
3 subsection (a), the Illinois Department shall make the  
4 adjustment payments required by Section 5-5.02 of this  
5 Code; provided, that in the case of any hospital reimbursed  
6 under a per case methodology, the Illinois Department shall  
7 add an amount equal to the product of the hospital's  
8 average length of stay, less one day, multiplied by 20, for  
9 inpatient hospital services rendered on or after September  
10 1, 1991 and on or before September 30, 1992.

11 (b) (Blank)

12 (b-5) Excepting county providers as defined in Article XV  
13 of this Code, hospitals licensed under the University of  
14 Illinois Hospital Act, and facilities operated by the Illinois  
15 Department of Mental Health and Developmental Disabilities (or  
16 its successor, the Department of Human Services), for  
17 outpatient services rendered on or after July 1, 1995 and  
18 before July 1, 1998 the Illinois Department shall reimburse  
19 children's hospitals, as defined in the Illinois  
20 Administrative Code Section 149.50(c)(3), at the rates in  
21 effect on June 30, 1995, less that portion of such rates  
22 attributed by the Illinois Department to the outpatient  
23 indigent volume adjustment and shall reimburse all other  
24 hospitals at the rates in effect on June 30, 1995, less the  
25 portions of such rates attributed by the Illinois Department to  
26 the cost of medical education and attributed by the Illinois

1 Department to the outpatient indigent volume adjustment. For  
2 outpatient services provided on or after July 1, 1998,  
3 reimbursement rates, including reimbursement rates for  
4 facilities operated by the Department of Healthcare and Family  
5 Services on and after January 1, 2011, as successor of the  
6 Department of Human Services with respect to functions relating  
7 to mental health, shall be established by rule.

8 (c) In addition to any other payments under this Code, the  
9 Illinois Department shall develop a hospital disproportionate  
10 share reimbursement methodology that, effective July 1, 1991,  
11 through September 30, 1992, shall reimburse hospitals  
12 sufficiently to expend the fee monies described in subsection  
13 (b) of Section 14-3 of this Code and the federal matching funds  
14 received by the Illinois Department as a result of expenditures  
15 made by the Illinois Department as required by this subsection  
16 (c) and Section 14-2 that are attributable to fee monies  
17 deposited in the Fund, less amounts applied to adjustment  
18 payments under Section 5-5.02.

19 (d) Critical Care Access Payments.

20 (1) In addition to any other payments made under this  
21 Code, the Illinois Department shall develop a  
22 reimbursement methodology that shall reimburse Critical  
23 Care Access Hospitals for the specialized services that  
24 qualify them as Critical Care Access Hospitals. No  
25 adjustment payments shall be made under this subsection on  
26 or after July 1, 1995.

1           (2) "Critical Care Access Hospitals" includes, but is  
2           not limited to, hospitals that meet at least one of the  
3           following criteria:

4                   (A) Hospitals located outside of a metropolitan  
5                   statistical area that are designated as Level II  
6                   Perinatal Centers and that provide a disproportionate  
7                   share of perinatal services to recipients; or

8                   (B) Hospitals that are designated as Level I Trauma  
9                   Centers (adult or pediatric) and certain Level II  
10                  Trauma Centers as determined by the Illinois  
11                  Department; or

12                  (C) Hospitals located outside of a metropolitan  
13                  statistical area and that provide a disproportionate  
14                  share of obstetrical services to recipients.

15           (e) Inpatient high volume adjustment. For hospital  
16           inpatient services, effective with rate periods beginning on or  
17           after October 1, 1993, in addition to rates paid for inpatient  
18           services by the Illinois Department, the Illinois Department  
19           shall make adjustment payments for inpatient services  
20           furnished by Medicaid high volume hospitals. The Illinois  
21           Department shall establish by rule criteria for qualifying as a  
22           Medicaid high volume hospital and shall establish by rule a  
23           reimbursement methodology for calculating these adjustment  
24           payments to Medicaid high volume hospitals. No adjustment  
25           payment shall be made under this subsection for services  
26           rendered on or after July 1, 1995.

1 (f) The Illinois Department shall modify its current rules  
2 governing adjustment payments for targeted access, critical  
3 care access, and uncompensated care to classify those  
4 adjustment payments as not being payments to disproportionate  
5 share hospitals under Title XIX of the federal Social Security  
6 Act. Rules adopted under this subsection shall not be effective  
7 with respect to services rendered on or after July 1, 1995. The  
8 Illinois Department has no obligation to adopt or implement any  
9 rules or make any payments under this subsection for services  
10 rendered on or after July 1, 1995.

11 (f-5) The State recognizes that adjustment payments to  
12 hospitals providing certain services or incurring certain  
13 costs may be necessary to assure that recipients of medical  
14 assistance have adequate access to necessary medical services.  
15 These adjustments include payments for teaching costs and  
16 uncompensated care, trauma center payments, rehabilitation  
17 hospital payments, perinatal center payments, obstetrical care  
18 payments, targeted access payments, Medicaid high volume  
19 payments, and outpatient indigent volume payments. On or before  
20 April 1, 1995, the Illinois Department shall issue  
21 recommendations regarding (i) reimbursement mechanisms or  
22 adjustment payments to reflect these costs and services,  
23 including methods by which the payments may be calculated and  
24 the method by which the payments may be financed, and (ii)  
25 reimbursement mechanisms or adjustment payments to reflect  
26 costs and services of federally qualified health centers with



1 respect to recipients of medical assistance.

2 (g) If one or more hospitals file suit in any court  
3 challenging any part of this Article XIV, payments to hospitals  
4 under this Article XIV shall be made only to the extent that  
5 sufficient monies are available in the Fund and only to the  
6 extent that any monies in the Fund are not prohibited from  
7 disbursement under any order of the court.

8 (h) Payments under the disbursement methodology described  
9 in this Section are subject to approval by the federal  
10 government in an appropriate State plan amendment.

11 (i) The Illinois Department may by rule establish criteria  
12 for and develop methodologies for adjustment payments to  
13 hospitals participating under this Article.

14 (j) Hospital Residing Long Term Care Services. In addition  
15 to any other payments made under this Code, the Illinois  
16 Department may by rule establish criteria and develop  
17 methodologies for payments to hospitals for Hospital Residing  
18 Long Term Care Services.

19 (Source: P.A. 93-20, eff. 6-20-03.)

20 Section 1070. The Mental Health and Developmental  
21 Disabilities Code is amended by changing Sections 1-105, 2-202,  
22 3-207, 3-704.1, 4-209, 5-100A, 5-103, 5-107.2, and 5-111 and by  
23 adding Sections 1-105.5 and 5-5 as follows:

24 (405 ILCS 5/1-105) (from Ch. 91 1/2, par. 1-105)

1           Sec. 1-105. Before January 1, 2011, "Department" means the  
2 Department of Human Services in its capacity as successor to  
3 the Department of Mental Health and Developmental  
4 Disabilities. Unless the context otherwise requires, direct or  
5 indirect references in this Code to the programs, employees,  
6 facilities, service providers, or service recipients of the  
7 Department shall be construed to refer only to those programs,  
8 employees, facilities, service providers, or service  
9 recipients of the Department that pertain to its mental health  
10 and developmental disabilities functions.

11           On and after January 1, 2011, "Department" means:

12           (1) The Department of Human Services with respect to  
13 functions under this Code relating to developmental  
14 disabilities.

15           (2) The Department of Healthcare and Family Services  
16 with respect to functions under this Code relating to  
17 mental health.

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

19 (405 ILCS 5/1-105.5 new)

20           Sec. 1-105.5. Director. "Director means the Director of  
21 Healthcare and Family Services.

22 (405 ILCS 5/2-202) (from Ch. 91 1/2, par. 2-202)

23           Sec. 2-202. The Secretary of Human Services, the Director  
24 of Healthcare and Family Services, and the facility director of

1 each service provider shall adopt in writing such policies and  
2 procedures as are necessary to implement this Chapter. Such  
3 policies and procedures may amplify or expand, but shall not  
4 restrict or limit, the rights guaranteed to recipients by this  
5 Chapter.

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

7 (405 ILCS 5/3-207) (from Ch. 91 1/2, par. 3-207)

8 Sec. 3-207. (a) Hearings under Sections 3-405, 3-904 and  
9 3-911 of this Chapter shall be conducted by a utilization  
10 review committee. The Secretary and the Director shall appoint  
11 a utilization review committee at each ~~Department~~ facility  
12 operated by his or her respective Department. Each such  
13 committee shall consist of a multi-disciplinary group of  
14 professional staff members who are trained and equipped to deal  
15 with the clinical and treatment needs of recipients. The  
16 recipient and the objector may be represented by persons of  
17 their choice.

18 (b) The committee shall not be bound by rules of evidence  
19 or procedure but shall conduct the proceedings in a manner  
20 intended to ensure a fair hearing. The committee may make such  
21 investigation as it deems necessary. A record of the  
22 proceedings shall be made and shall be kept in the recipient's  
23 record. Within 3 days of conclusion of the hearing, the  
24 committee shall submit to the facility director its written  
25 recommendations which include its factual findings and

1 conclusions. A copy of the recommendations shall be given to  
2 the recipient and the objector.

3 (c) Within 7 days of receipt of the recommendations, the  
4 facility director shall give written notice to the recipient  
5 and objector of his acceptance or rejection of the  
6 recommendations and his reason therefor. If the director of the  
7 facility rejects the recommendations or if the recipient or  
8 objector requests review of the director's decision, the  
9 director shall promptly forward a copy of his decision, the  
10 recommendations, and the record of the hearing to the Secretary  
11 of Human Services or the Director of Healthcare and Family  
12 Services ~~the Department~~ for final review. The decision of the  
13 facility director or the decision of the Secretary or the  
14 Director ~~of the Department~~, if his review was requested, shall  
15 be considered a final administrative decision.

16 (Source: P.A. 91-726, eff. 6-2-00.)

17 (405 ILCS 5/3-704.1)

18 Sec. 3-704.1. Task force.

19 (a) The Illinois Law Enforcement Training Standards Board  
20 shall convene a task force for the purpose of developing and  
21 recommending for adoption by the Board a model protocol  
22 concerning the involvement of mental health professionals when  
23 a peace officer is required to transport an individual for a  
24 mental health examination pursuant to an order entered under  
25 subsection (a) of Section 3-704. The task force in its

1 discretion may also develop other model protocols concerning  
2 the interaction between law enforcement and individuals with  
3 mental illness. The task force shall have no more than 19  
4 members, appointed by the Executive Director of the Illinois  
5 Law Enforcement Training Standards Board, and shall be  
6 comprised of the following: (i) up to 8 representatives from  
7 law enforcement, (ii) up to 8 representatives of community  
8 mental health service providers and State operated and private  
9 psychiatric hospitals, including up to 3 representatives of the  
10 Division Office of Mental Health, Department of Human Services  
11 (before January 1, 2011) or Department of Healthcare and Family  
12 Services (on or after January 1, 2011), and (iii) 3 members of  
13 the general public, at least one of whom must be a primary  
14 consumer of mental health services. In establishing the task  
15 force every effort shall be made to ensure that it represents  
16 the geographic diversity of the State.

17 (b) The members of the task force shall serve without  
18 compensation and shall not receive reimbursement for any  
19 expense incurred in performing their duties.

20 (c) Prior to taking any formal action upon the  
21 recommendations of the task force, the Board shall hold a  
22 public hearing to provide the opportunity for individuals with  
23 mental illness and their family members, mental health advocacy  
24 organizations, and the public at large to review, comment upon,  
25 and suggest any changes to the proposed model protocols.

26 (d) The Board shall submit to the General Assembly, no

1 later than March 1, 2001, whatever model protocols it has  
2 adopted under subsection (a).

3 (Source: P.A. 91-837, eff. 6-16-00.)

4 (405 ILCS 5/4-209) (from Ch. 91 1/2, par. 4-209)

5 Sec. 4-209. (a) Hearings under Sections 4-201.1, 4-312,  
6 4-704 and 4-709 of this Chapter shall be conducted by a  
7 utilization review committee. The Secretary or the Director  
8 shall appoint a utilization review committee at each ~~Department~~  
9 facility operated by his or her respective Department. Each  
10 such committee shall consist of multi-disciplinary  
11 professional staff members who are trained and equipped to deal  
12 with the habilitation needs of clients. At least one member of  
13 the committee shall be a qualified mental retardation  
14 professional. The client and the objector may be represented by  
15 persons of their choice.

16 (b) The utilization review committee shall not be bound by  
17 rules of evidence or procedure but shall conduct the  
18 proceedings in a manner intended to ensure a fair hearing. The  
19 committee may make such investigation as it deems necessary. It  
20 may administer oaths and compel by subpoena testimony and the  
21 production of records. A stenographic or audio recording of the  
22 proceedings shall be made and shall be kept in the client's  
23 record. Within 3 days of conclusion of the hearing, the  
24 committee shall submit to the facility director its written  
25 recommendations which include its factual findings and

1 conclusions. A copy of the recommendations shall be given to  
2 the client and the objector.

3 (c) Within 7 days of receipt of the recommendations, the  
4 facility director shall give written notice to the client and  
5 objector of his acceptance or rejection of the recommendations  
6 and his reason therefor. If the facility director rejects the  
7 recommendations or if the client or objector requests review of  
8 the facility director's decision, the facility director shall  
9 promptly forward a copy of his decision, the recommendations,  
10 and the record of the hearing to the Secretary Human Services  
11 or the Director of Healthcare and Family Services ~~of the~~  
12 ~~Department~~ for final review. The review of the facility  
13 director's decision shall be decided by the Secretary or the  
14 Director or his or her designee within 30 days of the receipt  
15 of a request for final review. The decision of the facility  
16 director, or the decision of the Secretary or the Director (or  
17 his or her designee) if review was requested, shall be  
18 considered a final administrative decision, and shall be  
19 subject to review under and in accordance with Article III of  
20 the Code of Civil Procedure. The decision of the facility  
21 director, or the decision of the Secretary or the Director (or  
22 his or her designee) if review was requested, shall be  
23 considered a final administrative decision.

24 (Source: P.A. 91-357, eff. 7-29-99.)

25 (405 ILCS 5/5-5 new)

1       Sec. 5-5. Transfer of mental health functions. On and after  
2       January 1, 2011, the Director of Healthcare and Family Services  
3       shall exercise all of the powers, duties, rights, and  
4       responsibilities with respect to the functions relating to  
5       mental health under this Code that are transferred from the  
6       Department of Human Services to the Department of Healthcare  
7       and Family Services on that date under Section 2205-15 of the  
8       Department of Healthcare and Family Services Law of the Civil  
9       Administrative Code of Illinois.

10           (405 ILCS 5/5-100A) (from Ch. 91 1/2, par. 5-100A)

11           Sec. 5-100A. Review Board.

12           (a) There is created the Mental Health and Developmental  
13       Disabilities Medical Review Board, hereinafter referred to as  
14       the Board, consisting of 5 members appointed by the Governor,  
15       who shall be physicians licensed to practice medicine in all  
16       its branches, including specialists in psychiatry and primary  
17       care. Members shall serve at the pleasure of the Governor and  
18       shall receive no compensation but may be reimbursed for actual  
19       and necessary expenses incurred in the performance of their  
20       duties. The terms of members appointed before the effective  
21       date of this amendatory Act of 1995 shall expire on the  
22       effective date of this amendatory Act of 1995. As soon as  
23       possible after the effective date of this amendatory Act of  
24       1995, the Governor shall appoint new Board members.

25           The Governor shall designate one member as chairman. The



1 chairman shall appoint an executive secretary and such other  
2 officers and employees as may be necessary to perform the  
3 functions of the Board. The chairman may appoint one or more  
4 committees of Board members and delegate in writing to any such  
5 committee the authority to perform any of the Board's functions  
6 and duties and to exercise any of its powers. Any reports of  
7 such committees shall be forwarded to the chairman for review  
8 and forwarding to the Secretary. The chairman may also seek  
9 consultation from consultants, including but not limited to  
10 specialists in forensic pathology and forensic psychiatry.

11 (b) The director or chief officer of every mental health or  
12 developmental disabilities facility licensed or operated by  
13 the Department shall immediately report the death of any  
14 recipient of services at the facility to the Board in a manner  
15 and form prescribed by the Board, but in any case within 3  
16 working days of the death.

17 (c) The Board's functions shall include the following:

18 (1) investigation of any death that occurs within 24  
19 hours after admission;

20 (2) investigation of the causes and circumstances of  
21 unusual deaths or deaths from other than natural causes;

22 (3) expert consultation with the Inspector General on  
23 suspected abuse and neglect investigations that the  
24 Inspector General determines require independent medical  
25 review;

26 (4) investigation of all suspected cases of neglect

1 concerning delivery of medical services, including  
2 investigations by the Inspector General;

3 (5) visitation and inspection of any facility operated  
4 by the Department in which such a death has occurred;

5 (6) reporting upon its review of the cause and  
6 circumstances of the death of any recipient to the  
7 Secretary or the Director, and his or her designee, and,  
8 when appropriate, making recommendations to those  
9 individuals and to the facility director to prevent similar  
10 deaths; and

11 (7) reporting by April 1 of each year to the Governor  
12 and the Legislature concerning its work during the  
13 preceding year and reporting more frequently to the  
14 Governor or the Legislature as such bodies shall direct or  
15 as it shall deem advisable.

16 (d) All records of the Board's proceedings and  
17 deliberations and any testimony given before it are protected  
18 from disclosure under Section 8-2101 of the Code of Civil  
19 Procedure and are subject to the Mental Health and  
20 Developmental Disabilities Confidentiality Act.

21 (e) Notwithstanding any report by the facility director or  
22 chief officer to the Board and any subsequent investigation by  
23 the Board, the facility director or chief officer shall also  
24 report such incidents to other agencies or entities as may be  
25 required by law or policies and procedures of the Department  
26 with respect to deaths. Investigations by the Board are not to

1 be in lieu of or to replace those lawful duties of other  
2 agencies or entities.

3 (f) If the report by the Board to the Secretary or the  
4 Director contains a conclusion of misconduct or criminal acts,  
5 such facts shall be forwarded by the Secretary or the Director  
6 to the appropriate law enforcement or disciplinary entity.

7 (Source: P.A. 89-427, eff. 12-7-95; 89-507, eff. 7-1-97.)

8 (405 ILCS 5/5-103) (from Ch. 91 1/2, par. 5-103)

9 Sec. 5-103. The Department, or any health officer of this  
10 State or any municipality where any person subject to  
11 involuntary admission or who meets the standard for judicial  
12 admission may be, may inquire into the manner in which any such  
13 person who is not a recipient of services in a state facility  
14 is cared for and maintained. Whenever the Department has reason  
15 to believe that any person asserted or adjudged to be subject  
16 to involuntary admission or to meet the standard for judicial  
17 admission is confined and may be wrongfully deprived of his  
18 liberty, or is cruelly, negligently or improperly treated, or  
19 that inadequate provision is made for his care, supervision and  
20 safekeeping, it may ascertain the facts or may order an  
21 investigation of the facts. The Department, or any duly  
22 authorized representative of the Department, may at any time  
23 visit and examine the persons in any place to ascertain if  
24 persons subject to involuntary admission or who meet the  
25 standard for judicial admission are kept therein. The Secretary

1 or the Director, or any duly authorized representative of the  
2 Department conducting the investigation, may administer oaths  
3 and issue subpoenas requiring the attendance of and the giving  
4 of testimony by witnesses and subpoenas duces tecum requiring  
5 the production of books, papers, records, or memoranda. All  
6 subpoenas issued under this Act may be served by any person 18  
7 years of age or older. The fees of witnesses for attendance and  
8 travel are the same as the fees of witnesses before the circuit  
9 courts of this State. Such fees are to be paid when the witness  
10 is excused from further attendance. When the witness is  
11 subpoenaed at the instance of the Department or any officer or  
12 employee thereof, such fees shall be paid in the same manner as  
13 other expenses of the Department, and when the witness is  
14 subpoenaed at the instance of any other party to any such  
15 proceeding the Department may require that the cost of service  
16 of the subpoena and the fee of the witness be borne by such  
17 party. In such case the Department, in its discretion, may  
18 require a deposit to cover the cost of such service and witness  
19 fees. A subpoena issued under this Section must be served in  
20 the same manner as a subpoena issued out of a court.

21 Any court of this State, upon the application of the  
22 Department or any officer or employee thereof may compel the  
23 attendance of witnesses, the production of books, papers,  
24 records, or memoranda and the giving of testimony before the  
25 Department or any officer or employee thereof conducting an  
26 investigation or holding a hearing authorized by this Act, by

1 an attachment for contempt, or otherwise, in the same manner as  
2 production of evidence may be compelled before that court. The  
3 Department or any officer or employee thereof, or any party  
4 interested in an investigation or hearing before the  
5 Department, may cause the depositions of witnesses residing  
6 within or without the State to be taken in the manner  
7 prescribed by law for like depositions in civil actions in  
8 courts of this State and, to that end, compel the attendance of  
9 witnesses and the production of books, papers, records or  
10 memoranda.

11 Whenever the Department undertakes an investigation into  
12 the general management and administration of any facility, it  
13 may give notice to the Attorney General who shall appear  
14 personally or by an assistant and examine witnesses who may be  
15 in attendance and otherwise represent the Department in such  
16 investigation.

17 Any recipient's records or confidential communications  
18 disclosed under this Section or under proceedings pursuant  
19 thereto shall not lose their confidential and privileged  
20 character as established by the "Mental Health and  
21 Developmental Disabilities Confidentiality Act", enacted by  
22 the 80th General Assembly; such records or confidential  
23 communications shall not be utilized for any other purpose nor  
24 be redisclosed or otherwise discoverable except in connection  
25 with such investigation and proceedings pursuant thereto.

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

1 (405 ILCS 5/5-107.2) (from Ch. 91 1/2, par. 5-107.2)

2 Sec. 5-107.2. The Department shall charge, collect and  
3 receive fees or money equivalent to the cost of providing  
4 Department personnel, equipment, commodities and services to  
5 other agencies and branches of State government, units of local  
6 government or the federal government, on such terms and  
7 conditions as in the judgment of the Secretary or the Director  
8 are in the best interest of the State.

9 All services provided by the Department shall be conducted  
10 pursuant to contracts in accordance with the Intergovernmental  
11 Cooperation Act.

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

13 (405 ILCS 5/5-111) (from Ch. 91 1/2, par. 5-111)

14 Sec. 5-111. Any person who has been issued a Notice of  
15 Determination of sums due as services charges may petition the  
16 Department for a review of that determination. The petition  
17 must be in writing and filed with the Department within 90 days  
18 from the date of the Notice of Determination. The Department  
19 shall provide for a hearing to be held on the charges for the  
20 period covered by the petition. The Department may after such  
21 hearing, cancel, modify or increase such former determination  
22 to an amount not to exceed the maximum provided for such person  
23 by this Act. The Department at its expense shall take testimony  
24 and preserve a record of all proceedings at the hearing upon

1 any petition for a release from or modification of such  
2 determination. The petition and other documents in the nature  
3 of pleadings and motions filed in the case, a transcript of  
4 testimony, findings of the Department, and orders of the  
5 Secretary or the Director constitute the record. The Secretary  
6 or the Director shall furnish a transcript of such record to  
7 any person upon payment therefor of 75¢ per page for each  
8 original transcript and 25¢ per page for each copy thereof. Any  
9 person aggrieved by the decision of the Department upon such  
10 hearing may, within 30 days thereafter, file a petition with  
11 the Department for review of such decision by the Board of  
12 Reimbursement Appeals. The Board of Reimbursement Appeals may  
13 approve action taken by the Department or may remand the case  
14 to the Secretary or the Director with recommendations for  
15 redetermination of charges.

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

17 Section 1075. The Mental Treatment for Incarcerated  
18 Persons Act is amended by changing Section 2 as follows:

19 (405 ILCS 15/2) (from Ch. 91 1/2, par. 142)

20 Sec. 2. The court shall set a date for a hearing on the  
21 petition within 5 days, excluding Saturdays, Sundays and  
22 holidays, after the filing of the petition. The hearing shall  
23 be conducted in the manner prescribed in Article VIII of  
24 Chapter III of the "Mental Health and Developmental

1 Disabilities Code", as now and hereafter amended. If the jury  
2 by its verdict, or the court if no jury is requested, finds  
3 that the named person is not subject to involuntary admission,  
4 he shall be returned to the institution to which he was  
5 sentenced and committed. If the jury by its verdict, or the  
6 court if no jury is requested, finds that the named person is  
7 subject to involuntary admission, the court shall commit him to  
8 the Department of Human Services (before January 1, 2011) or  
9 the Department of Healthcare and Family Services (on or after  
10 January 1, 2011). If the named person is deemed no longer  
11 subject to involuntary admission and the time for which he was  
12 sentenced has not expired, he shall be returned by the  
13 Department of Human Services or the Department of Healthcare  
14 and Family Services to the penal or correctional institution  
15 from which he was committed to finish his original sentence. If  
16 the time has expired, he shall be discharged in accordance with  
17 Article IX of Chapter III of the "Mental Health and  
18 Developmental Disabilities Code", as now and hereafter  
19 amended.

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

21 Section 1080. The Community Mental Health Act is amended by  
22 changing Sections 2, 3a, 3e, 8, and 10 as follows:

23 (405 ILCS 20/2) (from Ch. 91 1/2, par. 302)

24 Sec. 2. Any county, city, village, incorporated town,



1 township, public health district, county health department,  
2 multiple-county health department, school district or any  
3 combination thereof, in consultation with and being advised by  
4 the Department of Human Services (before January 1, 2011) or  
5 the Department of Healthcare and Family Services (on or after  
6 January 1, 2011), shall have the power to construct, repair,  
7 operate, maintain and regulate community mental health  
8 facilities to provide mental health services as defined by the  
9 local community mental health board, including services for,  
10 persons with a developmental disability or substance use  
11 disorder, for residents thereof and/or to contract therefor  
12 with any private or public entity which provides such  
13 facilities and services, either in or without such county,  
14 city, village, incorporated town, township, public health  
15 district, county health department, multiple-county health  
16 department, school district or any combination thereof.

17 (Source: P.A. 95-336, eff. 8-21-07.)

18 (405 ILCS 20/3a) (from Ch. 91 1/2, par. 303a)

19 Sec. 3a. Every governmental unit authorized to levy an  
20 annual tax under any of the provisions of this Act shall,  
21 before it may levy such tax, establish a 7 member community  
22 mental health board who shall administer this Act. Such board  
23 shall be appointed by the chairman of the governing body of a  
24 county, the mayor of a city, the president of a village, the  
25 president of an incorporated town, or the supervisor of a

1 township, as the case may be, with the advice and consent of  
2 the governing body of such county, city, village, incorporated  
3 town or the town board of trustees of any township. Members of  
4 the community mental health board shall be residents of the  
5 government unit and, as nearly as possible, be representative  
6 of interested groups of the community such as local health  
7 departments, medical societies, local comprehensive health  
8 planning agencies, hospital boards, lay associations concerned  
9 with mental health, developmental disabilities and substance  
10 abuse, as well as the general public. Only one member shall be  
11 a member of the governing body. The chairman of the governing  
12 body may, upon the request of the community mental health  
13 board, appoint 2 additional members to the community mental  
14 health board. No member of the community mental health board  
15 may be a full-time or part-time employee of the Department of  
16 Human Services (before January 1, 2011) or the Department of  
17 Healthcare and Family Services (on or after January 1, 2011) or  
18 a board member, employee or any other individual receiving  
19 compensation from any facility or service operating under  
20 contract to the board. If a successful referendum is held under  
21 Section 5 of this Act, all members of such board shall be  
22 appointed within 60 days of the referendum.

23 Home rule units are exempt from this Act. However, they  
24 may, by ordinance, adopt the provisions of this Act, or any  
25 portion thereof, that they may deem advisable.

26 The tax rate set forth in Section 4 may be levied by any

1 non-home rule unit only pursuant to the approval by the voters  
2 at a referendum. Such referendum may have been held at any time  
3 subsequent to the effective date of the Community Mental Health  
4 Act.

5 (Source: P.A. 95-336, eff. 8-21-07.)

6 (405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

7 Sec. 3e. Board's powers and duties.

8 (1) Every community mental health board shall, immediately  
9 after appointment, meet and organize, by the election of one of  
10 its number as president and one as secretary and such other  
11 officers as it may deem necessary. It shall make rules and  
12 regulations concerning the rendition or operation of services  
13 and facilities which it directs, supervises or funds, not  
14 inconsistent with the provisions of this Act. It shall:

15 (a) Hold a meeting prior to July 1 of each year at  
16 which officers shall be elected for the ensuing year  
17 beginning July 1;

18 (b) Hold meetings at least quarterly;

19 (c) Hold special meetings upon a written request signed  
20 by at least 2 members and filed with the secretary;

21 (d) Review and evaluate community mental health  
22 services and facilities, including services and facilities  
23 for the treatment of alcoholism, drug addiction,  
24 developmental disabilities and mental retardation;

25 (e) Authorize the disbursement of money from the

1 community mental health fund for payment for the ordinary  
2 and contingent expenses of the board;

3 (f) Submit to the appointing officer and the members of  
4 the governing body a written plan for a program of  
5 community mental health services and facilities for  
6 persons with a mental illness, a developmental disability,  
7 or a substance use disorder. Such plan shall be for the  
8 ensuing 12 month period. In addition, a plan shall be  
9 developed for the ensuing 3 year period and such plan shall  
10 be reviewed at the end of every 12 month period and shall  
11 be modified as deemed advisable.

12 (g) Within amounts appropriated therefor, execute such  
13 programs and maintain such services and facilities as may  
14 be authorized under such appropriations, including amounts  
15 appropriated under bond issues, if any;

16 (h) Publish the annual budget and report within 120  
17 days after the end of the fiscal year in a newspaper  
18 distributed within the jurisdiction of the board, or, if no  
19 newspaper is published within the jurisdiction of the  
20 board, then one published in the county, or, if no  
21 newspaper is published in the county, then in a newspaper  
22 having general circulation within the jurisdiction of the  
23 board. The report shall show the condition of its trust of  
24 that year, the sums of money received from all sources,  
25 giving the name of any donor, how all monies have been  
26 expended and for what purpose, and such other statistics

1 and program information in regard to the work of the board  
2 as it may deem of general interest. A copy of the budget  
3 and the annual report shall be made available to the  
4 Department of Human Services (before January 1, 2011) or  
5 the Department of Healthcare and Family Services (on or  
6 after January 1, 2011) and to members of the General  
7 Assembly whose districts include any part of the  
8 jurisdiction of such board. The names of all employees,  
9 consultants, and other personnel shall be set forth along  
10 with the amounts of money received;

11 (i) Consult with other appropriate private and public  
12 agencies in the development of local plans for the most  
13 efficient delivery of mental health, developmental  
14 disabilities, and substance use disorder services. The  
15 Board is authorized to join and to participate in the  
16 activities of associations organized for the purpose of  
17 promoting more efficient and effective services and  
18 programs;

19 (j) Have the authority to review and comment on all  
20 applications for grants by any person, corporation, or  
21 governmental unit providing services within the  
22 geographical area of the board which provides mental health  
23 facilities and services, including services for the person  
24 with a mental illness, a developmental disability, or a  
25 substance use disorder. The board may require funding  
26 applicants to send a copy of their funding application to

1 the board at the time such application is submitted to the  
2 Department of Human Services (before January 1, 2011) or  
3 the Department of Healthcare and Family Services (on or  
4 after January 1, 2011) or to any other local, State or  
5 federal funding source or governmental agency. Within 60  
6 days of the receipt of any application, the board shall  
7 submit its review and comments to the Department of Human  
8 Services (before January 1, 2011) or the Department of  
9 Healthcare and Family Services (on or after January 1,  
10 2011) or to any other appropriate local, State or federal  
11 funding source or governmental agency. A copy of the review  
12 and comments shall be submitted to the funding applicant.  
13 Within 60 days thereafter, the Department of Human  
14 Services, the Department of Healthcare and Family  
15 Services, or any other appropriate local or State  
16 governmental agency shall issue a written response to the  
17 board and the funding applicant. The Department of Human  
18 Services or the Department of Healthcare and Family  
19 Services shall supply any community mental health board  
20 such information about purchase-of-care funds, State  
21 facility utilization, and costs in its geographical area as  
22 the board may request provided that the information  
23 requested is for the purpose of the Community Mental Health  
24 Board complying with the requirements of Section 3f,  
25 subsection (f) of this Act;

26 (k) Perform such other acts as may be necessary or

1 proper to carry out the purposes of this Act.

2 (2) The community mental health board has the following  
3 powers:

4 (a) The board may enter into multiple-year contracts  
5 for rendition or operation of services, facilities and  
6 educational programs.

7 (b) The board may arrange through intergovernmental  
8 agreements or intragovernmental agreements or both for the  
9 rendition of services and operation of facilities by other  
10 agencies or departments of the governmental unit or county  
11 in which the governmental unit is located with the approval  
12 of the governing body.

13 (c) To employ, establish compensation for, and set  
14 policies for its personnel, including legal counsel, as may  
15 be necessary to carry out the purposes of this Act and  
16 prescribe the duties thereof. The board may enter into  
17 multiple-year employment contracts as may be necessary for  
18 the recruitment and retention of personnel and the proper  
19 functioning of the board.

20 (d) The board may enter into multiple-year joint  
21 agreements, which shall be written, with other mental  
22 health boards and boards of health to provide jointly  
23 agreed upon community mental health facilities and  
24 services and to pool such funds as may be deemed necessary  
25 and available for this purpose.

26 (e) The board may organize a not-for-profit

1 corporation for the purpose of providing direct recipient  
2 services. Such corporations shall have, in addition to all  
3 other lawful powers, the power to contract with persons to  
4 furnish services for recipients of the corporation's  
5 facilities, including psychiatrists and other physicians  
6 licensed in this State to practice medicine in all of its  
7 branches. Such physicians shall be considered independent  
8 contractors, and liability for any malpractice shall not  
9 extend to such corporation, nor to the community mental  
10 health board, except for gross negligence in entering into  
11 such a contract.

12 (f) The board shall not operate any direct recipient  
13 services for more than a 2-year period when such services  
14 are being provided in the governmental unit, but shall  
15 encourage, by financial support, the development of  
16 private agencies to deliver such needed services, pursuant  
17 to regulations of the board.

18 (g) Where there are multiple boards within the same  
19 planning area, as established by the Department of Human  
20 Services or the Department of Healthcare and Family  
21 Services, services may be purchased through a single  
22 delivery system. In such areas, a coordinating body with  
23 representation from each board shall be established to  
24 carry out the service functions of this Act. In the event  
25 any such coordinating body purchases or improves real  
26 property, such body shall first obtain the approval of the



1 governing bodies of the governmental units in which the  
2 coordinating body is located.

3 (h) The board may enter into multiple-year joint  
4 agreements with other governmental units located within  
5 the geographical area of the board. Such agreements shall  
6 be written and shall provide for the rendition of services  
7 by the board to the residents of such governmental units.

8 (i) The board may enter into multiple-year joint  
9 agreements with federal, State, and local governments,  
10 including the Department of Human Services or the  
11 Department of Healthcare and Family Services, whereby the  
12 board will provide certain services. All such joint  
13 agreements must provide for the exchange of relevant data.  
14 However, nothing in this Act shall be construed to permit  
15 the abridgement of the confidentiality of patient records.

16 (j) The board may receive gifts from private sources  
17 for purposes not inconsistent with the provisions of this  
18 Act.

19 (k) The board may receive Federal, State and local  
20 funds for purposes not inconsistent with the provisions of  
21 this Act.

22 (l) The board may establish scholarship programs. Such  
23 programs shall require equivalent service or reimbursement  
24 pursuant to regulations of the board.

25 (m) The board may sell, rent, or lease real property  
26 for purposes consistent with this Act.

1           (n) The board may: (i) own real property, lease real  
2           property as lessee, or acquire real property by purchase,  
3           construction, lease-purchase agreement, or otherwise; (ii)  
4           take title to the property in the board's name; (iii)  
5           borrow money and issue debt instruments, mortgages,  
6           purchase-money mortgages, and other security instruments  
7           with respect to the property; and (iv) maintain, repair,  
8           remodel, or improve the property. All of these activities  
9           must be for purposes consistent with this Act as may be  
10          reasonably necessary for the housing and proper  
11          functioning of the board. The board may use moneys in the  
12          Community Mental Health Fund for these purposes.

13          (o) The board may organize a not-for-profit  
14          corporation (i) for the purpose of raising money to be  
15          distributed by the board for providing community mental  
16          health services and facilities for the treatment of  
17          alcoholism, drug addiction, developmental disabilities,  
18          and mental retardation or (ii) for other purposes not  
19          inconsistent with this Act.

20          (Source: P.A. 95-336, eff. 8-21-07.)

21          (405 ILCS 20/8) (from Ch. 91 1/2, par. 308)

22          Sec. 8. The Secretary of Human Services (before January 1,  
23          2011) or the Director of Healthcare and Family Services (on or  
24          after January 1, 2011) may make grants-in-aid to such county,  
25          city, village, incorporated town, township, public health

1 district, county health department, multiple-county health  
2 department, school district or any combination thereof in  
3 accordance with the provisions of Section 34 of the Mental  
4 Health and Developmental Disabilities Administrative Act.  
5 However, no such grants shall be made without first considering  
6 the review and comments made by the board as set forth in  
7 Section 3e and responding thereto. The Department shall make  
8 all rules necessary for carrying out the provisions of this  
9 Section, including the setting of standards of eligibility for  
10 state assistance.

11 (Source: P.A. 91-357, eff. 7-29-99.)

12 (405 ILCS 20/10) (from Ch. 91 1/2, par. 310)

13 Sec. 10. Whenever the board and the governing body of a  
14 governmental unit by resolution determines that it is necessary  
15 to issue bonds of the governmental unit to enable it to provide  
16 buildings for or to make permanent improvements in the  
17 community mental health facilities, including facilities for  
18 the person with a developmental disability or a substance use  
19 disorder, the governing body shall so instruct the clerk of the  
20 governmental unit. Thereupon, such clerk shall certify the  
21 proposition to the proper election officials who shall submit  
22 the proposition at a regular election in accordance with the  
23 general election law. However, before such resolution is  
24 adopted, a report must be filed with the board and the  
25 governing body by the Department of Human Services (before

1 January 1, 2011) or the Department of Healthcare and Family  
2 Services (on or after January 1, 2011) as to the advisability  
3 of any proposed building or of any proposed permanent  
4 improvements in existing facilities.

5 (Source: P.A. 95-336, eff. 8-21-07.)

6 Section 1085. The Community Services Act is amended by  
7 changing Sections 1, 2, 3, 4, 4.4, 4.5, and 4.6 as follows:

8 (405 ILCS 30/1) (from Ch. 91 1/2, par. 901)

9 Sec. 1. Purpose. It is declared to be the policy and intent  
10 of the Illinois General Assembly that the Department of Human  
11 Services assume leadership in facilitating the establishment  
12 of comprehensive and coordinated arrays of private and public  
13 services for persons with mental illness, persons with a  
14 developmental disability, and alcohol and drug dependent  
15 citizens residing in communities throughout the state, except  
16 that on and after January 1, 2011, the Department of Healthcare  
17 and Family Services shall assume such leadership with respect  
18 to persons with mental illness and alcohol and drug dependent  
19 citizens. Each ~~The~~ Department shall work in partnership with  
20 local government entities, direct service providers, voluntary  
21 associations and communities to create a system that is  
22 sensitive to the needs of local communities and which  
23 complements existing family and other natural supports, social  
24 institutions and programs.

1           The goals of the service system shall include but not be  
2 limited to the following: to strengthen the disabled  
3 individual's independence, self-esteem and ability to  
4 participate in and contribute to community life; to insure  
5 continuity of care for clients; to enable disabled persons to  
6 access needed services, commensurate with their individual  
7 wishes and needs, regardless of where they reside in the state;  
8 to prevent unnecessary institutionalization and the  
9 dislocation of individuals from their home communities; to  
10 provide a range of services so that persons can receive these  
11 services in settings which do not unnecessarily restrict their  
12 liberty; and to encourage clients to move among settings as  
13 their needs change.

14           The system shall include provision of services in the areas  
15 of prevention, client assessment and diagnosis, case  
16 coordination, crisis and emergency care, treatment and  
17 habilitation and support services, and community residential  
18 alternatives to institutional settings. The General Assembly  
19 recognizes that community programs are an integral part of the  
20 larger service system, which includes state-operated  
21 facilities for persons who cannot receive appropriate services  
22 in the community.

23           Towards achievement of these ends, the Department of Human  
24 Services and the Department of Healthcare and Family Services,  
25 working in coordination with other State agencies, shall assume  
26 responsibilities pursuant to this Act, which includes

1 activities in the areas of planning, quality assurance, program  
2 evaluation, community education, and the provision of  
3 financial and technical assistance to local provider agencies.  
4 (Source: P.A. 88-380; 89-507, eff. 7-1-97.)

5 (405 ILCS 30/2) (from Ch. 91 1/2, par. 902)

6 Sec. 2. Community Services System. Services should be  
7 planned, developed, delivered and evaluated as part of a  
8 comprehensive and coordinated system. The Department of Human  
9 Services and the Department of Healthcare and Family Services  
10 shall encourage the establishment of services in each area of  
11 the State which cover the services categories described below.  
12 What specific services are provided under each service category  
13 shall be based on local needs; special attention shall be given  
14 to unserved and underserved populations, including children  
15 and youth, racial and ethnic minorities, and the elderly. The  
16 service categories shall include:

17 (a) Prevention: services designed primarily to reduce the  
18 incidence and ameliorate the severity of developmental  
19 disabilities, mental illness and alcohol and drug dependence;

20 (b) Client Assessment and Diagnosis: services designed to  
21 identify persons with developmental disabilities, mental  
22 illness and alcohol and drug dependency; to determine the  
23 extent of the disability and the level of functioning;  
24 information obtained through client evaluation can be used in  
25 individual treatment and habilitation plans; to assure

1 appropriate placement and to assist in program evaluation;

2 (c) Case Coordination: services to provide information and  
3 assistance to disabled persons to insure that they obtain  
4 needed services provided by the private and public sectors;  
5 case coordination services should be available to individuals  
6 whose functioning level or history of institutional recidivism  
7 or long-term care indicate that such assistance is required for  
8 successful community living;

9 (d) Crisis and Emergency: services to assist individuals  
10 and their families through crisis periods, to stabilize  
11 individuals under stress and to prevent unnecessary  
12 institutionalization;

13 (e) Treatment, Habilitation and Support: services designed  
14 to help individuals develop skills which promote independence  
15 and improved levels of social and vocational functioning and  
16 personal growth; and to provide non-treatment support services  
17 which are necessary for successful community living;

18 (f) Community Residential Alternatives to Institutional  
19 Settings: services to provide living arrangements for persons  
20 unable to live independently; the level of supervision,  
21 services provided and length of stay at community residential  
22 alternatives will vary by the type of program and the needs and  
23 functioning level of the residents; other services may be  
24 provided in a community residential alternative which promote  
25 the acquisition of independent living skills and integration  
26 with the community.

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

2 (405 ILCS 30/3) (from Ch. 91 1/2, par. 903)

3 Sec. 3. Responsibilities for Community Services. Pursuant  
4 to this Act, the Department of Human Services and the  
5 Department of Healthcare and Family Services shall facilitate  
6 the establishment of a comprehensive and coordinated array of  
7 community services based upon a federal, State and local  
8 partnership. In order to assist in implementation of this Act,  
9 each ~~the~~ Department shall prescribe and publish rules and  
10 regulations. Each ~~The~~ Department may request the assistance of  
11 other State agencies, local government entities, direct  
12 services providers, trade associations, and others in the  
13 development of these regulations or other policies related to  
14 community services.

15 Each ~~The~~ Department shall assume the following roles and  
16 responsibilities for community services:

17 (a) Service Priorities. Within the service categories  
18 described in Section 2 of this Act, establish and publish  
19 priorities for community services to be rendered, and priority  
20 populations to receive these services.

21 (b) Planning. By January 1, 1994 and by January 1 of each  
22 third year thereafter, prepare and publish a Plan which  
23 describes goals and objectives for community services  
24 state-wide and for regions and subregions needs assessment,  
25 steps and time-tables for implementation of the goals also



1 shall be included; programmatic goals and objectives for  
2 community services shall cover the service categories defined  
3 in Section 2 of this Act; each ~~the~~ Department shall insure  
4 local participation in the planning process.

5 (c) Public Information and Education. Develop programs  
6 aimed at improving the relationship between communities and  
7 their residents with disabilities; prepare and disseminate  
8 public information and educational materials on the prevention  
9 of developmental disabilities, mental illness, and alcohol or  
10 drug dependence, and on available treatment and habilitation  
11 services for persons with these disabilities.

12 (d) Quality Assurance. Promulgate minimum program  
13 standards, rules and regulations to insure that Department  
14 funded services maintain acceptable quality and assure  
15 enforcement of these standards through regular monitoring of  
16 services and through program evaluation; this applies except  
17 where this responsibility is explicitly given by law to another  
18 State agency.

19 (d-5) Accreditation requirements for providers of mental  
20 health and substance abuse treatment services. Except when the  
21 federal or State statutes authorizing a program, or the federal  
22 regulations implementing a program, are to the contrary,  
23 accreditation shall be accepted by the Department in lieu of  
24 the Department's facility or program certification or  
25 licensure onsite review requirements and shall be accepted as a  
26 substitute for the Department's administrative and program

1 monitoring requirements, except as required by subsection  
2 (d-10), in the case of:

3 (1) Any organization from which the Department  
4 purchases mental health or substance abuse services and  
5 that is accredited under any of the following: the  
6 Comprehensive Accreditation Manual for Behavioral Health  
7 Care (Joint Commission on Accreditation of Healthcare  
8 Organizations (JCAHO)); the Comprehensive Accreditation  
9 Manual for Hospitals (JCAHO); the Standards Manual for the  
10 Council on Accreditation for Children and Family Services  
11 (Council on Accreditation for Children and Family Services  
12 (COA)); or the Standards Manual for Organizations Serving  
13 People with Disabilities (the Rehabilitation Accreditation  
14 Commission (CARF)).

15 (2) Any mental health facility or program licensed or  
16 certified by the Department, or any substance abuse service  
17 licensed by the Department, that is accredited under any of  
18 the following: the Comprehensive Accreditation Manual for  
19 Behavioral Health Care (JCAHO); the Comprehensive  
20 Accreditation Manual for Hospitals (JCAHO); the Standards  
21 Manual for the Council on Accreditation for Children and  
22 Family Services (COA); or the Standards Manual for  
23 Organizations Serving People with Disabilities (CARF).

24 (3) Any network of providers from which the Department  
25 purchases mental health or substance abuse services and  
26 that is accredited under any of the following: the

1 Comprehensive Accreditation Manual for Behavioral Health  
2 Care (JCAHO); the Comprehensive Accreditation Manual for  
3 Hospitals (JCAHO); the Standards Manual for the Council on  
4 Accreditation for Children and Family Services (COA); the  
5 Standards Manual for Organizations Serving People with  
6 Disabilities (CARF); or the National Committee for Quality  
7 Assurance. A provider organization that is part of an  
8 accredited network shall be afforded the same rights under  
9 this subsection.

10 (d-10) For mental health and substance abuse services, the  
11 Department may develop standards or promulgate rules that  
12 establish additional standards for monitoring and licensing  
13 accredited programs, services, and facilities that the  
14 Department has determined are not covered by the accreditation  
15 standards and processes. These additional standards for  
16 monitoring and licensing accredited programs, services, and  
17 facilities and the associated monitoring must not duplicate the  
18 standards and processes already covered by the accrediting  
19 bodies.

20 (d-15) The Department shall be given proof of compliance  
21 with fire and health safety standards, which must be submitted  
22 as required by rule.

23 (d-20) The Department, by accepting the survey or  
24 inspection of an accrediting organization, does not forfeit its  
25 rights to perform inspections at any time, including contract  
26 monitoring to ensure that services are provided in accordance

1 with the contract. The Department reserves the right to monitor  
2 a provider of mental health and substance abuse treatment  
3 services when the survey or inspection of an accrediting  
4 organization has established any deficiency in the  
5 accreditation standards and processes.

6 (d-25) On and after the effective date of this amendatory  
7 Act of the 92nd General Assembly, the accreditation  
8 requirements of this Section apply to contracted organizations  
9 that are already accredited.

10 (e) Program Evaluation. Develop a system for conducting  
11 evaluation of the effectiveness of community services,  
12 according to preestablished performance standards; evaluate  
13 the extent to which performance according to established  
14 standards aids in achieving the goals of this Act; evaluation  
15 data also shall be used for quality assurance purposes as well  
16 as for planning activities.

17 (f) Research. Conduct research in order to increase  
18 understanding of mental illness, developmental disabilities  
19 and alcohol and drug dependence.

20 (g) Technical Assistance. Provide technical assistance to  
21 provider agencies receiving funds or serving clients in order  
22 to assist these agencies in providing appropriate, quality  
23 services; also provide assistance and guidance to other State  
24 agencies and local governmental bodies serving the disabled in  
25 order to strengthen their efforts to provide appropriate  
26 community services; and assist provider agencies in accessing

1 other available funding, including federal, State, local,  
2 third-party and private resources.

3 (h) Placement Process. Promote the appropriate placement  
4 of clients in community services through the development and  
5 implementation of client assessment and diagnostic instruments  
6 to assist in identifying the individual's service needs; client  
7 assessment instruments also can be utilized for purposes of  
8 program evaluation; whenever possible, assure that placements  
9 in State-operated facilities are referrals from community  
10 agencies.

11 (i) Interagency Coordination. Assume leadership in  
12 promoting cooperation among State health and human service  
13 agencies to insure that a comprehensive, coordinated community  
14 services system is in place; to insure persons with a  
15 disability access to needed services; and to insure continuity  
16 of care and allow clients to move among service settings as  
17 their needs change; also work with other agencies to establish  
18 effective prevention programs.

19 (j) Financial Assistance. Provide financial assistance to  
20 local provider agencies through purchase-of-care contracts and  
21 grants, pursuant to Section 4 of this Act.

22 (Source: P.A. 95-682, eff. 10-11-07.)

23 (405 ILCS 30/4) (from Ch. 91 1/2, par. 904)

24 Sec. 4. Financing for Community Services.

25 (a) The Department of Human Services and the Department of

1 Healthcare and Family Services are ~~is~~ authorized to provide  
2 financial reimbursement to eligible private service providers,  
3 corporations, local government entities or voluntary  
4 associations for the provision of services to persons with  
5 mental illness, persons with a developmental disability and  
6 alcohol and drug dependent persons living in the community for  
7 the purpose of achieving the goals of this Act.

8 Each ~~The~~ Department shall utilize the following funding  
9 mechanisms for community services:

10 (1) Purchase of Care Contracts: services purchased on a  
11 predetermined fee per unit of service basis from private  
12 providers or governmental entities. Fee per service rates  
13 are set by an established formula which covers some portion  
14 of personnel, supplies, and other allowable costs, and  
15 which makes some allowance for geographic variations in  
16 costs as well as for additional program components.

17 (2) Grants: sums of money which the Department grants  
18 to private providers or governmental entities pursuant to  
19 the grant recipient's agreement to provide certain  
20 services, as defined by departmental grant guidelines, to  
21 an approximate number of service recipients. Grant levels  
22 are set through consideration of personnel, supply and  
23 other allowable costs, as well as other funds available to  
24 the program.

25 (3) Other Funding Arrangements: funding mechanisms may  
26 be established on a pilot basis in order to examine the

1 feasibility of alternative financing arrangements for the  
2 provision of community services.

3 Each ~~The~~ Department shall establish and maintain an  
4 equitable system of payment which allows providers to improve  
5 persons with disabilities' capabilities for independence and  
6 reduces their reliance on State-operated services.

7 (b) The Governor shall create a commission by September 1,  
8 2009, or as soon thereafter as possible, to review funding  
9 methodologies, identify gaps in funding, identify revenue, and  
10 prioritize use of that revenue for community developmental  
11 disability services, mental health services, alcohol and  
12 substance abuse services, rehabilitation services, and early  
13 intervention services. The Office of the Governor shall provide  
14 staff support for the commission.

15 (c) The first meeting of the commission shall be held  
16 within the first month after the creation and appointment of  
17 the commission, and a final report summarizing the commission's  
18 recommendations must be issued within 12 months after the first  
19 meeting, and no later than September 1, 2010, to the Governor  
20 and the General Assembly.

21 (d) The commission shall have the following 13 voting  
22 members:

23 (A) one member of the House of Representatives,  
24 appointed by the Speaker of the House of Representatives;

25 (B) one member of the House of Representatives,  
26 appointed by the House Minority Leader;

1 (C) one member of the Senate, appointed by the  
2 President of the Senate;

3 (D) one member of the Senate, appointed by the Senate  
4 Minority Leader;

5 (E) one person with a developmental disability, or a  
6 family member or guardian of such a person, appointed by  
7 the Governor;

8 (F) one person with a mental illness, or a family  
9 member or guardian of such a person, appointed by the  
10 Governor;

11 (G) two persons from unions that represent employees of  
12 community providers that serve people with developmental  
13 disabilities, mental illness, and alcohol and substance  
14 abuse disorders, appointed by the Governor; and

15 (H) five persons from statewide associations that  
16 represent community providers that provide residential,  
17 day training, and other developmental disability services,  
18 mental health services, alcohol and substance abuse  
19 services, rehabilitation services, or early intervention  
20 services, or any combination of those, appointed by the  
21 Governor.

22 The commission shall also have the following ex-officio,  
23 nonvoting members:

24 (I) the Director of the Governor's Office of Management  
25 and Budget or his or her designee;

26 (J) the Chief Financial Officer of the Department of



1 Human Services or his or her designee;

2 (K) the Administrator of the Department of Healthcare  
3 and Family Services Division of Finance or his or her  
4 designee;

5 (L) the Director of the Department of Human Services  
6 Division of Developmental Disabilities or his or her  
7 designee;

8 (M) the Director of the Department of Human Services  
9 Division of Mental Health or his or her designee (before  
10 January 1, 2011); the Director of the Department of  
11 Healthcare and Family Services Division of Mental Health or  
12 his or her designee (on and after January 1, 2011); and

13 (N) the Director of the Department of Human Services  
14 Division of Alcoholism ~~Alcohol~~ and Substance Abuse or his  
15 or her designee (before January 1, 2011); the Director of  
16 the Department of Healthcare and Family Services Division  
17 of Alcoholism and Substance Abuse or his or her designee  
18 (on and after January 1, 2011).

19 (e) The funding methodologies must reflect economic  
20 factors inherent in providing services and supports, recognize  
21 individual disability needs, and consider geographic  
22 differences, transportation costs, required staffing ratios,  
23 and mandates not currently funded.

24 (f) In accepting Department funds, providers shall  
25 recognize their responsibility to be accountable to the  
26 Department and the State for the delivery of services which are

1 consistent with the philosophies and goals of this Act and the  
2 rules and regulations promulgated under it.

3 (Source: P.A. 95-682, eff. 10-11-07; 96-652, eff. 8-24-09.)

4 (405 ILCS 30/4.4)

5 Sec. 4.4. Funding reinvestment.

6 (a) The purposes of this Section are as follows:

7 (1) The General Assembly recognizes that the United  
8 States Supreme Court in *Olmstead v. L.C. ex Rel. Zimring*,  
9 119 S. Ct. 2176 (1999), affirmed that the unjustifiable  
10 institutionalization of a person with a disability who  
11 could live in the community with proper support, and wishes  
12 to do so, is unlawful discrimination in violation of the  
13 Americans with Disabilities Act (ADA). The State of  
14 Illinois, along with all other states, is required to  
15 provide appropriate residential and community-based  
16 support services to persons with disabilities who wish to  
17 live in a less restrictive setting.

18 (2) It is the purpose of this Section to help fulfill  
19 the State's obligations under the *Olmstead* decision by  
20 maximizing the level of funds for both developmental  
21 disability and mental health services and supports in order  
22 to maintain and create an array of residential and  
23 supportive services for people with mental health needs and  
24 developmental disabilities whenever they are transferred  
25 into another facility or a community-based setting.

1 (b) In this Section:

2 "Division Office of Developmental Disabilities" means the  
3 Division Office of Developmental Disabilities within the  
4 Department of Human Services.

5 "Division Office of Mental Health" means the Division  
6 Office of Mental Health within the Department of Human Services  
7 (before January 1, 2011) or the Division of Mental Health  
8 within the Department of Healthcare and Family Services (on or  
9 after January 1, 2011).

10 (c) On and after the effective date of this amendatory Act  
11 of the 94th General Assembly, every appropriation of State  
12 moneys relating to funding for the Division Office of  
13 Developmental Disabilities or the Division Office of Mental  
14 Health must comply with this Section.

15 (d) Whenever any appropriation, or any portion of an  
16 appropriation, for any fiscal year relating to the funding of  
17 any State-operated facility operated by the Division Office of  
18 Developmental Disabilities or any mental health facility  
19 operated by the Division Office of Mental Health is reduced  
20 because of any of the reasons set forth in the following items  
21 (1) through (3), to the extent that savings are realized from  
22 these items, those moneys must be directed toward providing  
23 other services and supports for persons with developmental  
24 disabilities or mental health needs:

25 (1) The closing of any such State-operated facility for  
26 the developmentally disabled or mental health facility.

1           (2) Reduction in the number of units or available beds  
2           in any such State-operated facility for the  
3           developmentally disabled or mental health facility.

4           (3) Reduction in the number of staff employed in any  
5           such State-operated facility for the developmentally  
6           disabled or mental health facility.

7           In determining whether any savings are realized from items  
8           (1) through (3), sufficient moneys shall be made available to  
9           ensure that there is an appropriate level of staffing and that  
10          life, safety, and care concerns are addressed so as to provide  
11          for the remaining persons with developmental disabilities or  
12          mental illness at any facility in the case of item (2) or (3)  
13          or, in the case of item (1), such remaining persons at the  
14          remaining State-operated facilities that will be expected to  
15          handle the individuals previously served at the closed  
16          facility.

17          (e) The purposes of redirecting this funding shall include,  
18          but not be limited to, providing the following services and  
19          supports for individuals with developmental disabilities and  
20          mental health needs:

21               (1) Residence in the most integrated setting possible,  
22               whether independent living in a private residence, a  
23               Community Integrated Living Arrangement (CILA), a  
24               supported residential program, an Intermediate Care  
25               Facility for persons with Developmental Disabilities  
26               (ICFDD), a supervised residential program, or supportive

1 housing, as appropriate.

2 (2) Residence in another State-operated facility.

3 (3) Rehabilitation and support services, including  
4 assertive community treatment, case management, supportive  
5 and supervised day treatment, and psychosocial  
6 rehabilitation.

7 (4) Vocational or developmental training, as  
8 appropriate, that contributes to the person's independence  
9 and employment potential.

10 (5) Employment or supported employment, as  
11 appropriate, free from discrimination pursuant to the  
12 Constitution and laws of this State.

13 (6) In-home family supports, such as respite services  
14 and client and family supports.

15 (7) Periodic reevaluation, as needed.

16 (f) An appropriation may not circumvent the purposes of  
17 this Section by transferring moneys within the funding system  
18 for services and supports for the developmentally disabled and  
19 mentally ill and then compensating for this transfer by  
20 redirecting other moneys away from these services to provide  
21 funding for some other governmental purpose or to relieve other  
22 State funding expenditures.

23 (Source: P.A. 94-498, eff. 8-8-05.)

24 (405 ILCS 30/4.5)

25 Sec. 4.5. Consultation with advisory and advocacy groups.

1 Whenever any appropriation, or any part of an appropriation,  
2 for any fiscal year relating to the funding of (i) a  
3 State-operated facility operated by the Division Office of  
4 Developmental Disabilities within the Department of Human  
5 Services or (ii) a mental health facility operated by the  
6 Division Office of Mental Health within the Department of Human  
7 Services or the Department of Healthcare and Family Services is  
8 reduced because of any of the reasons set forth in items (1)  
9 through (3) of subsection (d) of Section 4.4, the plan for  
10 using any savings realized from those items (1) through (3)  
11 shall be shared and discussed with advocates, advocacy  
12 organizations, and advisory groups whose mission includes  
13 advocacy for persons with developmental disabilities or  
14 persons with mental illness.

15 (Source: P.A. 94-498, eff. 8-8-05.)

16 (405 ILCS 30/4.6)

17 Sec. 4.6. Closure and sale of State mental health or  
18 developmental disabilities facility.

19 (a) Whenever a State mental health facility operated by the  
20 Department of Human Services or the Department of Healthcare  
21 and Family Services is closed and the real estate on which the  
22 facility is located is sold by the State, then, to the extent  
23 that net proceeds are realized from the sale of that real  
24 estate, those net proceeds must be directed toward providing  
25 other services and supports for persons with mental health

1 needs. To that end, those net proceeds shall be deposited into  
2 the Community Mental Health Medicaid Trust Fund.

3 (b) Whenever a State developmental disabilities facility  
4 operated by the Department of Human Services is closed and the  
5 real estate on which the facility is located is sold by the  
6 State, then, to the extent that net proceeds are realized from  
7 the sale of that real estate, those net proceeds must be  
8 directed toward providing other services and supports for  
9 persons with developmental disabilities needs. To that end,  
10 those net proceeds shall be deposited into the Community  
11 Developmental Disability Services Medicaid Trust Fund.

12 (c) In determining whether any net proceeds are realized  
13 from a sale of real estate described in subsection (a) or (b),  
14 the Division of Developmental Disabilities and the Division of  
15 Mental Health ~~of the Department of Human Services~~ shall each  
16 determine the money, if any, that shall be made available to  
17 ensure that life, safety, and care concerns, including  
18 infrastructure, are addressed so as to provide for persons with  
19 developmental disabilities or mental illness at the remaining  
20 respective State-operated facilities that will be expected to  
21 serve the individuals previously served at the closed facility.

22 (d) The purposes for which the net proceeds from a sale of  
23 real estate as provided in this Section may be used include,  
24 but are not limited to, the following:

25 (1) Providing for individuals with developmental  
26 disabilities and mental health needs the services and

1 supports described in subsection (e) of Section 4.4.

2 (2) In the case of the closure of a mental health  
3 facility, the construction of a new facility to serve the  
4 needs of persons with mental health needs.

5 (3) In the case of the closure of a developmental  
6 disabilities facility, construction of a new facility to  
7 serve the needs of persons with developmental disabilities  
8 needs.

9 (e) Whenever any net proceeds are realized from a sale of  
10 real estate as provided in this Section, the Department of  
11 Human Services or the Department of Healthcare and Family  
12 Services shall share and discuss its plan or plans for using  
13 those net proceeds with advocates, advocacy organizations, and  
14 advisory groups whose mission includes advocacy for persons  
15 with developmental disabilities or persons with mental  
16 illness.

17 (Source: P.A. 96-660, eff. 8-25-09.)

18 Section 1090. The Community Support Systems Act is amended  
19 by changing Sections 1 and 2 as follows:

20 (405 ILCS 35/1) (from Ch. 91 1/2, par. 1101)

21 Sec. 1. Purpose. The statewide development and  
22 implementation of local community support systems to serve the  
23 chronically mentally ill with emphasis on care and treatment of  
24 extended and/or repeated users of inpatient and/or other



1 intensive mental health services such as day treatment,  
2 emergency and non-medical residential care shall be a priority  
3 for the Department of Human Services (before January 1, 2011)  
4 or the Department of Healthcare and Family Services (on or  
5 after January 1, 2011), hereinafter referred to as the  
6 Department, in community program funding. In order to achieve  
7 this goal, the Department shall develop and facilitate, in  
8 cooperation with community agencies serving the mentally ill,  
9 the implementation of appropriate plans providing guidance for  
10 the Department and community agencies in planning, securing,  
11 funding, client assessment, service system evaluation,  
12 technical assistance, and local level development of community  
13 support systems. In addition, the Department shall continue  
14 funding community support system pilot projects established  
15 pursuant to Section 16.2 of the Mental Health and Developmental  
16 Disabilities Administrative Act for the duration of the  
17 established pilot project period, and shall give priority for  
18 continuing funding of such community support system program  
19 components of proven effectiveness at cessation of the pilot  
20 project period through the Department's regular grant-in-aid  
21 and purchase care resources.

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

23 (405 ILCS 35/2) (from Ch. 91 1/2, par. 1102)

24 Sec. 2. Department responsibilities.

25 (a) The Secretary of Human Services (before January 1,

1 2011) or the Director of Healthcare and Family Services (on or  
2 after January 1, 2011) shall designate staff of the Department  
3 to coordinate the development of the Department's community  
4 support system strategic plan. In developing the appropriate  
5 plans the responsibilities of the coordinator and any  
6 additional required staff shall include:

7 (1) the development of a statewide inventory of  
8 community support system service components currently  
9 available, including those components funded or provided  
10 by other public and private agencies;

11 (2) delineation of a comprehensive set of community  
12 support services with adequate flexibility to accommodate  
13 the needs of disparate chronically mentally ill  
14 populations including the young chronically mentally ill  
15 client, and local conditions in the state, which shall  
16 serve as the basis of the development and enhancement of  
17 community support systems statewide;

18 (3) the development of a statewide client assessment  
19 system providing descriptive data appropriate for use in  
20 individual service planning, aggregate statistics  
21 descriptive of client population groups which can be  
22 utilized in the development of local community support  
23 systems, statistics for discrimination of varying client  
24 populations according to client characteristics and needs,  
25 and information for statewide planning;

26 (4) a study of mechanisms currently employed in funding

1 community support system components, followed by the  
2 establishment of a Department policy specifying funding  
3 mechanisms appropriate for specific community support  
4 system program components;

5 (5) the development of program standards to enhance  
6 accountability and evaluation of community support systems  
7 on both a system-wide and component-by-component basis;

8 (b) The coordinator and his staff shall provide technical  
9 assistance and training to local community agencies involved in  
10 the development and provision of community support systems;

11 (c) The coordinator and his staff shall serve as the  
12 Department liaison with other public and private agencies  
13 involved through funding or service provision in the  
14 development and maintenance of community support systems;

15 (d) The coordinator and his staff shall coordinate internal  
16 Department efforts to develop community support systems.  
17 Activities shall include consultation, technical assistance,  
18 leadership in implementation of the strategic plan, and  
19 administration of pilot projects as established in Section 3 of  
20 this Act.

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

22 Section 1095. The Protection and Advocacy for Mentally Ill  
23 Persons Act is amended by changing Section 3 as follows:

24 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

1 (Text of Section before amendment by P.A. 96-339)

2 Sec. 3. Powers and Duties.

3 (A) In order to properly exercise its powers and duties,  
4 the agency shall have the authority to:

5 (1) Investigate incidents of abuse and neglect of  
6 mentally ill persons if the incidents are reported to the  
7 agency or if there is probable cause to believe that the  
8 incidents occurred. In case of conflict with provisions of  
9 the Abused and Neglected Child Reporting Act or the Nursing  
10 Home Care Act, the provisions of those Acts shall apply.

11 (2) Pursue administrative, legal and other appropriate  
12 remedies to ensure the protection of the rights of mentally  
13 ill persons who are receiving care and treatment in this  
14 State.

15 (3) Pursue administrative, legal and other remedies on  
16 behalf of an individual who:

17 (a) was a mentally ill individual; and

18 (b) is a resident of this State, but only with  
19 respect to matters which occur within 90 days after the  
20 date of the discharge of such individual from a  
21 facility providing care and treatment.

22 (4) Establish a board which shall:

23 (a) advise the protection and advocacy system on  
24 policies and priorities to be carried out in protecting  
25 and advocating the rights of mentally ill individuals;  
26 and

1           (b)       include       attorneys,       mental       health  
2       professionals, individuals from the public who are  
3       knowledgeable about mental illness, a provider of  
4       mental health services, individuals who have received  
5       or are receiving mental health services and family  
6       members of such individuals. At least one-half the  
7       members of the board shall be individuals who have  
8       received or are receiving mental health services or who  
9       are family members of such individuals.

10       (5) On January 1, 1988, and on January 1 of each  
11       succeeding year, prepare and transmit to the Secretary of  
12       the United States Department of Health and Human Services  
13       and to the Illinois Secretary of Human Services a report  
14       describing the activities, accomplishments and  
15       expenditures of the protection and advocacy system during  
16       the most recently completed fiscal year.

17       (B) The agency shall have access to all mental health  
18       facilities as defined in Sections 1-107 and 1-114 of the Mental  
19       Health and Developmental Disabilities Code, all facilities as  
20       defined in Section 1-113 of the Nursing Home Care Act, all  
21       facilities as defined in Section 2.06 of the Child Care Act of  
22       1969, as now or hereafter amended, and all other facilities  
23       providing care or treatment to mentally ill persons. Such  
24       access shall be granted for the purposes of meeting with  
25       residents and staff, informing them of services available from  
26       the agency, distributing written information about the agency

1 and the rights of persons who are mentally ill, conducting  
2 scheduled and unscheduled visits, and performing other  
3 activities designed to protect the rights of mentally ill  
4 persons.

5 (C) The agency shall have access to all records of mentally  
6 ill persons who are receiving care or treatment from a  
7 facility, subject to the limitations of this Act, the Mental  
8 Health and Developmental Disabilities Confidentiality Act, the  
9 Nursing Home Care Act and the Child Care Act of 1969, as now or  
10 hereafter amended. If the mentally ill person has a legal  
11 guardian other than the State or a designee of the State, the  
12 facility director shall disclose the guardian's name, address  
13 and telephone number to the agency upon its request. In cases  
14 of conflict with provisions of the Abused and Neglected Child  
15 Reporting Act and the Nursing Home Care Act, the provisions of  
16 the Abused and Neglected Child Reporting Act and the Nursing  
17 Home Care Act shall apply. The agency shall also have access,  
18 for the purpose of inspection and copying, to the records of a  
19 mentally ill person (i) who by reason of his or her mental or  
20 physical condition is unable to authorize the agency to have  
21 such access; (ii) who does not have a legal guardian or for  
22 whom the State or a designee of the State is the legal  
23 guardian; and (iii) with respect to whom a complaint has been  
24 received by the agency or with respect to whom there is  
25 probable cause to believe that such person has been subjected  
26 to abuse or neglect.

1           The agency shall provide written notice to the mentally ill  
2 person and the State guardian of the nature of the complaint  
3 based upon which the agency has gained access to the records.  
4 No record or the contents of the record shall be redisclosed by  
5 the agency unless the person who is mentally ill and the State  
6 guardian are provided 7 days advance written notice, except in  
7 emergency situations, of the agency's intent to redisclose such  
8 record. Within such 7-day period, the mentally ill person or  
9 the State guardian may seek an injunction prohibiting the  
10 agency's redisclosure of such record on the grounds that such  
11 redisclosure is contrary to the interests of the mentally ill  
12 person.

13           Upon request, the authorized agency shall be entitled to  
14 inspect and copy any clinical or trust fund records of mentally  
15 ill persons which may further the agency's investigation of  
16 alleged problems affecting numbers of mentally ill persons.  
17 When required by law, any personally identifiable information  
18 of mentally ill persons shall be removed from the records.  
19 However, the agency may not inspect or copy any records or  
20 other materials when the removal of personally identifiable  
21 information imposes an unreasonable burden on any facility as  
22 defined by the Mental Health and Developmental Disabilities  
23 Code, the Nursing Home Care Act or the Child Care Act of 1969,  
24 or any other facility providing care or treatment to mentally  
25 ill persons.

26           (D) Prior to instituting any legal action in a federal or

1 State court on behalf of a mentally ill individual, an eligible  
2 protection and advocacy system, or a State agency or nonprofit  
3 organization which entered into a contract with such an  
4 eligible system under Section 104(a) of the federal Protection  
5 and Advocacy for Mentally Ill Individuals Act of 1986, shall  
6 exhaust in a timely manner all administrative remedies where  
7 appropriate. If, in pursuing administrative remedies, the  
8 system, State agency or organization determines that any matter  
9 with respect to such individual will not be resolved within a  
10 reasonable time, the system, State agency or organization may  
11 pursue alternative remedies, including the initiation of  
12 appropriate legal action.

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

14 (Text of Section after amendment by P.A. 96-339)

15 Sec. 3. Powers and Duties.

16 (A) In order to properly exercise its powers and duties,  
17 the agency shall have the authority to:

18 (1) Investigate incidents of abuse and neglect of  
19 mentally ill persons if the incidents are reported to the  
20 agency or if there is probable cause to believe that the  
21 incidents occurred. In case of conflict with provisions of  
22 the Abused and Neglected Child Reporting Act or the Nursing  
23 Home Care Act, the provisions of those Acts shall apply.

24 (2) Pursue administrative, legal and other appropriate  
25 remedies to ensure the protection of the rights of mentally



1           ill persons who are receiving care and treatment in this  
2           State.

3           (3) Pursue administrative, legal and other remedies on  
4           behalf of an individual who:

5                   (a) was a mentally ill individual; and

6                   (b) is a resident of this State, but only with  
7           respect to matters which occur within 90 days after the  
8           date of the discharge of such individual from a  
9           facility providing care and treatment.

10          (4) Establish a board which shall:

11                   (a) advise the protection and advocacy system on  
12          policies and priorities to be carried out in protecting  
13          and advocating the rights of mentally ill individuals;  
14          and

15                   (b)       include       attorneys,       mental       health  
16          professionals, individuals from the public who are  
17          knowledgeable about mental illness, a provider of  
18          mental health services, individuals who have received  
19          or are receiving mental health services and family  
20          members of such individuals. At least one-half the  
21          members of the board shall be individuals who have  
22          received or are receiving mental health services or who  
23          are family members of such individuals.

24          (5) On January 1, 1988, and on January 1 of each  
25          succeeding year, prepare and transmit to the Secretary of  
26          the United States Department of Health and Human Services

1 and to the Illinois Secretary of Human Services (before  
2 January 1, 2011) or the Director of Healthcare and Family  
3 Services (on or after January 1, 2011) a report describing  
4 the activities, accomplishments and expenditures of the  
5 protection and advocacy system during the most recently  
6 completed fiscal year.

7 (B) The agency shall have access to all mental health  
8 facilities as defined in Sections 1-107 and 1-114 of the Mental  
9 Health and Developmental Disabilities Code, all facilities as  
10 defined in Section 1-113 of the Nursing Home Care Act, all  
11 facilities as defined in Section 1-113 of the MR/DD Community  
12 Care Act, all facilities as defined in Section 2.06 of the  
13 Child Care Act of 1969, as now or hereafter amended, and all  
14 other facilities providing care or treatment to mentally ill  
15 persons. Such access shall be granted for the purposes of  
16 meeting with residents and staff, informing them of services  
17 available from the agency, distributing written information  
18 about the agency and the rights of persons who are mentally  
19 ill, conducting scheduled and unscheduled visits, and  
20 performing other activities designed to protect the rights of  
21 mentally ill persons.

22 (C) The agency shall have access to all records of mentally  
23 ill persons who are receiving care or treatment from a  
24 facility, subject to the limitations of this Act, the Mental  
25 Health and Developmental Disabilities Confidentiality Act, the  
26 Nursing Home Care Act and the Child Care Act of 1969, as now or

1 hereafter amended. If the mentally ill person has a legal  
2 guardian other than the State or a designee of the State, the  
3 facility director shall disclose the guardian's name, address  
4 and telephone number to the agency upon its request. In cases  
5 of conflict with provisions of the Abused and Neglected Child  
6 Reporting Act and the Nursing Home Care Act, the provisions of  
7 the Abused and Neglected Child Reporting Act and the Nursing  
8 Home Care Act shall apply. The agency shall also have access,  
9 for the purpose of inspection and copying, to the records of a  
10 mentally ill person (i) who by reason of his or her mental or  
11 physical condition is unable to authorize the agency to have  
12 such access; (ii) who does not have a legal guardian or for  
13 whom the State or a designee of the State is the legal  
14 guardian; and (iii) with respect to whom a complaint has been  
15 received by the agency or with respect to whom there is  
16 probable cause to believe that such person has been subjected  
17 to abuse or neglect.

18 The agency shall provide written notice to the mentally ill  
19 person and the State guardian of the nature of the complaint  
20 based upon which the agency has gained access to the records.  
21 No record or the contents of the record shall be redisclosed by  
22 the agency unless the person who is mentally ill and the State  
23 guardian are provided 7 days advance written notice, except in  
24 emergency situations, of the agency's intent to redisclose such  
25 record. Within such 7-day period, the mentally ill person or  
26 the State guardian may seek an injunction prohibiting the

1 agency's redisclosure of such record on the grounds that such  
2 redisclosure is contrary to the interests of the mentally ill  
3 person.

4       Upon request, the authorized agency shall be entitled to  
5 inspect and copy any clinical or trust fund records of mentally  
6 ill persons which may further the agency's investigation of  
7 alleged problems affecting numbers of mentally ill persons.  
8 When required by law, any personally identifiable information  
9 of mentally ill persons shall be removed from the records.  
10 However, the agency may not inspect or copy any records or  
11 other materials when the removal of personally identifiable  
12 information imposes an unreasonable burden on any facility as  
13 defined by the Mental Health and Developmental Disabilities  
14 Code, the Nursing Home Care Act or the Child Care Act of 1969,  
15 or any other facility providing care or treatment to mentally  
16 ill persons.

17       (D) Prior to instituting any legal action in a federal or  
18 State court on behalf of a mentally ill individual, an eligible  
19 protection and advocacy system, or a State agency or nonprofit  
20 organization which entered into a contract with such an  
21 eligible system under Section 104(a) of the federal Protection  
22 and Advocacy for Mentally Ill Individuals Act of 1986, shall  
23 exhaust in a timely manner all administrative remedies where  
24 appropriate. If, in pursuing administrative remedies, the  
25 system, State agency or organization determines that any matter  
26 with respect to such individual will not be resolved within a

1 reasonable time, the system, State agency or organization may  
2 pursue alternative remedies, including the initiation of  
3 appropriate legal action.

4 (Source: P.A. 96-339, eff. 7-1-10.)

5 Section 1100. The Children's Mental Health Act of 2003 is  
6 amended by changing Section 10 as follows:

7 (405 ILCS 49/10)

8 Sec. 10. Office of Mental Health services. The Division  
9 ~~Office~~ of Mental Health within the Department of Human Services  
10 (before January 1, 2011) or within the Department of Healthcare  
11 and Family Services (on or after January 1, 2011) shall allow  
12 grant and purchase-of-service moneys to be used for services  
13 for children from birth through age 18.

14 (Source: P.A. 93-495, eff. 8-8-03.)

15 Section 1105. The Mental Health Patient Travel Act is  
16 amended by changing Section 1 as follows:

17 (405 ILCS 55/1) (from Ch. 91 1/2, par. 1451)

18 Sec. 1. The Department of Human Services and the Department  
19 of Healthcare and Family Services may each establish and  
20 maintain a trust fund to be known as the "Patient Travel Trust  
21 Fund". This trust fund shall be used for advancing money for  
22 travel expenses in connection with the travel or transfer of

1 patients in State mental health and developmental disabilities  
2 facilities, whether such travel or transfer is within this  
3 State or to or from other states, including the travel expenses  
4 of employees designated to accompany the patients. The trust  
5 fund shall be established and reimbursed from any applicable  
6 appropriation for travel expenses of the Department of Human  
7 Services or the Department of Healthcare and Family Services  
8 relating to mental health or developmental disabilities  
9 functions ~~(as successor to the Department of Mental Health and~~  
10 ~~Developmental Disabilities)~~.

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

12 Section 1110. The Developmental Disability and Mental  
13 Disability Services Act is amended by changing Sections 2-2,  
14 2-3, 3-2, 3-3, 4-1, and 5-1 as follows:

15 (405 ILCS 80/2-2) (from Ch. 91 1/2, par. 1802-2)

16 Sec. 2-2. The purpose of this Article is to authorize the  
17 Department of Human Services (before January 1, 2011) or the  
18 Department of Healthcare and Family Services (on and after  
19 January 1, 2011) to encourage, develop, sponsor and fund  
20 home-based and community-based services for mentally disabled  
21 adults in order to provide alternatives to  
22 institutionalization and to permit mentally disabled adults to  
23 remain in their own homes.

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

1 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

2 (Text of Section before amendment by P.A. 96-339)

3 Sec. 2-3. As used in this Article, unless the context  
4 requires otherwise:

5 (a) "Agency" means an agency or entity licensed by the  
6 Department pursuant to this Article or pursuant to the  
7 Community Residential Alternatives Licensing Act.

8 (b) "Department" means the Department of Human Services, as  
9 successor to the Department of Mental Health and Developmental  
10 Disabilities.

11 (c) "Home-based services" means services provided to a  
12 mentally disabled adult who lives in his or her own home. These  
13 services include but are not limited to:

14 (1) home health services;

15 (2) case management;

16 (3) crisis management;

17 (4) training and assistance in self-care;

18 (5) personal care services;

19 (6) habilitation and rehabilitation services;

20 (7) employment-related services;

21 (8) respite care; and

22 (9) other skill training that enables a person to  
23 become self-supporting.

24 (d) "Legal guardian" means a person appointed by a court of  
25 competent jurisdiction to exercise certain powers on behalf of

1 a mentally disabled adult.

2 (e) "Mentally disabled adult" means a person over the age  
3 of 18 years who lives in his or her own home; who needs  
4 home-based services, but does not require 24-hour-a-day  
5 supervision; and who has one of the following conditions:  
6 severe autism, severe mental illness, severe or profound mental  
7 retardation, or severe and multiple impairments.

8 (f) In one's "own home" means that a mentally disabled  
9 adult lives alone; or that a mentally disabled adult is in  
10 full-time residence with his or her parents, legal guardian, or  
11 other relatives; or that a mentally disabled adult is in  
12 full-time residence in a setting not subject to licensure under  
13 the Nursing Home Care Act or the Child Care Act of 1969, as now  
14 or hereafter amended, with 3 or fewer other adults unrelated to  
15 the mentally disabled adult who do not provide home-based  
16 services to the mentally disabled adult.

17 (g) "Parent" means the biological or adoptive parent of a  
18 mentally disabled adult, or a person licensed as a foster  
19 parent under the laws of this State who acts as a mentally  
20 disabled adult's foster parent.

21 (h) "Relative" means any of the following relationships by  
22 blood, marriage or adoption: parent, son, daughter, brother,  
23 sister, grandparent, uncle, aunt, nephew, niece, great  
24 grandparent, great uncle, great aunt, stepbrother, stepsister,  
25 stepson, stepdaughter, stepparent or first cousin.

26 (i) "Severe autism" means a lifelong developmental



1 disability which is typically manifested before 30 months of  
2 age and is characterized by severe disturbances in reciprocal  
3 social interactions; verbal and nonverbal communication and  
4 imaginative activity; and repertoire of activities and  
5 interests. A person shall be determined severely autistic, for  
6 purposes of this Article, if both of the following are present:

7 (1) Diagnosis consistent with the criteria for  
8 autistic disorder in the current edition of the Diagnostic  
9 and Statistical Manual of Mental Disorders.

10 (2) Severe disturbances in reciprocal social  
11 interactions; verbal and nonverbal communication and  
12 imaginative activity; repertoire of activities and  
13 interests. A determination of severe autism shall be based  
14 upon a comprehensive, documented assessment with an  
15 evaluation by a licensed clinical psychologist or  
16 psychiatrist. A determination of severe autism shall not be  
17 based solely on behaviors relating to environmental,  
18 cultural or economic differences.

19 (j) "Severe mental illness" means the manifestation of all  
20 of the following characteristics:

21 (1) A primary diagnosis of one of the major mental  
22 disorders in the current edition of the Diagnostic and  
23 Statistical Manual of Mental Disorders listed below:

24 (A) Schizophrenia disorder.

25 (B) Delusional disorder.

26 (C) Schizo-affective disorder.

1 (D) Bipolar affective disorder.

2 (E) Atypical psychosis.

3 (F) Major depression, recurrent.

4 (2) The individual's mental illness must substantially  
5 impair his or her functioning in at least 2 of the  
6 following areas:

7 (A) Self-maintenance.

8 (B) Social functioning.

9 (C) Activities of community living.

10 (D) Work skills.

11 (3) Disability must be present or expected to be  
12 present for at least one year.

13 A determination of severe mental illness shall be based  
14 upon a comprehensive, documented assessment with an evaluation  
15 by a licensed clinical psychologist or psychiatrist, and shall  
16 not be based solely on behaviors relating to environmental,  
17 cultural or economic differences.

18 (k) "Severe or profound mental retardation" means a  
19 manifestation of all of the following characteristics:

20 (1) A diagnosis which meets Classification in Mental  
21 Retardation or criteria in the current edition of the  
22 Diagnostic and Statistical Manual of Mental Disorders for  
23 severe or profound mental retardation (an IQ of 40 or  
24 below). This must be measured by a standardized instrument  
25 for general intellectual functioning.

26 (2) A severe or profound level of disturbed adaptive

1 behavior. This must be measured by a standardized adaptive  
2 behavior scale or informal appraisal by the professional in  
3 keeping with illustrations in Classification in Mental  
4 Retardation, 1983.

5 (3) Disability diagnosed before age of 18.

6 A determination of severe or profound mental retardation  
7 shall be based upon a comprehensive, documented assessment with  
8 an evaluation by a licensed clinical psychologist or certified  
9 school psychologist or a psychiatrist, and shall not be based  
10 solely on behaviors relating to environmental, cultural or  
11 economic differences.

12 (1) "Severe and multiple impairments" means the  
13 manifestation of all of the following characteristics:

14 (1) The evaluation determines the presence of a  
15 developmental disability which is expected to continue  
16 indefinitely, constitutes a substantial handicap and is  
17 attributable to any of the following:

18 (A) Mental retardation, which is defined as  
19 general intellectual functioning that is 2 or more  
20 standard deviations below the mean concurrent with  
21 impairment of adaptive behavior which is 2 or more  
22 standard deviations below the mean. Assessment of the  
23 individual's intellectual functioning must be measured  
24 by a standardized instrument for general intellectual  
25 functioning.

26 (B) Cerebral palsy.

1 (C) Epilepsy.

2 (D) Autism.

3 (E) Any other condition which results in  
4 impairment similar to that caused by mental  
5 retardation and which requires services similar to  
6 those required by mentally retarded persons.

7 (2) The evaluation determines multiple handicaps in  
8 physical, sensory, behavioral or cognitive functioning  
9 which constitute a severe or profound impairment  
10 attributable to one or more of the following:

11 (A) Physical functioning, which severely impairs  
12 the individual's motor performance that may be due to:

13 (i) Neurological, psychological or physical  
14 involvement resulting in a variety of disabling  
15 conditions such as hemiplegia, quadriplegia or  
16 ataxia,

17 (ii) Severe organ systems involvement such as  
18 congenital heart defect,

19 (iii) Physical abnormalities resulting in the  
20 individual being non-mobile and non-ambulatory or  
21 confined to bed and receiving assistance in  
22 transferring, or

23 (iv) The need for regular medical or nursing  
24 supervision such as gastrostomy care and feeding.

25 Assessment of physical functioning must be based  
26 on clinical medical assessment by a physician licensed

1 to practice medicine in all its branches, using the  
2 appropriate instruments, techniques and standards of  
3 measurement required by the professional.

4 (B) Sensory, which involves severe restriction due  
5 to hearing or visual impairment limiting the  
6 individual's movement and creating dependence in  
7 completing most daily activities. Hearing impairment  
8 is defined as a loss of 70 decibels aided or speech  
9 discrimination of less than 50% aided. Visual  
10 impairment is defined as 20/200 corrected in the better  
11 eye or a visual field of 20 degrees or less. Sensory  
12 functioning must be based on clinical medical  
13 assessment by a physician licensed to practice  
14 medicine in all its branches using the appropriate  
15 instruments, techniques and standards of measurement  
16 required by the professional.

17 (C) Behavioral, which involves behavior that is  
18 maladaptive and presents a danger to self or others, is  
19 destructive to property by deliberately breaking,  
20 destroying or defacing objects, is disruptive by  
21 fighting, or has other socially offensive behaviors in  
22 sufficient frequency or severity to seriously limit  
23 social integration. Assessment of behavioral  
24 functioning may be measured by a standardized scale or  
25 informal appraisal by a clinical psychologist or  
26 psychiatrist.

1           (D) Cognitive, which involves intellectual  
2           functioning at a measured IQ of 70 or below. Assessment  
3           of cognitive functioning must be measured by a  
4           standardized instrument for general intelligence.

5           (3) The evaluation determines that development is  
6           substantially less than expected for the age in cognitive,  
7           affective or psychomotor behavior as follows:

8           (A) Cognitive, which involves intellectual  
9           functioning at a measured IQ of 70 or below. Assessment  
10          of cognitive functioning must be measured by a  
11          standardized instrument for general intelligence.

12          (B) Affective behavior, which involves over and  
13          under responding to stimuli in the environment and may  
14          be observed in mood, attention to awareness, or in  
15          behaviors such as euphoria, anger or sadness that  
16          seriously limit integration into society. Affective  
17          behavior must be based on clinical assessment using the  
18          appropriate instruments, techniques and standards of  
19          measurement required by the professional.

20          (C) Psychomotor, which includes a severe  
21          developmental delay in fine or gross motor skills so  
22          that development in self-care, social interaction,  
23          communication or physical activity will be greatly  
24          delayed or restricted.

25          (4) A determination that the disability originated  
26          before the age of 18 years.

1 A determination of severe and multiple impairments shall be  
2 based upon a comprehensive, documented assessment with an  
3 evaluation by a licensed clinical psychologist or  
4 psychiatrist.

5 If the examiner is a licensed clinical psychologist,  
6 ancillary evaluation of physical impairment, cerebral palsy or  
7 epilepsy must be made by a physician licensed to practice  
8 medicine in all its branches.

9 Regardless of the discipline of the examiner, ancillary  
10 evaluation of visual impairment must be made by an  
11 ophthalmologist or a licensed optometrist.

12 Regardless of the discipline of the examiner, ancillary  
13 evaluation of hearing impairment must be made by an  
14 otolaryngologist or an audiologist with a certificate of  
15 clinical competency.

16 The only exception to the above is in the case of a person  
17 with cerebral palsy or epilepsy who, according to the  
18 eligibility criteria listed below, has multiple impairments  
19 which are only physical and sensory. In such a case, a  
20 physician licensed to practice medicine in all its branches may  
21 serve as the examiner.

22 (m) "Twenty-four-hour-a-day supervision" means  
23 24-hour-a-day care by a trained mental health or developmental  
24 disability professional on an ongoing basis.

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

1 (Text of Section after amendment by P.A. 96-339)

2 Sec. 2-3. As used in this Article, unless the context  
3 requires otherwise:

4 (a) "Agency" means an agency or entity licensed by the  
5 Department pursuant to this Article or pursuant to the  
6 Community Residential Alternatives Licensing Act.

7 (b) "Department" means the Department of Human Services  
8 (before January 1, 2011) or the Department of Healthcare and  
9 Family Services (on and after January 1, 2011), ~~as successor to~~  
10 ~~the Department of Mental Health and Developmental~~  
11 ~~Disabilities.~~

12 (c) "Home-based services" means services provided to a  
13 mentally disabled adult who lives in his or her own home. These  
14 services include but are not limited to:

15 (1) home health services;

16 (2) case management;

17 (3) crisis management;

18 (4) training and assistance in self-care;

19 (5) personal care services;

20 (6) habilitation and rehabilitation services;

21 (7) employment-related services;

22 (8) respite care; and

23 (9) other skill training that enables a person to  
24 become self-supporting.

25 (d) "Legal guardian" means a person appointed by a court of  
26 competent jurisdiction to exercise certain powers on behalf of



1 a mentally disabled adult.

2 (e) "Mentally disabled adult" means a person over the age  
3 of 18 years who lives in his or her own home; who needs  
4 home-based services, but does not require 24-hour-a-day  
5 supervision; and who has one of the following conditions:  
6 severe autism, severe mental illness, severe or profound mental  
7 retardation, or severe and multiple impairments.

8 (f) In one's "own home" means that a mentally disabled  
9 adult lives alone; or that a mentally disabled adult is in  
10 full-time residence with his or her parents, legal guardian, or  
11 other relatives; or that a mentally disabled adult is in  
12 full-time residence in a setting not subject to licensure under  
13 the Nursing Home Care Act, the MR/DD Community Care Act, or the  
14 Child Care Act of 1969, as now or hereafter amended, with 3 or  
15 fewer other adults unrelated to the mentally disabled adult who  
16 do not provide home-based services to the mentally disabled  
17 adult.

18 (g) "Parent" means the biological or adoptive parent of a  
19 mentally disabled adult, or a person licensed as a foster  
20 parent under the laws of this State who acts as a mentally  
21 disabled adult's foster parent.

22 (h) "Relative" means any of the following relationships by  
23 blood, marriage or adoption: parent, son, daughter, brother,  
24 sister, grandparent, uncle, aunt, nephew, niece, great  
25 grandparent, great uncle, great aunt, stepbrother, stepsister,  
26 stepson, stepdaughter, stepparent or first cousin.

1 (i) "Severe autism" means a lifelong developmental  
2 disability which is typically manifested before 30 months of  
3 age and is characterized by severe disturbances in reciprocal  
4 social interactions; verbal and nonverbal communication and  
5 imaginative activity; and repertoire of activities and  
6 interests. A person shall be determined severely autistic, for  
7 purposes of this Article, if both of the following are present:

8 (1) Diagnosis consistent with the criteria for  
9 autistic disorder in the current edition of the Diagnostic  
10 and Statistical Manual of Mental Disorders.

11 (2) Severe disturbances in reciprocal social  
12 interactions; verbal and nonverbal communication and  
13 imaginative activity; repertoire of activities and  
14 interests. A determination of severe autism shall be based  
15 upon a comprehensive, documented assessment with an  
16 evaluation by a licensed clinical psychologist or  
17 psychiatrist. A determination of severe autism shall not be  
18 based solely on behaviors relating to environmental,  
19 cultural or economic differences.

20 (j) "Severe mental illness" means the manifestation of all  
21 of the following characteristics:

22 (1) A primary diagnosis of one of the major mental  
23 disorders in the current edition of the Diagnostic and  
24 Statistical Manual of Mental Disorders listed below:

25 (A) Schizophrenia disorder.

26 (B) Delusional disorder.

1 (C) Schizo-affective disorder.

2 (D) Bipolar affective disorder.

3 (E) Atypical psychosis.

4 (F) Major depression, recurrent.

5 (2) The individual's mental illness must substantially  
6 impair his or her functioning in at least 2 of the  
7 following areas:

8 (A) Self-maintenance.

9 (B) Social functioning.

10 (C) Activities of community living.

11 (D) Work skills.

12 (3) Disability must be present or expected to be  
13 present for at least one year.

14 A determination of severe mental illness shall be based  
15 upon a comprehensive, documented assessment with an evaluation  
16 by a licensed clinical psychologist or psychiatrist, and shall  
17 not be based solely on behaviors relating to environmental,  
18 cultural or economic differences.

19 (k) "Severe or profound mental retardation" means a  
20 manifestation of all of the following characteristics:

21 (1) A diagnosis which meets Classification in Mental  
22 Retardation or criteria in the current edition of the  
23 Diagnostic and Statistical Manual of Mental Disorders for  
24 severe or profound mental retardation (an IQ of 40 or  
25 below). This must be measured by a standardized instrument  
26 for general intellectual functioning.

1           (2) A severe or profound level of disturbed adaptive  
2 behavior. This must be measured by a standardized adaptive  
3 behavior scale or informal appraisal by the professional in  
4 keeping with illustrations in Classification in Mental  
5 Retardation, 1983.

6           (3) Disability diagnosed before age of 18.

7           A determination of severe or profound mental retardation  
8 shall be based upon a comprehensive, documented assessment with  
9 an evaluation by a licensed clinical psychologist or certified  
10 school psychologist or a psychiatrist, and shall not be based  
11 solely on behaviors relating to environmental, cultural or  
12 economic differences.

13           (1) "Severe and multiple impairments" means the  
14 manifestation of all of the following characteristics:

15           (1) The evaluation determines the presence of a  
16 developmental disability which is expected to continue  
17 indefinitely, constitutes a substantial handicap and is  
18 attributable to any of the following:

19           (A) Mental retardation, which is defined as  
20 general intellectual functioning that is 2 or more  
21 standard deviations below the mean concurrent with  
22 impairment of adaptive behavior which is 2 or more  
23 standard deviations below the mean. Assessment of the  
24 individual's intellectual functioning must be measured  
25 by a standardized instrument for general intellectual  
26 functioning.

1 (B) Cerebral palsy.

2 (C) Epilepsy.

3 (D) Autism.

4 (E) Any other condition which results in  
5 impairment similar to that caused by mental  
6 retardation and which requires services similar to  
7 those required by mentally retarded persons.

8 (2) The evaluation determines multiple handicaps in  
9 physical, sensory, behavioral or cognitive functioning  
10 which constitute a severe or profound impairment  
11 attributable to one or more of the following:

12 (A) Physical functioning, which severely impairs  
13 the individual's motor performance that may be due to:

14 (i) Neurological, psychological or physical  
15 involvement resulting in a variety of disabling  
16 conditions such as hemiplegia, quadriplegia or  
17 ataxia,

18 (ii) Severe organ systems involvement such as  
19 congenital heart defect,

20 (iii) Physical abnormalities resulting in the  
21 individual being non-mobile and non-ambulatory or  
22 confined to bed and receiving assistance in  
23 transferring, or

24 (iv) The need for regular medical or nursing  
25 supervision such as gastrostomy care and feeding.

26 Assessment of physical functioning must be based

1 on clinical medical assessment by a physician licensed  
2 to practice medicine in all its branches, using the  
3 appropriate instruments, techniques and standards of  
4 measurement required by the professional.

5 (B) Sensory, which involves severe restriction due  
6 to hearing or visual impairment limiting the  
7 individual's movement and creating dependence in  
8 completing most daily activities. Hearing impairment  
9 is defined as a loss of 70 decibels aided or speech  
10 discrimination of less than 50% aided. Visual  
11 impairment is defined as 20/200 corrected in the better  
12 eye or a visual field of 20 degrees or less. Sensory  
13 functioning must be based on clinical medical  
14 assessment by a physician licensed to practice  
15 medicine in all its branches using the appropriate  
16 instruments, techniques and standards of measurement  
17 required by the professional.

18 (C) Behavioral, which involves behavior that is  
19 maladaptive and presents a danger to self or others, is  
20 destructive to property by deliberately breaking,  
21 destroying or defacing objects, is disruptive by  
22 fighting, or has other socially offensive behaviors in  
23 sufficient frequency or severity to seriously limit  
24 social integration. Assessment of behavioral  
25 functioning may be measured by a standardized scale or  
26 informal appraisal by a clinical psychologist or

1           psychiatrist.

2           (D) Cognitive, which involves intellectual  
3           functioning at a measured IQ of 70 or below. Assessment  
4           of cognitive functioning must be measured by a  
5           standardized instrument for general intelligence.

6           (3) The evaluation determines that development is  
7           substantially less than expected for the age in cognitive,  
8           affective or psychomotor behavior as follows:

9           (A) Cognitive, which involves intellectual  
10          functioning at a measured IQ of 70 or below. Assessment  
11          of cognitive functioning must be measured by a  
12          standardized instrument for general intelligence.

13          (B) Affective behavior, which involves over and  
14          under responding to stimuli in the environment and may  
15          be observed in mood, attention to awareness, or in  
16          behaviors such as euphoria, anger or sadness that  
17          seriously limit integration into society. Affective  
18          behavior must be based on clinical assessment using the  
19          appropriate instruments, techniques and standards of  
20          measurement required by the professional.

21          (C) Psychomotor, which includes a severe  
22          developmental delay in fine or gross motor skills so  
23          that development in self-care, social interaction,  
24          communication or physical activity will be greatly  
25          delayed or restricted.

26          (4) A determination that the disability originated

1 before the age of 18 years.

2 A determination of severe and multiple impairments shall be  
3 based upon a comprehensive, documented assessment with an  
4 evaluation by a licensed clinical psychologist or  
5 psychiatrist.

6 If the examiner is a licensed clinical psychologist,  
7 ancillary evaluation of physical impairment, cerebral palsy or  
8 epilepsy must be made by a physician licensed to practice  
9 medicine in all its branches.

10 Regardless of the discipline of the examiner, ancillary  
11 evaluation of visual impairment must be made by an  
12 ophthalmologist or a licensed optometrist.

13 Regardless of the discipline of the examiner, ancillary  
14 evaluation of hearing impairment must be made by an  
15 otolaryngologist or an audiologist with a certificate of  
16 clinical competency.

17 The only exception to the above is in the case of a person  
18 with cerebral palsy or epilepsy who, according to the  
19 eligibility criteria listed below, has multiple impairments  
20 which are only physical and sensory. In such a case, a  
21 physician licensed to practice medicine in all its branches may  
22 serve as the examiner.

23 (m) "Twenty-four-hour-a-day supervision" means  
24 24-hour-a-day care by a trained mental health or developmental  
25 disability professional on an ongoing basis.

26 (Source: P.A. 96-339, eff. 7-1-10.)



1 (405 ILCS 80/3-2) (from Ch. 91 1/2, par. 1803-2)

2 Sec. 3-2. The purpose of this Article is to create a  
3 mandate for the Department of Human Services (before January 1,  
4 2011) or the Department of Healthcare and Family Services (on  
5 and after January 1, 2011) to strengthen and promote families  
6 who provide care within the family home for children whose  
7 level of mental illness or developmental disability  
8 constitutes a risk of out-of-home placement. It is the intent  
9 of this Article to strengthen, promote and empower families to  
10 determine the most appropriate use of resources to address the  
11 unique and changing needs of those families' mentally disabled  
12 children.

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

14 (405 ILCS 80/3-3) (from Ch. 91 1/2, par. 1803-3)

15 Sec. 3-3. As used in this Article, unless the context  
16 requires otherwise:

17 (a) "Agency" means an agency or entity licensed by the  
18 Department pursuant to this Article or pursuant to the  
19 Community Residential Alternatives Licensing Act.

20 (b) "Department" means the Department of Human Services  
21 (before January 1, 2011) or the Department of Healthcare and  
22 Family Services (on and after January 1, 2011),~~as successor to~~  
23 ~~the Department of Mental Health and Developmental~~  
24 ~~Disabilities.~~

1 (c) "Department-funded out-of-home placement services"  
2 means those services for which the Department pays the partial  
3 or full cost of care of the residential placement.

4 (d) "Family" or "families" means a family member or members  
5 and his, her or their parents or legal guardians.

6 (e) "Family member" means a child 17 years old or younger  
7 who has one of the following conditions: severe autism, severe  
8 emotional disturbance, severe or profound mental retardation,  
9 or severe and multiple impairments.

10 (f) "Legal guardian" means a person appointed by a court of  
11 competent jurisdiction to exercise certain powers on behalf of  
12 a family member and with whom the family member resides.

13 (g) "Parent" means a biological or adoptive parent with  
14 whom the family member resides, or a person licensed as a  
15 foster parent under the laws of this State, acting as a family  
16 member's foster parent, and with whom the family member  
17 resides.

18 (h) "Severe autism" means a lifelong developmental  
19 disability which is typically manifested before 30 months of  
20 age and is characterized by severe disturbances in reciprocal  
21 social interactions; verbal and nonverbal communication and  
22 imaginative activity; and repertoire of activities and  
23 interests. A person shall be determined severely autistic, for  
24 purposes of this Article, if both of the following are present:

25 (1) Diagnosis consistent with the criteria for  
26 autistic disorder in the current edition of the Diagnostic

1 and Statistical Manual of Mental Disorders;

2 (2) Severe disturbances in reciprocal social  
3 interactions; verbal and nonverbal communication and  
4 imaginative activity; and repertoire of activities and  
5 interests. A determination of severe autism shall be based  
6 upon a comprehensive, documented assessment with an  
7 evaluation by a licensed clinical psychologist or  
8 psychiatrist. A determination of severe autism shall not be  
9 based solely on behaviors relating to environmental,  
10 cultural or economic differences.

11 (i) "Severe mental illness" means the manifestation of all  
12 of the following characteristics:

13 (1) a severe mental illness characterized by the  
14 presence of a mental disorder in children or adolescents,  
15 classified in the Diagnostic and Statistical Manual of  
16 Mental Disorders (Third Edition - Revised), as now or  
17 hereafter revised, excluding V-codes (as that term is used  
18 in the current edition of the Diagnostic and Statistical  
19 Manual of Mental Disorders), adjustment disorders, mental  
20 retardation when no other mental disorder is present,  
21 alcohol or substance abuse, or other forms of dementia  
22 based upon organic or physical disorders; and

23 (2) a functional disability of an extended duration  
24 which results in substantial limitations in major life  
25 activities.

26 A determination of severe mental illness shall be based

1 upon a comprehensive, documented assessment with an evaluation  
2 by a licensed clinical psychologist or a psychiatrist.

3 (j) "Severe or profound mental retardation" means a  
4 manifestation of all of the following characteristics:

5 (1) A diagnosis which meets Classification in Mental  
6 Retardation or criteria in the current edition of the  
7 Diagnostic and Statistical Manual of Mental Disorders for  
8 severe or profound mental retardation (an IQ of 40 or  
9 below). This must be measured by a standardized instrument  
10 for general intellectual functioning.

11 (2) A severe or profound level of adaptive behavior.  
12 This must be measured by a standardized adaptive behavior  
13 scale or informal appraisal by the professional in keeping  
14 with illustrations in Classification in Mental  
15 Retardation, 1983.

16 (3) Disability diagnosed before age of 18.

17 A determination of severe or profound mental retardation  
18 shall be based upon a comprehensive, documented assessment with  
19 an evaluation by a licensed clinical psychologist, certified  
20 school psychologist, a psychiatrist or other physician  
21 licensed to practice medicine in all its branches, and shall  
22 not be based solely on behaviors relating to environmental,  
23 cultural or economic differences.

24 (k) "Severe and multiple impairments" means the  
25 manifestation of all the following characteristics:

26 (1) The evaluation determines the presence of a

1 developmental disability which is expected to continue  
2 indefinitely, constitutes a substantial handicap and is  
3 attributable to any of the following:

4 (A) Mental retardation, which is defined as  
5 general intellectual functioning that is 2 or more  
6 standard deviations below the mean concurrent with  
7 impairment of adaptive behavior which is 2 or more  
8 standard deviations below the mean. Assessment of the  
9 individual's intellectual functioning must be measured  
10 by a standardized instrument for general intellectual  
11 functioning.

12 (B) Cerebral palsy.

13 (C) Epilepsy.

14 (D) Autism.

15 (E) Any other condition which results in  
16 impairment similar to that caused by mental  
17 retardation and which requires services similar to  
18 those required by mentally retarded persons.

19 (2) The evaluation determines multiple handicaps in  
20 physical, sensory, behavioral or cognitive functioning  
21 which constitute a severe or profound impairment  
22 attributable to one or more of the following:

23 (A) Physical functioning, which severely impairs  
24 the individual's motor performance that may be due to:

25 (i) Neurological, psychological or physical  
26 involvement resulting in a variety of disabling

1 conditions such as hemiplegia, quadriplegia or  
2 ataxia,

3 (ii) Severe organ systems involvement such as  
4 congenital heart defect,

5 (iii) Physical abnormalities resulting in the  
6 individual being non-mobile and non-ambulatory or  
7 confined to bed and receiving assistance in  
8 transferring, or

9 (iv) The need for regular medical or nursing  
10 supervision such as gastrostomy care and feeding.

11 Assessment of physical functioning must be based  
12 on clinical medical assessment, using the appropriate  
13 instruments, techniques and standards of measurement  
14 required by the professional.

15 (B) Sensory, which involves severe restriction due  
16 to hearing or visual impairment limiting the  
17 individual's movement and creating dependence in  
18 completing most daily activities. Hearing impairment  
19 is defined as a loss of 70 decibels aided or speech  
20 discrimination of less than 50% aided. Visual  
21 impairment is defined as 20/200 corrected in the better  
22 eye or a visual field of 20 degrees or less. Sensory  
23 functioning must be based on clinical medical  
24 assessment using the appropriate instruments,  
25 techniques and standards of measurement required by  
26 the professional.

1 (C) Behavioral, which involves behavior that is  
2 maladaptive and presents a danger to self or others, is  
3 destructive to property by deliberately breaking,  
4 destroying or defacing objects, is disruptive by  
5 fighting, or has other socially offensive behaviors in  
6 sufficient frequency or severity to seriously limit  
7 social integration. Assessment of behavioral  
8 functioning may be measured by a standardized scale or  
9 informal appraisal by the medical professional.

10 (D) Cognitive, which involves intellectual  
11 functioning at a measured IQ of 70 or below. Assessment  
12 of cognitive functioning must be measured by a  
13 standardized instrument for general intelligence.

14 (3) The evaluation determines that development is  
15 substantially less than expected for the age in cognitive,  
16 affective or psychomotor behavior as follows:

17 (A) Cognitive, which involves intellectual  
18 functioning at a measured IQ of 70 or below. Assessment  
19 of cognitive functioning must be measured by a  
20 standardized instrument for general intelligence.

21 (B) Affective behavior, which involves over and  
22 under responding to stimuli in the environment and may  
23 be observed in mood, attention to awareness, or in  
24 behaviors such as euphoria, anger or sadness that  
25 seriously limit integration into society. Affective  
26 behavior must be based on clinical medical and

1 psychiatric assessment using the appropriate  
2 instruments, techniques and standards of measurement  
3 required by the professional.

4 (C) Psychomotor, which includes a severe  
5 developmental delay in fine or gross motor skills so  
6 that development in self-care, social interaction,  
7 communication or physical activity will be greatly  
8 delayed or restricted.

9 (4) A determination that the disability originated  
10 before the age of 18 years.

11 A determination of severe and multiple impairments shall be  
12 based upon a comprehensive, documented assessment with an  
13 evaluation by a licensed clinical psychologist or  
14 psychiatrist. If the examiner is a licensed clinical  
15 psychologist, ancillary evaluation of physical impairment,  
16 cerebral palsy or epilepsy must be made by a physician licensed  
17 to practice medicine in all its branches.

18 Regardless of the discipline of the examiner, ancillary  
19 evaluation of visual impairment must be made by an  
20 ophthalmologist or a licensed optometrist.

21 Regardless of the discipline of the examiner, ancillary  
22 evaluation of hearing impairment must be made by an  
23 otolaryngologist or an audiologist with a certificate of  
24 clinical competency.

25 The only exception to the above is in the case of a person  
26 with cerebral palsy or epilepsy who, according to the



1 eligibility criteria listed below, has multiple impairments  
2 which are only physical and sensory. In such a case, a  
3 physician licensed to practice medicine in all its branches may  
4 serve as the examiner.

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

6 (405 ILCS 80/4-1) (from Ch. 91 1/2, par. 1804-1)

7 Sec. 4-1. The Department of Human Services (before January  
8 1, 2011) or the Department of Healthcare and Family Services  
9 (on and after January 1, 2011) may provide access to home-based  
10 and community-based services for mentally disabled children  
11 and adults through the designation of local screening and  
12 assessment units and community support teams. The screening and  
13 assessment units shall provide comprehensive assessment;  
14 develop individual service plans; link the persons with mental  
15 disabilities and their families to community providers for  
16 implementation of the plan; and monitor the plan's  
17 implementation for the time necessary to insure that the plan  
18 is appropriate and acceptable to the persons with mental  
19 disabilities and their families. The Department also will make  
20 available community support services in each local geographic  
21 area for persons with severe mental disabilities. Community  
22 support teams will provide case management, ongoing guidance  
23 and assistance for mentally disabled persons; will offer skills  
24 training, crisis/behavioral intervention, client/family  
25 support, and access to medication management; and provide

1 individual client assistance to access housing, financial  
2 benefits, and employment-related services.

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

4 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

5 (Text of Section before amendment by P.A. 96-339)

6 Sec. 5-1. As the mental health and developmental  
7 disabilities or mental retardation authority for the State of  
8 Illinois, the Department of Human Services shall have the  
9 authority to license, certify and prescribe standards  
10 governing the programs and services provided under this Act, as  
11 well as all other agencies or programs which provide home-based  
12 or community-based services to the mentally disabled, except  
13 those services, programs or agencies established under or  
14 otherwise subject to the Child Care Act of 1969 or the Nursing  
15 Home Care Act, as now or hereafter amended, and this Act shall  
16 not be construed to limit the application of those Acts.

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

18 (Text of Section after amendment by P.A. 96-339)

19 Sec. 5-1. As the mental health ~~and developmental~~  
20 ~~disabilities or mental retardation~~ authority for the State of  
21 Illinois, the Department of Human Services (before January 1,  
22 2011) or the Department of Healthcare and Family Services (on  
23 and after January 1, 2011) shall have the authority to license,  
24 certify and prescribe standards governing the programs and

1 services provided under this Act, as well as all other agencies  
2 or programs which provide home-based or community-based  
3 services to the mentally disabled, except those services,  
4 programs or agencies established under or otherwise subject to  
5 the Child Care Act of 1969 or the MR/DD Community Care Act, as  
6 now or hereafter amended, and this Act shall not be construed  
7 to limit the application of those Acts.

8 (Source: P.A. 96-339, eff. 7-1-10.)

9 Section 1115. The Health Care Workplace Violence  
10 Prevention Act is amended by changing Sections 10, 15, and 30  
11 as follows:

12 (405 ILCS 90/10)

13 Sec. 10. Definitions. In this Act:

14 "Department" means (i) the Department of Human Services, in  
15 the case of a health care workplace that is operated or  
16 regulated by the Department of Human Services, ~~or~~ (ii) the  
17 Department of Public Health, in the case of a health care  
18 workplace that is operated or regulated by the Department of  
19 Public Health, or (iii) the Department of Healthcare and Family  
20 Services, in the case of a health care workplace that is  
21 operated or regulated by the Department of Healthcare and  
22 Family Services.

23 "Director" means the Secretary of Human Services, ~~or~~ the  
24 Director of Public Health, or the Director of Healthcare and

1 Family Services, as appropriate.

2 "Employee" means any individual who is employed on a  
3 full-time, part-time, or contractual basis by a health care  
4 workplace.

5 "Health care workplace" means a mental health facility or  
6 developmental disability facility as defined in the Mental  
7 Health and Developmental Disabilities Code, other than a  
8 hospital or unit thereof licensed under the Hospital Licensing  
9 Act or operated under the University of Illinois Hospital Act.

10 "Health care workplace" does not include, and shall not be  
11 construed to include, any office of a physician licensed to  
12 practice medicine in all its branches, an advanced practice  
13 nurse, or a physician assistant, regardless of the form of such  
14 office.

15 "Imminent danger" means a preliminary determination of  
16 immediate, threatened, or impending risk of physical injury as  
17 determined by the employee.

18 "Responsible agency" means the State agency that (i)  
19 licenses, certifies, registers, or otherwise regulates or  
20 exercises jurisdiction over a health care workplace or a health  
21 care workplace's activities or (ii) contracts with a health  
22 care workplace for the delivery of health care services.

23 "Violence" or "violent act" means any act by a patient or  
24 resident that causes or threatens to cause an injury to another  
25 person.

26 (Source: P.A. 94-347, eff. 7-28-05.)

1 (405 ILCS 90/15)

2 Sec. 15. Workplace violence plan.

3 (a) By July 1, 2007 (in the case of a health care workplace  
4 participating in the pilot project under Section 35) or July 1,  
5 2008 (in the case of health care workplaces not participating  
6 in the pilot project), every health care workplace must adopt  
7 and implement a plan to reasonably prevent and protect  
8 employees from violence at that setting. The plan must address  
9 security considerations related to the following items, as  
10 appropriate to the particular workplace, based on the hazards  
11 identified in the assessment required under subsection (b):

12 (1) The physical attributes of the health care  
13 workplace.

14 (2) Staffing, including security staffing.

15 (3) Personnel policies.

16 (4) First aid and emergency procedures.

17 (5) The reporting of violent acts.

18 (6) Employee education and training.

19 (b) Before adopting the plan required under subsection (a),  
20 a health care workplace must conduct a security and safety  
21 assessment to identify existing or potential hazards for  
22 violence and determine the appropriate preventive action to be  
23 taken. The assessment must include, but need not be limited to,  
24 a measure of the frequency of, and an identification of the  
25 causes for and consequences of, violent acts at the workplace

1 during at least the preceding 5 years or for the years for  
2 which records are available.

3 (c) In adopting the plan required by subsection (a), a  
4 health care workplace may consider any guidelines on violence  
5 in the workplace or in health care workplaces issued by the  
6 Department of Public Health, the Department of Human Services,  
7 the Department of Healthcare and Family Services, the federal  
8 Occupational Safety and Health Administration, Medicare, and  
9 health care workplace accrediting organizations.

10 (d) It is the intent of the General Assembly that any  
11 violence protection and prevention plan developed under this  
12 Act be appropriate to the setting in which it is to be  
13 implemented. To that end, the General Assembly recognizes that  
14 not all health care services are provided in a facility or  
15 other formal setting. Many health care services are provided in  
16 other, less formal settings. The General Assembly finds that it  
17 may be inappropriate and impractical for all health care  
18 workplaces to address workplace violence in the same manner.  
19 When enforcing this Act, the Department shall allow a health  
20 care workplace sufficient flexibility in recognition of the  
21 unique circumstances in which the health care workplace may  
22 deliver services.

23 (e) Promptly after adopting a plan under subsection (a), a  
24 health care workplace must file a copy of its plan with the  
25 Department. The Department shall then forward a copy of the  
26 plan to the appropriate responsible agency.

1 (f) A health care workplace must review its plan at least  
2 once every 3 years and must report each such review to the  
3 Department, together with any changes to the plan adopted by  
4 the health care workplace. If a health care workplace does not  
5 adopt any changes to its plan in response to such a review, it  
6 must report that fact to the Department. A health care  
7 workplace must promptly report to the Department all changes to  
8 the health care workplace's plan, regardless of whether those  
9 changes were adopted in response to a periodic review required  
10 under this subsection. The Department shall then forward a copy  
11 of the review report and changes, if any, to the appropriate  
12 responsible agency.

13 (g) A health care workplace that is required to submit  
14 written documentation of active safety and violence prevention  
15 plans to comply with national accreditation standards shall be  
16 deemed to be in compliance with subsections (a), (b), (c), and  
17 (f) of this Section when the health care workplace forwards a  
18 copy of that documentation to the Department.

19 (Source: P.A. 94-347, eff. 7-28-05.)

20 (405 ILCS 90/30)

21 Sec. 30. Assistance in complying with Act. A health care  
22 workplace that needs assistance in complying with this Act may  
23 contact the federal Department of Labor for assistance. The  
24 Illinois departments of Human Services, Healthcare and Family  
25 Services, and Public Health shall collaborate with

1 representatives of health care workplaces to develop technical  
2 assistance and training seminars on developing and  
3 implementing a workplace violence plan as required under  
4 Section 15. Those departments shall coordinate their  
5 assistance to health care workplaces.

6 (Source: P.A. 94-347, eff. 7-28-05.)

7 Section 1120. The Perinatal Mental Health Disorders  
8 Prevention and Treatment Act is amended by changing Section 15  
9 as follows:

10 (405 ILCS 95/15)

11 Sec. 15. Perinatal mental health disorders prevention and  
12 treatment. The Department of Human Services, in conjunction  
13 with the Department of Healthcare and Family Services (before  
14 January 1, 2011), the Department of Public Health, and the  
15 Department of Financial and Professional Regulation and the  
16 Medical Licensing Board, shall work with hospitals and licensed  
17 health care professionals in this State to develop policies,  
18 procedures, information, and educational materials to meet  
19 each of the following requirements concerning perinatal mental  
20 health disorders:

21 (1) Licensed health care professionals providing  
22 prenatal care to women shall provide education to women  
23 and, if possible and with permission, to their families  
24 about perinatal mental health disorders in accordance with



1 the formal opinions and recommendations of the American  
2 College of Obstetricians and Gynecologists.

3 (2) All hospitals that provide labor and delivery  
4 services in the State shall provide new mothers, prior to  
5 discharge following childbirth, and, if possible, shall  
6 provide fathers and other family members with complete  
7 information about perinatal mental health disorders,  
8 including its symptoms, methods of coping with the illness,  
9 and treatment resources. The Department of Human Services  
10 shall provide written information that hospitals may use to  
11 satisfy this subsection (2).

12 (3) Licensed health care professionals providing  
13 prenatal care at a prenatal visit shall invite each  
14 pregnant patient to complete a questionnaire and shall  
15 review the completed questionnaire in accordance with the  
16 formal opinions and recommendations of the American  
17 College of Obstetricians and Gynecologists. Assessment for  
18 perinatal mental health disorders must be repeated when, in  
19 the professional judgment of the licensed health care  
20 professional, a reasonable possibility exists that the  
21 woman suffers from perinatal mental health disorders.

22 (4) Licensed health care professionals providing  
23 postnatal care to women shall invite each patient to  
24 complete a questionnaire and shall review the completed  
25 questionnaire in accordance with the formal opinions and  
26 recommendations of the American College of Obstetricians

1 and Gynecologists.

2 (5) Licensed health care professionals providing  
3 pediatric care to an infant shall invite the infant's  
4 mother to complete a questionnaire at any well-baby  
5 check-up at which the mother is present prior to the  
6 infant's first birthday, and shall review the completed  
7 questionnaire in accordance with the formal opinions and  
8 recommendations of the American College of Obstetricians  
9 and Gynecologists, in order to ensure that the health and  
10 well-being of the infant are not compromised by an  
11 undiagnosed perinatal mental health disorder in the  
12 mother. In order to share results from an assessment with  
13 the mother's primary licensed health care professional,  
14 consent should be obtained from the mother in accordance  
15 with the Illinois Health Insurance Portability and  
16 Accountability Act. If the mother is determined to present  
17 an acute danger to herself or someone else, consent is not  
18 required.

19 On and after January 1, 2011, the Department of Healthcare  
20 and Family Services, in conjunction with the Department of  
21 Human Services and the other entities and individuals named in  
22 this Section, shall implement this Section.

23 (Source: P.A. 95-469, eff. 1-1-08.)

24 Section 1125. The MRSA Prevention, Control, and Reporting  
25 Act is amended by changing Section 5 as follows:

1 (410 ILCS 120/5)

2 Sec. 5. Definition. In this Act, "State residential  
3 facility" or "facility" means: any Department of Human Services  
4 or Department of Healthcare and Family Services operated  
5 residential facility, including any State mental health  
6 hospital, State developmental center, or State residential  
7 school for the deaf and visually impaired; any Department of  
8 Corrections operated correctional center, work camp or boot  
9 camp; and any Department of Juvenile Justice operated juvenile  
10 center or boot camp.

11 (Source: P.A. 96-438, eff. 8-14-09.)

12 Section 1130. The Firearm Owners Identification Card Act is  
13 amended by changing Section 3.1 as follows:

14 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

15 Sec. 3.1. Dial up system.

16 (a) The Department of State Police shall provide a dial up  
17 telephone system or utilize other existing technology which  
18 shall be used by any federally licensed firearm dealer, gun  
19 show promoter, or gun show vendor who is to transfer a firearm,  
20 stun gun, or taser under the provisions of this Act. The  
21 Department of State Police may utilize existing technology  
22 which allows the caller to be charged a fee not to exceed \$2.  
23 Fees collected by the Department of State Police shall be

1 deposited in the State Police Services Fund and used to provide  
2 the service.

3 (b) Upon receiving a request from a federally licensed  
4 firearm dealer, gun show promoter, or gun show vendor, the  
5 Department of State Police shall immediately approve, or within  
6 the time period established by Section 24-3 of the Criminal  
7 Code of 1961 regarding the delivery of firearms, stun guns, and  
8 tasers notify the inquiring dealer, gun show promoter, or gun  
9 show vendor of any objection that would disqualify the  
10 transferee from acquiring or possessing a firearm, stun gun, or  
11 taser. In conducting the inquiry, the Department of State  
12 Police shall initiate and complete an automated search of its  
13 criminal history record information files and those of the  
14 Federal Bureau of Investigation, including the National  
15 Instant Criminal Background Check System, and of the files of  
16 the Department of Human Services or the Department of  
17 Healthcare and Family Services relating to mental health and  
18 developmental disabilities to obtain any felony conviction or  
19 patient hospitalization information which would disqualify a  
20 person from obtaining or require revocation of a currently  
21 valid Firearm Owner's Identification Card.

22 (c) If receipt of a firearm would not violate Section 24-3  
23 of the Criminal Code of 1961, federal law, or this Act the  
24 Department of State Police shall:

25 (1) assign a unique identification number to the  
26 transfer; and

1           (2) provide the licensee, gun show promoter, or gun  
2 show vendor with the number.

3           (d) Approvals issued by the Department of State Police for  
4 the purchase of a firearm are valid for 30 days from the date  
5 of issue.

6           (e) (1) The Department of State Police must act as the  
7 Illinois Point of Contact for the National Instant Criminal  
8 Background Check System.

9           (2) The Department of State Police, ~~and~~ the Department of  
10 Human Services, and the Department of Healthcare and Family  
11 Services shall, in accordance with State and federal law  
12 regarding confidentiality, enter into a memorandum of  
13 understanding with the Federal Bureau of Investigation for the  
14 purpose of implementing the National Instant Criminal  
15 Background Check System in the State. The Department of State  
16 Police shall report the name, date of birth, and physical  
17 description of any person prohibited from possessing a firearm  
18 pursuant to the Firearm Owners Identification Card Act or 18  
19 U.S.C. 922(g) and (n) to the National Instant Criminal  
20 Background Check System Index, Denied Persons Files.

21           (f) The Department of State Police shall promulgate rules  
22 not inconsistent with this Section to implement this system.

23           (Source: P.A. 94-6, eff. 1-1-06; 94-353, eff. 7-29-05; 95-331,  
24 eff. 8-21-07; 95-564, eff. 6-1-08.)

25           Section 1135. The Juvenile Court Act of 1987 is amended by

1 changing Sections 1-7, 1-8, and 5-145 as follows:

2 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

3 Sec. 1-7. Confidentiality of law enforcement records.

4 (A) Inspection and copying of law enforcement records  
5 maintained by law enforcement agencies that relate to a minor  
6 who has been arrested or taken into custody before his or her  
7 17th birthday shall be restricted to the following:

8 (1) Any local, State or federal law enforcement  
9 officers of any jurisdiction or agency when necessary for  
10 the discharge of their official duties during the  
11 investigation or prosecution of a crime or relating to a  
12 minor who has been adjudicated delinquent and there has  
13 been a previous finding that the act which constitutes the  
14 previous offense was committed in furtherance of criminal  
15 activities by a criminal street gang, or, when necessary  
16 for the discharge of its official duties in connection with  
17 a particular investigation of the conduct of a law  
18 enforcement officer, an independent agency or its staff  
19 created by ordinance and charged by a unit of local  
20 government with the duty of investigating the conduct of  
21 law enforcement officers. For purposes of this Section,  
22 "criminal street gang" has the meaning ascribed to it in  
23 Section 10 of the Illinois Streetgang Terrorism Omnibus  
24 Prevention Act.

25 (2) Prosecutors, probation officers, social workers,

1 or other individuals assigned by the court to conduct a  
2 pre-adjudication or pre-disposition investigation, and  
3 individuals responsible for supervising or providing  
4 temporary or permanent care and custody for minors pursuant  
5 to the order of the juvenile court, when essential to  
6 performing their responsibilities.

7 (3) Prosecutors and probation officers:

8 (a) in the course of a trial when institution of  
9 criminal proceedings has been permitted or required  
10 under Section 5-805; or

11 (b) when institution of criminal proceedings has  
12 been permitted or required under Section 5-805 and such  
13 minor is the subject of a proceeding to determine the  
14 amount of bail; or

15 (c) when criminal proceedings have been permitted  
16 or required under Section 5-805 and such minor is the  
17 subject of a pre-trial investigation, pre-sentence  
18 investigation, fitness hearing, or proceedings on an  
19 application for probation.

20 (4) Adult and Juvenile Prisoner Review Board.

21 (5) Authorized military personnel.

22 (6) Persons engaged in bona fide research, with the  
23 permission of the Presiding Judge of the Juvenile Court and  
24 the chief executive of the respective law enforcement  
25 agency; provided that publication of such research results  
26 in no disclosure of a minor's identity and protects the

1 confidentiality of the minor's record.

2 (7) Department of Children and Family Services child  
3 protection investigators acting in their official  
4 capacity.

5 (8) The appropriate school official. Inspection and  
6 copying shall be limited to law enforcement records  
7 transmitted to the appropriate school official by a local  
8 law enforcement agency under a reciprocal reporting system  
9 established and maintained between the school district and  
10 the local law enforcement agency under Section 10-20.14 of  
11 the School Code concerning a minor enrolled in a school  
12 within the school district who has been arrested or taken  
13 into custody for any of the following offenses:

14 (i) unlawful use of weapons under Section 24-1 of  
15 the Criminal Code of 1961;

16 (ii) a violation of the Illinois Controlled  
17 Substances Act;

18 (iii) a violation of the Cannabis Control Act;

19 (iv) a forcible felony as defined in Section 2-8 of  
20 the Criminal Code of 1961; or

21 (v) a violation of the Methamphetamine Control and  
22 Community Protection Act.

23 (9) Mental health professionals on behalf of the  
24 Illinois Department of Corrections, ~~or~~ the Department of  
25 Human Services, the Department of Healthcare and Family  
26 Services, or prosecutors who are evaluating, prosecuting,



1 or investigating a potential or actual petition brought  
2 under the Sexually Violent Persons Commitment Act relating  
3 to a person who is the subject of juvenile law enforcement  
4 records or the respondent to a petition brought under the  
5 Sexually Violent Persons Commitment Act who is the subject  
6 of the juvenile law enforcement records sought. Any records  
7 and any information obtained from those records under this  
8 paragraph (9) may be used only in sexually violent persons  
9 commitment proceedings.

10 (B) (1) Except as provided in paragraph (2), no law  
11 enforcement officer or other person or agency may knowingly  
12 transmit to the Department of Corrections, Adult Division  
13 or the Department of State Police or to the Federal Bureau  
14 of Investigation any fingerprint or photograph relating to  
15 a minor who has been arrested or taken into custody before  
16 his or her 17th birthday, unless the court in proceedings  
17 under this Act authorizes the transmission or enters an  
18 order under Section 5-805 permitting or requiring the  
19 institution of criminal proceedings.

20 (2) Law enforcement officers or other persons or  
21 agencies shall transmit to the Department of State Police  
22 copies of fingerprints and descriptions of all minors who  
23 have been arrested or taken into custody before their 17th  
24 birthday for the offense of unlawful use of weapons under  
25 Article 24 of the Criminal Code of 1961, a Class X or Class  
26 1 felony, a forcible felony as defined in Section 2-8 of

1 the Criminal Code of 1961, or a Class 2 or greater felony  
2 under the Cannabis Control Act, the Illinois Controlled  
3 Substances Act, the Methamphetamine Control and Community  
4 Protection Act, or Chapter 4 of the Illinois Vehicle Code,  
5 pursuant to Section 5 of the Criminal Identification Act.  
6 Information reported to the Department pursuant to this  
7 Section may be maintained with records that the Department  
8 files pursuant to Section 2.1 of the Criminal  
9 Identification Act. Nothing in this Act prohibits a law  
10 enforcement agency from fingerprinting a minor taken into  
11 custody or arrested before his or her 17th birthday for an  
12 offense other than those listed in this paragraph (2).

13 (C) The records of law enforcement officers, or of an  
14 independent agency created by ordinance and charged by a unit  
15 of local government with the duty of investigating the conduct  
16 of law enforcement officers, concerning all minors under 17  
17 years of age must be maintained separate from the records of  
18 arrests and may not be open to public inspection or their  
19 contents disclosed to the public except by order of the court  
20 presiding over matters pursuant to this Act or when the  
21 institution of criminal proceedings has been permitted or  
22 required under Section 5-805 or such a person has been  
23 convicted of a crime and is the subject of pre-sentence  
24 investigation or proceedings on an application for probation or  
25 when provided by law. For purposes of obtaining documents  
26 pursuant to this Section, a civil subpoena is not an order of

1 the court.

2 (1) In cases where the law enforcement, or independent  
3 agency, records concern a pending juvenile court case, the  
4 party seeking to inspect the records shall provide actual  
5 notice to the attorney or guardian ad litem of the minor  
6 whose records are sought.

7 (2) In cases where the records concern a juvenile court  
8 case that is no longer pending, the party seeking to  
9 inspect the records shall provide actual notice to the  
10 minor or the minor's parent or legal guardian, and the  
11 matter shall be referred to the chief judge presiding over  
12 matters pursuant to this Act.

13 (3) In determining whether the records should be  
14 available for inspection, the court shall consider the  
15 minor's interest in confidentiality and rehabilitation  
16 over the moving party's interest in obtaining the  
17 information. Any records obtained in violation of this  
18 subsection (C) shall not be admissible in any criminal or  
19 civil proceeding, or operate to disqualify a minor from  
20 subsequently holding public office or securing employment,  
21 or operate as a forfeiture of any public benefit, right,  
22 privilege, or right to receive any license granted by  
23 public authority.

24 (D) Nothing contained in subsection (C) of this Section  
25 shall prohibit the inspection or disclosure to victims and  
26 witnesses of photographs contained in the records of law

1 enforcement agencies when the inspection and disclosure is  
2 conducted in the presence of a law enforcement officer for the  
3 purpose of the identification or apprehension of any person  
4 subject to the provisions of this Act or for the investigation  
5 or prosecution of any crime.

6 (E) Law enforcement officers, and personnel of an  
7 independent agency created by ordinance and charged by a unit  
8 of local government with the duty of investigating the conduct  
9 of law enforcement officers, may not disclose the identity of  
10 any minor in releasing information to the general public as to  
11 the arrest, investigation or disposition of any case involving  
12 a minor.

13 (F) Nothing contained in this Section shall prohibit law  
14 enforcement agencies from communicating with each other by  
15 letter, memorandum, teletype or intelligence alert bulletin or  
16 other means the identity or other relevant information  
17 pertaining to a person under 17 years of age if there are  
18 reasonable grounds to believe that the person poses a real and  
19 present danger to the safety of the public or law enforcement  
20 officers. The information provided under this subsection (F)  
21 shall remain confidential and shall not be publicly disclosed,  
22 except as otherwise allowed by law.

23 (G) Nothing in this Section shall prohibit the right of a  
24 Civil Service Commission or appointing authority of any state,  
25 county or municipality examining the character and fitness of  
26 an applicant for employment with a law enforcement agency,

1 correctional institution, or fire department from obtaining  
2 and examining the records of any law enforcement agency  
3 relating to any record of the applicant having been arrested or  
4 taken into custody before the applicant's 17th birthday.

5 (Source: P.A. 95-123, eff. 8-13-07; 96-419, eff. 8-13-09.)

6 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

7 Sec. 1-8. Confidentiality and accessibility of juvenile  
8 court records.

9 (A) Inspection and copying of juvenile court records  
10 relating to a minor who is the subject of a proceeding under  
11 this Act shall be restricted to the following:

12 (1) The minor who is the subject of record, his  
13 parents, guardian and counsel.

14 (2) Law enforcement officers and law enforcement  
15 agencies when such information is essential to executing an  
16 arrest or search warrant or other compulsory process, or to  
17 conducting an ongoing investigation or relating to a minor  
18 who has been adjudicated delinquent and there has been a  
19 previous finding that the act which constitutes the  
20 previous offense was committed in furtherance of criminal  
21 activities by a criminal street gang.

22 Before July 1, 1994, for the purposes of this Section,  
23 "criminal street gang" means any ongoing organization,  
24 association, or group of 3 or more persons, whether formal  
25 or informal, having as one of its primary activities the

1 commission of one or more criminal acts and that has a  
2 common name or common identifying sign, symbol or specific  
3 color apparel displayed, and whose members individually or  
4 collectively engage in or have engaged in a pattern of  
5 criminal activity.

6 Beginning July 1, 1994, for purposes of this Section,  
7 "criminal street gang" has the meaning ascribed to it in  
8 Section 10 of the Illinois Streetgang Terrorism Omnibus  
9 Prevention Act.

10 (3) Judges, hearing officers, prosecutors, probation  
11 officers, social workers or other individuals assigned by  
12 the court to conduct a pre-adjudication or predisposition  
13 investigation, and individuals responsible for supervising  
14 or providing temporary or permanent care and custody for  
15 minors pursuant to the order of the juvenile court when  
16 essential to performing their responsibilities.

17 (4) Judges, prosecutors and probation officers:

18 (a) in the course of a trial when institution of  
19 criminal proceedings has been permitted or required  
20 under Section 5-805; or

21 (b) when criminal proceedings have been permitted  
22 or required under Section 5-805 and a minor is the  
23 subject of a proceeding to determine the amount of  
24 bail; or

25 (c) when criminal proceedings have been permitted  
26 or required under Section 5-805 and a minor is the

1 subject of a pre-trial investigation, pre-sentence  
2 investigation or fitness hearing, or proceedings on an  
3 application for probation; or

4 (d) when a minor becomes 17 years of age or older,  
5 and is the subject of criminal proceedings, including a  
6 hearing to determine the amount of bail, a pre-trial  
7 investigation, a pre-sentence investigation, a fitness  
8 hearing, or proceedings on an application for  
9 probation.

10 (5) Adult and Juvenile Prisoner Review Boards.

11 (6) Authorized military personnel.

12 (7) Victims, their subrogees and legal  
13 representatives; however, such persons shall have access  
14 only to the name and address of the minor and information  
15 pertaining to the disposition or alternative adjustment  
16 plan of the juvenile court.

17 (8) Persons engaged in bona fide research, with the  
18 permission of the presiding judge of the juvenile court and  
19 the chief executive of the agency that prepared the  
20 particular records; provided that publication of such  
21 research results in no disclosure of a minor's identity and  
22 protects the confidentiality of the record.

23 (9) The Secretary of State to whom the Clerk of the  
24 Court shall report the disposition of all cases, as  
25 required in Section 6-204 of the Illinois Vehicle Code.  
26 However, information reported relative to these offenses

1 shall be privileged and available only to the Secretary of  
2 State, courts, and police officers.

3 (10) The administrator of a bonafide substance abuse  
4 student assistance program with the permission of the  
5 presiding judge of the juvenile court.

6 (11) Mental health professionals on behalf of the  
7 Illinois Department of Corrections, ~~or~~ the Department of  
8 Human Services, the Department of Healthcare and Family  
9 Services, or prosecutors who are evaluating, prosecuting,  
10 or investigating a potential or actual petition brought  
11 under the Sexually Persons Commitment Act relating to a  
12 person who is the subject of juvenile court records or the  
13 respondent to a petition brought under the Sexually Violent  
14 Persons Commitment Act, who is the subject of juvenile  
15 court records sought. Any records and any information  
16 obtained from those records under this paragraph (11) may  
17 be used only in sexually violent persons commitment  
18 proceedings.

19 (A-1) Findings and exclusions of paternity entered in  
20 proceedings occurring under Article II of this Act shall be  
21 disclosed, in a manner and form approved by the Presiding Judge  
22 of the Juvenile Court, to the Department of Healthcare and  
23 Family Services when necessary to discharge the duties of the  
24 Department of Healthcare and Family Services under Article X of  
25 the Illinois Public Aid Code.

26 (B) A minor who is the victim in a juvenile proceeding



1 shall be provided the same confidentiality regarding  
2 disclosure of identity as the minor who is the subject of  
3 record.

4 (C) Except as otherwise provided in this subsection (C),  
5 juvenile court records shall not be made available to the  
6 general public but may be inspected by representatives of  
7 agencies, associations and news media or other properly  
8 interested persons by general or special order of the court  
9 presiding over matters pursuant to this Act.

10 (0.1) In cases where the records concern a pending  
11 juvenile court case, the party seeking to inspect the  
12 juvenile court records shall provide actual notice to the  
13 attorney or guardian ad litem of the minor whose records  
14 are sought.

15 (0.2) In cases where the records concern a juvenile  
16 court case that is no longer pending, the party seeking to  
17 inspect the juvenile court records shall provide actual  
18 notice to the minor or the minor's parent or legal  
19 guardian, and the matter shall be referred to the chief  
20 judge presiding over matters pursuant to this Act.

21 (0.3) In determining whether the records should be  
22 available for inspection, the court shall consider the  
23 minor's interest in confidentiality and rehabilitation  
24 over the moving party's interest in obtaining the  
25 information. The State's Attorney, the minor, and the  
26 minor's parents, guardian, and counsel shall at all times

1 have the right to examine court files and records. For  
2 purposes of obtaining documents pursuant to this Section, a  
3 civil subpoena is not an order of the court.

4 (0.4) Any records obtained in violation of this  
5 subsection (C) shall not be admissible in any criminal or  
6 civil proceeding, or operate to disqualify a minor from  
7 subsequently holding public office, or operate as a  
8 forfeiture of any public benefit, right, privilege, or  
9 right to receive any license granted by public authority.

10 (1) The court shall allow the general public to have  
11 access to the name, address, and offense of a minor who is  
12 adjudicated a delinquent minor under this Act under either  
13 of the following circumstances:

14 (A) The adjudication of delinquency was based upon  
15 the minor's commission of first degree murder, attempt  
16 to commit first degree murder, aggravated criminal  
17 sexual assault, or criminal sexual assault; or

18 (B) The court has made a finding that the minor was  
19 at least 13 years of age at the time the act was  
20 committed and the adjudication of delinquency was  
21 based upon the minor's commission of: (i) an act in  
22 furtherance of the commission of a felony as a member  
23 of or on behalf of a criminal street gang, (ii) an act  
24 involving the use of a firearm in the commission of a  
25 felony, (iii) an act that would be a Class X felony  
26 offense under or the minor's second or subsequent Class

1           2 or greater felony offense under the Cannabis Control  
2           Act if committed by an adult, (iv) an act that would be  
3           a second or subsequent offense under Section 402 of the  
4           Illinois Controlled Substances Act if committed by an  
5           adult, (v) an act that would be an offense under  
6           Section 401 of the Illinois Controlled Substances Act  
7           if committed by an adult, (vi) an act that would be a  
8           second or subsequent offense under Section 60 of the  
9           Methamphetamine Control and Community Protection Act,  
10          or (vii) an act that would be an offense under another  
11          Section of the Methamphetamine Control and Community  
12          Protection Act.

13           (2) The court shall allow the general public to have  
14          access to the name, address, and offense of a minor who is  
15          at least 13 years of age at the time the offense is  
16          committed and who is convicted, in criminal proceedings  
17          permitted or required under Section 5-4, under either of  
18          the following circumstances:

19                   (A) The minor has been convicted of first degree  
20                   murder, attempt to commit first degree murder,  
21                   aggravated criminal sexual assault, or criminal sexual  
22                   assault,

23                   (B) The court has made a finding that the minor was  
24                   at least 13 years of age at the time the offense was  
25                   committed and the conviction was based upon the minor's  
26                   commission of: (i) an offense in furtherance of the

1 commission of a felony as a member of or on behalf of a  
2 criminal street gang, (ii) an offense involving the use  
3 of a firearm in the commission of a felony, (iii) a  
4 Class X felony offense under or a second or subsequent  
5 Class 2 or greater felony offense under the Cannabis  
6 Control Act, (iv) a second or subsequent offense under  
7 Section 402 of the Illinois Controlled Substances Act,  
8 (v) an offense under Section 401 of the Illinois  
9 Controlled Substances Act, (vi) an act that would be a  
10 second or subsequent offense under Section 60 of the  
11 Methamphetamine Control and Community Protection Act,  
12 or (vii) an act that would be an offense under another  
13 Section of the Methamphetamine Control and Community  
14 Protection Act.

15 (D) Pending or following any adjudication of delinquency  
16 for any offense defined in Sections 12-13 through 12-16 of the  
17 Criminal Code of 1961, the victim of any such offense shall  
18 receive the rights set out in Sections 4 and 6 of the Bill of  
19 Rights for Victims and Witnesses of Violent Crime Act; and the  
20 juvenile who is the subject of the adjudication,  
21 notwithstanding any other provision of this Act, shall be  
22 treated as an adult for the purpose of affording such rights to  
23 the victim.

24 (E) Nothing in this Section shall affect the right of a  
25 Civil Service Commission or appointing authority of any state,  
26 county or municipality examining the character and fitness of

1 an applicant for employment with a law enforcement agency,  
2 correctional institution, or fire department to ascertain  
3 whether that applicant was ever adjudicated to be a delinquent  
4 minor and, if so, to examine the records of disposition or  
5 evidence which were made in proceedings under this Act.

6 (F) Following any adjudication of delinquency for a crime  
7 which would be a felony if committed by an adult, or following  
8 any adjudication of delinquency for a violation of Section  
9 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the  
10 State's Attorney shall ascertain whether the minor respondent  
11 is enrolled in school and, if so, shall provide a copy of the  
12 dispositional order to the principal or chief administrative  
13 officer of the school. Access to such juvenile records shall be  
14 limited to the principal or chief administrative officer of the  
15 school and any guidance counselor designated by him.

16 (G) Nothing contained in this Act prevents the sharing or  
17 disclosure of information or records relating or pertaining to  
18 juveniles subject to the provisions of the Serious Habitual  
19 Offender Comprehensive Action Program when that information is  
20 used to assist in the early identification and treatment of  
21 habitual juvenile offenders.

22 (H) When a Court hearing a proceeding under Article II of  
23 this Act becomes aware that an earlier proceeding under Article  
24 II had been heard in a different county, that Court shall  
25 request, and the Court in which the earlier proceedings were  
26 initiated shall transmit, an authenticated copy of the Court

1 record, including all documents, petitions, and orders filed  
2 therein and the minute orders, transcript of proceedings, and  
3 docket entries of the Court.

4 (I) The Clerk of the Circuit Court shall report to the  
5 Department of State Police, in the form and manner required by  
6 the Department of State Police, the final disposition of each  
7 minor who has been arrested or taken into custody before his or  
8 her 17th birthday for those offenses required to be reported  
9 under Section 5 of the Criminal Identification Act. Information  
10 reported to the Department under this Section may be maintained  
11 with records that the Department files under Section 2.1 of the  
12 Criminal Identification Act.

13 (Source: P.A. 95-123, eff. 8-13-07; 96-212, eff. 8-10-09.)

14 (705 ILCS 405/5-145)

15 Sec. 5-145. Cooperation of agencies; Serious Habitual  
16 Offender Comprehensive Action Program.

17 (a) The Serious Habitual Offender Comprehensive Action  
18 Program (SHOCAP) is a multi-disciplinary interagency case  
19 management and information sharing system that enables the  
20 juvenile justice system, schools, and social service agencies  
21 to make more informed decisions regarding a small number of  
22 juveniles who repeatedly commit serious delinquent acts.

23 (b) Each county in the State of Illinois, other than Cook  
24 County, may establish a multi-disciplinary agency (SHOCAP)  
25 committee. In Cook County, each subcircuit or group of

1 subcircuits may establish a multi-disciplinary agency (SHOCAP)  
2 committee. The committee shall consist of representatives from  
3 the following agencies: local law enforcement, area school  
4 district, state's attorney's office, and court services  
5 (probation).

6 The chairman may appoint additional members to the  
7 committee as deemed appropriate to accomplish the goals of this  
8 program, including, but not limited to, representatives from  
9 the juvenile detention center, mental health, the Illinois  
10 Department of Children and Family Services, the Department of  
11 Human Services, the Department of Healthcare and Family  
12 Services, and community representatives at large.

13 (c) The SHOCAP committee shall adopt, by a majority of the  
14 members:

15 (1) criteria that will identify those who qualify as a  
16 serious habitual juvenile offender; and

17 (2) a written interagency information sharing  
18 agreement to be signed by the chief executive officer of  
19 each of the agencies represented on the committee. The  
20 interagency information sharing agreement shall include a  
21 provision that requires that all records pertaining to a  
22 serious habitual offender (SHO) shall be confidential.  
23 Disclosure of information may be made to other staff from  
24 member agencies as authorized by the SHOCAP committee for  
25 the furtherance of case management and tracking of the SHO.  
26 Staff from the member agencies who receive this information

1 shall be governed by the confidentiality provisions of this  
2 Act. The staff from the member agencies who will qualify to  
3 have access to the SHOCAP information must be limited to  
4 those individuals who provide direct services to the SHO or  
5 who provide supervision of the SHO.

6 (d) The Chief Juvenile Circuit Judge, or the Chief Circuit  
7 Judge, or his or her designee, may issue a comprehensive  
8 information sharing court order. The court order shall allow  
9 agencies who are represented on the SHOCAP committee and whose  
10 chief executive officer has signed the interagency information  
11 sharing agreement to provide and disclose information to the  
12 SHOCAP committee. The sharing of information will ensure the  
13 coordination and cooperation of all agencies represented in  
14 providing case management and enhancing the effectiveness of  
15 the SHOCAP efforts.

16 (e) Any person or agency who is participating in good faith  
17 in the sharing of SHOCAP information under this Act shall have  
18 immunity from any liability, civil, criminal, or otherwise,  
19 that might result by reason of the type of information  
20 exchanged. For the purpose of any proceedings, civil or  
21 criminal, the good faith of any person or agency permitted to  
22 share SHOCAP information under this Act shall be presumed.

23 (f) All reports concerning SHOCAP clients made available to  
24 members of the SHOCAP committee and all records generated from  
25 these reports shall be confidential and shall not be disclosed,  
26 except as specifically authorized by this Act or other



1 applicable law. It is a Class A misdemeanor to permit, assist,  
2 or encourage the unauthorized release of any information  
3 contained in SHOCAP reports or records.

4 (Source: P.A. 90-590, eff. 1-1-99.)

5 Section 1140. The Criminal Code of 1961 is amended by  
6 changing Section 10-9, 11-9.2, 11-9.5, 11-14.2, 12-4, and 31-6  
7 as follows:

8 (720 ILCS 5/10-9)

9 Sec. 10-9. Trafficking in persons, involuntary servitude,  
10 and related offenses.

11 (a) Definitions. In this Section:

12 (1) "Intimidation" has the meaning prescribed in  
13 Section 12-6.

14 (2) "Commercial sexual activity" means any sex act on  
15 account of which anything of value is given, promised to,  
16 or received by any person.

17 (3) "Financial harm" includes intimidation that brings  
18 about financial loss, criminal usury, or employment  
19 contracts that violate the Frauds Act.

20 (4) "Forced labor or services" means labor or services  
21 that are performed or provided by another person and are  
22 obtained or maintained through:

23 (A) any scheme, plan, or pattern intending to cause  
24 or threatening to cause serious harm to any person;

1 (B) an actor's physically restraining or  
2 threatening to physically restrain another person;

3 (C) an actor's abusing or threatening to abuse the  
4 law or legal process;

5 (D) an actor's knowingly destroying, concealing,  
6 removing, confiscating, or possessing any actual or  
7 purported passport or other immigration document, or  
8 any other actual or purported government  
9 identification document, of another person;

10 (E) an actor's blackmail; or

11 (F) an actor's causing or threatening to cause  
12 financial harm to or exerting financial control over  
13 any person.

14 (5) "Labor" means work of economic or financial value.

15 (6) "Maintain" means, in relation to labor or services,  
16 to secure continued performance thereof, regardless of any  
17 initial agreement on the part of the victim to perform that  
18 type of service.

19 (7) "Obtain" means, in relation to labor or services,  
20 to secure performance thereof.

21 (8) "Services" means activities resulting from a  
22 relationship between a person and the actor in which the  
23 person performs activities under the supervision of or for  
24 the benefit of the actor. Commercial sexual activity and  
25 sexually-explicit performances are forms of activities  
26 that are "services" under this Section. Nothing in this

1 definition may be construed to legitimize or legalize  
2 prostitution.

3 (9) "Sexually-explicit performance" means a live,  
4 recorded, broadcast (including over the Internet), or  
5 public act or show intended to arouse or satisfy the sexual  
6 desires or appeal to the prurient interests of patrons.

7 (10) "Trafficking victim" means a person subjected to  
8 the practices set forth in subsection (b), (c), or (d).

9 (b) Involuntary servitude. A person commits the offense of  
10 involuntary servitude when he or she knowingly subjects,  
11 attempts to subject, or engages in a conspiracy to subject  
12 another person to forced labor or services and:

13 (1) causes or threatens to cause physical harm to any  
14 person;

15 (2) physically restrains or threatens to physically  
16 restrain another person;

17 (3) abuses or threatens to abuse the law or legal  
18 process;

19 (4) knowingly destroys, conceals, removes,  
20 confiscates, or possesses any actual or purported passport  
21 or other immigration document, or any other actual or  
22 purported government identification document, of another  
23 person; or

24 (5) uses intimidation, or uses or threatens to cause  
25 financial harm to or exerts financial control over any  
26 person.

1 Sentence. Except as otherwise provided in subsection (e) or  
2 (f), a violation of subsection (b)(1) is a Class X felony,  
3 (b)(2) is a Class 1 felony, (b)(3) is a Class 2 felony, (b)(4)  
4 is a Class 3 felony, and (b)(5) is a Class 4 felony.

5 (c) Involuntary sexual servitude of a minor. A person  
6 commits the offense of involuntary sexual servitude of a minor  
7 when he or she knowingly recruits, entices, harbors,  
8 transports, provides, or obtains by any means, or attempts to  
9 recruit, entice, harbor, provide, or obtain by any means,  
10 another person under 18 years of age, knowing that the minor  
11 will engage in commercial sexual activity, a sexually-explicit  
12 performance, or the production of pornography, or causes or  
13 attempts to cause a minor to engage in one or more of those  
14 activities and:

15 (1) there is no overt force or threat and the minor is  
16 between the ages of 17 and 18 years;

17 (2) there is no overt force or threat and the minor is  
18 under the age of 17 years; or

19 (3) there is overt force or threat.

20 Sentence. Except as otherwise provided in subsection (e) or  
21 (f), a violation of subsection (c)(1) is a Class 1 felony,  
22 (c)(2) is a Class X felony, and (c)(3) is a Class X felony.

23 (d) Trafficking in persons for forced labor or services. A  
24 person commits the offense of trafficking in persons for forced  
25 labor or services when he or she knowingly: (1) recruits,  
26 entices, harbors, transports, provides, or obtains by any

1 means, or attempts to recruit, entice, harbor, transport,  
2 provide, or obtain by any means, another person, intending or  
3 knowing that the person will be subjected to forced labor or  
4 services; or (2) benefits, financially or by receiving anything  
5 of value, from participation in a venture that has engaged in  
6 an act of involuntary servitude or involuntary sexual servitude  
7 of a minor.

8 Sentence. Except as otherwise provided in subsection (e) or  
9 (f), a violation of this subsection is a Class 1 felony.

10 (e) Aggravating factors. A violation of this Section  
11 involving kidnapping or an attempt to kidnap, aggravated  
12 criminal sexual assault or an attempt to commit aggravated  
13 criminal sexual assault, or an attempt to commit first degree  
14 murder is a Class X felony.

15 (f) Sentencing considerations.

16 (1) Bodily injury. If, pursuant to a violation of this  
17 Section, a victim suffered bodily injury, the defendant may  
18 be sentenced to an extended-term sentence under Section  
19 5-8-2 of the Unified Code of Corrections. The sentencing  
20 court must take into account the time in which the victim  
21 was held in servitude, with increased penalties for cases  
22 in which the victim was held for between 180 days and one  
23 year, and increased penalties for cases in which the victim  
24 was held for more than one year.

25 (2) Number of victims. In determining sentences within  
26 statutory maximums, the sentencing court should take into

1 account the number of victims, and may provide for  
2 substantially increased sentences in cases involving more  
3 than 10 victims.

4 (g) Restitution. Restitution is mandatory under this  
5 Section. In addition to any other amount of loss identified,  
6 the court shall order restitution including the greater of (1)  
7 the gross income or value to the defendant of the victim's  
8 labor or services or (2) the value of the victim's labor as  
9 guaranteed under the Minimum Wage Law and overtime provisions  
10 of the Fair Labor Standards Act (FLSA) or the Minimum Wage Law,  
11 whichever is greater.

12 (h) Trafficking victim services. Subject to the  
13 availability of funds, the Department of Human Services or the  
14 Department of Healthcare and Family Services may provide or  
15 fund emergency services and assistance to individuals who are  
16 victims of one or more offenses defined in this Section.

17 (i) Certification. The Attorney General, a State's  
18 Attorney, or any law enforcement official shall certify in  
19 writing to the United States Department of Justice or other  
20 federal agency, such as the United States Department of  
21 Homeland Security, that an investigation or prosecution under  
22 this Section has begun and the individual who is a likely  
23 victim of a crime described in this Section is willing to  
24 cooperate or is cooperating with the investigation to enable  
25 the individual, if eligible under federal law, to qualify for  
26 an appropriate special immigrant visa and to access available

1 federal benefits. Cooperation with law enforcement shall not be  
2 required of victims of a crime described in this Section who  
3 are under 18 years of age. This certification shall be made  
4 available to the victim and his or her designated legal  
5 representative.

6 (j) A person who commits the offense of involuntary  
7 servitude, involuntary sexual servitude of a minor, or  
8 trafficking in persons for forced labor or services under  
9 subsection (b), (c), or (d) of this Section is subject to the  
10 property forfeiture provisions set forth in Article 124B of the  
11 Code of Criminal Procedure of 1963. ~~shall forfeit to the State~~  
12 ~~of Illinois any profits or proceeds and any interest or~~  
13 ~~property he or she has acquired or maintained in violation of~~  
14 ~~subsection (b), (c), or (d) of this Section that the sentencing~~  
15 ~~court determines, after a forfeiture hearing, to have been~~  
16 ~~acquired or maintained as a result of maintaining a person in~~  
17 ~~involuntary servitude or participating in trafficking in~~  
18 ~~persons for forced labor or services.~~

19 ~~Upon petition by the Attorney General or State's Attorney~~  
20 ~~at any time following sentencing, the court shall conduct a~~  
21 ~~hearing to determine whether any property or property interest~~  
22 ~~is subject to forfeiture under this Section. At the forfeiture~~  
23 ~~hearing the People have the burden of establishing, by a~~  
24 ~~preponderance of the evidence, that property or property~~  
25 ~~interests are subject to forfeiture under this Section.~~

26 ~~In any action brought by the People of the State of~~

1 ~~Illinois under this Section, in which a restraining order,~~  
2 ~~injunction, or prohibition or any other action in connection~~  
3 ~~with any property or interest subject to forfeiture under this~~  
4 ~~Section is sought, the circuit court presiding over the trial~~  
5 ~~of the person or persons charged with involuntary servitude,~~  
6 ~~involuntary sexual servitude of a minor, or trafficking in~~  
7 ~~persons for forced labor or services shall first determine~~  
8 ~~whether there is probable cause to believe that the person or~~  
9 ~~persons so charged have committed the offense of involuntary~~  
10 ~~servitude, involuntary sexual servitude of a minor, or~~  
11 ~~trafficking in persons for forced labor or services and whether~~  
12 ~~the property or interest is subject to forfeiture under this~~  
13 ~~Section. In order to make that determination, prior to entering~~  
14 ~~any such order, the court shall conduct a hearing without a~~  
15 ~~jury, in which the People shall establish that there is: (i)~~  
16 ~~probable cause that the person or persons so charged have~~  
17 ~~committed the offense of involuntary servitude, involuntary~~  
18 ~~sexual servitude of a minor, or trafficking in persons for~~  
19 ~~forced labor or services and (ii) probable cause that any~~  
20 ~~property or interest may be subject to forfeiture under this~~  
21 ~~Section. The hearing may be conducted simultaneously with a~~  
22 ~~preliminary hearing, if the prosecution is commenced by~~  
23 ~~information or complaint, or by motion of the People, at any~~  
24 ~~stage in the proceedings. The court may accept a finding of~~  
25 ~~probable cause at a preliminary hearing following the filing of~~  
26 ~~an information charging the offense of involuntary servitude,~~



1 ~~involuntary sexual servitude of a minor, or trafficking in~~  
2 ~~persons for forced labor or services or the return of an~~  
3 ~~indictment by a grand jury charging the offense of involuntary~~  
4 ~~servitude, involuntary sexual servitude of a minor, or~~  
5 ~~trafficking in persons for forced labor or services as~~  
6 ~~sufficient evidence of probable cause as provided in item (i)~~  
7 ~~of this paragraph. Upon a finding, the circuit court shall~~  
8 ~~enter the restraining order, injunction, or prohibition, or~~  
9 ~~shall take such other action in connection with any such~~  
10 ~~property or other interest subject to forfeiture, as is~~  
11 ~~necessary to ensure that the property is not removed from the~~  
12 ~~jurisdiction of the court, concealed, destroyed, or otherwise~~  
13 ~~disposed of by the owner of that property or interest prior to~~  
14 ~~a forfeiture hearing under this Section. The Attorney General~~  
15 ~~or State's Attorney shall file a certified copy of the~~  
16 ~~restraining order, injunction, or other prohibition with the~~  
17 ~~recorder or registrar of titles of each county where any such~~  
18 ~~property of the defendant may be located. No such injunction,~~  
19 ~~restraining order, or other prohibition shall affect the rights~~  
20 ~~of any bona fide purchaser, mortgagee, judgment creditor, or~~  
21 ~~other lien holder arising prior to the date of that filing. At~~  
22 ~~any time, upon verified petition by the defendant or an~~  
23 ~~innocent owner or innocent bona fide third party lien holder~~  
24 ~~who neither had knowledge of, nor consented to, the illegal act~~  
25 ~~or omission, the court may conduct a hearing to release all or~~  
26 ~~portions of any such property or interest that the court~~

1 ~~previously determined to be subject to forfeiture or subject to~~  
2 ~~any restraining order, injunction, or prohibition or other~~  
3 ~~action. The court may release that property to the defendant or~~  
4 ~~innocent owner or innocent bona fide third party lien holder~~  
5 ~~who neither had knowledge of nor consented to the illegal act~~  
6 ~~or omission for good cause shown and within the sound~~  
7 ~~discretion of the court.~~

8 ~~Upon conviction of a person of involuntary servitude,~~  
9 ~~involuntary sexual servitude of a minor, or trafficking in~~  
10 ~~persons for forced labor or services, the court shall authorize~~  
11 ~~the Attorney General to seize all property or other interest~~  
12 ~~declared forfeited under this Section upon terms and conditions~~  
13 ~~the court deems proper.~~

14 ~~All moneys forfeited and the sale proceeds of all other~~  
15 ~~property forfeited and seized under this Section shall be~~  
16 ~~distributed as follows:~~

17 ~~(1) one half shall be divided equally between all State~~  
18 ~~agencies and units of local government whose officers or~~  
19 ~~employees conducted the investigation that resulted in the~~  
20 ~~forfeiture; and~~

21 ~~(2) one half shall be deposited into the Violent Crime~~  
22 ~~Victims Assistance Fund and targeted to services for~~  
23 ~~victims of the offenses of involuntary servitude,~~  
24 ~~involuntary sexual servitude of a minor, and trafficking in~~  
25 ~~persons for forced labor or services.~~

26 (Source: P.A. 96-710, eff. 1-1-10; incorporates 96-712, eff.

1 1-1-10; revised 10-8-09.)

2 (720 ILCS 5/11-9.2)

3 Sec. 11-9.2. Custodial sexual misconduct.

4 (a) A person commits the offense of custodial sexual  
5 misconduct when: (1) he or she is an employee of a penal system  
6 and engages in sexual conduct or sexual penetration with a  
7 person who is in the custody of that penal system or (2) he or  
8 she is an employee of a treatment and detention facility and  
9 engages in sexual conduct or sexual penetration with a person  
10 who is in the custody of that treatment and detention facility.

11 (b) A probation or supervising officer or surveillance  
12 agent commits the offense of custodial sexual misconduct when  
13 the probation or supervising officer or surveillance agent  
14 engages in sexual conduct or sexual penetration with a  
15 probationer, parolee, or releasee or person serving a term of  
16 conditional release who is under the supervisory,  
17 disciplinary, or custodial authority of the officer or agent so  
18 engaging in the sexual conduct or sexual penetration.

19 (c) Custodial sexual misconduct is a Class 3 felony.

20 (d) Any person convicted of violating this Section  
21 immediately shall forfeit his or her employment with a penal  
22 system, treatment and detention facility, or conditional  
23 release program.

24 (e) For purposes of this Section, the consent of the  
25 probationer, parolee, releasee, or inmate in custody of the

1 penal system or person detained or civilly committed under the  
2 Sexually Violent Persons Commitment Act shall not be a defense  
3 to a prosecution under this Section. A person is deemed  
4 incapable of consent, for purposes of this Section, when he or  
5 she is a probationer, parolee, releasee, or inmate in custody  
6 of a penal system or person detained or civilly committed under  
7 the Sexually Violent Persons Commitment Act.

8 (f) This Section does not apply to:

9 (1) Any employee, probation or supervising officer, or  
10 surveillance agent who is lawfully married to a person in  
11 custody if the marriage occurred before the date of  
12 custody.

13 (2) Any employee, probation or supervising officer, or  
14 surveillance agent who has no knowledge, and would have no  
15 reason to believe, that the person with whom he or she  
16 engaged in custodial sexual misconduct was a person in  
17 custody.

18 (g) In this Section:

19 (1) "Custody" means:

20 (i) pretrial incarceration or detention;

21 (ii) incarceration or detention under a sentence  
22 or commitment to a State or local penal institution;

23 (iii) parole or mandatory supervised release;

24 (iv) electronic home detention;

25 (v) probation;

26 (vi) detention or civil commitment either in

1 secure care or in the community under the Sexually  
2 Violent Persons Commitment Act.

3 (2) "Penal system" means any system which includes  
4 institutions as defined in Section 2-14 of this Code or a  
5 county shelter care or detention home established under  
6 Section 1 of the County Shelter Care and Detention Home  
7 Act.

8 (2.1) "Treatment and detention facility" means any  
9 Department of Human Services or Department of Healthcare  
10 and Family Services facility established for the detention  
11 or civil commitment of persons under the Sexually Violent  
12 Persons Commitment Act.

13 (2.2) "Conditional release" means a program of  
14 treatment and services, vocational services, and alcohol  
15 or other drug abuse treatment provided to any person  
16 civilly committed and conditionally released to the  
17 community under the Sexually Violent Persons Commitment  
18 Act;

19 (3) "Employee" means:

20 (i) an employee of any governmental agency of this  
21 State or any county or municipal corporation that has  
22 by statute, ordinance, or court order the  
23 responsibility for the care, control, or supervision  
24 of pretrial or sentenced persons in a penal system or  
25 persons detained or civilly committed under the  
26 Sexually Violent Persons Commitment Act;

1           (ii) a contractual employee of a penal system as  
2 defined in paragraph (g)(2) of this Section who works  
3 in a penal institution as defined in Section 2-14 of  
4 this Code;

5           (iii) a contractual employee of a "treatment and  
6 detention facility" as defined in paragraph (g)(2.1)  
7 of this Code or a contractual employee of the  
8 Department of Human Services or the Department of  
9 Healthcare and Family Services who provides  
10 supervision of persons serving a term of conditional  
11 release as defined in paragraph (g)(2.2) of this Code.

12           (4) "Sexual conduct" or "sexual penetration" means any  
13 act of sexual conduct or sexual penetration as defined in  
14 Section 12-12 of this Code.

15           (5) "Probation officer" means any person employed in a  
16 probation or court services department as defined in  
17 Section 9b of the Probation and Probation Officers Act.

18           (6) "Supervising officer" means any person employed to  
19 supervise persons placed on parole or mandatory supervised  
20 release with the duties described in Section 3-14-2 of the  
21 Unified Code of Corrections.

22           (7) "Surveillance agent" means any person employed or  
23 contracted to supervise persons placed on conditional  
24 release in the community under the Sexually Violent Persons  
25 Commitment Act.

26 (Source: P.A. 92-415, eff. 8-17-01.)

1 (720 ILCS 5/11-9.5)

2 Sec. 11-9.5. Sexual misconduct with a person with a  
3 disability.

4 (a) Definitions. As used in this Section:

5 (1) "Person with a disability" means:

6 (i) a person diagnosed with a developmental  
7 disability as defined in Section 1-106 of the Mental  
8 Health and Developmental Disabilities Code; or

9 (ii) a person diagnosed with a mental illness as  
10 defined in Section 1-129 of the Mental Health and  
11 Developmental Disabilities Code.

12 (2) "State-operated facility" means:

13 (i) a developmental disability facility as defined  
14 in the Mental Health and Developmental Disabilities  
15 Code; or

16 (ii) a mental health facility as defined in the  
17 Mental Health and Developmental Disabilities Code.

18 (3) "Community agency" or "agency" means any community  
19 entity or program providing residential mental health or  
20 developmental disabilities services that is licensed,  
21 certified, or funded by the Department of Human Services or  
22 the Department of Healthcare and Family Services and not  
23 licensed or certified by any other human service agency of  
24 the State such as the Departments of Public Health,  
25 ~~Healthcare and Family Services,~~ and Children and Family

1 Services.

2 (4) "Care and custody" means admission to a  
3 State-operated facility.

4 (5) "Employee" means:

5 (i) any person employed by the Illinois Department  
6 of Human Services or the Department of Healthcare and  
7 Family Services;

8 (ii) any person employed by a community agency  
9 providing services at the direction of the owner or  
10 operator of the agency on or off site; or

11 (iii) any person who is a contractual employee or  
12 contractual agent of the Department of Human Services, the  
13 Department of Healthcare and Family Services, or  
14 the community agency. This includes but is not limited  
15 to payroll personnel, contractors, subcontractors, and  
16 volunteers.

17 (6) "Sexual conduct" or "sexual penetration" means any  
18 act of sexual conduct or sexual penetration as defined in  
19 Section 12-12 of this Code.

20 (b) A person commits the offense of sexual misconduct with  
21 a person with a disability when:

22 (1) he or she is an employee and knowingly engages in  
23 sexual conduct or sexual penetration with a person with a  
24 disability who is under the care and custody of the  
25 Department of Human Services or the Department of  
26 Healthcare and Family Services at a State-operated



1 facility; or

2 (2) he or she is an employee of a community agency  
3 funded by the Department of Human Services or the  
4 Department of Healthcare and Family Services and knowingly  
5 engages in sexual conduct or sexual penetration with a  
6 person with a disability who is in a residential program  
7 operated or supervised by a community agency.

8 (c) For purposes of this Section, the consent of a person  
9 with a disability in custody of the Department of Human  
10 Services or the Department of Healthcare and Family Services  
11 residing at a State-operated facility or receiving services  
12 from a community agency shall not be a defense to a prosecution  
13 under this Section. A person is deemed incapable of consent,  
14 for purposes of this Section, when he or she is a person with a  
15 disability and is receiving services at a State-operated  
16 facility or is a person with a disability who is in a  
17 residential program operated or supervised by a community  
18 agency.

19 (d) This Section does not apply to:

20 (1) any State employee or any community agency employee  
21 who is lawfully married to a person with a disability in  
22 custody of the Department of Human Services or the  
23 Department of Healthcare and Family Services or receiving  
24 services from a community agency if the marriage occurred  
25 before the date of custody or the initiation of services at  
26 a community agency; or

1           (2) any State employee or community agency employee who  
2           has no knowledge, and would have no reason to believe, that  
3           the person with whom he or she engaged in sexual misconduct  
4           was a person with a disability in custody of the Department  
5           of Human Services or the Department of Healthcare and  
6           Family Services or was receiving services from a community  
7           agency.

8           (e) Sentence. Sexual misconduct with a person with a  
9           disability is a Class 3 felony.

10          (f) Any person convicted of violating this Section shall  
11          immediately forfeit his or her employment with the State or the  
12          community agency.

13          (Source: P.A. 94-1053, eff. 7-24-06.)

14           (720 ILCS 5/11-14.2)

15           Sec. 11-14.2. First offender; felony prostitution.

16           (a) Whenever any person who has not previously been  
17           convicted of or placed on probation for felony prostitution or  
18           any law of the United States or of any other state relating to  
19           felony prostitution pleads guilty to or is found guilty of  
20           felony prostitution, the court, without entering a judgment and  
21           with the consent of such person, may sentence the person to  
22           probation.

23           (b) When a person is placed on probation, the court shall  
24           enter an order specifying a period of probation of 24 months  
25           and shall defer further proceedings in the case until the

1 conclusion of the period or until the filing of a petition  
2 alleging violation of a term or condition of probation.

3 (c) The conditions of probation shall be that the person:  
4 (1) not violate any criminal statute of any jurisdiction; (2)  
5 refrain from possessing a firearm or other dangerous weapon;  
6 (3) submit to periodic drug testing at a time and in a manner  
7 as ordered by the court, but no less than 3 times during the  
8 period of the probation, with the cost of the testing to be  
9 paid by the probationer; and (4) perform no less than 30 hours  
10 of community service, provided community service is available  
11 in the jurisdiction and is funded and approved by the county  
12 board.

13 (d) The court may, in addition to other conditions, require  
14 that the person:

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

19 (2) pay a fine and costs;

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

22 (4) undergo medical or psychiatric treatment; or  
23 treatment or rehabilitation by a provider approved by the  
24 Illinois Department of Human Services or the Department of  
25 Healthcare and Family Services;

26 (5) attend or reside in a facility established for the

1 instruction or residence of defendants on probation;

2 (6) support his or her dependents;

3 (7) refrain from having in his or her body the presence  
4 of any illicit drug prohibited by the Cannabis Control Act  
5 or the Illinois Controlled Substances Act, unless  
6 prescribed by a physician, and submit samples of his or her  
7 blood or urine or both for tests to determine the presence  
8 of any illicit drug;

9 (8) and in addition, if a minor:

10 (i) reside with his or her parents or in a foster  
11 home;

12 (ii) attend school;

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

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

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

19 (f) Upon fulfillment of the terms and conditions of  
20 probation, the court shall discharge the person and dismiss the  
21 proceedings against him or her.

22 (g) A disposition of probation is considered to be a  
23 conviction for the purposes of imposing the conditions of  
24 probation and for appeal, however, discharge and dismissal  
25 under this Section is not a conviction for purposes of this Act  
26 or for purposes of disqualifications or disabilities imposed by

1 law upon conviction of a crime.

2 (h) There may be only one discharge and dismissal under  
3 this Section.

4 (i) If a person is convicted of prostitution within 5 years  
5 subsequent to a discharge and dismissal under this Section, the  
6 discharge and dismissal under this Section shall be admissible  
7 in the sentencing proceeding for that conviction as evidence in  
8 aggravation.

9 (Source: P.A. 95-255, eff. 8-17-07.)

10 (720 ILCS 5/12-4)

11 Sec. 12-4. Aggravated Battery.

12 (a) A person who, in committing a battery, intentionally or  
13 knowingly causes great bodily harm, or permanent disability or  
14 disfigurement commits aggravated battery.

15 (b) In committing a battery, a person commits aggravated  
16 battery if he or she:

17 (1) Uses a deadly weapon other than by the discharge of  
18 a firearm, or uses an air rifle as defined in the Air Rifle  
19 Act;

20 (2) Is hooded, robed or masked, in such manner as to  
21 conceal his identity;

22 (3) Knows the individual harmed to be a teacher or  
23 other person employed in any school and such teacher or  
24 other employee is upon the grounds of a school or grounds  
25 adjacent thereto, or is in any part of a building used for

1 school purposes;

2 (4) (Blank);

3 (5) (Blank);

4 (6) Knows the individual harmed to be a community  
5 policing volunteer while such volunteer is engaged in the  
6 execution of any official duties, or to prevent the  
7 volunteer from performing official duties, or in  
8 retaliation for the volunteer performing official duties,  
9 and the battery is committed other than by the discharge of  
10 a firearm;

11 (7) Knows the individual harmed to be an emergency  
12 medical technician - ambulance, emergency medical  
13 technician - intermediate, emergency medical technician -  
14 paramedic, ambulance driver, other medical assistance,  
15 first aid personnel, or hospital personnel engaged in the  
16 performance of any of his or her official duties, or to  
17 prevent the emergency medical technician - ambulance,  
18 emergency medical technician - intermediate, emergency  
19 medical technician - paramedic, ambulance driver, other  
20 medical assistance, first aid personnel, or hospital  
21 personnel from performing official duties, or in  
22 retaliation for performing official duties;

23 (8) Is, or the person battered is, on or about a public  
24 way, public property or public place of accommodation or  
25 amusement;

26 (8.5) Is, or the person battered is, on a publicly or

1 privately owned sports or entertainment arena, stadium,  
2 community or convention hall, special event center,  
3 amusement facility, or a special event center in a public  
4 park during any 24-hour period when a professional sporting  
5 event, National Collegiate Athletic Association  
6 (NCAA)-sanctioned sporting event, United States Olympic  
7 Committee-sanctioned sporting event, or International  
8 Olympic Committee-sanctioned sporting event is taking  
9 place in this venue;

10 (9) Knows the individual harmed to be the driver,  
11 operator, employee or passenger of any transportation  
12 facility or system engaged in the business of  
13 transportation of the public for hire and the individual  
14 assaulted is then performing in such capacity or then using  
15 such public transportation as a passenger or using any area  
16 of any description designated by the transportation  
17 facility or system as a vehicle boarding, departure, or  
18 transfer location;

19 (10) Knows the individual harmed to be an individual of  
20 60 years of age or older;

21 (11) Knows the individual harmed is pregnant;

22 (12) Knows the individual harmed to be a judge whom the  
23 person intended to harm as a result of the judge's  
24 performance of his or her official duties as a judge;

25 (13) (Blank);

26 (14) Knows the individual harmed to be a person who is

1 physically handicapped;

2 (15) Knowingly and without legal justification and by  
3 any means causes bodily harm to a merchant who detains the  
4 person for an alleged commission of retail theft under  
5 Section 16A-5 of this Code. In this item (15), "merchant"  
6 has the meaning ascribed to it in Section 16A-2.4 of this  
7 Code;

8 (16) Is, or the person battered is, in any building or  
9 other structure used to provide shelter or other services  
10 to victims or to the dependent children of victims of  
11 domestic violence pursuant to the Illinois Domestic  
12 Violence Act of 1986 or the Domestic Violence Shelters Act,  
13 or the person battered is within 500 feet of such a  
14 building or other structure while going to or from such a  
15 building or other structure. "Domestic violence" has the  
16 meaning ascribed to it in Section 103 of the Illinois  
17 Domestic Violence Act of 1986. "Building or other structure  
18 used to provide shelter" has the meaning ascribed to  
19 "shelter" in Section 1 of the Domestic Violence Shelters  
20 Act;

21 (17) (Blank);

22 (18) Knows the individual harmed to be an officer or  
23 employee of the State of Illinois, a unit of local  
24 government, or school district engaged in the performance  
25 of his or her authorized duties as such officer or  
26 employee;



1           (19) Knows the individual harmed to be an emergency  
2 management worker engaged in the performance of any of his  
3 or her official duties, or to prevent the emergency  
4 management worker from performing official duties, or in  
5 retaliation for the emergency management worker performing  
6 official duties;

7           (20) Knows the individual harmed to be a private  
8 security officer engaged in the performance of any of his  
9 or her official duties, or to prevent the private security  
10 officer from performing official duties, or in retaliation  
11 for the private security officer performing official  
12 duties; or

13           (21) Knows the individual harmed to be a taxi driver  
14 and the battery is committed while the taxi driver is on  
15 duty; or

16           (22) Knows the individual harmed to be a utility  
17 worker, while the utility worker is engaged in the  
18 execution of his or her duties, or to prevent the utility  
19 worker from performing his or her duties, or in retaliation  
20 for the utility worker performing his or her duties. In  
21 this paragraph (22), "utility worker" means a person  
22 employed by a public utility as defined in Section 3-105 of  
23 the Public Utilities Act and also includes an employee of a  
24 municipally owned utility, an employee of a cable  
25 television company, an employee of an electric cooperative  
26 as defined in Section 3-119 of the Public Utilities Act, an

1 independent contractor or an employee of an independent  
2 contractor working on behalf of a cable television company,  
3 public utility, municipally owned utility, or an electric  
4 cooperative, or an employee of a telecommunications  
5 carrier as defined in Section 13-202 of the Public  
6 Utilities Act, an independent contractor or an employee of  
7 an independent contractor working on behalf of a  
8 telecommunications carrier, or an employee of a telephone  
9 or telecommunications cooperative as defined in Section  
10 13-212 of the Public Utilities Act, or an independent  
11 contractor or an employee of an independent contractor  
12 working on behalf of a telephone or telecommunications  
13 cooperative.

14 For the purpose of paragraph (14) of subsection (b) of this  
15 Section, a physically handicapped person is a person who  
16 suffers from a permanent and disabling physical  
17 characteristic, resulting from disease, injury, functional  
18 disorder or congenital condition.

19 For the purpose of paragraph (20) of subsection (b) and  
20 subsection (e) of this Section, "private security officer"  
21 means a registered employee of a private security contractor  
22 agency under the Private Detective, Private Alarm, Private  
23 Security, Fingerprint Vendor, and Locksmith Act of 2004.

24 (c) A person who administers to an individual or causes him  
25 to take, without his consent or by threat or deception, and for  
26 other than medical purposes, any intoxicating, poisonous,

1 stupefying, narcotic, anesthetic, or controlled substance  
2 commits aggravated battery.

3 (d) A person who knowingly gives to another person any food  
4 that contains any substance or object that is intended to cause  
5 physical injury if eaten, commits aggravated battery.

6 (d-3) A person commits aggravated battery when he or she  
7 knowingly and without lawful justification shines or flashes a  
8 laser gunsight or other laser device that is attached or  
9 affixed to a firearm, or used in concert with a firearm, so  
10 that the laser beam strikes upon or against the person of  
11 another.

12 (d-5) An inmate of a penal institution or a sexually  
13 dangerous person or a sexually violent person in the custody of  
14 the Department of Human Services or the Department of  
15 Healthcare and Family Services who causes or attempts to cause  
16 a correctional employee of the penal institution or an employee  
17 of the Department of Human Services or the Department of  
18 Healthcare and Family Services to come into contact with blood,  
19 seminal fluid, urine, or feces, by throwing, tossing, or  
20 expelling that fluid or material commits aggravated battery.  
21 For purposes of this subsection (d-5), "correctional employee"  
22 means a person who is employed by a penal institution.

23 (d-6) A person commits aggravated battery when he or she,  
24 in committing a battery, strangles another individual. For the  
25 purposes of this subsection (d-6), "strangle" means  
26 intentionally impeding the normal breathing or circulation of

1 the blood of an individual by applying pressure on the throat  
2 or neck of that individual or by blocking the nose or mouth of  
3 that individual.

4 (e) Sentence.

5 (1) Except as otherwise provided in paragraphs (2),  
6 (3), ~~and~~ (4), and (5) aggravated battery is a Class 3  
7 felony.

8 (2) Aggravated battery that does not cause great bodily  
9 harm or permanent disability or disfigurement is a Class 2  
10 felony when the person knows the individual harmed to be a  
11 peace officer, a community policing volunteer, a private  
12 security officer, a correctional institution employee, an  
13 employee of the Department of Human Services or the  
14 Department of Healthcare and Family Services supervising  
15 or controlling sexually dangerous persons or sexually  
16 violent persons, or a fireman while such officer,  
17 volunteer, employee, or fireman is engaged in the execution  
18 of any official duties including arrest or attempted  
19 arrest, or to prevent the officer, volunteer, employee, or  
20 fireman from performing official duties, or in retaliation  
21 for the officer, volunteer, employee, or fireman  
22 performing official duties, and the battery is committed  
23 other than by the discharge of a firearm.

24 (3) Aggravated battery that causes great bodily harm or  
25 permanent disability or disfigurement in violation of  
26 subsection (a) is a Class 1 felony when the person knows

1 the individual harmed to be a peace officer, a community  
2 policing volunteer, a private security officer, a  
3 correctional institution employee, an employee of the  
4 Department of Human Services or the Department of  
5 Healthcare and Family Services supervising or controlling  
6 sexually dangerous persons or sexually violent persons, or  
7 a fireman while such officer, volunteer, employee, or  
8 fireman is engaged in the execution of any official duties  
9 including arrest or attempted arrest, or to prevent the  
10 officer, volunteer, employee, or fireman from performing  
11 official duties, or in retaliation for the officer,  
12 volunteer, employee, or fireman performing official  
13 duties, and the battery is committed other than by the  
14 discharge of a firearm.

15 (4) Aggravated battery under subsection (d-5) is a  
16 Class 2 felony.

17 (5) Aggravated battery under subsection (d-6) is a  
18 Class 1 felony if:

19 (A) the person used or attempted to use a dangerous  
20 instrument while committing the offense; or

21 (B) the person caused great bodily harm or  
22 permanent disability or disfigurement to the other  
23 person while committing the offense; or

24 (C) the person has been previously convicted of a  
25 violation of subsection (d-6) under the laws of this  
26 State or laws similar to subsection (d-6) of any other

1 state.

2 (6) ~~(5)~~ For purposes of this subsection (e), the term  
3 "firearm" shall have the meaning provided under Section 1.1  
4 of the Firearms Owners Identification Card Act, and shall  
5 not include an air rifle as defined by Section 1 of the Air  
6 Rifle Act.

7 (Source: P.A. 95-236, eff. 1-1-08; 95-256, eff. 1-1-08; 95-331,  
8 eff. 8-21-07; 95-429, eff. 1-1-08; 95-748, eff. 1-1-09; 95-876,  
9 eff. 8-21-08; 96-201, eff. 8-10-09; 96-363, eff. 8-13-09;  
10 revised 9-4-09.)

11 (720 ILCS 5/31-6) (from Ch. 38, par. 31-6)

12 Sec. 31-6. Escape; failure to report to a penal institution  
13 or to report for periodic imprisonment.

14 (a) A person convicted of a felony or charged with the  
15 commission of a felony, or charged with or adjudicated  
16 delinquent for an act which, if committed by an adult, would  
17 constitute a felony, who intentionally escapes from any penal  
18 institution or from the custody of an employee of that  
19 institution commits a Class 2 felony; however, a person  
20 convicted of a felony, or adjudicated delinquent for an act  
21 which, if committed by an adult, would constitute a felony, who  
22 knowingly fails to report to a penal institution or to report  
23 for periodic imprisonment at any time or knowingly fails to  
24 return from furlough or from work and day release or who  
25 knowingly fails to abide by the terms of home confinement is

1 guilty of a Class 3 felony.

2 (b) A person convicted of a misdemeanor or charged with the  
3 commission of a misdemeanor, or charged with or adjudicated  
4 delinquent for an act which, if committed by an adult, would  
5 constitute a misdemeanor, who intentionally escapes from any  
6 penal institution or from the custody of an employee of that  
7 institution commits a Class A misdemeanor; however, a person  
8 convicted of a misdemeanor, or adjudicated delinquent for an  
9 act which, if committed by an adult, would constitute a  
10 misdemeanor, who knowingly fails to report to a penal  
11 institution or to report for periodic imprisonment at any time  
12 or knowingly fails to return from furlough or from work and day  
13 release or who knowingly fails to abide by the terms of home  
14 confinement is guilty of a Class B misdemeanor.

15 (b-1) A person committed to the Department of Human  
16 Services or the Department of Healthcare and Family Services  
17 under the provisions of the Sexually Violent Persons Commitment  
18 Act or in detention with the Department of Human Services or  
19 the Department of Healthcare and Family Services awaiting such  
20 a commitment who intentionally escapes from any secure  
21 residential facility or from the custody of an employee of that  
22 facility commits a Class 2 felony.

23 (c) A person in the lawful custody of a peace officer for  
24 the alleged commission of a felony offense or an act which, if  
25 committed by an adult, would constitute a felony, and who  
26 intentionally escapes from custody commits a Class 2 felony;

1 however, a person in the lawful custody of a peace officer for  
2 the alleged commission of a misdemeanor offense or an act  
3 which, if committed by an adult, would constitute a  
4 misdemeanor, who intentionally escapes from custody commits a  
5 Class A misdemeanor.

6 (c-5) A person in the lawful custody of a peace officer for  
7 an alleged violation of a term or condition of probation,  
8 conditional discharge, parole, or mandatory supervised release  
9 for a felony or an act which, if committed by an adult, would  
10 constitute a felony, who intentionally escapes from custody is  
11 guilty of a Class 2 felony.

12 (c-6) A person in the lawful custody of a peace officer for  
13 an alleged violation of a term or condition of supervision,  
14 probation, or conditional discharge for a misdemeanor or an act  
15 which, if committed by an adult, would constitute a  
16 misdemeanor, who intentionally escapes from custody is guilty  
17 of a Class A misdemeanor.

18 (d) A person who violates this Section while armed with a  
19 dangerous weapon commits a Class 1 felony.

20 (Source: P.A. 95-839, eff. 8-15-08; 95-921, eff. 1-1-09;  
21 96-328, eff. 8-11-09.)

22 Section 1145. The Cannabis Control Act is amended by  
23 changing Sections 3 and 10.2 as follows:

24 (720 ILCS 550/3) (from Ch. 56 1/2, par. 703)



1           Sec. 3. As used in this Act, unless the context otherwise  
2 requires:

3           (a) "Cannabis" includes marihuana, hashish and other  
4 substances which are identified as including any parts of the  
5 plant Cannabis Sativa, whether growing or not; the seeds  
6 thereof, the resin extracted from any part of such plant; and  
7 any compound, manufacture, salt, derivative, mixture, or  
8 preparation of such plant, its seeds, or resin, including  
9 tetrahydrocannabinol (THC) and all other cannabinol  
10 derivatives, including its naturally occurring or  
11 synthetically produced ingredients, whether produced directly  
12 or indirectly by extraction, or independently by means of  
13 chemical synthesis or by a combination of extraction and  
14 chemical synthesis; but shall not include the mature stalks of  
15 such plant, fiber produced from such stalks, oil or cake made  
16 from the seeds of such plant, any other compound, manufacture,  
17 salt, derivative, mixture, or preparation of such mature stalks  
18 (except the resin extracted therefrom), fiber, oil or cake, or  
19 the sterilized seed of such plant which is incapable of  
20 germination.

21           (b) "Casual delivery" means the delivery of not more than  
22 10 grams of any substance containing cannabis without  
23 consideration.

24           (c) "Department" means the Illinois Department of Human  
25 Services (before January 1, 2011) or the Department of  
26 Healthcare and Family Services (on or after January 1, 2011)

1 ~~(as successor to the Department of Alcoholism and Substance~~  
2 ~~Abuse)~~ or its successor agency.

3 (d) "Deliver" or "delivery" means the actual, constructive  
4 or attempted transfer of possession of cannabis, with or  
5 without consideration, whether or not there is an agency  
6 relationship.

7 (e) "Department of State Police" means the Department of  
8 State Police of the State of Illinois or its successor agency.

9 (f) "Director" means the Director of the Department of  
10 State Police or his designated agent.

11 (g) "Local authorities" means a duly organized State,  
12 county, or municipal peace unit or police force.

13 (h) "Manufacture" means the production, preparation,  
14 propagation, compounding, conversion or processing of  
15 cannabis, either directly or indirectly, by extraction from  
16 substances of natural origin, or independently by means of  
17 chemical synthesis, or by a combination of extraction and  
18 chemical synthesis, and includes any packaging or repackaging  
19 of cannabis or labeling of its container, except that this term  
20 does not include the preparation, compounding, packaging, or  
21 labeling of cannabis as an incident to lawful research,  
22 teaching, or chemical analysis and not for sale.

23 (i) "Person" means any individual, corporation, government  
24 or governmental subdivision or agency, business trust, estate,  
25 trust, partnership or association, or any other entity.

26 (j) "Produce" or "production" means planting, cultivating,

1 tending or harvesting.

2 (k) "State" includes the State of Illinois and any state,  
3 district, commonwealth, territory, insular possession thereof,  
4 and any area subject to the legal authority of the United  
5 States of America.

6 (l) "Subsequent offense" means an offense under this Act,  
7 the offender of which, prior to his conviction of the offense,  
8 has at any time been convicted under this Act or under any laws  
9 of the United States or of any state relating to cannabis, or  
10 any controlled substance as defined in the Illinois Controlled  
11 Substances Act.

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

13 (720 ILCS 550/10.2) (from Ch. 56 1/2, par. 710.2)

14 Sec. 10.2. (a) Twelve and one-half percent of all amounts  
15 collected as fines pursuant to the provisions of this Act shall  
16 be paid into the Youth Drug Abuse Prevention Fund, which is  
17 hereby created in the State treasury, to be used by the  
18 Department of Human Services (before January 1, 2011) or the  
19 Department of Healthcare and Family Services (on or after  
20 January 1, 2011) for the funding of programs and services for  
21 drug-abuse treatment, and prevention and education services,  
22 for juveniles.

23 (b) Eighty-seven and one-half percent of the proceeds of  
24 all fines received under the provisions of this Act shall be  
25 transmitted to and deposited in the treasurer's office at the

1 level of government as follows:

2 (1) If such seizure was made by a combination of law  
3 enforcement personnel representing differing units of  
4 local government, the court levying the fine shall  
5 equitably allocate 50% of the fine among these units of  
6 local government and shall allocate 37 1/2% to the county  
7 general corporate fund. In the event that the seizure was  
8 made by law enforcement personnel representing a unit of  
9 local government from a municipality where the number of  
10 inhabitants exceeds 2 million in population, the court  
11 levying the fine shall allocate 87 1/2% of the fine to that  
12 unit of local government. If the seizure was made by a  
13 combination of law enforcement personnel representing  
14 differing units of local government, and at least one of  
15 those units represents a municipality where the number of  
16 inhabitants exceeds 2 million in population, the court  
17 shall equitably allocate 87 1/2% of the proceeds of the  
18 fines received among the differing units of local  
19 government.

20 (2) If such seizure was made by State law enforcement  
21 personnel, then the court shall allocate 37 1/2% to the  
22 State treasury and 50% to the county general corporate  
23 fund.

24 (3) If a State law enforcement agency in combination  
25 with a law enforcement agency or agencies of a unit or  
26 units of local government conducted the seizure, the court

1 shall equitably allocate 37 1/2% of the fines to or among  
2 the law enforcement agency or agencies of the unit or units  
3 of local government which conducted the seizure and shall  
4 allocate 50% to the county general corporate fund.

5 (c) The proceeds of all fines allocated to the law  
6 enforcement agency or agencies of the unit or units of local  
7 government pursuant to subsection (b) shall be made available  
8 to that law enforcement agency as expendable receipts for use  
9 in the enforcement of laws regulating controlled substances and  
10 cannabis. The proceeds of fines awarded to the State treasury  
11 shall be deposited in a special fund known as the Drug Traffic  
12 Prevention Fund, except that amounts distributed to the  
13 Secretary of State shall be deposited into the Secretary of  
14 State Evidence Fund to be used as provided in Section 2-115 of  
15 the Illinois Vehicle Code. Monies from this fund may be used by  
16 the Department of State Police for use in the enforcement of  
17 laws regulating controlled substances and cannabis; to satisfy  
18 funding provisions of the Intergovernmental Drug Laws  
19 Enforcement Act; to defray costs and expenses associated with  
20 returning violators of this Act, the Illinois Controlled  
21 Substances Act, and the Methamphetamine Control and Community  
22 Protection Act only, as provided in such Acts, when punishment  
23 of the crime shall be confinement of the criminal in the  
24 penitentiary; and all other monies shall be paid into the  
25 general revenue fund in the State treasury.

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

1 Section 1150. The Illinois Controlled Substances Act is  
2 amended by changing Sections 102, 214, 309, 320, 410, 411.2,  
3 and 507 as follows:

4 (720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

5 Sec. 102. Definitions. As used in this Act, unless the  
6 context otherwise requires:

7 (a) "Addict" means any person who habitually uses any drug,  
8 chemical, substance or dangerous drug other than alcohol so as  
9 to endanger the public morals, health, safety or welfare or who  
10 is so far addicted to the use of a dangerous drug or controlled  
11 substance other than alcohol as to have lost the power of self  
12 control with reference to his addiction.

13 (b) "Administer" means the direct application of a  
14 controlled substance, whether by injection, inhalation,  
15 ingestion, or any other means, to the body of a patient,  
16 research subject, or animal (as defined by the Humane  
17 Euthanasia in Animal Shelters Act) by:

18 (1) a practitioner (or, in his presence, by his  
19 authorized agent),

20 (2) the patient or research subject at the lawful  
21 direction of the practitioner, or

22 (3) a euthanasia technician as defined by the Humane  
23 Euthanasia in Animal Shelters Act.

24 (c) "Agent" means an authorized person who acts on behalf

1 of or at the direction of a manufacturer, distributor, or  
2 dispenser. It does not include a common or contract carrier,  
3 public warehouseman or employee of the carrier or warehouseman.

4 (c-1) "Anabolic Steroids" means any drug or hormonal  
5 substance, chemically and pharmacologically related to  
6 testosterone (other than estrogens, progestins, and  
7 corticosteroids) that promotes muscle growth, and includes:

8 (i) boldenone,

9 (ii) chlorotestosterone,

10 (iii) chostebol,

11 (iv) dehydrochlormethyltestosterone,

12 (v) dihydrotestosterone,

13 (vi) drostanolone,

14 (vii) ethylestrenol,

15 (viii) fluoxymesterone,

16 (ix) formebulone,

17 (x) mesterolone,

18 (xi) methandienone,

19 (xii) methandranone,

20 (xiii) methandriol,

21 (xiv) methandrostenolone,

22 (xv) methenolone,

23 (xvi) methyltestosterone,

24 (xvii) mibolerone,

25 (xviii) nandrolone,

26 (xix) norethandrolone,

1           (xx) oxandrolone,  
2           (xxi) oxymesterone,  
3           (xxii) oxymetholone,  
4           (xxiii) stanolone,  
5           (xxiv) stanozolol,  
6           (xxv) testolactone,  
7           (xxvi) testosterone,  
8           (xxvii) trenbolone, and  
9           (xxviii) any salt, ester, or isomer of a drug or  
10          substance described or listed in this paragraph, if  
11          that salt, ester, or isomer promotes muscle growth.

12          Any person who is otherwise lawfully in possession of an  
13          anabolic steroid, or who otherwise lawfully manufactures,  
14          distributes, dispenses, delivers, or possesses with intent to  
15          deliver an anabolic steroid, which anabolic steroid is  
16          expressly intended for and lawfully allowed to be administered  
17          through implants to livestock or other nonhuman species, and  
18          which is approved by the Secretary of Health and Human Services  
19          for such administration, and which the person intends to  
20          administer or have administered through such implants, shall  
21          not be considered to be in unauthorized possession or to  
22          unlawfully manufacture, distribute, dispense, deliver, or  
23          possess with intent to deliver such anabolic steroid for  
24          purposes of this Act.

25          (d) "Administration" means the Drug Enforcement  
26          Administration, United States Department of Justice, or its



1 successor agency.

2 (e) "Control" means to add a drug or other substance, or  
3 immediate precursor, to a Schedule under Article II of this Act  
4 whether by transfer from another Schedule or otherwise.

5 (f) "Controlled Substance" means a drug, substance, or  
6 immediate precursor in the Schedules of Article II of this Act.

7 (g) "Counterfeit substance" means a controlled substance,  
8 which, or the container or labeling of which, without  
9 authorization bears the trademark, trade name, or other  
10 identifying mark, imprint, number or device, or any likeness  
11 thereof, of a manufacturer, distributor, or dispenser other  
12 than the person who in fact manufactured, distributed, or  
13 dispensed the substance.

14 (h) "Deliver" or "delivery" means the actual, constructive  
15 or attempted transfer of possession of a controlled substance,  
16 with or without consideration, whether or not there is an  
17 agency relationship.

18 (i) "Department" means the Illinois Department of Human  
19 Services (before January 1, 2011) or the Department of  
20 Healthcare and Family Services (on or after January 1, 2011)  
21 ~~(as successor to the Department of Alcoholism and Substance~~  
22 ~~Abuse)~~ or its successor agency.

23 (j) "Department of State Police" means the Department of  
24 State Police of the State of Illinois or its successor agency.

25 (k) "Department of Corrections" means the Department of  
26 Corrections of the State of Illinois or its successor agency.

1           (1) "Department of Professional Regulation" means the  
2 Department of Professional Regulation of the State of Illinois  
3 or its successor agency.

4           (m) "Depressant" or "stimulant substance" means:

5           (1) a drug which contains any quantity of (i)  
6 barbituric acid or any of the salts of barbituric acid  
7 which has been designated as habit forming under section  
8 502 (d) of the Federal Food, Drug, and Cosmetic Act (21  
9 U.S.C. 352 (d)); or

10           (2) a drug which contains any quantity of (i)  
11 amphetamine or methamphetamine and any of their optical  
12 isomers; (ii) any salt of amphetamine or methamphetamine or  
13 any salt of an optical isomer of amphetamine; or (iii) any  
14 substance which the Department, after investigation, has  
15 found to be, and by rule designated as, habit forming  
16 because of its depressant or stimulant effect on the  
17 central nervous system; or

18           (3) lysergic acid diethylamide; or

19           (4) any drug which contains any quantity of a substance  
20 which the Department, after investigation, has found to  
21 have, and by rule designated as having, a potential for  
22 abuse because of its depressant or stimulant effect on the  
23 central nervous system or its hallucinogenic effect.

24           (n) (Blank).

25           (o) "Director" means the Director of the Department of  
26 State Police or the Department of Professional Regulation or

1 his designated agents.

2 (p) "Dispense" means to deliver a controlled substance to  
3 an ultimate user or research subject by or pursuant to the  
4 lawful order of a prescriber, including the prescribing,  
5 administering, packaging, labeling, or compounding necessary  
6 to prepare the substance for that delivery.

7 (q) "Dispenser" means a practitioner who dispenses.

8 (r) "Distribute" means to deliver, other than by  
9 administering or dispensing, a controlled substance.

10 (s) "Distributor" means a person who distributes.

11 (t) "Drug" means (1) substances recognized as drugs in the  
12 official United States Pharmacopoeia, Official Homeopathic  
13 Pharmacopoeia of the United States, or official National  
14 Formulary, or any supplement to any of them; (2) substances  
15 intended for use in diagnosis, cure, mitigation, treatment, or  
16 prevention of disease in man or animals; (3) substances (other  
17 than food) intended to affect the structure of any function of  
18 the body of man or animals and (4) substances intended for use  
19 as a component of any article specified in clause (1), (2), or  
20 (3) of this subsection. It does not include devices or their  
21 components, parts, or accessories.

22 (t-5) "Euthanasia agency" means an entity certified by the  
23 Department of Professional Regulation for the purpose of animal  
24 euthanasia that holds an animal control facility license or  
25 animal shelter license under the Animal Welfare Act. A  
26 euthanasia agency is authorized to purchase, store, possess,

1 and utilize Schedule II nonnarcotic and Schedule III  
2 nonnarcotic drugs for the sole purpose of animal euthanasia.

3 (t-10) "Euthanasia drugs" means Schedule II or Schedule III  
4 substances (nonnarcotic controlled substances) that are used  
5 by a euthanasia agency for the purpose of animal euthanasia.

6 (u) "Good faith" means the prescribing or dispensing of a  
7 controlled substance by a practitioner in the regular course of  
8 professional treatment to or for any person who is under his  
9 treatment for a pathology or condition other than that  
10 individual's physical or psychological dependence upon or  
11 addiction to a controlled substance, except as provided herein:  
12 and application of the term to a pharmacist shall mean the  
13 dispensing of a controlled substance pursuant to the  
14 prescriber's order which in the professional judgment of the  
15 pharmacist is lawful. The pharmacist shall be guided by  
16 accepted professional standards including, but not limited to  
17 the following, in making the judgment:

18 (1) lack of consistency of doctor-patient  
19 relationship,

20 (2) frequency of prescriptions for same drug by one  
21 prescriber for large numbers of patients,

22 (3) quantities beyond those normally prescribed,

23 (4) unusual dosages,

24 (5) unusual geographic distances between patient,  
25 pharmacist and prescriber,

26 (6) consistent prescribing of habit-forming drugs.

1 (u-1) "Home infusion services" means services provided by a  
2 pharmacy in compounding solutions for direct administration to  
3 a patient in a private residence, long-term care facility, or  
4 hospice setting by means of parenteral, intravenous,  
5 intramuscular, subcutaneous, or intraspinal infusion.

6 (v) "Immediate precursor" means a substance:

7 (1) which the Department has found to be and by rule  
8 designated as being a principal compound used, or produced  
9 primarily for use, in the manufacture of a controlled  
10 substance;

11 (2) which is an immediate chemical intermediary used or  
12 likely to be used in the manufacture of such controlled  
13 substance; and

14 (3) the control of which is necessary to prevent,  
15 curtail or limit the manufacture of such controlled  
16 substance.

17 (w) "Instructional activities" means the acts of teaching,  
18 educating or instructing by practitioners using controlled  
19 substances within educational facilities approved by the State  
20 Board of Education or its successor agency.

21 (x) "Local authorities" means a duly organized State,  
22 County or Municipal peace unit or police force.

23 (y) "Look-alike substance" means a substance, other than a  
24 controlled substance which (1) by overall dosage unit  
25 appearance, including shape, color, size, markings or lack  
26 thereof, taste, consistency, or any other identifying physical

1 characteristic of the substance, would lead a reasonable person  
2 to believe that the substance is a controlled substance, or (2)  
3 is expressly or impliedly represented to be a controlled  
4 substance or is distributed under circumstances which would  
5 lead a reasonable person to believe that the substance is a  
6 controlled substance. For the purpose of determining whether  
7 the representations made or the circumstances of the  
8 distribution would lead a reasonable person to believe the  
9 substance to be a controlled substance under this clause (2) of  
10 subsection (y), the court or other authority may consider the  
11 following factors in addition to any other factor that may be  
12 relevant:

13 (a) statements made by the owner or person in control  
14 of the substance concerning its nature, use or effect;

15 (b) statements made to the buyer or recipient that the  
16 substance may be resold for profit;

17 (c) whether the substance is packaged in a manner  
18 normally used for the illegal distribution of controlled  
19 substances;

20 (d) whether the distribution or attempted distribution  
21 included an exchange of or demand for money or other  
22 property as consideration, and whether the amount of the  
23 consideration was substantially greater than the  
24 reasonable retail market value of the substance.

25 Clause (1) of this subsection (y) shall not apply to a  
26 noncontrolled substance in its finished dosage form that was

1 initially introduced into commerce prior to the initial  
2 introduction into commerce of a controlled substance in its  
3 finished dosage form which it may substantially resemble.

4 Nothing in this subsection (y) prohibits the dispensing or  
5 distributing of noncontrolled substances by persons authorized  
6 to dispense and distribute controlled substances under this  
7 Act, provided that such action would be deemed to be carried  
8 out in good faith under subsection (u) if the substances  
9 involved were controlled substances.

10 Nothing in this subsection (y) or in this Act prohibits the  
11 manufacture, preparation, propagation, compounding,  
12 processing, packaging, advertising or distribution of a drug or  
13 drugs by any person registered pursuant to Section 510 of the  
14 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

15 (y-1) "Mail-order pharmacy" means a pharmacy that is  
16 located in a state of the United States, other than Illinois,  
17 that delivers, dispenses or distributes, through the United  
18 States Postal Service or other common carrier, to Illinois  
19 residents, any substance which requires a prescription.

20 (z) "Manufacture" means the production, preparation,  
21 propagation, compounding, conversion or processing of a  
22 controlled substance other than methamphetamine, either  
23 directly or indirectly, by extraction from substances of  
24 natural origin, or independently by means of chemical  
25 synthesis, or by a combination of extraction and chemical  
26 synthesis, and includes any packaging or repackaging of the

1 substance or labeling of its container, except that this term  
2 does not include:

3 (1) by an ultimate user, the preparation or compounding  
4 of a controlled substance for his own use; or

5 (2) by a practitioner, or his authorized agent under  
6 his supervision, the preparation, compounding, packaging,  
7 or labeling of a controlled substance:

8 (a) as an incident to his administering or  
9 dispensing of a controlled substance in the course of  
10 his professional practice; or

11 (b) as an incident to lawful research, teaching or  
12 chemical analysis and not for sale.

13 (z-1) (Blank).

14 (aa) "Narcotic drug" means any of the following, whether  
15 produced directly or indirectly by extraction from substances  
16 of natural origin, or independently by means of chemical  
17 synthesis, or by a combination of extraction and chemical  
18 synthesis:

19 (1) opium and opiate, and any salt, compound,  
20 derivative, or preparation of opium or opiate;

21 (2) any salt, compound, isomer, derivative, or  
22 preparation thereof which is chemically equivalent or  
23 identical with any of the substances referred to in clause  
24 (1), but not including the isoquinoline alkaloids of opium;

25 (3) opium poppy and poppy straw;

26 (4) coca leaves and any salts, compound, isomer, salt



1 of an isomer, derivative, or preparation of coca leaves  
2 including cocaine or ecgonine, and any salt, compound,  
3 isomer, derivative, or preparation thereof which is  
4 chemically equivalent or identical with any of these  
5 substances, but not including decocainized coca leaves or  
6 extractions of coca leaves which do not contain cocaine or  
7 ecgonine (for the purpose of this paragraph, the term  
8 "isomer" includes optical, positional and geometric  
9 isomers).

10 (bb) "Nurse" means a registered nurse licensed under the  
11 Nurse Practice Act.

12 (cc) (Blank).

13 (dd) "Opiate" means any substance having an addiction  
14 forming or addiction sustaining liability similar to morphine  
15 or being capable of conversion into a drug having addiction  
16 forming or addiction sustaining liability.

17 (ee) "Opium poppy" means the plant of the species *Papaver*  
18 *somniferum* L., except its seeds.

19 (ff) "Parole and Pardon Board" means the Parole and Pardon  
20 Board of the State of Illinois or its successor agency.

21 (gg) "Person" means any individual, corporation,  
22 mail-order pharmacy, government or governmental subdivision or  
23 agency, business trust, estate, trust, partnership or  
24 association, or any other entity.

25 (hh) "Pharmacist" means any person who holds a license or  
26 certificate of registration as a registered pharmacist, a local

1 registered pharmacist or a registered assistant pharmacist  
2 under the Pharmacy Practice Act.

3 (ii) "Pharmacy" means any store, ship or other place in  
4 which pharmacy is authorized to be practiced under the Pharmacy  
5 Practice Act.

6 (jj) "Poppy straw" means all parts, except the seeds, of  
7 the opium poppy, after mowing.

8 (kk) "Practitioner" means a physician licensed to practice  
9 medicine in all its branches, dentist, optometrist,  
10 podiatrist, veterinarian, scientific investigator, pharmacist,  
11 physician assistant, advanced practice nurse, licensed  
12 practical nurse, registered nurse, hospital, laboratory, or  
13 pharmacy, or other person licensed, registered, or otherwise  
14 lawfully permitted by the United States or this State to  
15 distribute, dispense, conduct research with respect to,  
16 administer or use in teaching or chemical analysis, a  
17 controlled substance in the course of professional practice or  
18 research.

19 (ll) "Pre-printed prescription" means a written  
20 prescription upon which the designated drug has been indicated  
21 prior to the time of issuance.

22 (mm) "Prescriber" means a physician licensed to practice  
23 medicine in all its branches, dentist, optometrist, podiatrist  
24 or veterinarian who issues a prescription, a physician  
25 assistant who issues a prescription for a controlled substance  
26 in accordance with Section 303.05, a written delegation, and a

1 written supervision agreement required under Section 7.5 of the  
2 Physician Assistant Practice Act of 1987, or an advanced  
3 practice nurse with prescriptive authority delegated under  
4 Section 65-40 of the Nurse Practice Act and in accordance with  
5 Section 303.05, a written delegation, and a written  
6 collaborative agreement under Section 65-35 of the Nurse  
7 Practice Act.

8 (nn) "Prescription" means a lawful written, facsimile, or  
9 verbal order of a physician licensed to practice medicine in  
10 all its branches, dentist, podiatrist or veterinarian for any  
11 controlled substance, of an optometrist for a Schedule III, IV,  
12 or V controlled substance in accordance with Section 15.1 of  
13 the Illinois Optometric Practice Act of 1987, of a physician  
14 assistant for a controlled substance in accordance with Section  
15 303.05, a written delegation, and a written supervision  
16 agreement required under Section 7.5 of the Physician Assistant  
17 Practice Act of 1987, or of an advanced practice nurse with  
18 prescriptive authority delegated under Section 65-40 of the  
19 Nurse Practice Act who issues a prescription for a controlled  
20 substance in accordance with Section 303.05, a written  
21 delegation, and a written collaborative agreement under  
22 Section 65-35 of the Nurse Practice Act.

23 (oo) "Production" or "produce" means manufacture,  
24 planting, cultivating, growing, or harvesting of a controlled  
25 substance other than methamphetamine.

26 (pp) "Registrant" means every person who is required to

1 register under Section 302 of this Act.

2 (qq) "Registry number" means the number assigned to each  
3 person authorized to handle controlled substances under the  
4 laws of the United States and of this State.

5 (rr) "State" includes the State of Illinois and any state,  
6 district, commonwealth, territory, insular possession thereof,  
7 and any area subject to the legal authority of the United  
8 States of America.

9 (ss) "Ultimate user" means a person who lawfully possesses  
10 a controlled substance for his own use or for the use of a  
11 member of his household or for administering to an animal owned  
12 by him or by a member of his household.

13 (Source: P.A. 95-242, eff. 1-1-08; 95-639, eff. 10-5-07;  
14 95-689, eff. 10-29-07; 95-876, eff. 8-21-08; 96-189, eff.  
15 8-10-09; 96-268, eff. 8-11-09.)

16 (720 ILCS 570/214) (from Ch. 56 1/2, par. 1214)

17 Sec. 214. Excluded Substances.

18 (a) Products containing an anabolic steroid, that are  
19 expressly intended for administration through implants to  
20 cattle or other nonhuman species and that have been approved by  
21 the Secretary of Health and Human Services (before January 1,  
22 2011) or the Director of Healthcare and Family Services (on or  
23 after January 1, 2011) for that administration, and that are  
24 excluded from all schedules under Section 102(41)(B)(1) of the  
25 federal Controlled Substances Act (21 U.S.C. 802(41)(B)(1))

1 are also excluded from Sections 207 and 208 of this Act.

2 (b) The non-narcotic substances excluded from all  
3 schedules of the Federal Controlled Substances Act (21 U.S.C.  
4 801 et seq.) pursuant to Section 1308.22 of the Code of Federal  
5 Regulations (21 C.F.R. 1308.22), are excluded from all  
6 schedules of this Act.

7 (Source: P.A. 91-714, eff. 6-2-00.)

8 (720 ILCS 570/309) (from Ch. 56 1/2, par. 1309)

9 Sec. 309. On or after April 1, 2000, no person shall issue  
10 a prescription for a Schedule II controlled substance, which is  
11 a narcotic drug listed in Section 206 of this Act; or which  
12 contains any quantity of amphetamine or methamphetamine, their  
13 salts, optical isomers or salts of optical isomers;  
14 phenmetrazine and its salts; gluthethimide; and pentazocine,  
15 other than on a written prescription; provided that in the case  
16 of an emergency, epidemic or a sudden or unforeseen accident or  
17 calamity, the prescriber may issue a lawful oral prescription  
18 where failure to issue such a prescription might result in loss  
19 of life or intense suffering, but such oral prescription shall  
20 include a statement by the prescriber concerning the accident  
21 or calamity, or circumstances constituting the emergency, the  
22 cause for which an oral prescription was used. Within 7 days  
23 after issuing an emergency prescription, the prescriber shall  
24 cause a written prescription for the emergency quantity  
25 prescribed to be delivered to the dispensing pharmacist. The

1 prescription shall have written on its face "Authorization for  
2 Emergency Dispensing", and the date of the emergency  
3 prescription. The written prescription may be delivered to the  
4 pharmacist in person, or by mail, but if delivered by mail it  
5 must be postmarked within the 7-day period. Upon receipt, the  
6 dispensing pharmacist shall attach this prescription to the  
7 emergency oral prescription earlier received and reduced to  
8 writing. The dispensing pharmacist shall notify the Department  
9 of Human Services (before January 1, 2011) or the Department of  
10 Healthcare and Family Services (on or after January 1, 2011) if  
11 the prescriber fails to deliver the authorization for emergency  
12 dispensing on the prescription to him. Failure of the  
13 dispensing pharmacist to do so shall void the authority  
14 conferred by this paragraph to dispense without a written  
15 prescription of a prescriber. All prescriptions issued for  
16 Schedule II controlled substances shall include both a written  
17 and numerical notation of quantity on the face of the  
18 prescription. No prescription for a Schedule II controlled  
19 substance may be refilled. The Department shall provide, at no  
20 cost, audit reviews and necessary information to the Department  
21 of Professional Regulation in conjunction with ongoing  
22 investigations being conducted in whole or part by the  
23 Department of Professional Regulation.

24 (Source: P.A. 95-689, eff. 10-29-07.)

1           Sec. 320. Advisory committee.

2           (a) The Secretary of Human Services (before January 1,  
3 2011) or the Director of Healthcare and Family Services (on or  
4 after January 1, 2011) must appoint an advisory committee to  
5 assist the Department in implementing the controlled substance  
6 prescription monitoring program created by Section 316 and 321  
7 of this Act. The Advisory Committee consists of prescribers and  
8 dispensers.

9           (b) The Secretary of Human Services or the Director of  
10 Healthcare and Family Services must determine the number of  
11 members to serve on the advisory committee. The Secretary or  
12 the Director must choose one of the members of the advisory  
13 committee to serve as chair of the committee.

14           (c) The advisory committee may appoint its other officers  
15 as it deems appropriate.

16           (d) The members of the advisory committee shall receive no  
17 compensation for their services as members of the advisory  
18 committee but may be reimbursed for their actual expenses  
19 incurred in serving on the advisory committee.

20           (Source: P.A. 95-442, eff. 1-1-08.)

21           (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

22           Sec. 410. (a) Whenever any person who has not previously  
23 been convicted of, or placed on probation or court supervision  
24 for any offense under this Act or any law of the United States  
25 or of any State relating to cannabis or controlled substances,

1 pleads guilty to or is found guilty of possession of a  
2 controlled or counterfeit substance under subsection (c) of  
3 Section 402 or of unauthorized possession of prescription form  
4 under Section 406.2, the court, without entering a judgment and  
5 with the consent of such person, may sentence him to probation.

6 (b) When a person is placed on probation, the court shall  
7 enter an order specifying a period of probation of 24 months  
8 and shall defer further proceedings in the case until the  
9 conclusion of the period or until the filing of a petition  
10 alleging violation of a term or condition of probation.

11 (c) The conditions of probation shall be that the person:  
12 (1) not violate any criminal statute of any jurisdiction; (2)  
13 refrain from possessing a firearm or other dangerous weapon;  
14 (3) submit to periodic drug testing at a time and in a manner  
15 as ordered by the court, but no less than 3 times during the  
16 period of the probation, with the cost of the testing to be  
17 paid by the probationer; and (4) perform no less than 30 hours  
18 of community service, provided community service is available  
19 in the jurisdiction and is funded and approved by the county  
20 board.

21 (d) The court may, in addition to other conditions, require  
22 that the person:

23 (1) make a report to and appear in person before or  
24 participate with the court or such courts, person, or  
25 social service agency as directed by the court in the order  
26 of probation;



- 1           (2) pay a fine and costs;
- 2           (3) work or pursue a course of study or vocational  
3 training;
- 4           (4) undergo medical or psychiatric treatment; or  
5 treatment or rehabilitation approved by the Illinois  
6 Department of Human Services or the Department of  
7 Healthcare and Family Services;
- 8           (5) attend or reside in a facility established for the  
9 instruction or residence of defendants on probation;
- 10          (6) support his dependents;
- 11          (6-5) refrain from having in his or her body the  
12 presence of any illicit drug prohibited by the Cannabis  
13 Control Act, the Illinois Controlled Substances Act, or the  
14 Methamphetamine Control and Community Protection Act,  
15 unless prescribed by a physician, and submit samples of his  
16 or her blood or urine or both for tests to determine the  
17 presence of any illicit drug;
- 18          (7) and in addition, if a minor:
- 19               (i) reside with his parents or in a foster home;
- 20               (ii) attend school;
- 21               (iii) attend a non-residential program for youth;
- 22               (iv) contribute to his own support at home or in a  
23 foster home.
- 24          (e) Upon violation of a term or condition of probation, the  
25 court may enter a judgment on its original finding of guilt and  
26 proceed as otherwise provided.

1           (f) Upon fulfillment of the terms and conditions of  
2 probation, the court shall discharge the person and dismiss the  
3 proceedings against him.

4           (g) A disposition of probation is considered to be a  
5 conviction for the purposes of imposing the conditions of  
6 probation and for appeal, however, discharge and dismissal  
7 under this Section is not a conviction for purposes of this Act  
8 or for purposes of disqualifications or disabilities imposed by  
9 law upon conviction of a crime.

10          (h) There may be only one discharge and dismissal under  
11 this Section, Section 10 of the Cannabis Control Act, or  
12 Section 70 of the Methamphetamine Control and Community  
13 Protection Act with respect to any person.

14          (i) If a person is convicted of an offense under this Act,  
15 the Cannabis Control Act, or the Methamphetamine Control and  
16 Community Protection Act within 5 years subsequent to a  
17 discharge and dismissal under this Section, the discharge and  
18 dismissal under this Section shall be admissible in the  
19 sentencing proceeding for that conviction as evidence in  
20 aggravation.

21          (Source: P.A. 94-556, eff. 9-11-05; 95-487, eff. 1-1-08.)

22                 (720 ILCS 570/411.2) (from Ch. 56 1/2, par. 1411.2)

23          Sec. 411.2. (a) Every person convicted of a violation of  
24 this Act, and every person placed on probation, conditional  
25 discharge, supervision or probation under Section 410 of this

1 Act, shall be assessed for each offense a sum fixed at:

- 2 (1) \$3,000 for a Class X felony;
- 3 (2) \$2,000 for a Class 1 felony;
- 4 (3) \$1,000 for a Class 2 felony;
- 5 (4) \$500 for a Class 3 or Class 4 felony;
- 6 (5) \$300 for a Class A misdemeanor;
- 7 (6) \$200 for a Class B or Class C misdemeanor.

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

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

26 (d) If an assessment for a violation of this Act is imposed

1 on an organization, it is the duty of each individual  
2 authorized to make disbursements of the assets of the  
3 organization to pay the assessment from assets of the  
4 organization.

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

14 (f) The court may suspend the collection of the assessment  
15 imposed under this Section; provided the defendant agrees to  
16 enter a substance abuse intervention or treatment program  
17 approved by the court; and further provided that the defendant  
18 agrees to pay for all or some portion of the costs associated  
19 with the intervention or treatment program. In this case, the  
20 collection of the assessment imposed under this Section shall  
21 be suspended during the defendant's participation in the  
22 approved intervention or treatment program. Upon successful  
23 completion of the program, the defendant may apply to the court  
24 to reduce the assessment imposed under this Section by any  
25 amount actually paid by the defendant for his participation in  
26 the program. The court shall not reduce the penalty under this

1 subsection unless the defendant establishes to the  
2 satisfaction of the court that he has successfully completed  
3 the intervention or treatment program. If the defendant's  
4 participation is for any reason terminated before his  
5 successful completion of the intervention or treatment  
6 program, collection of the entire assessment imposed under this  
7 Section shall be enforced. Nothing in this Section shall be  
8 deemed to affect or suspend any other fines, restitution costs,  
9 forfeitures or assessments imposed under this or any other Act.

10 (g) The court shall not impose more than one assessment per  
11 complaint, indictment or information. If the person is  
12 convicted of more than one offense in a complaint, indictment  
13 or information, the assessment shall be based on the highest  
14 class offense for which the person is convicted.

15 (h) In counties under 3,000,000, all moneys collected under  
16 this Section shall be forwarded by the clerk of the circuit  
17 court to the State Treasurer for deposit in the Drug Treatment  
18 Fund, which is hereby established as a special fund within the  
19 State Treasury. The Department of Human Services (before  
20 January 1, 2011) or the Department of Healthcare and Family  
21 Services (on or after January 1, 2011) may make grants to  
22 persons licensed under Section 15-10 of the Alcoholism and  
23 Other Drug Abuse and Dependency Act or to municipalities or  
24 counties from funds appropriated to the Department from the  
25 Drug Treatment Fund for the treatment of pregnant women who are  
26 addicted to alcohol, cannabis or controlled substances and for

1 the needed care of minor, unemancipated children of women  
2 undergoing residential drug treatment. If the Department of  
3 Human Services or the Department of Healthcare and Family  
4 Services grants funds to a municipality or a county that the  
5 Department determines is not experiencing a problem with  
6 pregnant women addicted to alcohol, cannabis or controlled  
7 substances, or with care for minor, unemancipated children of  
8 women undergoing residential drug treatment, or intervention,  
9 the funds shall be used for the treatment of any person  
10 addicted to alcohol, cannabis or controlled substances. The  
11 Department may adopt such rules as it deems appropriate for the  
12 administration of such grants.

13 (i) In counties over 3,000,000, all moneys collected under  
14 this Section shall be forwarded to the County Treasurer for  
15 deposit into the County Health Fund. The County Treasurer  
16 shall, no later than the 15th day of each month, forward to the  
17 State Treasurer 30 percent of all moneys collected under this  
18 Act and received into the County Health Fund since the prior  
19 remittance to the State Treasurer. Funds retained by the County  
20 shall be used for community-based treatment of pregnant women  
21 who are addicted to alcohol, cannabis, or controlled substances  
22 or for the needed care of minor, unemancipated children of  
23 these women. Funds forwarded to the State Treasurer shall be  
24 deposited into the State Drug Treatment Fund maintained by the  
25 State Treasurer from which the Department of Human Services  
26 (before January 1, 2011) or the Department of Healthcare and

1 Family Services (on or after January 1, 2011) may make grants  
2 to persons licensed under Section 15-10 of the Alcoholism and  
3 Other Drug Abuse and Dependency Act or to municipalities or  
4 counties from funds appropriated to the Department from the  
5 Drug Treatment Fund, provided that the moneys collected from  
6 each county be returned proportionately to the counties through  
7 grants to licensees located within the county from which the  
8 assessment was received and moneys in the State Drug Treatment  
9 Fund shall not supplant other local, State or federal funds. If  
10 the Department of Human Services or the Department of  
11 Healthcare and Family Services grants funds to a municipality  
12 or county that the Department determines is not experiencing a  
13 problem with pregnant women addicted to alcohol, cannabis or  
14 controlled substances, or with care for minor, unemancipated  
15 children or women undergoing residential drug treatment, the  
16 funds shall be used for the treatment of any person addicted to  
17 alcohol, cannabis or controlled substances. The Department may  
18 adopt such rules as it deems appropriate for the administration  
19 of such grants.

20 (Source: P.A. 88-670, eff. 12-2-94; 89-215, eff. 1-1-96;  
21 89-507, eff. 7-1-97.)

22 (720 ILCS 570/507) (from Ch. 56 1/2, par. 1507)

23 Sec. 507. All rulings, final determinations, findings, and  
24 conclusions of the Department of State Police, the Department  
25 of Professional Regulation, ~~and~~ the Department of Human

1 Services, and the Department of Healthcare and Family Services  
2 of the State of Illinois under this Act are final and  
3 conclusive decisions of the matters involved. Any person  
4 aggrieved by the decision may obtain review of the decision  
5 pursuant to the provisions of the Administrative Review Law, as  
6 amended and the rules adopted pursuant thereto. Pending final  
7 decision on such review, the acts, orders and rulings of the  
8 Department shall remain in full force and effect unless  
9 modified or suspended by order of court pending final judicial  
10 decision. Pending final decision on such review, the acts,  
11 orders, sanctions and rulings of the Department of Professional  
12 Regulation regarding any registration shall remain in full  
13 force and effect, unless stayed by order of court. However, no  
14 stay of any decision of the administrative agency shall issue  
15 unless the person aggrieved by the decision establishes by a  
16 preponderance of the evidence that good cause exists therefor.  
17 In determining good cause, the court shall find that the  
18 aggrieved party has established a substantial likelihood of  
19 prevailing on the merits and that granting the stay will not  
20 have an injurious effect on the general public. Good cause  
21 shall not be established solely on the basis of hardships  
22 resulting from an inability to engage in the registered  
23 activity pending a final judicial decision.

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

25 Section 1155. The Methamphetamine Control and Community



1 Protection Act is amended by changing Sections 70 and 80 as  
2 follows:

3 (720 ILCS 646/70)

4 Sec. 70. Probation.

5 (a) Whenever any person who has not previously been  
6 convicted of, or placed on probation or court supervision for  
7 any offense under this Act, the Illinois Controlled Substances  
8 Act, the Cannabis Control Act, or any law of the United States  
9 or of any state relating to cannabis or controlled substances,  
10 pleads guilty to or is found guilty of possession of less than  
11 15 grams of methamphetamine under paragraph (1) or (2) of  
12 subsection (b) of Section 60 of this Act, the court, without  
13 entering a judgment and with the consent of the person, may  
14 sentence him or her to probation.

15 (b) When a person is placed on probation, the court shall  
16 enter an order specifying a period of probation of 24 months  
17 and shall defer further proceedings in the case until the  
18 conclusion of the period or until the filing of a petition  
19 alleging violation of a term or condition of probation.

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

21 (1) not violate any criminal statute of any  
22 jurisdiction;

23 (2) refrain from possessing a firearm or other  
24 dangerous weapon;

25 (3) submit to periodic drug testing at a time and in a

1 manner as ordered by the court, but no less than 3 times  
2 during the period of the probation, with the cost of the  
3 testing to be paid by the probationer; and

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

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

9 (1) make a report to and appear in person before or  
10 participate with the court or such courts, person, or  
11 social service agency as directed by the court in the order  
12 of probation;

13 (2) pay a fine and costs;

14 (3) work or pursue a course of study or vocational  
15 training;

16 (4) undergo medical or psychiatric treatment; or  
17 treatment or rehabilitation approved by the Illinois  
18 Department of Human Services or the Department of  
19 Healthcare and Family Services;

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

22 (6) support his or her dependents;

23 (7) refrain from having in his or her body the presence  
24 of any illicit drug prohibited by this Act, the Cannabis  
25 Control Act, or the Illinois Controlled Substances Act,  
26 unless prescribed by a physician, and submit samples of his

1 or her blood or urine or both for tests to determine the  
2 presence of any illicit drug; or

3 (8) if a minor:

4 (i) reside with his or her parents or in a foster  
5 home;

6 (ii) attend school;

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

8 or

9 (iv) contribute to his or her own support at home  
10 or in a foster home.

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

14 (f) Upon fulfillment of the terms and conditions of  
15 probation, the court shall discharge the person and dismiss the  
16 proceedings against the person.

17 (g) A disposition of probation is considered to be a  
18 conviction for the purposes of imposing the conditions of  
19 probation and for appeal, however, discharge and dismissal  
20 under this Section is not a conviction for purposes of this Act  
21 or for purposes of disqualifications or disabilities imposed by  
22 law upon conviction of a crime.

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

1 (i) If a person is convicted of an offense under this Act,  
2 the Cannabis Control Act, or the Illinois Controlled Substances  
3 Act within 5 years subsequent to a discharge and dismissal  
4 under this Section, the discharge and dismissal under this  
5 Section are admissible in the sentencing proceeding for that  
6 conviction as evidence in aggravation.

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

8 (720 ILCS 646/80)

9 Sec. 80. Assessment.

10 (a) Every person convicted of a violation of this Act, and  
11 every person placed on probation, conditional discharge,  
12 supervision, or probation under this Act, shall be assessed for  
13 each offense a sum fixed at:

- 14 (1) \$3,000 for a Class X felony;  
15 (2) \$2,000 for a Class 1 felony;  
16 (3) \$1,000 for a Class 2 felony;  
17 (4) \$500 for a Class 3 or Class 4 felony.

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

21 (c) As a condition of the assessment, the court may require  
22 that payment be made in specified installments or within a  
23 specified period of time. If the assessment is not paid within  
24 the period of probation, conditional discharge, or supervision  
25 to which the defendant was originally sentenced, the court may

1 extend the period of probation, conditional discharge, or  
2 supervision pursuant to Section 5-6-2 or 5-6-3.1 of the Unified  
3 Code of Corrections, as applicable, until the assessment is  
4 paid or until successful completion of public or community  
5 service set forth in subsection (e) or the successful  
6 completion of the substance abuse intervention or treatment  
7 program set forth in subsection (f). If a term of probation,  
8 conditional discharge, or supervision is not imposed, the  
9 assessment shall be payable upon judgment or as directed by the  
10 court.

11 (d) If an assessment for a violation of this Act is imposed  
12 on an organization, it is the duty of each individual  
13 authorized to make disbursements of the assets of the  
14 organization to pay the assessment from assets of the  
15 organization.

16 (e) A defendant who has been ordered to pay an assessment  
17 may petition the court to convert all or part of the assessment  
18 into court-approved public or community service. One hour of  
19 public or community service shall be equivalent to \$4 of  
20 assessment. The performance of this public or community service  
21 shall be a condition of the probation, conditional discharge,  
22 or supervision and shall be in addition to the performance of  
23 any other period of public or community service ordered by the  
24 court or required by law.

25 (f) The court may suspend the collection of the assessment  
26 imposed under this Section if the defendant agrees to enter a

1 substance abuse intervention or treatment program approved by  
2 the court and the defendant agrees to pay for all or some  
3 portion of the costs associated with the intervention or  
4 treatment program. In this case, the collection of the  
5 assessment imposed under this Section shall be suspended during  
6 the defendant's participation in the approved intervention or  
7 treatment program. Upon successful completion of the program,  
8 the defendant may apply to the court to reduce the assessment  
9 imposed under this Section by any amount actually paid by the  
10 defendant for his or her participation in the program. The  
11 court shall not reduce the penalty under this subsection unless  
12 the defendant establishes to the satisfaction of the court that  
13 he or she has successfully completed the intervention or  
14 treatment program. If the defendant's participation is for any  
15 reason terminated before his or her successful completion of  
16 the intervention or treatment program, collection of the entire  
17 assessment imposed under this Section shall be enforced.  
18 Nothing in this Section shall be deemed to affect or suspend  
19 any other fines, restitution costs, forfeitures, or  
20 assessments imposed under this or any other Act.

21 (g) The court shall not impose more than one assessment per  
22 complaint, indictment, or information. If the person is  
23 convicted of more than one offense in a complaint, indictment,  
24 or information, the assessment shall be based on the highest  
25 class offense for which the person is convicted.

26 (h) In counties with a population under 3,000,000, all

1 moneys collected under this Section shall be forwarded by the  
2 clerk of the circuit court to the State Treasurer for deposit  
3 in the Drug Treatment Fund. The Department of Human Services  
4 (before January 1, 2011) or the Department of Healthcare and  
5 Family Services (on or after January 1, 2011) may make grants  
6 to persons licensed under Section 15-10 of the Alcoholism and  
7 Other Drug Abuse and Dependency Act or to municipalities or  
8 counties from funds appropriated to the Department from the  
9 Drug Treatment Fund for the treatment of pregnant women who are  
10 addicted to alcohol, cannabis or controlled substances and for  
11 the needed care of minor, unemancipated children of women  
12 undergoing residential drug treatment. If the Department of  
13 Human Services or the Department of Healthcare and Family  
14 Services grants funds to a municipality or a county that the  
15 Department determines is not experiencing a problem with  
16 pregnant women addicted to alcohol, cannabis or controlled  
17 substances, or with care for minor, unemancipated children of  
18 women undergoing residential drug treatment, or intervention,  
19 the funds shall be used for the treatment of any person  
20 addicted to alcohol, cannabis, or controlled substances. The  
21 Department may adopt such rules as it deems appropriate for the  
22 administration of such grants.

23 (i) In counties with a population of 3,000,000 or more, all  
24 moneys collected under this Section shall be forwarded to the  
25 County Treasurer for deposit into the County Health Fund. The  
26 County Treasurer shall, no later than the 15th day of each

1 month, forward to the State Treasurer 30 percent of all moneys  
2 collected under this Act and received into the County Health  
3 Fund since the prior remittance to the State Treasurer. Funds  
4 retained by the County shall be used for community-based  
5 treatment of pregnant women who are addicted to alcohol,  
6 cannabis, or controlled substances or for the needed care of  
7 minor, unemancipated children of these women. Funds forwarded  
8 to the State Treasurer shall be deposited into the State Drug  
9 Treatment Fund maintained by the State Treasurer from which the  
10 Department of Human Services (before January 1, 2011) or the  
11 Department of Healthcare and Family Services (on or after  
12 January 1, 2011) may make grants to persons licensed under  
13 Section 15-10 of the Alcoholism and Other Drug Abuse and  
14 Dependency Act or to municipalities or counties from funds  
15 appropriated to the Department from the Drug Treatment Fund,  
16 provided that the moneys collected from each county be returned  
17 proportionately to the counties through grants to licensees  
18 located within the county from which the assessment was  
19 received and moneys in the State Drug Treatment Fund shall not  
20 supplant other local, State or federal funds. If the Department  
21 of Human Services or the Department of Healthcare and Family  
22 Services grants funds to a municipality or county that the  
23 Department determines is not experiencing a problem with  
24 pregnant women addicted to alcohol, cannabis or controlled  
25 substances, or with care for minor, unemancipated children or  
26 women undergoing residential drug treatment, the funds shall be



1 used for the treatment of any person addicted to alcohol,  
2 cannabis or controlled substances. The Department may adopt  
3 such rules as it deems appropriate for the administration of  
4 such grants.

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

6 Section 1160. The Code of Criminal Procedure of 1963 is  
7 amended by changing Sections 104-13, 104-17, 104-23, 104-24,  
8 104-25, 104-26, 104-30, 104-31, 110-5, and 110-6.3 as follows:

9 (725 ILCS 5/104-13) (from Ch. 38, par. 104-13)

10 Sec. 104-13. Fitness Examination.

11 (a) When the issue of fitness involves the defendant's  
12 mental condition, the court shall order an examination of the  
13 defendant by one or more licensed physicians, clinical  
14 psychologists, or psychiatrists chosen by the court. No  
15 physician, clinical psychologist or psychiatrist employed by  
16 the Department of Human Services (before January 1, 2011) or  
17 the Department of Healthcare and Family Services (on or after  
18 January 1, 2011) shall be ordered to perform, in his official  
19 capacity, an examination under this Section.

20 (b) If the issue of fitness involves the defendant's  
21 physical condition, the court shall appoint one or more  
22 physicians and in addition, such other experts as it may deem  
23 appropriate to examine the defendant and to report to the court  
24 regarding the defendant's condition.

1           (c) An examination ordered under this Section shall be  
2 given at the place designated by the person who will conduct  
3 the examination, except that if the defendant is being held in  
4 custody, the examination shall take place at such location as  
5 the court directs. No examinations under this Section shall be  
6 ordered to take place at mental health or developmental  
7 disabilities facilities operated by the Department of Human  
8 Services or the Department of Healthcare and Family Services.

9 If the defendant fails to keep appointments without reasonable  
10 cause or if the person conducting the examination reports to  
11 the court that diagnosis requires hospitalization or extended  
12 observation, the court may order the defendant admitted to an  
13 appropriate facility for an examination, other than a screening  
14 examination, for not more than 7 days. The court may, upon a  
15 showing of good cause, grant an additional 7 days to complete  
16 the examination.

17           (d) Release on bail or on recognizance shall not be revoked  
18 and an application therefor shall not be denied on the grounds  
19 that an examination has been ordered.

20           (e) Upon request by the defense and if the defendant is  
21 indigent, the court may appoint, in addition to the expert or  
22 experts chosen pursuant to subsection (a) of this Section, a  
23 qualified expert selected by the defendant to examine him and  
24 to make a report as provided in Section 104-15. Upon the filing  
25 with the court of a verified statement of services rendered,  
26 the court shall enter an order on the county board to pay such

1 expert a reasonable fee stated in the order.

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

3 (725 ILCS 5/104-17) (from Ch. 38, par. 104-17)

4 Sec. 104-17. Commitment for Treatment; Treatment Plan.

5 (a) If the defendant is eligible to be or has been released  
6 on bail or on his own recognizance, the court shall select the  
7 least physically restrictive form of treatment therapeutically  
8 appropriate and consistent with the treatment plan.

9 (b) If the defendant's disability is mental, the court may  
10 order him placed for treatment in the custody of the Department  
11 of Human Services (before January 1, 2011) or the Department of  
12 Healthcare and Family Services (on or after January 1, 2011),  
13 or the court may order him placed in the custody of any other  
14 appropriate public or private mental health facility or  
15 treatment program which has agreed to provide treatment to the  
16 defendant. If the defendant is placed in the custody of the  
17 Department of Human Services or the Department of Healthcare  
18 and Family Services, the defendant shall be placed in a secure  
19 setting unless the court determines that there are compelling  
20 reasons why such placement is not necessary. During the period  
21 of time required to determine the appropriate placement the  
22 defendant shall remain in jail. If upon the completion of the  
23 placement process the Department of Human Services or the  
24 Department of Healthcare and Family Services determines that  
25 the defendant is currently fit to stand trial, it shall

1 immediately notify the court and shall submit a written report  
2 within 7 days. In that circumstance the placement shall be held  
3 pending a court hearing on the Department's report. Otherwise,  
4 upon completion of the placement process, the sheriff shall be  
5 notified and shall transport the defendant to the designated  
6 facility. The placement may be ordered either on an inpatient  
7 or an outpatient basis.

8 (c) If the defendant's disability is physical, the court  
9 may order him placed under the supervision of the Department of  
10 Human Services which shall place and maintain the defendant in  
11 a suitable treatment facility or program, or the court may  
12 order him placed in an appropriate public or private facility  
13 or treatment program which has agreed to provide treatment to  
14 the defendant. The placement may be ordered either on an  
15 inpatient or an outpatient basis.

16 (d) The clerk of the circuit court shall transmit to the  
17 Department, agency or institution, if any, to which the  
18 defendant is remanded for treatment, the following:

19 (1) a certified copy of the order to undergo treatment;

20 (2) the county and municipality in which the offense  
21 was committed;

22 (3) the county and municipality in which the arrest  
23 took place;

24 (4) a copy of the arrest report, criminal charges,  
25 arrest record, jail record, and the report prepared under  
26 Section 104-15; and

1           (5) all additional matters which the Court directs the  
2 clerk to transmit.

3           (e) Within 30 days of entry of an order to undergo  
4 treatment, the person supervising the defendant's treatment  
5 shall file with the court, the State, and the defense a report  
6 assessing the facility's or program's capacity to provide  
7 appropriate treatment for the defendant and indicating his  
8 opinion as to the probability of the defendant's attaining  
9 fitness within a period of one year from the date of the  
10 finding of unfitness. If the report indicates that there is a  
11 substantial probability that the defendant will attain fitness  
12 within the time period, the treatment supervisor shall also  
13 file a treatment plan which shall include:

14           (1) A diagnosis of the defendant's disability;

15           (2) A description of treatment goals with respect to  
16 rendering the defendant fit, a specification of the  
17 proposed treatment modalities, and an estimated timetable  
18 for attainment of the goals;

19           (3) An identification of the person in charge of  
20 supervising the defendant's treatment.

21           (Source: P.A. 95-296, eff. 8-20-07; 96-310, eff. 8-11-09.)

22           (725 ILCS 5/104-23) (from Ch. 38, par. 104-23)

23           Sec. 104-23. Unfit defendants. Cases involving an unfit  
24 defendant who demands a discharge hearing or a defendant who  
25 cannot become fit to stand trial and for whom no special

1 provisions or assistance can compensate for his disability and  
2 render him fit shall proceed in the following manner:

3 (a) Upon a determination that there is not a substantial  
4 probability that the defendant will attain fitness within one  
5 year from the original finding of unfitness, a defendant or the  
6 attorney for the defendant may move for a discharge hearing  
7 pursuant to the provisions of Section 104-25. The discharge  
8 hearing shall be held within 120 days of the filing of a motion  
9 for a discharge hearing, unless the delay is occasioned by the  
10 defendant.

11 (b) If at any time the court determines that there is not a  
12 substantial probability that the defendant will become fit to  
13 stand trial or to plead within one year from the date of the  
14 original finding of unfitness, or if at the end of one year  
15 from that date the court finds the defendant still unfit and  
16 for whom no special provisions or assistance can compensate for  
17 his disabilities and render him fit, the State shall request  
18 the court:

19 (1) To set the matter for hearing pursuant to Section  
20 104-25 unless a hearing has already been held pursuant to  
21 paragraph (a) of this Section; or

22 (2) To release the defendant from custody and to  
23 dismiss with prejudice the charges against him; or

24 (3) To remand the defendant to the custody of the  
25 Department of Human Services (before January 1, 2011) or  
26 the Department of Healthcare and Family Services (on or

1       after January 1, 2011) and order a hearing to be conducted  
2       pursuant to the provisions of the Mental Health and  
3       Developmental Disabilities Code, as now or hereafter  
4       amended. The Department of Human Services or the Department  
5       of Healthcare and Family Services shall have 7 days from  
6       the date it receives the defendant to prepare and file the  
7       necessary petition and certificates that are required for  
8       commitment under the Mental Health and Developmental  
9       Disabilities Code. If the defendant is committed to the  
10       Department of Human Services or the Department of  
11       Healthcare and Family Services pursuant to such hearing,  
12       the court having jurisdiction over the criminal matter  
13       shall dismiss the charges against the defendant, with the  
14       leave to reinstate. In such cases the Department of Human  
15       Services or the Department of Healthcare and Family  
16       Services shall notify the court, the State's attorney and  
17       the defense attorney upon the discharge of the defendant. A  
18       former defendant so committed shall be treated in the same  
19       manner as any other civilly committed patient for all  
20       purposes including admission, selection of the place of  
21       treatment and the treatment modalities, entitlement to  
22       rights and privileges, transfer, and discharge. A  
23       defendant who is not committed shall be remanded to the  
24       court having jurisdiction of the criminal matter for  
25       disposition pursuant to subparagraph (1) or (2) of  
26       paragraph (b) of this Section.

1 (c) If the defendant is restored to fitness and the  
2 original charges against him are reinstated, the speedy trial  
3 provisions of Section 103-5 shall commence to run.

4 (Source: P.A. 89-439, eff. 6-1-96; 89-507, eff. 7-1-97.)

5 (725 ILCS 5/104-24) (from Ch. 38, par. 104-24)

6 Sec. 104-24. Time Credit. Time spent in custody pursuant to  
7 orders issued under Section 104-17 or 104-20 or pursuant to a  
8 commitment to the Department of Human Services or the  
9 Department of Healthcare and Family Services following a  
10 finding of unfitness or incompetency under prior law, shall be  
11 credited against any sentence imposed on the defendant in the  
12 pending criminal case or in any other case arising out of the  
13 same conduct.

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

15 (725 ILCS 5/104-25) (from Ch. 38, par. 104-25)

16 Sec. 104-25. Discharge hearing.

17 (a) As provided for in paragraph (a) of Section 104-23 and  
18 subparagraph (1) of paragraph (b) of Section 104-23 a hearing  
19 to determine the sufficiency of the evidence shall be held.  
20 Such hearing shall be conducted by the court without a jury.  
21 The State and the defendant may introduce evidence relevant to  
22 the question of defendant's guilt of the crime charged.

23 The court may admit hearsay or affidavit evidence on  
24 secondary matters such as testimony to establish the chain of



1 possession of physical evidence, laboratory reports,  
2 authentication of transcripts taken by official reporters,  
3 court and business records, and public documents.

4 (b) If the evidence does not prove the defendant guilty  
5 beyond a reasonable doubt, the court shall enter a judgment of  
6 acquittal; however nothing herein shall prevent the State from  
7 requesting the court to commit the defendant to the Department  
8 of Human Services or the Department of Healthcare and Family  
9 Services under the provisions of the Mental Health and  
10 Developmental Disabilities Code.

11 (c) If the defendant is found not guilty by reason of  
12 insanity, the court shall enter a judgment of acquittal and the  
13 proceedings after acquittal by reason of insanity under Section  
14 5-2-4 of the Unified Code of Corrections shall apply.

15 (d) If the discharge hearing does not result in an  
16 acquittal of the charge the defendant may be remanded for  
17 further treatment and the one year time limit set forth in  
18 Section 104-23 shall be extended as follows:

19 (1) If the most serious charge upon which the State  
20 sustained its burden of proof was a Class 1 or Class X  
21 felony, the treatment period may be extended up to a  
22 maximum treatment period of 2 years; if a Class 2, 3, or 4  
23 felony, the treatment period may be extended up to a  
24 maximum of 15 months;

25 (2) If the State sustained its burden of proof on a  
26 charge of first degree murder, the treatment period may be

1 extended up to a maximum treatment period of 5 years.

2 (e) Transcripts of testimony taken at a discharge hearing  
3 may be admitted in evidence at a subsequent trial of the case,  
4 subject to the rules of evidence, if the witness who gave such  
5 testimony is legally unavailable at the time of the subsequent  
6 trial.

7 (f) If the court fails to enter an order of acquittal the  
8 defendant may appeal from such judgment in the same manner  
9 provided for an appeal from a conviction in a criminal case.

10 (g) At the expiration of an extended period of treatment  
11 ordered pursuant to this Section:

12 (1) Upon a finding that the defendant is fit or can be  
13 rendered fit consistent with Section 104-22, the court may  
14 proceed with trial.

15 (2) If the defendant continues to be unfit to stand  
16 trial, the court shall determine whether he or she is  
17 subject to involuntary admission under the Mental Health  
18 and Developmental Disabilities Code or constitutes a  
19 serious threat to the public safety. If so found, the  
20 defendant shall be remanded to the Department of Human  
21 Services (before January 1, 2011) or the Department of  
22 Healthcare and Family Services (on or after January 1,  
23 2011) for further treatment and shall be treated in the  
24 same manner as a civilly committed patient for all  
25 purposes, except that the original court having  
26 jurisdiction over the defendant shall be required to

1 approve any conditional release or discharge of the  
2 defendant, for the period of commitment equal to the  
3 maximum sentence to which the defendant would have been  
4 subject had he or she been convicted in a criminal  
5 proceeding. During this period of commitment, the original  
6 court having jurisdiction over the defendant shall hold  
7 hearings under clause (i) of this paragraph (2). However,  
8 if the defendant is remanded to the Department of Human  
9 Services or the Department of Healthcare and Family  
10 Services, the defendant shall be placed in a secure setting  
11 unless the court determines that there are compelling  
12 reasons why such placement is not necessary.

13 If the defendant does not have a current treatment  
14 plan, then within 3 days of admission under this  
15 subdivision (g) (2), a treatment plan shall be prepared for  
16 each defendant and entered into his or her record. The plan  
17 shall include (i) an assessment of the defendant's  
18 treatment needs, (ii) a description of the services  
19 recommended for treatment, (iii) the goals of each type of  
20 element of service, (iv) an anticipated timetable for the  
21 accomplishment of the goals, and (v) a designation of the  
22 qualified professional responsible for the implementation  
23 of the plan. The plan shall be reviewed and updated as the  
24 clinical condition warrants, but not less than every 30  
25 days.

26 Every 90 days after the initial admission under this

1 subdivision (g)(2), the facility director shall file a  
2 typed treatment plan report with the original court having  
3 jurisdiction over the defendant. The report shall include  
4 an opinion as to whether the defendant is fit to stand  
5 trial and whether the defendant is currently subject to  
6 involuntary admission, in need of mental health services on  
7 an inpatient basis, or in need of mental health services on  
8 an outpatient basis. The report shall also summarize the  
9 basis for those findings and provide a current summary of  
10 the 5 items required in a treatment plan. A copy of the  
11 report shall be forwarded to the clerk of the court, the  
12 State's Attorney, and the defendant's attorney if the  
13 defendant is represented by counsel.

14 The court on its own motion may order a hearing to  
15 review the treatment plan. The defendant or the State's  
16 Attorney may request a treatment plan review every 90 days  
17 and the court shall review the current treatment plan to  
18 determine whether the plan complies with the requirements  
19 of this Section. The court may order an independent  
20 examination on its own initiative and shall order such an  
21 evaluation if either the recipient or the State's Attorney  
22 so requests and has demonstrated to the court that the plan  
23 cannot be effectively reviewed by the court without such an  
24 examination. Under no circumstances shall the court be  
25 required to order an independent examination pursuant to  
26 this Section more than once each year. The examination

1 shall be conducted by a psychiatrist or clinical  
2 psychologist as defined in Section 1-103 of the Mental  
3 Health and Developmental Disabilities Code who is not in  
4 the employ of the Department of Human Services (before  
5 January 1, 2011) or the Department of Healthcare and Family  
6 Services (on or after January 1, 2011).

7 If, during the period within which the defendant is  
8 confined in a secure setting, the court enters an order  
9 that requires the defendant to appear, the court shall  
10 timely transmit a copy of the order or writ to the director  
11 of the particular Department of Human Services or  
12 Department of Healthcare and Family Services facility  
13 where the defendant resides authorizing the transportation  
14 of the defendant to the court for the purpose of the  
15 hearing.

16 (i) 180 days after a defendant is remanded to the  
17 Department of Human Services or the Department of  
18 Healthcare and Family Services, under paragraph (2),  
19 and every 180 days thereafter for so long as the  
20 defendant is confined under the order entered  
21 thereunder, the court shall set a hearing and shall  
22 direct that notice of the time and place of the hearing  
23 be served upon the defendant, the facility director,  
24 the State's Attorney, and the defendant's attorney. If  
25 requested by either the State or the defense or if the  
26 court determines that it is appropriate, an impartial

1 examination of the defendant by a psychiatrist or  
2 clinical psychologist as defined in Section 1-103 of  
3 the Mental Health and Developmental Disabilities Code  
4 who is not in the employ of the Department of Human  
5 Services (before January 1, 2011) or the Department of  
6 Healthcare and Family Services (on or after January 1,  
7 2011) shall be ordered, and the report considered at  
8 the time of the hearing. If the defendant is not  
9 currently represented by counsel the court shall  
10 appoint the public defender to represent the defendant  
11 at the hearing. The court shall make a finding as to  
12 whether the defendant is:

13 (A) subject to involuntary admission; or

14 (B) in need of mental health services in the  
15 form of inpatient care; or

16 (C) in need of mental health services but not  
17 subject to involuntary admission nor inpatient  
18 care.

19 The findings of the court shall be established by clear  
20 and convincing evidence and the burden of proof and the  
21 burden of going forward with the evidence shall rest  
22 with the State's Attorney. Upon finding by the court,  
23 the court shall enter its findings and an appropriate  
24 order.

25 (ii) The terms "subject to involuntary admission",  
26 "in need of mental health services in the form of

1           inpatient care" and "in need of mental health services  
2           but not subject to involuntary admission nor inpatient  
3           care" shall have the meanings ascribed to them in  
4           clause (d)(3) of Section 5-2-4 of the Unified Code of  
5           Corrections.

6           (3) If the defendant is not committed pursuant to this  
7           Section, he or she shall be released.

8           (4) In no event may the treatment period be extended to  
9           exceed the maximum sentence to which a defendant would have  
10          been subject had he or she been convicted in a criminal  
11          proceeding. For purposes of this Section, the maximum  
12          sentence shall be determined by Section 5-8-1 (730 ILCS  
13          5/5-8-1) or Article 4.5 of Chapter V of the "Unified Code  
14          of Corrections", excluding any sentence of natural life.

15         (Source: P.A. 95-1052, eff. 7-1-09.)

16           (725 ILCS 5/104-26) (from Ch. 38, par. 104-26)

17           Sec. 104-26. Disposition of Defendants suffering  
18           disabilities.

19           (a) A defendant convicted following a trial conducted under  
20           the provisions of Section 104-22 shall not be sentenced before  
21           a written presentence report of investigation is presented to  
22           and considered by the court. The presentence report shall be  
23           prepared pursuant to Sections 5-3-2, 5-3-3 and 5-3-4 of the  
24           Unified Code of Corrections, as now or hereafter amended, and  
25           shall include a physical and mental examination unless the

1 court finds that the reports of prior physical and mental  
2 examinations conducted pursuant to this Article are adequate  
3 and recent enough so that additional examinations would be  
4 unnecessary.

5 (b) A defendant convicted following a trial under Section  
6 104-22 shall not be subject to the death penalty.

7 (c) A defendant convicted following a trial under Section  
8 104-22 shall be sentenced according to the procedures and  
9 dispositions authorized under the Unified Code of Corrections,  
10 as now or hereafter amended, subject to the following  
11 provisions:

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

22 (2) After imposing a sentence of imprisonment upon an  
23 offender who has a mental disability, the court may remand  
24 him to the custody of the Department of Human Services  
25 (before January 1, 2011) or the Department of Healthcare  
26 and Family Services (on or after January 1, 2011) and order



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

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

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

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

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

21 (6) The Department of Corrections shall notify the  
22 Department of Human Services or the Department of  
23 Healthcare and Family Services or a facility in which an  
24 offender has been placed pursuant to subparagraph (2) or  
25 (4) of paragraph (c) of this Section of the expiration of  
26 his sentence. Thereafter, an offender in the Department of

1           Human Services or the Department of Healthcare and Family  
2           Services shall continue to be treated pursuant to his  
3           commitment order and shall be considered a civilly  
4           committed patient for all purposes including discharge. An  
5           offender who is in a facility pursuant to subparagraph (4)  
6           of paragraph (c) of this Section shall be informed by the  
7           facility of the expiration of his sentence, and shall  
8           either consent to the continuation of his care or treatment  
9           by the facility or shall be discharged.

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

11           (725 ILCS 5/104-30) (from Ch. 38, par. 104-30)

12           Sec. 104-30. Notice to Law Enforcement Agencies Regarding  
13           Release of Defendants.

14           (a) Prior to the release by the Department of Human  
15           Services or the Department of Healthcare and Family Services of  
16           any person admitted pursuant to any provision of this Article,  
17           the Department of Human Services or the Department of  
18           Healthcare and Family Services shall give written notice to the  
19           Sheriff of the county from which the defendant was admitted. In  
20           cases where the arrest of the defendant or the commission of  
21           the offense took place in any municipality with a population of  
22           more than 25,000 persons, the Department of Human Services or  
23           the Department of Healthcare and Family Services shall also  
24           give written notice to the proper law enforcement agency for  
25           said municipality, provided the municipality has requested

1 such notice in writing.

2 (b) Where a defendant in the custody of the Department of  
3 Human Services or the Department of Healthcare and Family  
4 Services under any provision of this Article is released  
5 pursuant to an order of court, the clerk of the circuit court  
6 shall, after the entry of the order, transmit a certified copy  
7 of the order of release to the Department of Human Services or  
8 the Department of Healthcare and Family Services and the  
9 Sheriff of the county from which the defendant was admitted. In  
10 cases where the arrest of the defendant or the commission of  
11 the offense took place in any municipality with a population of  
12 more than 25,000 persons, the Clerk of the circuit court shall  
13 also send a certified copy of the order of release to the  
14 proper law enforcement agency for said municipality provided  
15 the municipality has requested such notice in writing.

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

17 (725 ILCS 5/104-31) (from Ch. 38, par. 104-31)

18 Sec. 104-31. No defendant placed in a secure setting of the  
19 Department of Human Services or the Department of Healthcare  
20 and Family Services pursuant to the provisions of Sections  
21 104-17, 104-25, or 104-26 shall be permitted outside the  
22 facility's housing unit unless escorted or accompanied by  
23 personnel of the Department of Human Services or the Department  
24 of Healthcare and Family Services. Any defendant placed in a  
25 secure setting pursuant to this Section, transported to court

1 hearings or other necessary appointments off facility grounds  
2 by personnel of the Department of Human Services or the  
3 Department of Healthcare and Family Services, may be placed in  
4 security devices or otherwise secured during the period of  
5 transportation to assure secure transport of the defendant and  
6 the safety of Department of Human Services or Department of  
7 Healthcare and Family Services personnel and others. These  
8 security measures shall not constitute restraint as defined in  
9 the Mental Health and Developmental Disabilities Code. Nor  
10 shall such defendant be permitted any off-grounds privileges,  
11 either with or without escort by personnel of the Department of  
12 Human Services or the Department of Healthcare and Family  
13 Services, or any unsupervised on-ground privileges, unless  
14 such off-grounds or unsupervised on-grounds privileges have  
15 been approved by specific court order, which order may include  
16 such conditions on the defendant as the court may deem  
17 appropriate and necessary to reasonably assure the defendant's  
18 satisfactory progress in treatment and the safety of the  
19 defendant or others. Whenever the court receives a report from  
20 the supervisor of the defendant's treatment recommending the  
21 defendant for any off-grounds or unsupervised on-grounds  
22 privileges, or placement in a non-secure setting, the court  
23 shall set the matter for a first hearing within 21 days unless  
24 good cause is demonstrated why the hearing cannot be held.

25 (Source: P.A. 95-296, eff. 8-20-07.)

1 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

2 Sec. 110-5. Determining the amount of bail and conditions  
3 of release.

4 (a) In determining the amount of monetary bail or  
5 conditions of release, if any, which will reasonably assure the  
6 appearance of a defendant as required or the safety of any  
7 other person or the community and the likelihood of compliance  
8 by the defendant with all the conditions of bail, the court  
9 shall, on the basis of available information, take into account  
10 such matters as the nature and circumstances of the offense  
11 charged, whether the evidence shows that as part of the offense  
12 there was a use of violence or threatened use of violence,  
13 whether the offense involved corruption of public officials or  
14 employees, whether there was physical harm or threats of  
15 physical harm to any public official, public employee, judge,  
16 prosecutor, juror or witness, senior citizen, child or  
17 handicapped person, whether evidence shows that during the  
18 offense or during the arrest the defendant possessed or used a  
19 firearm, machine gun, explosive or metal piercing ammunition or  
20 explosive bomb device or any military or paramilitary armament,  
21 whether the evidence shows that the offense committed was  
22 related to or in furtherance of the criminal activities of an  
23 organized gang or was motivated by the defendant's membership  
24 in or allegiance to an organized gang, the condition of the  
25 victim, any written statement submitted by the victim or  
26 proffer or representation by the State regarding the impact

1 which the alleged criminal conduct has had on the victim and  
2 the victim's concern, if any, with further contact with the  
3 defendant if released on bail, whether the offense was based on  
4 racial, religious, sexual orientation or ethnic hatred, the  
5 likelihood of the filing of a greater charge, the likelihood of  
6 conviction, the sentence applicable upon conviction, the  
7 weight of the evidence against such defendant, whether there  
8 exists motivation or ability to flee, whether there is any  
9 verification as to prior residence, education, or family ties  
10 in the local jurisdiction, in another county, state or foreign  
11 country, the defendant's employment, financial resources,  
12 character and mental condition, past conduct, prior use of  
13 alias names or dates of birth, and length of residence in the  
14 community, the consent of the defendant to periodic drug  
15 testing in accordance with Section 110-6.5, whether a foreign  
16 national defendant is lawfully admitted in the United States of  
17 America, whether the government of the foreign national  
18 maintains an extradition treaty with the United States by which  
19 the foreign government will extradite to the United States its  
20 national for a trial for a crime allegedly committed in the  
21 United States, whether the defendant is currently subject to  
22 deportation or exclusion under the immigration laws of the  
23 United States, whether the defendant, although a United States  
24 citizen, is considered under the law of any foreign state a  
25 national of that state for the purposes of extradition or  
26 non-extradition to the United States, the amount of unrecovered

1 proceeds lost as a result of the alleged offense, the source of  
2 bail funds tendered or sought to be tendered for bail, whether  
3 from the totality of the court's consideration, the loss of  
4 funds posted or sought to be posted for bail will not deter the  
5 defendant from flight, whether the evidence shows that the  
6 defendant is engaged in significant possession, manufacture,  
7 or delivery of a controlled substance or cannabis, either  
8 individually or in consort with others, whether at the time of  
9 the offense charged he was on bond or pre-trial release pending  
10 trial, probation, periodic imprisonment or conditional  
11 discharge pursuant to this Code or the comparable Code of any  
12 other state or federal jurisdiction, whether the defendant is  
13 on bond or pre-trial release pending the imposition or  
14 execution of sentence or appeal of sentence for any offense  
15 under the laws of Illinois or any other state or federal  
16 jurisdiction, whether the defendant is under parole or  
17 mandatory supervised release or work release from the Illinois  
18 Department of Corrections or any penal institution or  
19 corrections department of any state or federal jurisdiction,  
20 the defendant's record of convictions, whether the defendant  
21 has been convicted of a misdemeanor or ordinance offense in  
22 Illinois or similar offense in other state or federal  
23 jurisdiction within the 10 years preceding the current charge  
24 or convicted of a felony in Illinois, whether the defendant was  
25 convicted of an offense in another state or federal  
26 jurisdiction that would be a felony if committed in Illinois



1 within the 20 years preceding the current charge or has been  
2 convicted of such felony and released from the penitentiary  
3 within 20 years preceding the current charge if a penitentiary  
4 sentence was imposed in Illinois or other state or federal  
5 jurisdiction, the defendant's records of juvenile adjudication  
6 of delinquency in any jurisdiction, any record of appearance or  
7 failure to appear by the defendant at court proceedings,  
8 whether there was flight to avoid arrest or prosecution,  
9 whether the defendant escaped or attempted to escape to avoid  
10 arrest, whether the defendant refused to identify himself, or  
11 whether there was a refusal by the defendant to be  
12 fingerprinted as required by law. Information used by the court  
13 in its findings or stated in or offered in connection with this  
14 Section may be by way of proffer based upon reliable  
15 information offered by the State or defendant. All evidence  
16 shall be admissible if it is relevant and reliable regardless  
17 of whether it would be admissible under the rules of evidence  
18 applicable at criminal trials. If the State presents evidence  
19 that the offense committed by the defendant was related to or  
20 in furtherance of the criminal activities of an organized gang  
21 or was motivated by the defendant's membership in or allegiance  
22 to an organized gang, and if the court determines that the  
23 evidence may be substantiated, the court shall prohibit the  
24 defendant from associating with other members of the organized  
25 gang as a condition of bail or release. For the purposes of  
26 this Section, "organized gang" has the meaning ascribed to it

1 in Section 10 of the Illinois Streetgang Terrorism Omnibus  
2 Prevention Act.

3 (b) The amount of bail shall be:

4 (1) Sufficient to assure compliance with the  
5 conditions set forth in the bail bond, which shall include  
6 the defendant's current address with a written  
7 admonishment to the defendant that he or she must comply  
8 with the provisions of Section 110-12 regarding any change  
9 in his or her address. The defendant's address shall at all  
10 times remain a matter of public record with the clerk of  
11 the court.

12 (2) Not oppressive.

13 (3) Considerate of the financial ability of the  
14 accused.

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

1 seized.

2 (b-5) Upon the filing of a written request demonstrating  
3 reasonable cause, the State's Attorney may request a source of  
4 bail hearing either before or after the posting of any funds.  
5 If the hearing is granted, before the posting of any bail, the  
6 accused must file a written notice requesting that the court  
7 conduct a source of bail hearing. The notice must be  
8 accompanied by justifying affidavits stating the legitimate  
9 and lawful source of funds for bail. At the hearing, the court  
10 shall inquire into any matters stated in any justifying  
11 affidavits, and may also inquire into matters appropriate to  
12 the determination which shall include, but are not limited to,  
13 the following:

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

16 (2) the source of any money or property deposited by  
17 any surety, and whether any such money or property  
18 constitutes the fruits of criminal or unlawful conduct; and

19 (3) the source of any money posted as cash bail, and  
20 whether any such money constitutes the fruits of criminal  
21 or unlawful conduct; and

22 (4) the background, character, reputation, and  
23 relationship to the accused of the person posting cash  
24 bail.

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

1           The State's Attorney has a right to attend the hearing, to  
2 call witnesses and to examine any witness in the proceeding.  
3 The court shall, upon request of the State's Attorney, continue  
4 the proceedings for a reasonable period to allow the State's  
5 Attorney to investigate the matter raised in any testimony or  
6 affidavit. If the hearing is granted after the accused has  
7 posted bail, the court shall conduct a hearing consistent with  
8 this subsection (b-5). At the conclusion of the hearing, the  
9 court must issue an order either approving or disapproving the  
10 bail.

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

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

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

19           (f) When a person is charged with a violation of an order  
20 of protection under Section 12-30 of the Criminal Code of 1961,

21                 (1) whether the alleged incident involved harassment  
22 or abuse, as defined in the Illinois Domestic Violence Act  
23 of 1986;

24                 (2) whether the person has a history of domestic  
25 violence, as defined in the Illinois Domestic Violence Act,  
26 or a history of other criminal acts;

1 (3) based on the mental health of the person;

2 (4) whether the person has a history of violating the  
3 orders of any court or governmental entity;

4 (5) whether the person has been, or is, potentially a  
5 threat to any other person;

6 (6) whether the person has access to deadly weapons or  
7 a history of using deadly weapons;

8 (7) whether the person has a history of abusing alcohol  
9 or any controlled substance;

10 (8) based on the severity of the alleged incident that  
11 is the basis of the alleged offense, including, but not  
12 limited to, the duration of the current incident, and  
13 whether the alleged incident involved physical injury,  
14 sexual assault, strangulation, abuse during the alleged  
15 victim's pregnancy, abuse of pets, or forcible entry to  
16 gain access to the alleged victim;

17 (9) whether a separation of the person from the alleged  
18 victim or a termination of the relationship between the  
19 person and the alleged victim has recently occurred or is  
20 pending;

21 (10) whether the person has exhibited obsessive or  
22 controlling behaviors toward the alleged victim,  
23 including, but not limited to, stalking, surveillance, or  
24 isolation of the alleged victim or victim's family member  
25 or members;

26 (11) whether the person has expressed suicidal or

1 homicidal ideations;

2 (12) based on any information contained in the  
3 complaint and any police reports, affidavits, or other  
4 documents accompanying the complaint,

5 the court may, in its discretion, order the respondent to  
6 undergo a risk assessment evaluation conducted by an Illinois  
7 Department of Human Services (before January 1, 2011) or the  
8 Department of Healthcare and Family Services (on or after  
9 January 1, 2011) approved partner abuse intervention program  
10 provider, pretrial service, probation, or parole agency. These  
11 agencies shall have access to summaries of the defendant's  
12 criminal history, which shall not include victim interviews or  
13 information, for the risk evaluation. Based on the information  
14 collected from the 12 points to be considered at a bail hearing  
15 for a violation of an order of protection, the results of any  
16 risk evaluation conducted and the other circumstances of the  
17 violation, the court may order that the person, as a condition  
18 of bail, be placed under electronic surveillance as provided in  
19 Section 5-8A-7 of the Unified Code of Corrections.

20 (Source: P.A. 95-773, eff. 1-1-09; 96-688, eff. 8-25-09.)

21 (725 ILCS 5/110-6.3) (from Ch. 38, par. 110-6.3)

22 Sec. 110-6.3. Denial of bail in stalking and aggravated  
23 stalking offenses.

24 (a) Upon verified petition by the State, the court shall  
25 hold a hearing to determine whether bail should be denied to a

1 defendant who is charged with stalking or aggravated stalking,  
2 when it is alleged that the defendant's admission to bail poses  
3 a real and present threat to the physical safety of the alleged  
4 victim of the offense, and denial of release on bail or  
5 personal recognizance is necessary to prevent fulfillment of  
6 the threat upon which the charge is based.

7 (1) A petition may be filed without prior notice to the  
8 defendant at the first appearance before a judge, or within  
9 21 calendar days, except as provided in Section 110-6,  
10 after arrest and release of the defendant upon reasonable  
11 notice to defendant; provided that while the petition is  
12 pending before the court, the defendant if previously  
13 released shall not be detained.

14 (2) The hearing shall be held immediately upon the  
15 defendant's appearance before the court, unless for good  
16 cause shown the defendant or the State seeks a continuance.  
17 A continuance on motion of the defendant may not exceed 5  
18 calendar days, and the defendant may be held in custody  
19 during the continuance. A continuance on the motion of the  
20 State may not exceed 3 calendar days; however, the  
21 defendant may be held in custody during the continuance  
22 under this provision if the defendant has been previously  
23 found to have violated an order of protection or has been  
24 previously convicted of, or granted court supervision for,  
25 any of the offenses set forth in Sections 12-2, 12-3.2,  
26 12-3.3, 12-4, 12-4.1, 12-7.3, 12-7.4, 12-13, 12-14,

1 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961,  
2 against the same person as the alleged victim of the  
3 stalking or aggravated stalking offense.

4 (b) The court may deny bail to the defendant when, after  
5 the hearing, it is determined that:

6 (1) the proof is evident or the presumption great that  
7 the defendant has committed the offense of stalking or  
8 aggravated stalking; and

9 (2) the defendant poses a real and present threat to  
10 the physical safety of the alleged victim of the offense;  
11 and

12 (3) the denial of release on bail or personal  
13 recognizance is necessary to prevent fulfillment of the  
14 threat upon which the charge is based; and

15 (4) the court finds that no condition or combination of  
16 conditions set forth in subsection (b) of Section 110-10 of  
17 this Code, including mental health treatment at a community  
18 mental health center, hospital, or facility of the  
19 Department of Human Services or the Department of  
20 Healthcare and Family Services, can reasonably assure the  
21 physical safety of the alleged victim of the offense.

22 (c) Conduct of the hearings.

23 (1) The hearing on the defendant's culpability and  
24 threat to the alleged victim of the offense shall be  
25 conducted in accordance with the following provisions:

26 (A) Information used by the court in its findings



1 or stated in or offered at the hearing may be by way of  
2 proffer based upon reliable information offered by the  
3 State or by defendant. Defendant has the right to be  
4 represented by counsel, and if he is indigent, to have  
5 counsel appointed for him. Defendant shall have the  
6 opportunity to testify, to present witnesses in his own  
7 behalf, and to cross-examine witnesses if any are  
8 called by the State. The defendant has the right to  
9 present witnesses in his favor. When the ends of  
10 justice so require, the court may exercise its  
11 discretion and compel the appearance of a complaining  
12 witness. The court shall state on the record reasons  
13 for granting a defense request to compel the presence  
14 of a complaining witness. Cross-examination of a  
15 complaining witness at the pretrial detention hearing  
16 for the purpose of impeaching the witness' credibility  
17 is insufficient reason to compel the presence of the  
18 witness. In deciding whether to compel the appearance  
19 of a complaining witness, the court shall be  
20 considerate of the emotional and physical well-being  
21 of the witness. The pretrial detention hearing is not  
22 to be used for the purposes of discovery, and the post  
23 arraignment rules of discovery do not apply. The State  
24 shall tender to the defendant, prior to the hearing,  
25 copies of defendant's criminal history, if any, if  
26 available, and any written or recorded statements and

1 the substance of any oral statements made by any  
2 person, if relied upon by the State. The rules  
3 concerning the admissibility of evidence in criminal  
4 trials do not apply to the presentation and  
5 consideration of information at the hearing. At the  
6 trial concerning the offense for which the hearing was  
7 conducted neither the finding of the court nor any  
8 transcript or other record of the hearing shall be  
9 admissible in the State's case in chief, but shall be  
10 admissible for impeachment, or as provided in Section  
11 115-10.1 of this Code, or in a perjury proceeding.

12 (B) A motion by the defendant to suppress evidence  
13 or to suppress a confession shall not be entertained.  
14 Evidence that proof may have been obtained as the  
15 result of an unlawful search and seizure or through  
16 improper interrogation is not relevant to this state of  
17 the prosecution.

18 (2) The facts relied upon by the court to support a  
19 finding that:

20 (A) the defendant poses a real and present threat  
21 to the physical safety of the alleged victim of the  
22 offense; and

23 (B) the denial of release on bail or personal  
24 recognizance is necessary to prevent fulfillment of  
25 the threat upon which the charge is based;

26 shall be supported by clear and convincing evidence

1 presented by the State.

2 (d) Factors to be considered in making a determination of  
3 the threat to the alleged victim of the offense. The court may,  
4 in determining whether the defendant poses, at the time of the  
5 hearing, a real and present threat to the physical safety of  
6 the alleged victim of the offense, consider but shall not be  
7 limited to evidence or testimony concerning:

8 (1) The nature and circumstances of the offense  
9 charged;

10 (2) The history and characteristics of the defendant  
11 including:

12 (A) Any evidence of the defendant's prior criminal  
13 history indicative of violent, abusive or assaultive  
14 behavior, or lack of that behavior. The evidence may  
15 include testimony or documents received in juvenile  
16 proceedings, criminal, quasi-criminal, civil  
17 commitment, domestic relations or other proceedings;

18 (B) Any evidence of the defendant's psychological,  
19 psychiatric or other similar social history that tends  
20 to indicate a violent, abusive, or assaultive nature,  
21 or lack of any such history.

22 (3) The nature of the threat which is the basis of the  
23 charge against the defendant;

24 (4) Any statements made by, or attributed to the  
25 defendant, together with the circumstances surrounding  
26 them;

1           (5) The age and physical condition of any person  
2 assaulted by the defendant;

3           (6) Whether the defendant is known to possess or have  
4 access to any weapon or weapons;

5           (7) Whether, at the time of the current offense or any  
6 other offense or arrest, the defendant was on probation,  
7 parole, mandatory supervised release or other release from  
8 custody pending trial, sentencing, appeal or completion of  
9 sentence for an offense under federal or state law;

10          (8) Any other factors, including those listed in  
11 Section 110-5 of this Code, deemed by the court to have a  
12 reasonable bearing upon the defendant's propensity or  
13 reputation for violent, abusive or assaultive behavior, or  
14 lack of that behavior.

15          (e) The court shall, in any order denying bail to a person  
16 charged with stalking or aggravated stalking:

17           (1) briefly summarize the evidence of the defendant's  
18 culpability and its reasons for concluding that the  
19 defendant should be held without bail;

20           (2) direct that the defendant be committed to the  
21 custody of the sheriff for confinement in the county jail  
22 pending trial;

23           (3) direct that the defendant be given a reasonable  
24 opportunity for private consultation with counsel, and for  
25 communication with others of his choice by visitation, mail  
26 and telephone; and

1           (4) direct that the sheriff deliver the defendant as  
2           required for appearances in connection with court  
3           proceedings.

4           (f) If the court enters an order for the detention of the  
5           defendant under subsection (e) of this Section, the defendant  
6           shall be brought to trial on the offense for which he is  
7           detained within 90 days after the date on which the order for  
8           detention was entered. If the defendant is not brought to trial  
9           within the 90 day period required by this subsection (f), he  
10          shall not be held longer without bail. In computing the 90 day  
11          period, the court shall omit any period of delay resulting from  
12          a continuance granted at the request of the defendant. The  
13          court shall immediately notify the alleged victim of the  
14          offense that the defendant has been admitted to bail under this  
15          subsection.

16          (g) Any person shall be entitled to appeal any order  
17          entered under this Section denying bail to the defendant.

18          (h) The State may appeal any order entered under this  
19          Section denying any motion for denial of bail.

20          (i) Nothing in this Section shall be construed as modifying  
21          or limiting in any way the defendant's presumption of innocence  
22          in further criminal proceedings.

23          (Source: P.A. 90-14, eff. 7-1-97; 91-445, eff. 1-1-00.)

24                 Section 1165. The Rights of Crime Victims and Witnesses Act  
25                 is amended by changing Sections 4.5, 5, 8.5, and 9 as follows:

1 (725 ILCS 120/4.5)

2 Sec. 4.5. Procedures to implement the rights of crime  
3 victims. To afford crime victims their rights, law enforcement,  
4 prosecutors, judges and corrections will provide information,  
5 as appropriate of the following procedures:

6 (a) At the request of the crime victim, law enforcement  
7 authorities investigating the case shall provide notice of the  
8 status of the investigation, except where the State's Attorney  
9 determines that disclosure of such information would  
10 unreasonably interfere with the investigation, until such time  
11 as the alleged assailant is apprehended or the investigation is  
12 closed.

13 (b) The office of the State's Attorney:

14 (1) shall provide notice of the filing of information,  
15 the return of an indictment by which a prosecution for any  
16 violent crime is commenced, or the filing of a petition to  
17 adjudicate a minor as a delinquent for a violent crime;

18 (2) shall provide notice of the date, time, and place  
19 of trial;

20 (3) or victim advocate personnel shall provide  
21 information of social services and financial assistance  
22 available for victims of crime, including information of  
23 how to apply for these services and assistance;

24 (4) shall assist in having any stolen or other personal  
25 property held by law enforcement authorities for

1           evidentiary or other purposes returned as expeditiously as  
2           possible, pursuant to the procedures set out in Section  
3           115-9 of the Code of Criminal Procedure of 1963;

4           (5) or victim advocate personnel shall provide  
5           appropriate employer intercession services to ensure that  
6           employers of victims will cooperate with the criminal  
7           justice system in order to minimize an employee's loss of  
8           pay and other benefits resulting from court appearances;

9           (6) shall provide information whenever possible, of a  
10          secure waiting area during court proceedings that does not  
11          require victims to be in close proximity to defendant or  
12          juveniles accused of a violent crime, and their families  
13          and friends;

14          (7) shall provide notice to the crime victim of the  
15          right to have a translator present at all court proceedings  
16          and, in compliance with the federal Americans with  
17          Disabilities Act of 1990, the right to communications  
18          access through a sign language interpreter or by other  
19          means;

20          (8) in the case of the death of a person, which death  
21          occurred in the same transaction or occurrence in which  
22          acts occurred for which a defendant is charged with an  
23          offense, shall notify the spouse, parent, child or sibling  
24          of the decedent of the date of the trial of the person or  
25          persons allegedly responsible for the death;

26          (9) shall inform the victim of the right to have

1 present at all court proceedings, subject to the rules of  
2 evidence, an advocate or other support person of the  
3 victim's choice, and the right to retain an attorney, at  
4 the victim's own expense, who, upon written notice filed  
5 with the clerk of the court and State's Attorney, is to  
6 receive copies of all notices, motions and court orders  
7 filed thereafter in the case, in the same manner as if the  
8 victim were a named party in the case;

9 (10) at the sentencing hearing shall make a good faith  
10 attempt to explain the minimum amount of time during which  
11 the defendant may actually be physically imprisoned. The  
12 Office of the State's Attorney shall further notify the  
13 crime victim of the right to request from the Prisoner  
14 Review Board information concerning the release of the  
15 defendant under subparagraph (d) (1) of this Section;

16 (11) shall request restitution at sentencing and shall  
17 consider restitution in any plea negotiation, as provided  
18 by law; and

19 (12) shall, upon the court entering a verdict of not  
20 guilty by reason of insanity, inform the victim of the  
21 notification services available from the Department of  
22 Human Services or the Department of Healthcare and Family  
23 Services, including the statewide telephone number, under  
24 subparagraph (d) (2) of this Section.

25 (c) At the written request of the crime victim, the office  
26 of the State's Attorney shall:



1           (1) provide notice a reasonable time in advance of the  
2 following court proceedings: preliminary hearing, any  
3 hearing the effect of which may be the release of defendant  
4 from custody, or to alter the conditions of bond and the  
5 sentencing hearing. The crime victim shall also be notified  
6 of the cancellation of the court proceeding in sufficient  
7 time, wherever possible, to prevent an unnecessary  
8 appearance in court;

9           (2) provide notice within a reasonable time after  
10 receipt of notice from the custodian, of the release of the  
11 defendant on bail or personal recognizance or the release  
12 from detention of a minor who has been detained for a  
13 violent crime;

14           (3) explain in nontechnical language the details of any  
15 plea or verdict of a defendant, or any adjudication of a  
16 juvenile as a delinquent for a violent crime;

17           (4) where practical, consult with the crime victim  
18 before the Office of the State's Attorney makes an offer of  
19 a plea bargain to the defendant or enters into negotiations  
20 with the defendant concerning a possible plea agreement,  
21 and shall consider the written victim impact statement, if  
22 prepared prior to entering into a plea agreement;

23           (5) provide notice of the ultimate disposition of the  
24 cases arising from an indictment or an information, or a  
25 petition to have a juvenile adjudicated as a delinquent for  
26 a violent crime;

1           (6) provide notice of any appeal taken by the defendant  
2           and information on how to contact the appropriate agency  
3           handling the appeal;

4           (7) provide notice of any request for post-conviction  
5           review filed by the defendant under Article 122 of the Code  
6           of Criminal Procedure of 1963, and of the date, time and  
7           place of any hearing concerning the petition. Whenever  
8           possible, notice of the hearing shall be given in advance;

9           (8) forward a copy of any statement presented under  
10          Section 6 to the Prisoner Review Board to be considered by  
11          the Board in making its determination under subsection (b)  
12          of Section 3-3-8 of the Unified Code of Corrections.

13          (d) (1) The Prisoner Review Board shall inform a victim or  
14          any other concerned citizen, upon written request, of the  
15          prisoner's release on parole, mandatory supervised release,  
16          electronic detention, work release, international transfer or  
17          exchange, or by the custodian of the discharge of any  
18          individual who was adjudicated a delinquent for a violent crime  
19          from State custody and by the sheriff of the appropriate county  
20          of any such person's final discharge from county custody. The  
21          Prisoner Review Board, upon written request, shall provide to a  
22          victim or any other concerned citizen a recent photograph of  
23          any person convicted of a felony, upon his or her release from  
24          custody. The Prisoner Review Board, upon written request, shall  
25          inform a victim or any other concerned citizen when feasible at  
26          least 7 days prior to the prisoner's release on furlough of the

1 times and dates of such furlough. Upon written request by the  
2 victim or any other concerned citizen, the State's Attorney  
3 shall notify the person once of the times and dates of release  
4 of a prisoner sentenced to periodic imprisonment. Notification  
5 shall be based on the most recent information as to victim's or  
6 other concerned citizen's residence or other location  
7 available to the notifying authority.

8 (2) When the defendant has been committed to the Department  
9 of Human Services or the Department of Healthcare and Family  
10 Services pursuant to Section 5-2-4 or any other provision of  
11 the Unified Code of Corrections, the victim may request to be  
12 notified by the releasing authority of the defendant's  
13 furloughs, temporary release, or final discharge from State  
14 custody. The Department of Human Services or the Department of  
15 Healthcare and Family Services shall establish and maintain a  
16 statewide telephone number to be used by victims to make  
17 notification requests under these provisions and shall  
18 publicize this telephone number on its website and to the  
19 State's Attorney of each county.

20 (3) In the event of an escape from State custody, the  
21 Department of Corrections or the Department of Juvenile Justice  
22 immediately shall notify the Prisoner Review Board of the  
23 escape and the Prisoner Review Board shall notify the victim.  
24 The notification shall be based upon the most recent  
25 information as to the victim's residence or other location  
26 available to the Board. When no such information is available,

1 the Board shall make all reasonable efforts to obtain the  
2 information and make the notification. When the escapee is  
3 apprehended, the Department of Corrections or the Department of  
4 Juvenile Justice immediately shall notify the Prisoner Review  
5 Board and the Board shall notify the victim.

6 (4) The victim of the crime for which the prisoner has been  
7 sentenced shall receive reasonable written notice not less than  
8 30 days prior to the parole interview and may submit, in  
9 writing, on film, videotape or other electronic means or in the  
10 form of a recording or in person at the parole interview or if  
11 a victim of a violent crime, by calling the toll-free number  
12 established in subsection (f) of this Section, information for  
13 consideration by the Prisoner Review Board. The victim shall be  
14 notified within 7 days after the prisoner has been granted  
15 parole and shall be informed of the right to inspect the  
16 registry of parole decisions, established under subsection (g)  
17 of Section 3-3-5 of the Unified Code of Corrections. The  
18 provisions of this paragraph (4) are subject to the Open Parole  
19 Hearings Act.

20 (5) If a statement is presented under Section 6, the  
21 Prisoner Review Board shall inform the victim of any order of  
22 discharge entered by the Board pursuant to Section 3-3-8 of the  
23 Unified Code of Corrections.

24 (6) At the written request of the victim of the crime for  
25 which the prisoner was sentenced or the State's Attorney of the  
26 county where the person seeking parole was prosecuted, the

1 Prisoner Review Board shall notify the victim and the State's  
2 Attorney of the county where the person seeking parole was  
3 prosecuted of the death of the prisoner if the prisoner died  
4 while on parole or mandatory supervised release.

5 (7) When a defendant who has been committed to the  
6 Department of Corrections, the Department of Juvenile Justice,  
7 ~~or~~ the Department of Human Services, or the Department of  
8 Healthcare and Family Services is released or discharged and  
9 subsequently committed to the Department of Human Services or  
10 the Department of Healthcare and Family Services as a sexually  
11 violent person and the victim had requested to be notified by  
12 the releasing authority of the defendant's discharge from State  
13 custody, the releasing authority shall provide to the  
14 Department of Human Services or the Department of Healthcare  
15 and Family Services such information that would allow the  
16 Department of Human Services or the Department of Healthcare  
17 and Family Services to contact the victim.

18 (8) When a defendant has been convicted of a sex offense as  
19 defined in Section 2 of the Sex Offender Registration Act and  
20 has been sentenced to the Department of Corrections or the  
21 Department of Juvenile Justice, the Prisoner Review Board shall  
22 notify the victim of the sex offense of the prisoner's  
23 eligibility for release on parole, mandatory supervised  
24 release, electronic detention, work release, international  
25 transfer or exchange, or by the custodian of the discharge of  
26 any individual who was adjudicated a delinquent for a sex

1 offense from State custody and by the sheriff of the  
2 appropriate county of any such person's final discharge from  
3 county custody. The notification shall be made to the victim at  
4 least 30 days, whenever possible, before release of the sex  
5 offender.

6 (e) The officials named in this Section may satisfy some or  
7 all of their obligations to provide notices and other  
8 information through participation in a statewide victim and  
9 witness notification system established by the Attorney  
10 General under Section 8.5 of this Act.

11 (f) To permit a victim of a violent crime to provide  
12 information to the Prisoner Review Board for consideration by  
13 the Board at a parole hearing of a person who committed the  
14 crime against the victim in accordance with clause (d)(4) of  
15 this Section or at a proceeding to determine the conditions of  
16 mandatory supervised release of a person sentenced to a  
17 determinate sentence or at a hearing on revocation of mandatory  
18 supervised release of a person sentenced to a determinate  
19 sentence, the Board shall establish a toll-free number that may  
20 be accessed by the victim of a violent crime to present that  
21 information to the Board.

22 (Source: P.A. 95-317, eff. 8-21-07; 95-896, eff. 1-1-09;  
23 95-897, eff. 1-1-09; 95-904, eff. 1-1-09; 96-328, eff. 8-11-09;  
24 96-875, eff. 1-22-10.)

25 (725 ILCS 120/5) (from Ch. 38, par. 1405)

1           Sec. 5. Rights of Witnesses.

2           (a) Witnesses as defined in subsection (b) of Section 3 of  
3 this Act shall have the following rights:

4           (1) to be notified by the Office of the State's  
5 Attorney of all court proceedings at which the witness'  
6 presence is required in a reasonable amount of time prior  
7 to the proceeding, and to be notified of the cancellation  
8 of any scheduled court proceeding in sufficient time to  
9 prevent an unnecessary appearance in court, where  
10 possible;

11           (2) to be provided with appropriate employer  
12 intercession services by the Office of the State's Attorney  
13 or the victim advocate personnel to ensure that employers  
14 of witnesses will cooperate with the criminal justice  
15 system in order to minimize an employee's loss of pay and  
16 other benefits resulting from court appearances;

17           (3) to be provided, whenever possible, a secure waiting  
18 area during court proceedings that does not require  
19 witnesses to be in close proximity to defendants and their  
20 families and friends;

21           (4) to be provided with notice by the Office of the  
22 State's Attorney, where necessary, of the right to have a  
23 translator present whenever the witness' presence is  
24 required and, in compliance with the federal Americans with  
25 Disabilities Act of 1990, to be provided with notice of the  
26 right to communications access through a sign language

1 interpreter or by other means.

2 (b) At the written request of the witness, the witness  
3 shall:

4 (1) receive notice from the office of the State's  
5 Attorney of any request for post-conviction review filed by  
6 the defendant under Article 122 of the Code of Criminal  
7 Procedure of 1963, and of the date, time, and place of any  
8 hearing concerning the petition for post-conviction  
9 review; whenever possible, notice of the hearing on the  
10 petition shall be given in advance;

11 (2) receive notice by the releasing authority of the  
12 defendant's discharge from State custody if the defendant  
13 was committed to the Department of Human Services or the  
14 Department of Healthcare and Family Services under Section  
15 5-2-4 or any other provision of the Unified Code of  
16 Corrections;

17 (3) receive notice from the Prisoner Review Board of  
18 the prisoner's escape from State custody, after the Board  
19 has been notified of the escape by the Department of  
20 Corrections or the Department of Juvenile Justice; when the  
21 escapee is apprehended, the Department of Corrections or  
22 the Department of Juvenile Justice shall immediately  
23 notify the Prisoner Review Board and the Board shall notify  
24 the witness;

25 (4) receive notice from the Prisoner Review Board of  
26 the prisoner's release on parole, electronic detention,



1 work release or mandatory supervised release and of the  
2 prisoner's final discharge from parole, electronic  
3 detention, work release, or mandatory supervised release.  
4 (Source: P.A. 94-696, eff. 6-1-06; 95-897, eff. 1-1-09.)

5 (725 ILCS 120/8.5)

6 Sec. 8.5. Statewide victim and witness notification  
7 system.

8 (a) The Attorney General may establish a crime victim and  
9 witness notification system to assist public officials in  
10 carrying out their duties to notify and inform crime victims  
11 and witnesses under Section 4.5 of this Act as the Attorney  
12 General specifies by rule. The system shall download necessary  
13 information from participating officials into its computers,  
14 where it shall be maintained, updated, and automatically  
15 transmitted to victims and witnesses by telephone, computer, or  
16 written notice.

17 (b) The Illinois Department of Corrections, the Department  
18 of Juvenile Justice, the Department of Human Services, the  
19 Department of Healthcare and Family Services, and the Prisoner  
20 Review Board shall cooperate with the Attorney General in the  
21 implementation of this Section and shall provide information as  
22 necessary to the effective operation of the system.

23 (c) State's attorneys, circuit court clerks, and local law  
24 enforcement and correctional authorities may enter into  
25 agreements with the Attorney General for participation in the

1 system. The Attorney General may provide those who elect to  
2 participate with the equipment, software, or training  
3 necessary to bring their offices into the system.

4 (d) The provision of information to crime victims and  
5 witnesses through the Attorney General's notification system  
6 satisfies a given State or local official's corresponding  
7 obligation under Section 4.5 to provide the information.

8 (e) The Attorney General may provide for telephonic,  
9 electronic, or other public access to the database established  
10 under this Section.

11 (f) The Attorney General shall adopt rules as necessary to  
12 implement this Section. The rules shall include, but not be  
13 limited to, provisions for the scope and operation of any  
14 system the Attorney General may establish and procedures,  
15 requirements, and standards for entering into agreements to  
16 participate in the system and to receive equipment, software,  
17 or training.

18 (g) There is established in the Office of the Attorney  
19 General a Crime Victim and Witness Notification Advisory  
20 Committee consisting of those victims advocates, sheriffs,  
21 State's Attorneys, circuit court clerks, Illinois Department  
22 of Corrections, the Department of Juvenile Justice, and  
23 Prisoner Review Board employees that the Attorney General  
24 chooses to appoint. The Attorney General shall designate one  
25 member to chair the Committee.

26 (1) The Committee shall consult with and advise the

1 Attorney General as to the exercise of the Attorney  
2 General's authority under this Section, including, but not  
3 limited to:

4 (i) the design, scope, and operation of the  
5 notification system;

6 (ii) the content of any rules adopted to implement  
7 this Section;

8 (iii) the procurement of hardware, software, and  
9 support for the system, including choice of supplier or  
10 operator; and

11 (iv) the acceptance of agreements with and the  
12 award of equipment, software, or training to officials  
13 that seek to participate in the system.

14 (2) The Committee shall review the status and operation  
15 of the system and report any findings and recommendations  
16 for changes to the Attorney General and the General  
17 Assembly by November 1 of each year.

18 (3) The members of the Committee shall receive no  
19 compensation for their services as members of the  
20 Committee, but may be reimbursed for their actual expenses  
21 incurred in serving on the Committee.

22 (Source: P.A. 93-258, eff. 1-1-04; 94-696, eff. 6-1-06.)

23 (725 ILCS 120/9) (from Ch. 38, par. 1408)

24 Sec. 9. This Act does not limit any rights or  
25 responsibilities otherwise enjoyed by or imposed upon victims

1 or witnesses of violent crime, nor does it grant any person a  
2 cause of action for damages or attorneys fees. Any act of  
3 omission or commission by any law enforcement officer, circuit  
4 court clerk, or State's Attorney, by the Attorney General,  
5 Prisoner Review Board, Department of Corrections, the  
6 Department of Juvenile Justice, Department of Human Services,  
7 Department of Healthcare and Family Services, or other State  
8 agency, or private entity under contract pursuant to Section 8,  
9 or by any employee of any State agency or private entity under  
10 contract pursuant to Section 8 acting in good faith in  
11 rendering crime victim's assistance or otherwise enforcing  
12 this Act shall not impose civil liability upon the individual  
13 or entity or his or her supervisor or employer. Nothing in this  
14 Act shall create a basis for vacating a conviction or a ground  
15 for appellate relief in any criminal case. Failure of the crime  
16 victim to receive notice as required, however, shall not  
17 deprive the court of the power to act regarding the proceeding  
18 before it; nor shall any such failure grant the defendant the  
19 right to seek a continuance.

20 (Source: P.A. 93-258, eff. 1-1-04; 94-696, eff. 6-1-06.)

21 Section 1170. The Narcotics Profit Forfeiture Act is  
22 amended by changing Sections 5 and 5.2 as follows:

23 (725 ILCS 175/5) (from Ch. 56 1/2, par. 1655)

24 Sec. 5. (a) A person who commits the offense of narcotics

1 racketeering shall:

2 (1) be guilty of a Class 1 felony; and

3 (2) be subject to a fine of up to \$250,000.

4 A person who commits the offense of narcotics racketeering  
5 or who violates Section 3 of the Drug Paraphernalia Control Act  
6 shall forfeit to the State of Illinois: (A) any profits or  
7 proceeds and any property or property interest he has acquired  
8 or maintained in violation of this Act or Section 3 of the Drug  
9 Paraphernalia Control Act or has used to facilitate a violation  
10 of this Act that the court determines, after a forfeiture  
11 hearing, under subsection (b) of this Section to have been  
12 acquired or maintained as a result of narcotics racketeering or  
13 violating Section 3 of the Drug Paraphernalia Control Act, or  
14 used to facilitate narcotics racketeering; and (B) any interest  
15 in, security of, claim against, or property or contractual  
16 right of any kind affording a source of influence over, any  
17 enterprise which he has established, operated, controlled,  
18 conducted, or participated in the conduct of, in violation of  
19 this Act or Section 3 of the Drug Paraphernalia Control Act,  
20 that the court determines, after a forfeiture hearing, under  
21 subsection (b) of this Section to have been acquired or  
22 maintained as a result of narcotics racketeering or violating  
23 Section 3 of the Drug Paraphernalia Control Act or used to  
24 facilitate narcotics racketeering.

25 (b) The court shall, upon petition by the Attorney General  
26 or State's Attorney, at any time subsequent to the filing of an

1 information or return of an indictment, conduct a hearing to  
2 determine whether any property or property interest is subject  
3 to forfeiture under this Act. At the forfeiture hearing the  
4 people shall have the burden of establishing, by a  
5 preponderance of the evidence, that property or property  
6 interests are subject to forfeiture under this Act. There is a  
7 rebuttable presumption at such hearing that any property or  
8 property interest of a person charged by information or  
9 indictment with narcotics racketeering or who is convicted of a  
10 violation of Section 3 of the Drug Paraphernalia Control Act is  
11 subject to forfeiture under this Section if the State  
12 establishes by a preponderance of the evidence that:

13 (1) such property or property interest was acquired by  
14 such person during the period of the violation of this Act  
15 or Section 3 of the Drug Paraphernalia Control Act or  
16 within a reasonable time after such period; and

17 (2) there was no likely source for such property or  
18 property interest other than the violation of this Act or  
19 Section 3 of the Drug Paraphernalia Control Act.

20 (c) In an action brought by the People of the State of  
21 Illinois under this Act, wherein any restraining order,  
22 injunction or prohibition or any other action in connection  
23 with any property or property interest subject to forfeiture  
24 under this Act is sought, the circuit court which shall preside  
25 over the trial of the person or persons charged with narcotics  
26 racketeering as defined in Section 4 of this Act or violating

1 Section 3 of the Drug Paraphernalia Control Act shall first  
2 determine whether there is probable cause to believe that the  
3 person or persons so charged has committed the offense of  
4 narcotics racketeering as defined in Section 4 of this Act or a  
5 violation of Section 3 of the Drug Paraphernalia Control Act  
6 and whether the property or property interest is subject to  
7 forfeiture pursuant to this Act.

8 In order to make such a determination, prior to entering  
9 any such order, the court shall conduct a hearing without a  
10 jury, wherein the People shall establish that there is: (i)  
11 probable cause that the person or persons so charged have  
12 committed the offense of narcotics racketeering or violating  
13 Section 3 of the Drug Paraphernalia Control Act and (ii)  
14 probable cause that any property or property interest may be  
15 subject to forfeiture pursuant to this Act. Such hearing may be  
16 conducted simultaneously with a preliminary hearing, if the  
17 prosecution is commenced by information or complaint, or by  
18 motion of the People, at any stage in the proceedings. The  
19 court may accept a finding of probable cause at a preliminary  
20 hearing following the filing of an information charging the  
21 offense of narcotics racketeering as defined in Section 4 of  
22 this Act or the return of an indictment by a grand jury  
23 charging the offense of narcotics racketeering as defined in  
24 Section 4 of this Act or after a charge is filed for violating  
25 Section 3 of the Drug Paraphernalia Control Act as sufficient  
26 evidence of probable cause as provided in item (i) above.

1           Upon such a finding, the circuit court shall enter such  
2           restraining order, injunction or prohibition, or shall take  
3           such other action in connection with any such property or  
4           property interest subject to forfeiture under this Act, as is  
5           necessary to insure that such property is not removed from the  
6           jurisdiction of the court, concealed, destroyed or otherwise  
7           disposed of by the owner of that property or property interest  
8           prior to a forfeiture hearing under subsection (b) of this  
9           Section. The Attorney General or State's Attorney shall file a  
10          certified copy of such restraining order, injunction or other  
11          prohibition with the recorder of deeds or registrar of titles  
12          of each county where any such property of the defendant may be  
13          located. No such injunction, restraining order or other  
14          prohibition shall affect the rights of any bona fide purchaser,  
15          mortgagee, judgment creditor or other lien holder arising prior  
16          to the date of such filing.

17          The court may, at any time, upon verified petition by the  
18          defendant, conduct a hearing to release all or portions of any  
19          such property or interest which the court previously determined  
20          to be subject to forfeiture or subject to any restraining  
21          order, injunction, or prohibition or other action. The court  
22          may release such property to the defendant for good cause shown  
23          and within the sound discretion of the court.

24          (d) Prosecution under this Act may be commenced by the  
25          Attorney General or a State's Attorney.

26          (e) Upon an order of forfeiture being entered pursuant to



1 subsection (b) of this Section, the court shall authorize the  
2 Attorney General to seize any property or property interest  
3 declared forfeited under this Act and under such terms and  
4 conditions as the court shall deem proper. Any property or  
5 property interest that has been the subject of an entered  
6 restraining order, injunction or prohibition or any other  
7 action filed under subsection (c) shall be forfeited unless the  
8 claimant can show by a preponderance of the evidence that the  
9 property or property interest has not been acquired or  
10 maintained as a result of narcotics racketeering or has not  
11 been used to facilitate narcotics racketeering.

12 (f) The Attorney General or his designee is authorized to  
13 sell all property forfeited and seized pursuant to this Act,  
14 unless such property is required by law to be destroyed or is  
15 harmful to the public, and, after the deduction of all  
16 requisite expenses of administration and sale, shall  
17 distribute the proceeds of such sale, along with any moneys  
18 forfeited or seized, in accordance with subsection (g) or (h),  
19 whichever is applicable.

20 (g) All monies and the sale proceeds of all other property  
21 forfeited and seized pursuant to this Act shall be distributed  
22 as follows:

23 (1) An amount equal to 50% shall be distributed to the  
24 unit of local government whose officers or employees  
25 conducted the investigation into narcotics racketeering  
26 and caused the arrest or arrests and prosecution leading to

1 the forfeiture. Amounts distributed to units of local  
2 government shall be used for enforcement of laws governing  
3 narcotics activity. In the event, however, that the  
4 investigation, arrest or arrests and prosecution leading  
5 to the forfeiture were undertaken solely by a State agency,  
6 the portion provided hereunder shall be paid into the Drug  
7 Traffic Prevention Fund in the State treasury to be used  
8 for enforcement of laws governing narcotics activity.

9 (2) An amount equal to 12.5% shall be distributed to  
10 the county in which the prosecution resulting in the  
11 forfeiture was instituted, deposited in a special fund in  
12 the county treasury and appropriated to the State's  
13 Attorney for use in the enforcement of laws governing  
14 narcotics activity.

15 An amount equal to 12.5% shall be distributed to the  
16 Office of the State's Attorneys Appellate Prosecutor and  
17 deposited in the Narcotics Profit Forfeiture Fund, which is  
18 hereby created in the State treasury, to be used by the  
19 Office of the State's Attorneys Appellate Prosecutor for  
20 additional expenses incurred in prosecuting appeals  
21 arising under this Act. Any amounts remaining in the Fund  
22 after all additional expenses have been paid shall be used  
23 by the Office to reduce the participating county  
24 contributions to the Office on a pro-rated basis as  
25 determined by the board of governors of the Office of the  
26 State's Attorneys Appellate Prosecutor based on the

1 populations of the participating counties.

2 (3) An amount equal to 25% shall be paid into the Drug  
3 Traffic Prevention Fund in the State treasury to be used by  
4 the Department of State Police for funding Metropolitan  
5 Enforcement Groups created pursuant to the  
6 Intergovernmental Drug Laws Enforcement Act. Any amounts  
7 remaining in the Fund after full funding of Metropolitan  
8 Enforcement Groups shall be used for enforcement, by the  
9 State or any unit of local government, of laws governing  
10 narcotics activity.

11 (h) Where the investigation or indictment for the offense  
12 of narcotics racketeering or a violation of Section 3 of the  
13 Drug Paraphernalia Control Act has occurred under the  
14 provisions of the Statewide Grand Jury Act, all monies and the  
15 sale proceeds of all other property shall be distributed as  
16 follows:

17 (1) 60% shall be distributed to the metropolitan  
18 enforcement group, local, municipal, county, or State law  
19 enforcement agency or agencies which conducted or  
20 participated in the investigation resulting in the  
21 forfeiture. The distribution shall bear a reasonable  
22 relationship to the degree of direct participation of the  
23 law enforcement agency in the effort resulting in the  
24 forfeiture, taking into account the total value of the  
25 property forfeited and the total law enforcement effort  
26 with respect to the violation of the law on which the

1 forfeiture is based. Amounts distributed to the agency or  
2 agencies shall be used for the enforcement of laws  
3 governing cannabis and controlled substances.

4 (2) 25% shall be distributed by the Attorney General as  
5 grants to drug education, treatment and prevention  
6 programs licensed or approved by the Department of Human  
7 Services or the Department of Healthcare and Family  
8 Services. In making these grants, the Attorney General  
9 shall take into account the plans and service priorities  
10 of, and the needs identified by, the Department of Human  
11 Services or the Department of Healthcare and Family  
12 Services.

13 (3) 15% shall be distributed to the Attorney General  
14 and the State's Attorney, if any, participating in the  
15 prosecution resulting in the forfeiture. The distribution  
16 shall bear a reasonable relationship to the degree of  
17 direct participation in the prosecution of the offense,  
18 taking into account the total value of the property  
19 forfeited and the total amount of time spent in preparing  
20 and presenting the case, the complexity of the case and  
21 other similar factors. Amounts distributed to the Attorney  
22 General under this paragraph shall be retained in a fund  
23 held by the State Treasurer as ex-officio custodian to be  
24 designated as the Statewide Grand Jury Prosecution Fund and  
25 paid out upon the direction of the Attorney General for  
26 expenses incurred in criminal prosecutions arising under

1 the Statewide Grand Jury Act. Amounts distributed to a  
2 State's Attorney shall be deposited in a special fund in  
3 the county treasury and appropriated to the State's  
4 Attorney for use in the enforcement of laws governing  
5 narcotics activity.

6 (i) All monies deposited pursuant to this Act in the Drug  
7 Traffic Prevention Fund established under Section 5-9-1.2 of  
8 the Unified Code of Corrections are appropriated, on a  
9 continuing basis, to the Department of State Police to be used  
10 for funding Metropolitan Enforcement Groups created pursuant  
11 to the Intergovernmental Drug Laws Enforcement Act or otherwise  
12 for the enforcement of laws governing narcotics activity.

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

14 (725 ILCS 175/5.2) (from Ch. 56 1/2, par. 1655.2)

15 Sec. 5.2. (a) Twelve and one-half percent of all amounts  
16 collected as fines pursuant to the provisions of this Act shall  
17 be paid into the Youth Drug Abuse Prevention Fund, which is  
18 hereby created in the State treasury, to be used by the  
19 Department of Human Services (before January 1, 2011) or the  
20 Department of Healthcare and Family Services (on or after  
21 January 1, 2011) for the funding of programs and services for  
22 drug-abuse treatment, and prevention and education services,  
23 for juveniles.

24 (b) Eighty-seven and one-half percent of the proceeds of  
25 all fines received under the provisions of this Act shall be

1 transmitted to and deposited in the treasurer's office at the  
2 level of government as follows:

3 (1) If such seizure was made by a combination of law  
4 enforcement personnel representing differing units of  
5 local government, the court levying the fine shall  
6 equitably allocate 50% of the fine among these units of  
7 local government and shall allocate 37 1/2% to the county  
8 general corporate fund. In the event that the seizure was  
9 made by law enforcement personnel representing a unit of  
10 local government from a municipality where the number of  
11 inhabitants exceeds 2 million in population, the court  
12 levying the fine shall allocate 87 1/2% of the fine to that  
13 unit of local government. If the seizure was made by a  
14 combination of law enforcement personnel representing  
15 differing units of local government, and at least one of  
16 those units represents a municipality where the number of  
17 inhabitants exceeds 2 million in population, the court  
18 shall equitably allocate 87 1/2% of the proceeds of the  
19 fines received among the differing units of local  
20 government.

21 (2) If such seizure was made by State law enforcement  
22 personnel, then the court shall allocate 37 1/2% to the  
23 State treasury and 50% to the county general corporate  
24 fund.

25 (3) If a State law enforcement agency in combination  
26 with a law enforcement agency or agencies of a unit or

1 units of local government conducted the seizure, the court  
2 shall equitably allocate 37 1/2% of the fines to or among  
3 the law enforcement agency or agencies of the unit or units  
4 of local government which conducted the seizure and shall  
5 allocate 50% to the county general corporate fund.

6 (c) The proceeds of all fines allocated to the law  
7 enforcement agency or agencies of the unit or units of local  
8 government pursuant to subsection (b) shall be made available  
9 to that law enforcement agency as expendable receipts for use  
10 in the enforcement of laws regulating controlled substances and  
11 cannabis. The proceeds of fines awarded to the State treasury  
12 shall be deposited in a special fund known as the Drug Traffic  
13 Prevention Fund. Monies from this fund may be used by the  
14 Department of State Police for use in the enforcement of laws  
15 regulating controlled substances and cannabis; to satisfy  
16 funding provisions of the Intergovernmental Drug Laws  
17 Enforcement Act; to defray costs and expenses associated with  
18 returning violators of the Cannabis Control Act and the  
19 Illinois Controlled Substances Act only, as provided in those  
20 Acts, when punishment of the crime shall be confinement of the  
21 criminal in the penitentiary; and all other monies shall be  
22 paid into the general revenue fund in the State treasury.

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

24 Section 1175. The Sexually Violent Persons Commitment Act  
25 is amended by changing Sections 5, 30, and 35 as follows:

1 (725 ILCS 207/5)

2 Sec. 5. Definitions. As used in this Act, the term:

3 (a) Before January 1, 2011, "Department" means the  
4 Department of Human Services. On and after January 1, 2011,  
5 "Department" means the Department of Healthcare and Family  
6 Services.

7 (a-5) "Director" means the Director of Healthcare and  
8 Family Services.

9 (b) "Mental disorder" means a congenital or acquired  
10 condition affecting the emotional or volitional capacity that  
11 predisposes a person to engage in acts of sexual violence.

12 (c) "Secretary" means the Secretary of Human Services.

13 (d) "Sexually motivated" means that one of the purposes for  
14 an act is for the actor's sexual arousal or gratification.

15 (e) "Sexually violent offense" means any of the following:

16 (1) Any crime specified in Section 11-6, 11-20.1,  
17 11-20.3, 12-13, 12-14, 12-14.1, or 12-16 of the Criminal  
18 Code of 1961; or

19 (1.5) Any former law of this State specified in Section  
20 11-1 (rape), 11-3 (deviate sexual assault), 11-4 (indecent  
21 liberties with a child) or 11-4.1 (aggravated indecent  
22 liberties with a child) of the Criminal Code of 1961; or

23 (2) First degree murder, if it is determined by the  
24 agency with jurisdiction to have been sexually motivated;  
25 or



1           (3) Any solicitation, conspiracy or attempt to commit a  
2           crime under paragraph (e) (1) or (e) (2) of this Section.

3           (f) "Sexually violent person" means a person who has been  
4           convicted of a sexually violent offense, has been adjudicated  
5           delinquent for a sexually violent offense, or has been found  
6           not guilty of a sexually violent offense by reason of insanity  
7           and who is dangerous because he or she suffers from a mental  
8           disorder that makes it substantially probable that the person  
9           will engage in acts of sexual violence.

10          (Source: P.A. 96-292, eff. 1-1-10; 96-328, eff. 8-11-09.)

11           (725 ILCS 207/30)

12           Sec. 30. Detention; probable cause hearing; transfer for  
13           examination.

14           (a) Upon the filing of a petition under Section 15 of this  
15           Act, the court shall review the petition to determine whether  
16           to issue an order for detention of the person who is the  
17           subject of the petition. The person shall be detained only if  
18           there is cause to believe that the person is eligible for  
19           commitment under subsection (f) of Section 35 of this Act. A  
20           person detained under this Section shall be held in a facility  
21           approved by the Department. If the person is serving a sentence  
22           of imprisonment, is in a Department of Corrections correctional  
23           facility or juvenile correctional facility or is committed to  
24           institutional care, and the court orders detention under this  
25           Section, the court shall order that the person be transferred

1 to a detention facility approved by the Department. A detention  
2 order under this Section remains in effect until the person is  
3 discharged after a trial under Section 35 of this Act or until  
4 the effective date of a commitment order under Section 40 of  
5 this Act, whichever is applicable.

6 (b) Whenever a petition is filed under Section 15 of this  
7 Act, the court shall hold a hearing to determine whether there  
8 is probable cause to believe that the person named in the  
9 petition is a sexually violent person. If the person named in  
10 the petition is in custody, the court shall hold the probable  
11 cause hearing within 72 hours after the petition is filed,  
12 excluding Saturdays, Sundays and legal holidays. The court may  
13 grant a continuance of the probable cause hearing for no more  
14 than 7 additional days upon the motion of the respondent, for  
15 good cause. If the person named in the petition has been  
16 released, is on parole, is on mandatory supervised release, or  
17 otherwise is not in custody, the court shall hold the probable  
18 cause hearing within a reasonable time after the filing of the  
19 petition. At the probable cause hearing, the court shall admit  
20 and consider all relevant hearsay evidence.

21 (c) If the court determines after a hearing that there is  
22 probable cause to believe that the person named in the petition  
23 is a sexually violent person, the court shall order that the  
24 person be taken into custody if he or she is not in custody and  
25 shall order the person to be transferred within a reasonable  
26 time to an appropriate facility for an evaluation as to whether

1 the person is a sexually violent person. If the person who is  
2 named in the petition refuses to speak to, communicate with, or  
3 otherwise fails to cooperate with the examining evaluator from  
4 the Department of Human Services, the Department of Healthcare  
5 and Family Services, or the Department of Corrections, that  
6 person may only introduce evidence and testimony from any  
7 expert or professional person who is retained or  
8 court-appointed to conduct an examination of the person that  
9 results from a review of the records and may not introduce  
10 evidence resulting from an examination of the person.  
11 Notwithstanding the provisions of Section 10 of the Mental  
12 Health and Developmental Disabilities Confidentiality Act, all  
13 evaluations conducted pursuant to this Act and all Illinois  
14 Department of Corrections treatment records shall be  
15 admissible at all proceedings held pursuant to this Act,  
16 including the probable cause hearing and the trial.

17 If the court determines that probable cause does not exist  
18 to believe that the person is a sexually violent person, the  
19 court shall dismiss the petition.

20 (d) The Department shall promulgate rules that provide the  
21 qualifications for persons conducting evaluations under  
22 subsection (c) of this Section.

23 (e) If the person named in the petition claims or appears  
24 to be indigent, the court shall, prior to the probable cause  
25 hearing under subsection (b) of this Section, appoint counsel.

26 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04;

1 93-970, eff. 8-20-04.)

2 (725 ILCS 207/35)

3 Sec. 35. Trial.

4 (a) A trial to determine whether the person who is the  
5 subject of a petition under Section 15 of this Act is a  
6 sexually violent person shall commence no later than 120 days  
7 after the date of the probable cause hearing under Section 30  
8 of this Act. Delay is considered to be agreed to by the person  
9 unless he or she objects to the delay by making a written  
10 demand for trial or an oral demand for trial on the record.  
11 Delay occasioned by the person temporarily suspends for the  
12 time of the delay the period within which a person must be  
13 tried. If the delay occurs within 21 days after the end of the  
14 period within which a person must be tried, the court may  
15 continue the cause on application of the State for not more  
16 than an additional 21 days beyond the period prescribed. The  
17 court may grant a continuance of the trial date for good cause  
18 upon its own motion, the motion of any party or the stipulation  
19 of the parties, provided that any continuance granted shall be  
20 subject to Section 103-5 of the Code of Criminal Procedure of  
21 1963.

22 (b) At the trial on the petition it shall be competent to  
23 introduce evidence of the commission by the respondent of any  
24 number of crimes together with whatever punishments, if any,  
25 were imposed. The petitioner may present expert testimony from

1 both the Illinois Department of Corrections evaluator and the  
2 Department of Human Services or Department of Healthcare and  
3 Family Services psychologist.

4 (c) The person who is the subject of the petition, the  
5 person's attorney, the Attorney General or the State's Attorney  
6 may request that a trial under this Section be by a jury. A  
7 request for a jury trial under this subsection shall be made  
8 within 10 days after the probable cause hearing under Section  
9 30 of this Act. If no request is made, the trial shall be by the  
10 court. The person, the person's attorney or the Attorney  
11 General or State's Attorney, whichever is applicable, may  
12 withdraw his or her request for a jury trial.

13 (d) (1) At a trial on a petition under this Act, the  
14 petitioner has the burden of proving the allegations in the  
15 petition beyond a reasonable doubt.

16 (2) If the State alleges that the sexually violent  
17 offense or act that forms the basis for the petition was an  
18 act that was sexually motivated as provided in paragraph  
19 (e)(2) of Section 5 of this Act, the State is required to  
20 prove beyond a reasonable doubt that the alleged sexually  
21 violent act was sexually motivated.

22 (e) Evidence that the person who is the subject of a  
23 petition under Section 15 of this Act was convicted for or  
24 committed sexually violent offenses before committing the  
25 offense or act on which the petition is based is not sufficient  
26 to establish beyond a reasonable doubt that the person has a

1 mental disorder.

2 (f) If the court or jury determines that the person who is  
3 the subject of a petition under Section 15 is a sexually  
4 violent person, the court shall enter a judgment on that  
5 finding and shall commit the person as provided under Section  
6 40 of this Act. If the court or jury is not satisfied beyond a  
7 reasonable doubt that the person is a sexually violent person,  
8 the court shall dismiss the petition and direct that the person  
9 be released unless he or she is under some other lawful  
10 restriction.

11 (g) A judgment entered under subsection (f) of this Section  
12 on the finding that the person who is the subject of a petition  
13 under Section 15 is a sexually violent person is interlocutory  
14 to a commitment order under Section 40 and is reviewable on  
15 appeal.

16 (Source: P.A. 91-875, eff. 6-30-00; 92-415, eff. 8-17-01.)

17 Section 1180. The Unified Code of Corrections is amended by  
18 changing Sections 3-3-7, 3-6-2, 3-8-5, 3-8-6, 3-10-2, 3-10-5,  
19 3-10-6, 3-12-12, 3-14-1, 3-14-5, 3-15-4, 3-19-5, 3-19-10,  
20 5-2-4, 5-2-6, 5-3-4, 5-4-1, and 5-9-1.2 as follows:

21 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

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

24 (a) The conditions of parole or mandatory supervised

1 release shall be such as the Prisoner Review Board deems  
2 necessary to assist the subject in leading a law-abiding life.  
3 The conditions of every parole and mandatory supervised release  
4 are that the subject:

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

7 (2) refrain from possessing a firearm or other  
8 dangerous weapon;

9 (3) report to an agent of the Department of  
10 Corrections;

11 (4) permit the agent to visit him or her at his or her  
12 home, employment, or elsewhere to the extent necessary for  
13 the agent to discharge his or her duties;

14 (5) attend or reside in a facility established for the  
15 instruction or residence of persons on parole or mandatory  
16 supervised release;

17 (6) secure permission before visiting or writing a  
18 committed person in an Illinois Department of Corrections  
19 facility;

20 (7) report all arrests to an agent of the Department of  
21 Corrections as soon as permitted by the arresting authority  
22 but in no event later than 24 hours after release from  
23 custody;

24 (7.5) if convicted of a sex offense as defined in the  
25 Sex Offender Management Board Act, the individual shall  
26 undergo and successfully complete sex offender treatment

1 conducted in conformance with the standards developed by  
2 the Sex Offender Management Board Act by a treatment  
3 provider approved by the Board;

4 (7.6) if convicted of a sex offense as defined in the  
5 Sex Offender Management Board Act, refrain from residing at  
6 the same address or in the same condominium unit or  
7 apartment unit or in the same condominium complex or  
8 apartment complex with another person he or she knows or  
9 reasonably should know is a convicted sex offender or has  
10 been placed on supervision for a sex offense; the  
11 provisions of this paragraph do not apply to a person  
12 convicted of a sex offense who is placed in a Department of  
13 Corrections licensed transitional housing facility for sex  
14 offenders, or is in any facility operated or licensed by  
15 the Department of Children and Family Services or by the  
16 Department of Human Services or the Department of  
17 Healthcare and Family Services, or is in any licensed  
18 medical facility;

19 (7.7) if convicted for an offense that would qualify  
20 the accused as a sexual predator under the Sex Offender  
21 Registration Act on or after the effective date of this  
22 amendatory Act of the 94th General Assembly, wear an  
23 approved electronic monitoring device as defined in  
24 Section 5-8A-2 for the duration of the person's parole,  
25 mandatory supervised release term, or extended mandatory  
26 supervised release term and if convicted for an offense of



1 criminal sexual assault, aggravated criminal sexual  
2 assault, predatory criminal sexual assault of a child,  
3 criminal sexual abuse, aggravated criminal sexual abuse,  
4 or ritualized abuse of a child committed on or after August  
5 11, 2009 (the effective date of Public Act 96-236) ~~this~~  
6 ~~amendatory Act of the 96th General Assembly~~ when the victim  
7 was under 18 years of age at the time of the commission of  
8 the offense and the defendant used force or the threat of  
9 force in the commission of the offense wear an approved  
10 electronic monitoring device as defined in Section 5-8A-2  
11 that has Global Positioning System (GPS) capability for the  
12 duration of the person's parole, mandatory supervised  
13 release term, or extended mandatory supervised release  
14 term;

15 (7.8) if convicted for an offense committed on or after  
16 the effective date of this amendatory Act of the 95th  
17 General Assembly that would qualify the accused as a child  
18 sex offender as defined in Section 11-9.3 or 11-9.4 of the  
19 Criminal Code of 1961, refrain from communicating with or  
20 contacting, by means of the Internet, a person who is not  
21 related to the accused and whom the accused reasonably  
22 believes to be under 18 years of age; for purposes of this  
23 paragraph (7.8), "Internet" has the meaning ascribed to it  
24 in Section 16J-5 of the Criminal Code of 1961; and a person  
25 is not related to the accused if the person is not: (i) the  
26 spouse, brother, or sister of the accused; (ii) a

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

4 (7.9) if convicted under Section 11-6, 11-20.1,  
5 11-20.3, or 11-21 of the Criminal Code of 1961, consent to  
6 search of computers, PDAs, cellular phones, and other  
7 devices under his or her control that are capable of  
8 accessing the Internet or storing electronic files, in  
9 order to confirm Internet protocol addresses reported in  
10 accordance with the Sex Offender Registration Act and  
11 compliance with conditions in this Act;

12 (7.10) if convicted for an offense that would qualify  
13 the accused as a sex offender or sexual predator under the  
14 Sex Offender Registration Act on or after the effective  
15 date of this amendatory Act of the 95th General Assembly,  
16 not possess prescription drugs for erectile dysfunction;

17 (7.11) if convicted for an offense under Section 11-6,  
18 11-9.1, 11-15.1, 11-20.1, 11-20.3, or 11-21 of the Criminal  
19 Code of 1961, or any attempt to commit any of these  
20 offenses, committed on or after June 1, 2009 (the effective  
21 date of Public Act 95-983):

22 (i) not access or use a computer or any other  
23 device with Internet capability without the prior  
24 written approval of the Department;

25 (ii) submit to periodic unannounced examinations  
26 of the offender's computer or any other device with

1 Internet capability by the offender's supervising  
2 agent, a law enforcement officer, or assigned computer  
3 or information technology specialist, including the  
4 retrieval and copying of all data from the computer or  
5 device and any internal or external peripherals and  
6 removal of such information, equipment, or device to  
7 conduct a more thorough inspection;

8 (iii) submit to the installation on the offender's  
9 computer or device with Internet capability, at the  
10 offender's expense, of one or more hardware or software  
11 systems to monitor the Internet use; and

12 (iv) submit to any other appropriate restrictions  
13 concerning the offender's use of or access to a  
14 computer or any other device with Internet capability  
15 imposed by the Board, the Department or the offender's  
16 supervising agent;

17 (7.12) if convicted of a sex offense as defined in the  
18 Sex Offender Registration Act committed on or after January  
19 1, 2010 (the effective date of Public Act 96-262) ~~this~~  
20 ~~amendatory Act of the 96th General Assembly~~, refrain from  
21 accessing or using a social networking website as defined  
22 in Section 16D-2 of the Criminal Code of 1961;

23 (7.13) ~~(7.12)~~ if convicted of a sex offense as defined  
24 in Section 2 of the Sex Offender Registration Act committed  
25 on or after January 1, 2010 (the effective date of Public  
26 Act 96-362) ~~this amendatory Act of the 96th General~~

1 ~~Assembly~~ that requires the person to register as a sex  
2 offender under that Act, may not knowingly use any computer  
3 scrub software on any computer that the sex offender uses;

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

6 (9) obtain permission of an agent of the Department of  
7 Corrections before changing his or her residence or  
8 employment;

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

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

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

18 (13) not knowingly associate with other persons on  
19 parole or mandatory supervised release without prior  
20 written permission of his or her parole agent and not  
21 associate with persons who are members of an organized gang  
22 as that term is defined in the Illinois Streetgang  
23 Terrorism Omnibus Prevention Act;

24 (14) provide true and accurate information, as it  
25 relates to his or her adjustment in the community while on  
26 parole or mandatory supervised release or to his or her

1           conduct while incarcerated, in response to inquiries by his  
2           or her parole agent or of the Department of Corrections;

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

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

21          (17) if convicted of a violation of an order of  
22          protection under Section 12-30 of the Criminal Code of  
23          1961, be placed under electronic surveillance as provided  
24          in Section 5-8A-7 of this Code.

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

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

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

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

7           (4) support his dependents;

8           (5) (blank);

9           (6) (blank);

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

15          (7.5) if convicted for an offense committed on or after  
16 the effective date of this amendatory Act of the 95th  
17 General Assembly that would qualify the accused as a child  
18 sex offender as defined in Section 11-9.3 or 11-9.4 of the  
19 Criminal Code of 1961, refrain from communicating with or  
20 contacting, by means of the Internet, a person who is  
21 related to the accused and whom the accused reasonably  
22 believes to be under 18 years of age; for purposes of this  
23 paragraph (7.5), "Internet" has the meaning ascribed to it  
24 in Section 16J-5 of the Criminal Code of 1961; and a person  
25 is related to the accused if the person is: (i) the spouse,  
26 brother, or sister of the accused; (ii) a descendant of the

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

3 (7.6) if convicted for an offense committed on or after  
4 June 1, 2009 (the effective date of Public Act 95-983) that  
5 would qualify as a sex offense as defined in the Sex  
6 Offender Registration Act:

7 (i) not access or use a computer or any other  
8 device with Internet capability without the prior  
9 written approval of the Department;

10 (ii) submit to periodic unannounced examinations  
11 of the offender's computer or any other device with  
12 Internet capability by the offender's supervising  
13 agent, a law enforcement officer, or assigned computer  
14 or information technology specialist, including the  
15 retrieval and copying of all data from the computer or  
16 device and any internal or external peripherals and  
17 removal of such information, equipment, or device to  
18 conduct a more thorough inspection;

19 (iii) submit to the installation on the offender's  
20 computer or device with Internet capability, at the  
21 offender's expense, of one or more hardware or software  
22 systems to monitor the Internet use; and

23 (iv) submit to any other appropriate restrictions  
24 concerning the offender's use of or access to a  
25 computer or any other device with Internet capability  
26 imposed by the Board, the Department or the offender's

1 supervising agent; and  
2 (8) in addition, if a minor:  
3 (i) reside with his parents or in a foster home;  
4 (ii) attend school;  
5 (iii) attend a non-residential program for youth;  
6 or  
7 (iv) contribute to his own support at home or in a  
8 foster home.

9 (b-1) In addition to the conditions set forth in  
10 subsections (a) and (b), persons required to register as sex  
11 offenders pursuant to the Sex Offender Registration Act, upon  
12 release from the custody of the Illinois Department of  
13 Corrections, may be required by the Board to comply with the  
14 following specific conditions of release:

- 15 (1) reside only at a Department approved location;  
16 (2) comply with all requirements of the Sex Offender  
17 Registration Act;  
18 (3) notify third parties of the risks that may be  
19 occasioned by his or her criminal record;  
20 (4) obtain the approval of an agent of the Department  
21 of Corrections prior to accepting employment or pursuing a  
22 course of study or vocational training and notify the  
23 Department prior to any change in employment, study, or  
24 training;  
25 (5) not be employed or participate in any volunteer  
26 activity that involves contact with children, except under



1 circumstances approved in advance and in writing by an  
2 agent of the Department of Corrections;

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

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

10 (8) refrain from having any contact, including written  
11 or oral communications, directly or indirectly, personally  
12 or by telephone, letter, or through a third party with  
13 certain specified persons including, but not limited to,  
14 the victim or the victim's family without the prior written  
15 approval of an agent of the Department of Corrections;

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

20 (10) neither possess or have under his or her control  
21 any material that is sexually oriented, sexually  
22 stimulating, or that shows male or female sex organs or any  
23 pictures depicting children under 18 years of age nude or  
24 any written or audio material describing sexual  
25 intercourse or that depicts or alludes to sexual activity,  
26 including but not limited to visual, auditory, telephonic,

1 or electronic media, or any matter obtained through access  
2 to any computer or material linked to computer access use;

3 (11) not patronize any business providing sexually  
4 stimulating or sexually oriented entertainment nor utilize  
5 "900" or adult telephone numbers;

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

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

16 (14) may be required to provide a written daily log of  
17 activities if directed by an agent of the Department of  
18 Corrections;

19 (15) comply with all other special conditions that the  
20 Department may impose that restrict the person from  
21 high-risk situations and limit access to potential  
22 victims;

23 (16) take an annual polygraph exam;

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

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

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

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

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

16           (f) When the subject is in compliance with all conditions  
17 of his or her parole or mandatory supervised release, the  
18 subject shall receive a reduction of the period of his or her  
19 parole or mandatory supervised release of 90 days upon passage  
20 of the high school level Test of General Educational  
21 Development during the period of his or her parole or mandatory  
22 supervised release. This reduction in the period of a subject's  
23 term of parole or mandatory supervised release shall be  
24 available only to subjects who have not previously earned a  
25 high school diploma or who have not previously passed the high  
26 school level Test of General Educational Development.

1 (Source: P.A. 95-464, eff. 6-1-08; 95-539, eff. 1-1-08; 95-579,  
2 eff. 6-1-08; 95-640, eff. 6-1-08; 95-773, eff. 1-1-09; 95-876,  
3 eff. 8-21-08; 95-983, eff. 6-1-09; 96-236, eff. 8-11-09;  
4 96-262, eff. 1-1-10; 96-328, eff. 8-11-09; 96-362, eff. 1-1-10;  
5 revised 9-25-09.)

6 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

7 Sec. 3-6-2. Institutions and Facility Administration.

8 (a) Each institution and facility of the Department shall  
9 be administered by a chief administrative officer appointed by  
10 the Director. A chief administrative officer shall be  
11 responsible for all persons assigned to the institution or  
12 facility. The chief administrative officer shall administer  
13 the programs of the Department for the custody and treatment of  
14 such persons.

15 (b) The chief administrative officer shall have such  
16 assistants as the Department may assign.

17 (c) The Director or Assistant Director shall have the  
18 emergency powers to temporarily transfer individuals without  
19 formal procedures to any State, county, municipal or regional  
20 correctional or detention institution or facility in the State,  
21 subject to the acceptance of such receiving institution or  
22 facility, or to designate any reasonably secure place in the  
23 State as such an institution or facility and to make transfers  
24 thereto. However, transfers made under emergency powers shall  
25 be reviewed as soon as practicable under Article 8, and shall

1 be subject to Section 5-905 of the Juvenile Court Act of 1987.  
2 This Section shall not apply to transfers to the Department of  
3 Human Services or the Department of Healthcare and Family  
4 Services which are provided for under Section 3-8-5 or Section  
5 3-10-5.

6 (d) The Department shall provide educational programs for  
7 all committed persons so that all persons have an opportunity  
8 to attain the achievement level equivalent to the completion of  
9 the twelfth grade in the public school system in this State.  
10 Other higher levels of attainment shall be encouraged and  
11 professional instruction shall be maintained wherever  
12 possible. The Department may establish programs of mandatory  
13 education and may establish rules and regulations for the  
14 administration of such programs. A person committed to the  
15 Department who, during the period of his or her incarceration,  
16 participates in an educational program provided by or through  
17 the Department and through that program is awarded or earns the  
18 number of hours of credit required for the award of an  
19 associate, baccalaureate, or higher degree from a community  
20 college, college, or university located in Illinois shall  
21 reimburse the State, through the Department, for the costs  
22 incurred by the State in providing that person during his or  
23 her incarceration with the education that qualifies him or her  
24 for the award of that degree. The costs for which reimbursement  
25 is required under this subsection shall be determined and  
26 computed by the Department under rules and regulations that it

1 shall establish for that purpose. However, interest at the rate  
2 of 6% per annum shall be charged on the balance of those costs  
3 from time to time remaining unpaid, from the date of the  
4 person's parole, mandatory supervised release, or release  
5 constituting a final termination of his or her commitment to  
6 the Department until paid.

7 (d-5) A person committed to the Department is entitled to  
8 confidential testing for infection with human immunodeficiency  
9 virus (HIV) and to counseling in connection with such testing,  
10 with no copay to the committed person. A person committed to  
11 the Department who has tested positive for infection with HIV  
12 is entitled to medical care while incarcerated, counseling, and  
13 referrals to support services, in connection with that positive  
14 test result. Implementation of this subsection (d-5) is subject  
15 to appropriation.

16 (e) A person committed to the Department who becomes in  
17 need of medical or surgical treatment but is incapable of  
18 giving consent thereto shall receive such medical or surgical  
19 treatment by the chief administrative officer consenting on the  
20 person's behalf. Before the chief administrative officer  
21 consents, he or she shall obtain the advice of one or more  
22 physicians licensed to practice medicine in all its branches in  
23 this State. If such physician or physicians advise:

24 (1) that immediate medical or surgical treatment is  
25 required relative to a condition threatening to cause  
26 death, damage or impairment to bodily functions, or

1           disfigurement; and

2           (2) that the person is not capable of giving consent to  
3           such treatment; the chief administrative officer may give  
4           consent for such medical or surgical treatment, and such  
5           consent shall be deemed to be the consent of the person for  
6           all purposes, including, but not limited to, the authority  
7           of a physician to give such treatment.

8           (e-5) If a physician providing medical care to a committed  
9           person on behalf of the Department advises the chief  
10          administrative officer that the committed person's mental or  
11          physical health has deteriorated as a result of the cessation  
12          of ingestion of food or liquid to the point where medical or  
13          surgical treatment is required to prevent death, damage, or  
14          impairment to bodily functions, the chief administrative  
15          officer may authorize such medical or surgical treatment.

16          (f) In the event that the person requires medical care and  
17          treatment at a place other than the institution or facility,  
18          the person may be removed therefrom under conditions prescribed  
19          by the Department. The Department shall require the committed  
20          person receiving medical or dental services on a non-emergency  
21          basis to pay a \$2 co-payment to the Department for each visit  
22          for medical or dental services. The amount of each co-payment  
23          shall be deducted from the committed person's individual  
24          account. A committed person who has a chronic illness, as  
25          defined by Department rules and regulations, shall be exempt  
26          from the \$2 co-payment for treatment of the chronic illness. A

1 committed person shall not be subject to a \$2 co-payment for  
2 follow-up visits ordered by a physician, who is employed by, or  
3 contracts with, the Department. A committed person who is  
4 indigent is exempt from the \$2 co-payment and is entitled to  
5 receive medical or dental services on the same basis as a  
6 committed person who is financially able to afford the  
7 co-payment. Notwithstanding any other provision in this  
8 subsection (f) to the contrary, any person committed to any  
9 facility operated by the Department of Juvenile Justice, as set  
10 forth in Section 3-2.5-15 of this Code, is exempt from the  
11 co-payment requirement for the duration of confinement in those  
12 facilities.

13 (g) Any person having sole custody of a child at the time  
14 of commitment or any woman giving birth to a child after her  
15 commitment, may arrange through the Department of Children and  
16 Family Services for suitable placement of the child outside of  
17 the Department of Corrections. The Director of the Department  
18 of Corrections may determine that there are special reasons why  
19 the child should continue in the custody of the mother until  
20 the child is 6 years old.

21 (h) The Department may provide Family Responsibility  
22 Services which may consist of, but not be limited to the  
23 following:

- 24 (1) family advocacy counseling;
- 25 (2) parent self-help group;
- 26 (3) parenting skills training;



1 (4) parent and child overnight program;

2 (5) parent and child reunification counseling, either  
3 separately or together, preceding the inmate's release;  
4 and

5 (6) a prerelease reunification staffing involving the  
6 family advocate, the inmate and the child's counselor, or  
7 both and the inmate.

8 (i) Prior to the release of any inmate who has a documented  
9 history of intravenous drug use, and upon the receipt of that  
10 inmate's written informed consent, the Department shall  
11 provide for the testing of such inmate for infection with human  
12 immunodeficiency virus (HIV) and any other identified  
13 causative agent of acquired immunodeficiency syndrome (AIDS).  
14 The testing provided under this subsection shall consist of an  
15 enzyme-linked immunosorbent assay (ELISA) test or such other  
16 test as may be approved by the Illinois Department of Public  
17 Health. If the test result is positive, the Western Blot Assay  
18 or more reliable confirmatory test shall be administered. All  
19 inmates tested in accordance with the provisions of this  
20 subsection shall be provided with pre-test and post-test  
21 counseling. Notwithstanding any provision of this subsection  
22 to the contrary, the Department shall not be required to  
23 conduct the testing and counseling required by this subsection  
24 unless sufficient funds to cover all costs of such testing and  
25 counseling are appropriated for that purpose by the General  
26 Assembly.

1           (j) Any person convicted of a sex offense as defined in the  
2 Sex Offender Management Board Act shall be required to receive  
3 a sex offender evaluation prior to release into the community  
4 from the Department of Corrections. The sex offender evaluation  
5 shall be conducted in conformance with the standards and  
6 guidelines developed under the Sex Offender Management Board  
7 Act and by an evaluator approved by the Board.

8           (k) Any minor committed to the Department of Juvenile  
9 Justice for a sex offense as defined by the Sex Offender  
10 Management Board Act shall be required to undergo sex offender  
11 treatment by a treatment provider approved by the Board and  
12 conducted in conformance with the Sex Offender Management Board  
13 Act.

14           (l) Prior to the release of any inmate, the Department must  
15 provide the inmate with the option of testing for infection  
16 with human immunodeficiency virus (HIV), as well as counseling  
17 in connection with such testing, with no copayment for the  
18 test. At the same time, the Department shall require each such  
19 inmate to sign a form stating that the inmate has been informed  
20 of his or her rights with respect to the testing required to be  
21 offered under this subsection (l) and providing the inmate with  
22 an opportunity to indicate either that he or she wants to be  
23 tested or that he or she does not want to be tested. The  
24 Department, in consultation with the Department of Public  
25 Health, shall prescribe the contents of the form. The testing  
26 provided under this subsection (l) shall consist of an

1 enzyme-linked immunosorbent assay (ELISA) test or any other  
2 test approved by the Department of Public Health. If the test  
3 result is positive, the Western Blot Assay or more reliable  
4 confirmatory test shall be administered.

5 Prior to the release of an inmate who the Department knows  
6 has tested positive for infection with HIV, the Department in a  
7 timely manner shall offer the inmate transitional case  
8 management, including referrals to other support services.

9 Implementation of this subsection (1) is subject to  
10 appropriation.

11 (m) The chief administrative officer of each institution or  
12 facility of the Department shall make a room in the institution  
13 or facility available for addiction recovery services to be  
14 provided to committed persons on a voluntary basis. The  
15 services shall be provided for one hour once a week at a time  
16 specified by the chief administrative officer of the  
17 institution or facility if the following conditions are met:

18 (1) the addiction recovery service contacts the chief  
19 administrative officer to arrange the meeting;

20 (2) the committed person may attend the meeting for  
21 addiction recovery services only if the committed person  
22 uses pre-existing free time already available to the  
23 committed person;

24 (3) all disciplinary and other rules of the institution  
25 or facility remain in effect;

26 (4) the committed person is not given any additional

1 privileges to attend addiction recovery services;

2 (5) if the addiction recovery service does not arrange  
3 for scheduling a meeting for that week, no addiction  
4 recovery services shall be provided to the committed person  
5 in the institution or facility for that week;

6 (6) the number of committed persons who may attend an  
7 addiction recovery meeting shall not exceed 40 during any  
8 session held at the correctional institution or facility;

9 (7) a volunteer seeking to provide addiction recovery  
10 services under this subsection (m) must submit an  
11 application to the Department of Corrections under  
12 existing Department rules and the Department must review  
13 the application within 60 days after submission of the  
14 application to the Department; and

15 (8) each institution and facility of the Department  
16 shall manage the addiction recovery services program  
17 according to its own processes and procedures.

18 For the purposes of this subsection (m), "addiction  
19 recovery services" means recovery services for alcoholics and  
20 addicts provided by volunteers of recovery support services  
21 recognized by the Department of Human Services or the  
22 Department of Healthcare and Family Services.

23 (Source: P.A. 96-284, eff. 1-1-10.)

24 (730 ILCS 5/3-8-5) (from Ch. 38, par. 1003-8-5)

25 Sec. 3-8-5. Transfer to Department of Human Services or

1 Department of Healthcare and Family Services.

2 (a) The Department shall cause inquiry and examination at  
3 periodic intervals to ascertain whether any person committed to  
4 it may be subject to involuntary admission, as defined in  
5 Section 1-119 of the Mental Health and Developmental  
6 Disabilities Code, or meets the standard for judicial admission  
7 as defined in Section 4-500 of the Mental Health and  
8 Developmental Disabilities Code, or is an addict, alcoholic or  
9 intoxicated person as defined in the Alcoholism and Other Drug  
10 Abuse and Dependency Act. The Department may provide special  
11 psychiatric or psychological or other counseling or treatment  
12 to such persons in a separate institution within the  
13 Department, or the Director of the Department of Corrections  
14 may transfer such persons other than addicts, alcoholics or  
15 intoxicated persons to the Department of Human Services (before  
16 January 1, 2011) or the Department of Healthcare and Family  
17 Services (on or after January 1, 2011) for observation,  
18 diagnosis and treatment, subject to the approval of the  
19 Secretary ~~Director of the Department~~ of Human Services or the  
20 Director of Healthcare and Family Services, for a period of not  
21 more than 6 months, if the person consents in writing to the  
22 transfer. The person shall be advised of his right not to  
23 consent, and if he does not consent, such transfer may be  
24 effected only by commitment under paragraphs (c) and (d) of  
25 this Section.

26 (b) The person's spouse, guardian or nearest relative and

1 his attorney of record shall be advised of their right to  
2 object, and if objection is made, such transfer may be effected  
3 only by commitment under paragraph (c) of this Section. Notices  
4 of such transfer shall be mailed to such person's spouse,  
5 guardian or nearest relative and to the attorney of record  
6 marked for delivery to addressee only at his last known address  
7 by certified mail with return receipt requested together with  
8 written notification of the manner and time within which he may  
9 object thereto.

10 (c) If a committed person does not consent to his transfer  
11 to the Department of Human Services or the Department of  
12 Healthcare and Family Services or if a person objects under  
13 paragraph (b) of this Section, or if the Department of Human  
14 Services or the Department of Healthcare and Family Services  
15 determines that a transferred person requires commitment to the  
16 Department of Human Services or the Department of Healthcare  
17 and Family Services for more than 6 months, or if the person's  
18 sentence will expire within 6 months, the Director of the  
19 Department of Corrections shall file a petition in the circuit  
20 court of the county in which the correctional institution or  
21 facility is located requesting the transfer of such person to  
22 the Department of Human Services or the Department of  
23 Healthcare and Family Services. A certificate of a  
24 psychiatrist, clinical psychologist or, if admission to a  
25 developmental disability facility is sought, of a physician  
26 that the person is in need of commitment to the Department of

1 Human Services or the Department of Healthcare and Family  
2 Services for treatment or habilitation shall be attached to the  
3 petition. Copies of the petition shall be furnished to the  
4 named person and to the state's attorneys of the county in  
5 which the correctional institution or facility is located and  
6 the county in which the named person was committed to the  
7 Department of Corrections.

8 (d) The court shall set a date for a hearing on the  
9 petition within the time limit set forth in the Mental Health  
10 and Developmental Disabilities Code. The hearing shall be  
11 conducted in the manner prescribed by the Mental Health and  
12 Developmental Disabilities Code. If the person is found to be  
13 in need of commitment to the Department of Human Services or  
14 the Department of Healthcare and Family Services for treatment  
15 or habilitation, the court may commit him to that Department.

16 (e) Nothing in this Section shall limit the right of the  
17 Director or the chief administrative officer of any institution  
18 or facility to utilize the emergency admission provisions of  
19 the Mental Health and Developmental Disabilities Code with  
20 respect to any person in his custody or care. The transfer of a  
21 person to an institution or facility of the Department of Human  
22 Services or the Department of Healthcare and Family Services  
23 under paragraph (a) of this Section does not discharge the  
24 person from the control of the Department.

25 (Source: P.A. 88-670, eff. 12-2-94; 89-507, eff. 7-1-97.)

1 (730 ILCS 5/3-8-6) (from Ch. 38, par. 1003-8-6)

2 Sec. 3-8-6. Return and Release from Department of Human  
3 Services or Department of Healthcare and Family Services.

4 (a) The Department of Human Services or the Department of  
5 Healthcare and Family Services shall return to the Department  
6 of Corrections any person committed to it under Section 3-8-5,  
7 whose sentence has not expired and whom the Department of Human  
8 Services or the Department of Healthcare and Family Services  
9 deems no longer subject to involuntary admission, or no longer  
10 meets the standard for judicial admission.

11 (b) If a person returned to the Department of Corrections  
12 under paragraph (a) of this Section is eligible for parole and  
13 has not had a parole hearing within the preceding 6 months, he  
14 shall have a parole hearing within 45 days after his return.

15 (c) The Department of Corrections shall notify the  
16 Secretary of Human Services or the Director of Healthcare and  
17 Family Services of the expiration of the sentence of any person  
18 transferred to the Department of Human Services or the  
19 Department of Healthcare and Family Services under Section  
20 3-8-5. If the Department of Human Services or the Department of  
21 Healthcare and Family Services determines that a person  
22 transferred to it under paragraph (a) of Section 3-8-5 requires  
23 further hospitalization, it shall file a petition for the  
24 involuntary or judicial admission of such person under the  
25 Mental Health and Developmental Disabilities Code.

26 (d) The Department of Human Services or the Department of



1 Healthcare and Family Services shall release under the Mental  
2 Health and Developmental Disabilities Code, any person  
3 transferred to it under paragraph (c) of Section 3-8-5, whose  
4 sentence and parole term have expired and whom the Department  
5 of Human Services or the Department of Healthcare and Family  
6 Services deems no longer subject to involuntary admission, or  
7 no longer meets the standard for judicial admission.

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

9 (730 ILCS 5/3-10-2) (from Ch. 38, par. 1003-10-2)

10 Sec. 3-10-2. Examination of Persons Committed to the  
11 Department of Juvenile Justice.

12 (a) A person committed to the Department of Juvenile  
13 Justice shall be examined in regard to his medical,  
14 psychological, social, educational and vocational condition  
15 and history, including the use of alcohol and other drugs, the  
16 circumstances of his offense and any other information as the  
17 Department of Juvenile Justice may determine.

18 (a-5) Upon admission of a person committed to the  
19 Department of Juvenile Justice, the Department of Juvenile  
20 Justice must provide the person with appropriate written  
21 information and counseling concerning HIV and AIDS. The  
22 Department of Juvenile Justice shall develop the written  
23 materials in consultation with the Department of Public Health.  
24 At the same time, the Department of Juvenile Justice also must  
25 offer the person the option of being tested, at no charge to

1 the person, for infection with human immunodeficiency virus  
2 (HIV) or any other identified causative agent of acquired  
3 immunodeficiency syndrome (AIDS). The Department of Juvenile  
4 Justice shall require each person committed to the Department  
5 of Juvenile Justice to sign a form stating that the person has  
6 been informed of his or her rights with respect to the testing  
7 required to be offered under this subsection (a-5) and  
8 providing the person with an opportunity to indicate either  
9 that he or she wants to be tested or that he or she does not  
10 want to be tested. The Department of Juvenile Justice, in  
11 consultation with the Department of Public Health, shall  
12 prescribe the contents of the form. The testing provided under  
13 this subsection (a-5) shall consist of an enzyme-linked  
14 immunosorbent assay (ELISA) test or any other test approved by  
15 the Department of Public Health. If the test result is  
16 positive, the Western Blot Assay or more reliable confirmatory  
17 test shall be administered.

18 Also upon admission of a person committed to the Department  
19 of Juvenile Justice, the Department of Juvenile Justice must  
20 inform the person of the Department's obligation to provide the  
21 person with medical care.

22 Implementation of this subsection (a-5) is subject to  
23 appropriation.

24 (b) Based on its examination, the Department of Juvenile  
25 Justice may exercise the following powers in developing a  
26 treatment program of any person committed to the Department of

1 Juvenile Justice:

2 (1) Require participation by him in vocational,  
3 physical, educational and corrective training and  
4 activities to return him to the community.

5 (2) Place him in any institution or facility of the  
6 Department of Juvenile Justice.

7 (3) Order replacement or referral to the Parole and  
8 Pardon Board as often as it deems desirable. The Department  
9 of Juvenile Justice shall refer the person to the Parole  
10 and Pardon Board as required under Section 3-3-4.

11 (4) Enter into agreements with the Secretary of Human  
12 Services, the Director of Healthcare and Family Services,  
13 and the Director of Children and Family Services, with  
14 courts having probation officers, and with private  
15 agencies or institutions for separate care or special  
16 treatment of persons subject to the control of the  
17 Department of Juvenile Justice.

18 (c) The Department of Juvenile Justice shall make periodic  
19 reexamination of all persons under the control of the  
20 Department of Juvenile Justice to determine whether existing  
21 orders in individual cases should be modified or continued.  
22 This examination shall be made with respect to every person at  
23 least once annually.

24 (d) A record of the treatment decision including any  
25 modification thereof and the reason therefor, shall be part of  
26 the committed person's master record file.

1 (e) The Department of Juvenile Justice shall by certified  
2 mail, return receipt requested, notify the parent, guardian or  
3 nearest relative of any person committed to the Department of  
4 Juvenile Justice of his physical location and any change  
5 thereof.

6 (Source: P.A. 94-629, eff. 1-1-06; 94-696, eff. 6-1-06.)

7 (730 ILCS 5/3-10-5) (from Ch. 38, par. 1003-10-5)

8 Sec. 3-10-5. Transfers to the Department of Human Services  
9 or Department of Healthcare and Family Services.

10 (a) If a person committed to the Department of Juvenile  
11 Justice meets the standard for admission of a minor to a mental  
12 health facility or is suitable for admission to a developmental  
13 disability facility, as these terms are used in the Mental  
14 Health and Developmental Disabilities Code, the Department may  
15 transfer the person to an appropriate State hospital or  
16 institution of the Department of Human Services (before January  
17 1, 2011) or the Department of Healthcare and Family Services  
18 (on or after January 1, 2011) for a period not to exceed 6  
19 months, if the person consents in writing to the transfer. The  
20 person shall be advised of his right not to consent, and if he  
21 does not consent, the transfer may be effected only by  
22 commitment under paragraph (e) of this Section.

23 (b) The parent, guardian or nearest relative and the  
24 attorney of record shall be advised of his right to object. If  
25 an objection is made, the transfer may be effected only by

1 commitment under paragraph (e) of this Section. Notice of the  
2 transfer shall be mailed to the person's parent, guardian or  
3 nearest relative marked for delivery to addressee only at his  
4 last known address by certified mail with return receipt  
5 requested together with written notification of the manner and  
6 time within which he may object to the transfer. Objection to  
7 the transfer must be made by the parent, guardian or nearest  
8 relative within 15 days of receipt of the notification of  
9 transfer, by written notice of the objection to the Director of  
10 Juvenile Justice or chief administrative officer of the  
11 institution or facility of the Department of Juvenile Justice  
12 where the person was confined.

13 (c) If a person committed to the Department under the  
14 Juvenile Court Act or the Juvenile Court Act of 1987 is  
15 committed to a hospital or facility of the Department of Human  
16 Services or the Department of Healthcare and Family Services  
17 under this Section, the Director of Juvenile Justice shall so  
18 notify the committing juvenile court.

19 (d) Nothing in this Section shall limit the right of the  
20 Director of Juvenile Justice or the chief administrative  
21 officer of any institution or facility to utilize the emergency  
22 admission provisions of the Mental Health and Developmental  
23 Disabilities Code with respect to any person in his custody or  
24 care. The transfer of a person to an institution or facility of  
25 the Department of Human Services or the Department of  
26 Healthcare and Family Services under paragraph (a) of this

1 Section does not discharge the person from the control of the  
2 Department of Juvenile Justice.

3 (e) If the person does not consent to his transfer to the  
4 Department of Human Services or the Department of Healthcare  
5 and Family Services or if a person objects under paragraph (b)  
6 of this Section, or if the Department of Human Services or the  
7 Department of Healthcare and Family Services determines that a  
8 transferred person requires admission to the Department of  
9 Human Services or the Department of Healthcare and Family  
10 Services for more than 6 months for any reason, the Director of  
11 Juvenile Justice shall file a petition in the circuit court of  
12 the county in which the institution or facility is located  
13 requesting admission of the person to the Department of Human  
14 Services or the Department of Healthcare and Family Services. A  
15 certificate of a clinical psychologist, licensed clinical  
16 social worker who is a qualified examiner as defined in Section  
17 1-122 of the Mental Health and Developmental Disabilities Code,  
18 or psychiatrist, or, if admission to a developmental disability  
19 facility is sought, of a physician that the person is in need  
20 of commitment to the Department of Human Services or the  
21 Department of Healthcare and Family Services for treatment or  
22 habilitation shall be attached to the petition. Copies of the  
23 petition shall be furnished to the named person, his parent, or  
24 guardian or nearest relative, the committing court, and to the  
25 state's attorneys of the county in which the institution or  
26 facility of the Department of Juvenile Justice from which the

1 person was transferred is located and the county from which the  
2 named person was committed to the Department of Juvenile  
3 Justice.

4 (f) The court shall set a date for a hearing on the  
5 petition within the time limit set forth in the Mental Health  
6 and Developmental Disabilities Code. The hearing shall be  
7 conducted in the manner prescribed by the Mental Health and  
8 Developmental Disabilities Code. If the person is found to be  
9 in need of commitment to the Department of Human Services or  
10 the Department of Healthcare and Family Services for treatment  
11 or habilitation, the court may commit him to that Department.

12 (g) In the event that a person committed to the Department  
13 under the Juvenile Court Act or the Juvenile Court Act of 1987  
14 is committed to facilities of the Department of Human Services  
15 or the Department of Healthcare and Family Services under  
16 paragraph (e) of this Section, the Director of Juvenile Justice  
17 shall petition the committing juvenile court for an order  
18 terminating the Director's custody.

19 (Source: P.A. 94-696, eff. 6-1-06.)

20 (730 ILCS 5/3-10-6) (from Ch. 38, par. 1003-10-6)

21 Sec. 3-10-6. Return and Release from Department of Human  
22 Services or Department of Healthcare and Family Services.

23 (a) The Department of Human Services or the Department of  
24 Healthcare and Family Services shall return to the Department  
25 of Juvenile Justice any person committed to a facility of the

1 Department under paragraph (a) of Section 3-10-5 when the  
2 person no longer meets the standard for admission of a minor to  
3 a mental health facility, or is suitable for administrative  
4 admission to a developmental disability facility.

5 (b) If a person returned to the Department of Juvenile  
6 Justice under paragraph (a) of this Section has not had a  
7 parole hearing within the preceding 6 months, he shall have a  
8 parole hearing within 45 days after his return.

9 (c) The Department of Juvenile Justice shall notify the  
10 Secretary of Human Services or the Director of Healthcare and  
11 Family Services of the expiration of the commitment or sentence  
12 of any person transferred to the Department of Human Services  
13 or the Department of Healthcare and Family Services under  
14 Section 3-10-5. If the Department of Human Services or the  
15 Department of Healthcare and Family Services determines that  
16 such person transferred to it under paragraph (a) of Section  
17 3-10-5 requires further hospitalization, it shall file a  
18 petition for commitment of such person under the Mental Health  
19 and Developmental Disabilities Code.

20 (d) The Department of Human Services or the Department of  
21 Healthcare and Family Services shall release under the Mental  
22 Health and Developmental Disabilities Code, any person  
23 transferred to it pursuant to paragraph (c) of Section 3-10-5,  
24 whose sentence has expired and whom it deems no longer meets  
25 the standard for admission of a minor to a mental health  
26 facility, or is suitable for administrative admission to a



1 developmental disability facility. A person committed to the  
2 Department of Juvenile Justice under the Juvenile Court Act or  
3 the Juvenile Court Act of 1987 and transferred to the  
4 Department of Human Services or the Department of Healthcare  
5 and Family Services under paragraph (c) of Section 3-10-5 shall  
6 be released to the committing juvenile court when the  
7 Department of Human Services or the Department of Healthcare  
8 and Family Services determines that he no longer requires  
9 hospitalization for treatment.

10 (Source: P.A. 94-696, eff. 6-1-06.)

11 (730 ILCS 5/3-12-12) (from Ch. 38, par. 1003-12-12)

12 Sec. 3-12-12. The Department shall establish, operate and  
13 maintain food processing facilities and provide food for its  
14 institutions and for the mental health and developmental  
15 disabilities institutions of the Department of Human Services  
16 and the Department of Healthcare and Family Services.

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

18 (730 ILCS 5/3-14-1) (from Ch. 38, par. 1003-14-1)

19 Sec. 3-14-1. Release from the Institution.

20 (a) Upon release of a person on parole, mandatory release,  
21 final discharge or pardon the Department shall return all  
22 property held for him, provide him with suitable clothing and  
23 procure necessary transportation for him to his designated  
24 place of residence and employment. It may provide such person

1 with a grant of money for travel and expenses which may be paid  
2 in installments. The amount of the money grant shall be  
3 determined by the Department.

4 The Department of Corrections may establish and maintain,  
5 in any institution it administers, revolving funds to be known  
6 as "Travel and Allowances Revolving Funds". These revolving  
7 funds shall be used for advancing travel and expense allowances  
8 to committed, paroled, and discharged prisoners. The moneys  
9 paid into such revolving funds shall be from appropriations to  
10 the Department for Committed, Paroled, and Discharged  
11 Prisoners.

12 (b) (Blank).

13 (c) Except as otherwise provided in this Code, the  
14 Department shall establish procedures to provide written  
15 notification of any release of any person who has been  
16 convicted of a felony to the State's Attorney and sheriff of  
17 the county from which the offender was committed, and the  
18 State's Attorney and sheriff of the county into which the  
19 offender is to be paroled or released. Except as otherwise  
20 provided in this Code, the Department shall establish  
21 procedures to provide written notification to the proper law  
22 enforcement agency for any municipality of any release of any  
23 person who has been convicted of a felony if the arrest of the  
24 offender or the commission of the offense took place in the  
25 municipality, if the offender is to be paroled or released into  
26 the municipality, or if the offender resided in the

1 municipality at the time of the commission of the offense. If a  
2 person convicted of a felony who is in the custody of the  
3 Department of Corrections or on parole or mandatory supervised  
4 release informs the Department that he or she has resided,  
5 resides, or will reside at an address that is a housing  
6 facility owned, managed, operated, or leased by a public  
7 housing agency, the Department must send written notification  
8 of that information to the public housing agency that owns,  
9 manages, operates, or leases the housing facility. The written  
10 notification shall, when possible, be given at least 14 days  
11 before release of the person from custody, or as soon  
12 thereafter as possible.

13 (c-1) (Blank).

14 (c-5) If a person on parole or mandatory supervised release  
15 becomes a resident of a facility licensed or regulated by the  
16 Department of Public Health, the Illinois Department of  
17 Healthcare and Family Services ~~Public Aid~~, or the Illinois  
18 Department of Human Services, the Department of Corrections  
19 shall provide copies of the following information to the  
20 appropriate licensing or regulating Department and the  
21 licensed or regulated facility where the person becomes a  
22 resident:

23 (1) The mittimus and any pre-sentence investigation  
24 reports.

25 (2) The social evaluation prepared pursuant to Section  
26 3-8-2.

1 (3) Any pre-release evaluation conducted pursuant to  
2 subsection (j) of Section 3-6-2.

3 (4) Reports of disciplinary infractions and  
4 dispositions.

5 (5) Any parole plan, including orders issued by the  
6 Prisoner Review Board, and any violation reports and  
7 dispositions.

8 (6) The name and contact information for the assigned  
9 parole agent and parole supervisor.

10 This information shall be provided within 3 days of the  
11 person becoming a resident of the facility.

12 (c-10) If a person on parole or mandatory supervised  
13 release becomes a resident of a facility licensed or regulated  
14 by the Department of Public Health, the Illinois Department of  
15 Healthcare and Family Services ~~Public Aid~~, or the Illinois  
16 Department of Human Services, the Department of Corrections  
17 shall provide written notification of such residence to the  
18 following:

19 (1) The Prisoner Review Board.

20 (2) The chief of police and sheriff in the municipality  
21 and county in which the licensed facility is located.

22 The notification shall be provided within 3 days of the  
23 person becoming a resident of the facility.

24 (d) Upon the release of a committed person on parole,  
25 mandatory supervised release, final discharge or pardon, the  
26 Department shall provide such person with information

1 concerning programs and services of the Illinois Department of  
2 Public Health to ascertain whether such person has been exposed  
3 to the human immunodeficiency virus (HIV) or any identified  
4 causative agent of Acquired Immunodeficiency Syndrome (AIDS).

5 (e) Upon the release of a committed person on parole,  
6 mandatory supervised release, final discharge, or pardon, the  
7 Department shall provide the person who has met the criteria  
8 established by the Department with an identification card  
9 identifying the person as being on parole, mandatory supervised  
10 release, final discharge, or pardon, as the case may be. The  
11 Department, in consultation with the Office of the Secretary of  
12 State, shall prescribe the form of the identification card,  
13 which may be similar to the form of the standard Illinois  
14 Identification Card. The Department shall inform the committed  
15 person that he or she may present the identification card to  
16 the Office of the Secretary of State upon application for a  
17 standard Illinois Identification Card in accordance with the  
18 Illinois Identification Card Act. The Department shall require  
19 the committed person to pay a \$1 fee for the identification  
20 card.

21 For purposes of a committed person receiving an  
22 identification card issued by the Department under this  
23 subsection, the Department shall establish criteria that the  
24 committed person must meet before the card is issued. It is the  
25 sole responsibility of the committed person requesting the  
26 identification card issued by the Department to meet the

1 established criteria. The person's failure to meet the criteria  
2 is sufficient reason to deny the committed person the  
3 identification card. An identification card issued by the  
4 Department under this subsection shall be valid for a period of  
5 time not to exceed 30 calendar days from the date the card is  
6 issued. The Department shall not be held civilly or criminally  
7 liable to anyone because of any act of any person utilizing a  
8 card issued by the Department under this subsection.

9 The Department shall adopt rules governing the issuance of  
10 identification cards to committed persons being released on  
11 parole, mandatory supervised release, final discharge, or  
12 pardon.

13 (Source: P.A. 94-163, eff. 7-11-05.)

14 (730 ILCS 5/3-14-5) (from Ch. 38, par. 1003-14-5)

15 Sec. 3-14-5. Mental Health treatment; stalking and  
16 aggravated stalking. For defendants found guilty of stalking  
17 or aggravated stalking and sentenced to the custody of the  
18 Department of Corrections, the court may order the Prisoner  
19 Review Board to consider requiring the defendant to undergo  
20 mental health treatment by a mental health professional or at a  
21 community mental health center, hospital, or facility of the  
22 Department of Human Services or the Department of Healthcare  
23 and Family Services as a condition of parole or mandatory  
24 supervised release.

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

1 (730 ILCS 5/3-15-4)

2 Sec. 3-15-4. Task force on mental health services in  
3 municipal jails and lockups.

4 (a) The Department of Corrections shall convene a special  
5 task force to develop and propose model standards for the  
6 delivery of mental health services and the prevention of  
7 suicides in municipal jails and lockups. The task force shall  
8 be composed of no more than 22 members appointed by the  
9 Director of Corrections as follows:

10 (1) Not more than 8 members representing  
11 municipalities.

12 (2) Not more than 8 members representing community  
13 mental health service providers and State operated and  
14 private psychiatric hospitals, including no more than 3  
15 representatives of the Division ~~Office~~ of Mental Health  
16 within the Department of Human Services or the Department  
17 of Healthcare and Family Services.

18 (3) Three members of the general public, at least one  
19 of whom must be a primary consumer of mental health  
20 services.

21 (4) Not more than 3 representatives of the following  
22 groups: the National Commission on Correctional Health  
23 Care, the American Correctional Association, the Joint  
24 Commission on the Accreditation of Health Care  
25 Organizations, the American Association of Correctional

1 Psychology, the John Howard Association.

2 The Director of Corrections shall in appointing the task force  
3 attempt to ensure that the membership on the task force  
4 represents the geographic diversity of the State.

5 (b) The members of the task force shall serve without  
6 compensation and may not receive reimbursement for any expenses  
7 incurred in performing their duties as members of the task  
8 force.

9 (c) The task force may, without limitation, (i) determine  
10 what services and screening should be provided in municipal  
11 pre-trial detention facilities and what training and resources  
12 are necessary to provide those services and (ii) recommend  
13 changes in the Department's standards for municipal jails and  
14 lockups.

15 (d) Before the Department acts upon any recommendation of  
16 the task force, the Department must hold a public hearing to  
17 provide individuals with mental illnesses and their family  
18 members, mental health advocacy organizations, and the public  
19 to review, comment upon, and suggest any changes to the  
20 proposed standards for municipal jails and lockups.

21 (e) The task force must submit its recommendations as to  
22 any changes in the standards for municipal jails and lockups to  
23 the General Assembly by January 15, 2002.

24 (Source: P.A. 92-469, eff. 8-22-01.)

25 (730 ILCS 5/3-19-5)



1           Sec. 3-19-5. Methamphetamine abusers pilot program;  
2 Franklin County Juvenile Detention Center.

3           (a) There is created the Methamphetamine Abusers Pilot  
4 Program at the Franklin County Juvenile Detention Center. The  
5 Program shall be established upon adoption of a resolution or  
6 ordinance by the Franklin County Board and with the consent of  
7 the Secretary of Human Services.

8           (b) A person convicted of the unlawful possession of  
9 methamphetamine under Section 60 of the Methamphetamine  
10 Control and Community Protection Act, after an assessment by a  
11 designated program licensed under the Alcoholism and Other Drug  
12 Abuse and Dependency Act that the person is a methamphetamine  
13 abuser or addict and may benefit from treatment for his or her  
14 abuse or addiction, may be ordered by the court to be committed  
15 to the Program established under this Section.

16           (c) The Program shall consist of medical and psychiatric  
17 treatment for the abuse or addiction for a period of at least  
18 90 days and not to exceed 180 days. A treatment plan for each  
19 person participating in the Program shall be approved by the  
20 court in consultation with the Department of Human Services.  
21 The Secretary of Human Services shall appoint a Program  
22 Administrator to operate the Program who shall be licensed to  
23 provide residential treatment for alcoholism and other drug  
24 abuse and dependency.

25           (d) Persons committed to the Program who are 17 years of  
26 age or older shall be separated from minors under 17 years of

1 age who are detained in the Juvenile Detention Center and there  
2 shall be no contact between them.

3 (e) Upon the establishment of the Pilot Program, the  
4 Secretary of Human Services shall inform the chief judge of  
5 each judicial circuit of this State of the existence of the  
6 Program and its date of termination.

7 (f) The Secretary of Human Services, after consultation  
8 with the Program Administrator, shall determine the  
9 effectiveness of the Program in rehabilitating methamphetamine  
10 abusers and addicts committed to the Program. The Secretary  
11 shall prepare a report based on his or her assessment of the  
12 effectiveness of the Program and shall submit the report to the  
13 Governor and General Assembly within one year after January 1,  
14 2006 (the effective date of Public Act 94-549) and each year  
15 thereafter that the Program continues operation.

16 (g) On and after January 1, 2011, all of the functions with  
17 respect to the Program performed by the Department of Human  
18 Services or the Secretary of Human Services before that date  
19 shall be performed by the Department of Healthcare and Family  
20 Services and the Director of Healthcare and Family Services.

21 (Source: P.A. 94-549, eff. 1-1-06; 95-331, eff. 8-21-07.)

22 (730 ILCS 5/3-19-10)

23 Sec. 3-19-10. Methamphetamine abusers pilot program;  
24 Franklin County Jail.

25 (a) There is created the Methamphetamine Abusers Pilot

1 Program at the Franklin County Jail. The Program shall be  
2 established upon adoption of a resolution or ordinance by the  
3 Franklin County Board and with the consent of the Secretary of  
4 Human Services.

5 (b) A person convicted of the unlawful possession of  
6 methamphetamine under Section 402 of the Illinois Controlled  
7 Substances Act, after an assessment by a designated program  
8 licensed under the Alcoholism and Other Drug Abuse and  
9 Dependency Act that the person is a methamphetamine abuser or  
10 addict and may benefit from treatment for his or her abuse or  
11 addiction, may be ordered by the court to be committed to the  
12 Program established under this Section.

13 (c) The Program shall consist of medical and psychiatric  
14 treatment for the abuse or addiction for a period of at least  
15 90 days and not to exceed 180 days. A treatment plan for each  
16 person participating in the Program shall be approved by the  
17 court in consultation with the Department of Human Services.  
18 The Secretary of Human Services shall appoint a Program  
19 Administrator to operate the Program who shall be licensed to  
20 provide residential treatment for alcoholism and other drug  
21 abuse and dependency.

22 (d) Upon the establishment of the Pilot Program, the  
23 Secretary of Human Services shall inform the chief judge of  
24 each judicial circuit of this State of the existence of the  
25 Program and its date of termination.

26 (e) The Secretary of Human Services, after consultation

1 with the Program Administrator, shall determine the  
2 effectiveness of the Program in rehabilitating methamphetamine  
3 abusers and addicts committed to the Program. The Secretary  
4 shall prepare a report based on his or her assessment of the  
5 effectiveness of the Program and shall submit the report to the  
6 Governor and General Assembly within one year after the  
7 effective date of this amendatory Act of the 94th General  
8 Assembly and each year thereafter that the Program continues  
9 operation.

10 (f) On and after January 1, 2011, all of the functions with  
11 respect to the Program performed by the Department of Human  
12 Services or the Secretary of Human Services before that date  
13 shall be performed by the Department of Healthcare and Family  
14 Services and the Director of Healthcare and Family Services.

15 (Source: P.A. 94-549, eff. 1-1-06; 95-331, eff. 8-21-07.)

16 (730 ILCS 5/5-2-4) (from Ch. 38, par. 1005-2-4)

17 Sec. 5-2-4. Proceedings after Acquittal by Reason of  
18 Insanity.

19 (a) After a finding or verdict of not guilty by reason of  
20 insanity under Sections 104-25, 115-3 or 115-4 of the Code of  
21 Criminal Procedure of 1963, the defendant shall be ordered to  
22 the Department of Human Services (before January 1, 2011) or  
23 the Department of Healthcare and Family Services (on or after  
24 January 1, 2011) for an evaluation as to whether he is in need  
25 of mental health services. The order shall specify whether the

1 evaluation shall be conducted on an inpatient or outpatient  
2 basis. If the evaluation is to be conducted on an inpatient  
3 basis, the defendant shall be placed in a secure setting unless  
4 the Court determines that there are compelling reasons why such  
5 placement is not necessary. With the court order for evaluation  
6 shall be sent a copy of the arrest report, criminal charges,  
7 arrest record, jail record, and any report prepared under  
8 Section 115-6 of the Code of Criminal Procedure of 1963. After  
9 the evaluation and during the period of time required to  
10 determine the appropriate placement, the defendant shall  
11 remain in jail. Upon completion of the placement process the  
12 sheriff shall be notified and shall transport the defendant to  
13 the designated facility.

14 The Department shall provide the Court with a report of its  
15 evaluation within 30 days of the date of this order. The Court  
16 shall hold a hearing as provided under the Mental Health and  
17 Developmental Disabilities Code to determine if the individual  
18 is: (a) in need of mental health services on an inpatient  
19 basis; (b) in need of mental health services on an outpatient  
20 basis; (c) a person not in need of mental health services. The  
21 Court shall enter its findings.

22 If the defendant is found to be in need of mental health  
23 services on an inpatient care basis, the Court shall order the  
24 defendant to the Department of Human Services or the Department  
25 of Healthcare and Family Services. The defendant shall be  
26 placed in a secure setting unless the Court determines that

1 there are compelling reasons why such placement is not  
2 necessary. Such defendants placed in a secure setting shall not  
3 be permitted outside the facility's housing unit unless  
4 escorted or accompanied by personnel of the Department of Human  
5 Services or the Department of Healthcare and Family Services or  
6 with the prior approval of the Court for unsupervised  
7 on-grounds privileges as provided herein. Any defendant placed  
8 in a secure setting pursuant to this Section, transported to  
9 court hearings or other necessary appointments off facility  
10 grounds by personnel of the Department of Human Services or the  
11 Department of Healthcare and Family Services, shall be placed  
12 in security devices or otherwise secured during the period of  
13 transportation to assure secure transport of the defendant and  
14 the safety of Department of Human Services or Department of  
15 Healthcare and Family Services personnel and others. These  
16 security measures shall not constitute restraint as defined in  
17 the Mental Health and Developmental Disabilities Code. If the  
18 defendant is found to be in need of mental health services, but  
19 not on an inpatient care basis, the Court shall conditionally  
20 release the defendant, under such conditions as set forth in  
21 this Section as will reasonably assure the defendant's  
22 satisfactory progress and participation in treatment or  
23 rehabilitation and the safety of the defendant and others. If  
24 the Court finds the person not in need of mental health  
25 services, then the Court shall order the defendant discharged  
26 from custody.

1 (a-1) Definitions. For the purposes of this Section:

2 (A) (Blank).

3 (B) "In need of mental health services on an inpatient  
4 basis" means: a defendant who has been found not guilty by  
5 reason of insanity but who due to mental illness is  
6 reasonably expected to inflict serious physical harm upon  
7 himself or another and who would benefit from inpatient  
8 care or is in need of inpatient care.

9 (C) "In need of mental health services on an outpatient  
10 basis" means: a defendant who has been found not guilty by  
11 reason of insanity who is not in need of mental health  
12 services on an inpatient basis, but is in need of  
13 outpatient care, drug and/or alcohol rehabilitation  
14 programs, community adjustment programs, individual,  
15 group, or family therapy, or chemotherapy.

16 (D) "Conditional Release" means: the release from  
17 either the custody of the Department of Human Services or  
18 the Department of Healthcare and Family Services or the  
19 custody of the Court of a person who has been found not  
20 guilty by reason of insanity under such conditions as the  
21 Court may impose which reasonably assure the defendant's  
22 satisfactory progress in treatment or habilitation and the  
23 safety of the defendant and others. The Court shall  
24 consider such terms and conditions which may include, but  
25 need not be limited to, outpatient care, alcoholic and drug  
26 rehabilitation programs, community adjustment programs,

1 individual, group, family, and chemotherapy, random  
2 testing to ensure the defendant's timely and continuous  
3 taking of any medicines prescribed to control or manage his  
4 or her conduct or mental state, and periodic checks with  
5 the legal authorities and/or the Department of Human  
6 Services or the Department of Healthcare and Family  
7 Services. The Court may order as a condition of conditional  
8 release that the defendant not contact the victim of the  
9 offense that resulted in the finding or verdict of not  
10 guilty by reason of insanity or any other person. The Court  
11 may order the Department of Human Services or the  
12 Department of Healthcare and Family Services to provide  
13 care to any person conditionally released under this  
14 Section. The Department may contract with any public or  
15 private agency in order to discharge any responsibilities  
16 imposed under this Section. The Department shall monitor  
17 the provision of services to persons conditionally  
18 released under this Section and provide periodic reports to  
19 the Court concerning the services and the condition of the  
20 defendant. Whenever a person is conditionally released  
21 pursuant to this Section, the State's Attorney for the  
22 county in which the hearing is held shall designate in  
23 writing the name, telephone number, and address of a person  
24 employed by him or her who shall be notified in the event  
25 that either the reporting agency or the Department decides  
26 that the conditional release of the defendant should be



1        revoked or modified pursuant to subsection (i) of this  
2        Section. Such conditional release shall be for a period of  
3        five years. However, the defendant, the person or facility  
4        rendering the treatment, therapy, program or outpatient  
5        care, the Department, or the State's Attorney may petition  
6        the Court for an extension of the conditional release  
7        period for an additional 5 years. Upon receipt of such a  
8        petition, the Court shall hold a hearing consistent with  
9        the provisions of paragraph (a), this paragraph (a-1), and  
10       paragraph (f) of this Section, shall determine whether the  
11       defendant should continue to be subject to the terms of  
12       conditional release, and shall enter an order either  
13       extending the defendant's period of conditional release  
14       for an additional 5 year period or discharging the  
15       defendant. Additional 5-year periods of conditional  
16       release may be ordered following a hearing as provided in  
17       this Section. However, in no event shall the defendant's  
18       period of conditional release continue beyond the maximum  
19       period of commitment ordered by the Court pursuant to  
20       paragraph (b) of this Section. These provisions for  
21       extension of conditional release shall only apply to  
22       defendants conditionally released on or after August 8,  
23       2003. However the extension provisions of Public Act  
24       83-1449 apply only to defendants charged with a forcible  
25       felony.

26        (E) "Facility director" means the chief officer of a

1 mental health or developmental disabilities facility or  
2 his or her designee or the supervisor of a program of  
3 treatment or habilitation or his or her designee.  
4 "Designee" may include a physician, clinical psychologist,  
5 social worker, nurse, or clinical professional counselor.

6 (b) If the Court finds the defendant in need of mental  
7 health services on an inpatient basis, the admission,  
8 detention, care, treatment or habilitation, treatment plans,  
9 review proceedings, including review of treatment and  
10 treatment plans, and discharge of the defendant after such  
11 order shall be under the Mental Health and Developmental  
12 Disabilities Code, except that the initial order for admission  
13 of a defendant acquitted of a felony by reason of insanity  
14 shall be for an indefinite period of time. Such period of  
15 commitment shall not exceed the maximum length of time that the  
16 defendant would have been required to serve, less credit for  
17 good behavior as provided in Section 5-4-1 of the Unified Code  
18 of Corrections, before becoming eligible for release had he  
19 been convicted of and received the maximum sentence for the  
20 most serious crime for which he has been acquitted by reason of  
21 insanity. The Court shall determine the maximum period of  
22 commitment by an appropriate order. During this period of time,  
23 the defendant shall not be permitted to be in the community in  
24 any manner, including but not limited to off-grounds  
25 privileges, with or without escort by personnel of the  
26 Department of Human Services or the Department of Healthcare

1 and Family Services, unsupervised on-grounds privileges,  
2 discharge or conditional or temporary release, except by a plan  
3 as provided in this Section. In no event shall a defendant's  
4 continued unauthorized absence be a basis for discharge. Not  
5 more than 30 days after admission and every 60 days thereafter  
6 so long as the initial order remains in effect, the facility  
7 director shall file a treatment plan report in writing with the  
8 court and forward a copy of the treatment plan report to the  
9 clerk of the court, the State's Attorney, and the defendant's  
10 attorney, if the defendant is represented by counsel, or to a  
11 person authorized by the defendant under the Mental Health and  
12 Developmental Disabilities Confidentiality Act to be sent a  
13 copy of the report. The report shall include an opinion as to  
14 whether the defendant is currently in need of mental health  
15 services on an inpatient basis or in need of mental health  
16 services on an outpatient basis. The report shall also  
17 summarize the basis for those findings and provide a current  
18 summary of the following items from the treatment plan: (1) an  
19 assessment of the defendant's treatment needs, (2) a  
20 description of the services recommended for treatment, (3) the  
21 goals of each type of element of service, (4) an anticipated  
22 timetable for the accomplishment of the goals, and (5) a  
23 designation of the qualified professional responsible for the  
24 implementation of the plan. The report may also include  
25 unsupervised on-grounds privileges, off-grounds privileges  
26 (with or without escort by personnel of the Department of Human

1 Services or the Department of Healthcare and Family Services),  
2 home visits and participation in work programs, but only where  
3 such privileges have been approved by specific court order,  
4 which order may include such conditions on the defendant as the  
5 Court may deem appropriate and necessary to reasonably assure  
6 the defendant's satisfactory progress in treatment and the  
7 safety of the defendant and others.

8 (c) Every defendant acquitted of a felony by reason of  
9 insanity and subsequently found to be in need of mental health  
10 services shall be represented by counsel in all proceedings  
11 under this Section and under the Mental Health and  
12 Developmental Disabilities Code.

13 (1) The Court shall appoint as counsel the public  
14 defender or an attorney licensed by this State.

15 (2) Upon filing with the Court of a verified statement  
16 of legal services rendered by the private attorney  
17 appointed pursuant to paragraph (1) of this subsection, the  
18 Court shall determine a reasonable fee for such services.  
19 If the defendant is unable to pay the fee, the Court shall  
20 enter an order upon the State to pay the entire fee or such  
21 amount as the defendant is unable to pay from funds  
22 appropriated by the General Assembly for that purpose.

23 (d) When the facility director determines that:

24 (1) the defendant is no longer in need of mental health  
25 services on an inpatient basis; and

26 (2) the defendant may be conditionally released

1 because he or she is still in need of mental health  
2 services or that the defendant may be discharged as not in  
3 need of any mental health services; or

4 (3) the defendant no longer requires placement in a  
5 secure setting;

6 the facility director shall give written notice to the Court,  
7 State's Attorney and defense attorney. Such notice shall set  
8 forth in detail the basis for the recommendation of the  
9 facility director, and specify clearly the recommendations, if  
10 any, of the facility director, concerning conditional release.  
11 Any recommendation for conditional release shall include an  
12 evaluation of the defendant's need for psychotropic  
13 medication, what provisions should be made, if any, to ensure  
14 that the defendant will continue to receive psychotropic  
15 medication following discharge, and what provisions should be  
16 made to assure the safety of the defendant and others in the  
17 event the defendant is no longer receiving psychotropic  
18 medication. Within 30 days of the notification by the facility  
19 director, the Court shall set a hearing and make a finding as  
20 to whether the defendant is:

21 (i) (blank); or

22 (ii) in need of mental health services in the form of  
23 inpatient care; or

24 (iii) in need of mental health services but not subject  
25 to inpatient care; or

26 (iv) no longer in need of mental health services; or

1 (v) no longer requires placement in a secure setting.

2 Upon finding by the Court, the Court shall enter its  
3 findings and such appropriate order as provided in subsections  
4 (a) and (a-1) of this Section.

5 (e) A defendant admitted pursuant to this Section, or any  
6 person on his behalf, may file a petition for treatment plan  
7 review, transfer to a non-secure setting within the Department  
8 of Human Services or the Department of Healthcare and Family  
9 Services or discharge or conditional release under the  
10 standards of this Section in the Court which rendered the  
11 verdict. Upon receipt of a petition for treatment plan review,  
12 transfer to a non-secure setting or discharge or conditional  
13 release, the Court shall set a hearing to be held within 120  
14 days. Thereafter, no new petition may be filed for 180 days  
15 without leave of the Court.

16 (f) The Court shall direct that notice of the time and  
17 place of the hearing be served upon the defendant, the facility  
18 director, the State's Attorney, and the defendant's attorney.  
19 If requested by either the State or the defense or if the Court  
20 feels it is appropriate, an impartial examination of the  
21 defendant by a psychiatrist or clinical psychologist as defined  
22 in Section 1-103 of the Mental Health and Developmental  
23 Disabilities Code who is not in the employ of the Department of  
24 Human Services or the Department of Healthcare and Family  
25 Services shall be ordered, and the report considered at the  
26 time of the hearing.

1           (g) The findings of the Court shall be established by clear  
2 and convincing evidence. The burden of proof and the burden of  
3 going forth with the evidence rest with the defendant or any  
4 person on the defendant's behalf when a hearing is held to  
5 review a petition filed by or on behalf of the defendant. The  
6 evidence shall be presented in open Court with the right of  
7 confrontation and cross-examination. Such evidence may  
8 include, but is not limited to:

9           (1) whether the defendant appreciates the harm caused  
10 by the defendant to others and the community by his or her  
11 prior conduct that resulted in the finding of not guilty by  
12 reason of insanity;

13           (2) Whether the person appreciates the criminality of  
14 conduct similar to the conduct for which he or she was  
15 originally charged in this matter;

16           (3) the current state of the defendant's illness;

17           (4) what, if any, medications the defendant is taking  
18 to control his or her mental illness;

19           (5) what, if any, adverse physical side effects the  
20 medication has on the defendant;

21           (6) the length of time it would take for the  
22 defendant's mental health to deteriorate if the defendant  
23 stopped taking prescribed medication;

24           (7) the defendant's history or potential for alcohol  
25 and drug abuse;

26           (8) the defendant's past criminal history;

1           (9) any specialized physical or medical needs of the  
2 defendant;

3           (10) any family participation or involvement expected  
4 upon release and what is the willingness and ability of the  
5 family to participate or be involved;

6           (11) the defendant's potential to be a danger to  
7 himself, herself, or others; and

8           (12) any other factor or factors the Court deems  
9 appropriate.

10          (h) Before the court orders that the defendant be  
11 discharged or conditionally released, it shall order the  
12 facility director to establish a discharge plan that includes a  
13 plan for the defendant's shelter, support, and medication. If  
14 appropriate, the court shall order that the facility director  
15 establish a program to train the defendant in self-medication  
16 under standards established by the Department of Human Services  
17 or the Department of Healthcare and Family Services. If the  
18 Court finds, consistent with the provisions of this Section,  
19 that the defendant is no longer in need of mental health  
20 services it shall order the facility director to discharge the  
21 defendant. If the Court finds, consistent with the provisions  
22 of this Section, that the defendant is in need of mental health  
23 services, and no longer in need of inpatient care, it shall  
24 order the facility director to release the defendant under such  
25 conditions as the Court deems appropriate and as provided by  
26 this Section. Such conditional release shall be imposed for a



1 period of 5 years as provided in paragraph (D) of subsection  
2 (a-1) and shall be subject to later modification by the Court  
3 as provided by this Section. If the Court finds consistent with  
4 the provisions in this Section that the defendant is in need of  
5 mental health services on an inpatient basis, it shall order  
6 the facility director not to discharge or release the defendant  
7 in accordance with paragraph (b) of this Section.

8 (i) If within the period of the defendant's conditional  
9 release the State's Attorney determines that the defendant has  
10 not fulfilled the conditions of his or her release, the State's  
11 Attorney may petition the Court to revoke or modify the  
12 conditional release of the defendant. Upon the filing of such  
13 petition the defendant may be remanded to the custody of the  
14 Department, or to any other mental health facility designated  
15 by the Department, pending the resolution of the petition.  
16 Nothing in this Section shall prevent the emergency admission  
17 of a defendant pursuant to Article VI of Chapter III of the  
18 Mental Health and Developmental Disabilities Code or the  
19 voluntary admission of the defendant pursuant to Article IV of  
20 Chapter III of the Mental Health and Developmental Disabilities  
21 Code. If the Court determines, after hearing evidence, that the  
22 defendant has not fulfilled the conditions of release, the  
23 Court shall order a hearing to be held consistent with the  
24 provisions of paragraph (f) and (g) of this Section. At such  
25 hearing, if the Court finds that the defendant is in need of  
26 mental health services on an inpatient basis, it shall enter an

1 order remanding him or her to the Department of Human Services  
2 or the Department of Healthcare and Family Services or other  
3 facility. If the defendant is remanded to the Department of  
4 Human Services or the Department of Healthcare and Family  
5 Services, he or she shall be placed in a secure setting unless  
6 the Court determines that there are compelling reasons that  
7 such placement is not necessary. If the Court finds that the  
8 defendant continues to be in need of mental health services but  
9 not on an inpatient basis, it may modify the conditions of the  
10 original release in order to reasonably assure the defendant's  
11 satisfactory progress in treatment and his or her safety and  
12 the safety of others in accordance with the standards  
13 established in paragraph (D) of subsection (a-1). Nothing in  
14 this Section shall limit a Court's contempt powers or any other  
15 powers of a Court.

16 (j) An order of admission under this Section does not  
17 affect the remedy of habeas corpus.

18 (k) In the event of a conflict between this Section and the  
19 Mental Health and Developmental Disabilities Code or the Mental  
20 Health and Developmental Disabilities Confidentiality Act, the  
21 provisions of this Section shall govern.

22 (l) This amendatory Act shall apply to all persons who have  
23 been found not guilty by reason of insanity and who are  
24 presently committed to the Department of Mental Health and  
25 Developmental Disabilities (now the Department of Human  
26 Services).

1 (m) The Clerk of the Court shall, after the entry of an  
2 order of transfer to a non-secure setting of the Department of  
3 Human Services or the Department of Healthcare and Family  
4 Services or discharge or conditional release, transmit a  
5 certified copy of the order to the Department of Human Services  
6 or the Department of Healthcare and Family Services, and the  
7 sheriff of the county from which the defendant was admitted.  
8 The Clerk of the Court shall also transmit a certified copy of  
9 the order of discharge or conditional release to the Illinois  
10 Department of State Police, to the proper law enforcement  
11 agency for the municipality where the offense took place, and  
12 to the sheriff of the county into which the defendant is  
13 conditionally discharged. The Illinois Department of State  
14 Police shall maintain a centralized record of discharged or  
15 conditionally released defendants while they are under court  
16 supervision for access and use of appropriate law enforcement  
17 agencies.

18 (Source: P.A. 95-296, eff. 8-20-07; 95-331, eff. 8-21-07.)

19 (730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

20 Sec. 5-2-6. Sentencing and Treatment of Defendant Found  
21 Guilty but Mentally Ill.

22 (a) After a plea or verdict of guilty but mentally ill  
23 under Sections 115-2, 115-3 or 115-4 of the Code of Criminal  
24 Procedure of 1963, the court shall order a presentence  
25 investigation and report pursuant to Sections 5-3-1 and 5-3-2

1 of this Act, and shall set a date for a sentencing hearing. The  
2 court may impose any sentence upon the defendant which could be  
3 imposed pursuant to law upon a defendant who had been convicted  
4 of the same offense without a finding of mental illness.

5 (b) If the court imposes a sentence of imprisonment upon a  
6 defendant who has been found guilty but mentally ill, the  
7 defendant shall be committed to the Department of Corrections,  
8 which shall cause periodic inquiry and examination to be made  
9 concerning the nature, extent, continuance, and treatment of  
10 the defendant's mental illness. The Department of Corrections  
11 shall provide such psychiatric, psychological, or other  
12 counseling and treatment for the defendant as it determines  
13 necessary.

14 (c) The Department of Corrections may transfer the  
15 defendant's custody to the Department of Human Services or the  
16 Department of Healthcare and Family Services in accordance with  
17 the provisions of Section 3-8-5 of this Act.

18 (d) (1) The Department of Human Services or the Department  
19 of Healthcare and Family Services shall return to the  
20 Department of Corrections any person committed to it pursuant  
21 to this Section whose sentence has not expired and whom the  
22 Department of Human Services or the Department of Healthcare  
23 and Family Services deems no longer requires hospitalization  
24 for mental treatment, mental retardation, or addiction.

25 (2) The Department of Corrections shall notify the  
26 Secretary of Human Services or the Director of Healthcare and

1 Family Services of the expiration of the sentence of any person  
2 transferred to the Department of Human Services or the  
3 Department of Healthcare and Family Services under this  
4 Section. If the Department of Human Services or the Department  
5 of Healthcare and Family Services determines that any such  
6 person requires further hospitalization, it shall file an  
7 appropriate petition for involuntary commitment pursuant to  
8 the Mental Health and Developmental Disabilities Code.

9 (e) (1) All persons found guilty but mentally ill, whether  
10 by plea or by verdict, who are placed on probation or sentenced  
11 to a term of periodic imprisonment or a period of conditional  
12 discharge shall be required to submit to a course of mental  
13 treatment prescribed by the sentencing court.

14 (2) The course of treatment prescribed by the court shall  
15 reasonably assure the defendant's satisfactory progress in  
16 treatment or habilitation and for the safety of the defendant  
17 and others. The court shall consider terms, conditions and  
18 supervision which may include, but need not be limited to,  
19 notification and discharge of the person to the custody of his  
20 family, community adjustment programs, periodic checks with  
21 legal authorities and outpatient care and utilization of local  
22 mental health or developmental disabilities facilities.

23 (3) Failure to continue treatment, except by agreement with  
24 the treating person or agency and the court, shall be a basis  
25 for the institution of probation revocation proceedings.

26 (4) The period of probation shall be in accordance with

1 Article 4.5 of Chapter V of this Code and shall not be  
2 shortened without receipt and consideration of such  
3 psychiatric or psychological report or reports as the court may  
4 require.

5 (Source: P.A. 95-1052, eff. 7-1-09.)

6 (730 ILCS 5/5-3-4) (from Ch. 38, par. 1005-3-4)

7 Sec. 5-3-4. Disclosure of Reports.

8 (a) Any report made pursuant to this Article or Section  
9 5-705 of the Juvenile Court Act of 1987 shall be filed of  
10 record with the court in a sealed envelope.

11 (b) Presentence reports shall be open for inspection only  
12 as follows:

13 (1) to the sentencing court;

14 (2) to the state's attorney and the defendant's  
15 attorney at least 3 days prior to the imposition of  
16 sentence, unless such 3 day requirement is waived;

17 (3) to an appellate court in which the conviction or  
18 sentence is subject to review;

19 (4) to any department, agency or institution to which  
20 the defendant is committed;

21 (5) to any probation department of whom courtesy  
22 probation is requested;

23 (6) to any probation department assigned by a court of  
24 lawful jurisdiction to conduct a presentence report;

25 (7) to any other person only as ordered by the court;

1 and

2 (8) to any mental health professional on behalf of the  
3 Illinois Department of Corrections, ~~or~~ the Department of  
4 Human Services, or the Department of Healthcare and Family  
5 Services or to a prosecutor who is evaluating or  
6 investigating a potential or actual petition brought under  
7 the Sexually Violent Persons Commitment Act relating to a  
8 person who is the subject of a presentence report or the  
9 respondent to a petition brought under the Sexually Violent  
10 Persons Commitment Act who is the subject of the  
11 presentence report sought. Any records and any information  
12 obtained from those records under this paragraph (8) may be  
13 used only in sexually violent persons commitment  
14 proceedings.

15 (c) Presentence reports shall be filed of record with the  
16 court within 60 days of a verdict or finding of guilty for any  
17 offense involving an illegal sexual act perpetrated upon a  
18 victim, including but not limited to offenses for violations of  
19 Article 12 of the Criminal Code of 1961, or any offense  
20 determined by the court or the probation department to be  
21 sexually motivated, as defined in the Sex Offender Management  
22 Board Act.

23 (d) A complaint, information or indictment shall not be  
24 quashed or dismissed nor shall any person in custody for an  
25 offense be discharged from custody because of noncompliance  
26 with subsection (c) of this Section.

1 (Source: P.A. 92-415, eff. 8-17-01; 93-970, eff. 8-20-04.)

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

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

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



1 Corrections. At the hearing the court shall:

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

4 (2) consider any presentence reports;

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

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

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

14 (5) hear arguments as to sentencing alternatives;

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

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

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

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

24 (9) in cases involving a felony sex offense as defined  
25 under the Sex Offender Management Board Act, consider the  
26 results of the sex offender evaluation conducted pursuant

1 to Section 5-3-2 of this Act.

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

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

24 (c-1) In imposing a sentence for the offense of aggravated  
25 kidnapping for ransom, home invasion, armed robbery,  
26 aggravated vehicular hijacking, aggravated discharge of a

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

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

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

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

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

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

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

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

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

1 effective date of Public Act 92-176), the judge's statement, to  
2 be given after pronouncing the sentence, shall include the  
3 following:

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

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

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

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

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

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

25 (c-4) Before the sentencing hearing and as part of the  
26 presentence investigation under Section 5-3-1, the court shall



1 inquire of the defendant whether the defendant is currently  
2 serving in or is a veteran of the Armed Forces of the United  
3 States. If the defendant is currently serving in the Armed  
4 Forces of the United States or is a veteran of the Armed Forces  
5 of the United States and has been diagnosed as having a mental  
6 illness by a qualified psychiatrist or clinical psychologist or  
7 physician, the court may:

8 (1) order that the officer preparing the presentence  
9 report consult with the United States Department of  
10 Veterans Affairs, Illinois Department of Veterans'  
11 Affairs, or another agency or person with suitable  
12 knowledge or experience for the purpose of providing the  
13 court with information regarding treatment options  
14 available to the defendant, including federal, State, and  
15 local programming; and

16 (2) consider the treatment recommendations of any  
17 diagnosing or treating mental health professionals  
18 together with the treatment options available to the  
19 defendant in imposing sentence.

20 For the purposes of this subsection (c-4), "qualified  
21 psychiatrist" means a reputable physician licensed in Illinois  
22 to practice medicine in all its branches, who has specialized  
23 in the diagnosis and treatment of mental and nervous disorders  
24 for a period of not less than 5 years.

25 (d) When the defendant is committed to the Department of  
26 Corrections, the State's Attorney shall and counsel for the

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

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

19 (1) the sentence imposed;

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

22 (3) any presentence reports;

23 (3.5) any sex offender evaluations;

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

1 services for the Illinois courts;

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

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

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

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

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

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

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

20 (Source: P.A. 95-331, eff. 8-21-07; 96-86, eff. 1-1-10.)

21 (730 ILCS 5/5-9-1.2) (from Ch. 38, par. 1005-9-1.2)

22 Sec. 5-9-1.2. (a) Twelve and one-half percent of all  
23 amounts collected as fines pursuant to Section 5-9-1.1 shall be  
24 paid into the Youth Drug Abuse Prevention Fund, which is hereby  
25 created in the State treasury, to be used by the Department of

1 Human Services (before January 1, 2011) or the Department of  
2 Healthcare and Family Services (on or after January 1, 2011)  
3 for the funding of programs and services for drug-abuse  
4 treatment, and prevention and education services, for  
5 juveniles.

6 (b) Eighty-seven and one-half percent of the proceeds of  
7 all fines received pursuant to Section 5-9-1.1 shall be  
8 transmitted to and deposited in the treasurer's office at the  
9 level of government as follows:

10 (1) If such seizure was made by a combination of law  
11 enforcement personnel representing differing units of  
12 local government, the court levying the fine shall  
13 equitably allocate 50% of the fine among these units of  
14 local government and shall allocate 37 1/2% to the county  
15 general corporate fund. In the event that the seizure was  
16 made by law enforcement personnel representing a unit of  
17 local government from a municipality where the number of  
18 inhabitants exceeds 2 million in population, the court  
19 levying the fine shall allocate 87 1/2% of the fine to that  
20 unit of local government. If the seizure was made by a  
21 combination of law enforcement personnel representing  
22 differing units of local government, and at least one of  
23 those units represents a municipality where the number of  
24 inhabitants exceeds 2 million in population, the court  
25 shall equitably allocate 87 1/2% of the proceeds of the  
26 fines received among the differing units of local

1 government.

2 (2) If such seizure was made by State law enforcement  
3 personnel, then the court shall allocate 37 1/2% to the  
4 State treasury and 50% to the county general corporate  
5 fund.

6 (3) If a State law enforcement agency in combination  
7 with a law enforcement agency or agencies of a unit or  
8 units of local government conducted the seizure, the court  
9 shall equitably allocate 37 1/2% of the fines to or among  
10 the law enforcement agency or agencies of the unit or units  
11 of local government which conducted the seizure and shall  
12 allocate 50% to the county general corporate fund.

13 (c) The proceeds of all fines allocated to the law  
14 enforcement agency or agencies of the unit or units of local  
15 government pursuant to subsection (b) shall be made available  
16 to that law enforcement agency as expendable receipts for use  
17 in the enforcement of laws regulating controlled substances and  
18 cannabis. The proceeds of fines awarded to the State treasury  
19 shall be deposited in a special fund known as the Drug Traffic  
20 Prevention Fund. Monies from this fund may be used by the  
21 Department of State Police for use in the enforcement of laws  
22 regulating controlled substances and cannabis; to satisfy  
23 funding provisions of the Intergovernmental Drug Laws  
24 Enforcement Act; and to defray costs and expenses associated  
25 with returning violators of the Cannabis Control Act, the  
26 Illinois Controlled Substances Act, and the Methamphetamine

1 Control and Community Protection Act only, as provided in those  
2 Acts, when punishment of the crime shall be confinement of the  
3 criminal in the penitentiary. Moneys in the Drug Traffic  
4 Prevention Fund deposited from fines awarded as a direct result  
5 of enforcement efforts of the Illinois Conservation Police may  
6 be used by the Department of Natural Resources Office of Law  
7 Enforcement for use in enforcing laws regulating controlled  
8 substances and cannabis on Department of Natural Resources  
9 regulated lands and waterways. All other monies shall be paid  
10 into the general revenue fund in the State treasury.

11 (d) There is created in the State treasury the  
12 Methamphetamine Law Enforcement Fund. Moneys in the Fund shall  
13 be equitably allocated to local law enforcement agencies to:  
14 (1) reimburse those agencies for the costs of securing and  
15 cleaning up sites and facilities used for the illegal  
16 manufacture of methamphetamine; (2) defray the costs of  
17 employing full-time or part-time peace officers from a  
18 Metropolitan Enforcement Group or other local drug task force,  
19 including overtime costs for those officers; and (3) defray the  
20 costs associated with medical or dental expenses incurred by  
21 the county resulting from the incarceration of methamphetamine  
22 addicts in the county jail or County Department of Corrections.  
23 (Source: P.A. 94-550, eff. 1-1-06; 94-556, eff. 9-11-05;  
24 95-331, eff. 8-21-07.)

25 Section 1185. The Probation and Probation Officers Act is

1 amended by changing Section 12 as follows:

2 (730 ILCS 110/12) (from Ch. 38, par. 204-4)

3 Sec. 12. The duties of probation officers shall be:

4 (1) To investigate as required by Section 5-3-1 of the  
5 "Unified Code of Corrections", approved July 26, 1972, as  
6 amended, the case of any person to be placed on probation. Full  
7 opportunity shall be afforded a probation officer to confer  
8 with the person under investigation when such person is in  
9 custody.

10 (2) To notify the court of any previous conviction for  
11 crime or previous probation of any defendant invoking the  
12 provisions of this Act.

13 (3) All reports and notifications required in this Act to  
14 be made by probation officers shall be in writing and shall be  
15 filed by the clerk in the respective cases.

16 (4) To preserve complete and accurate records of cases  
17 investigated, including a description of the person  
18 investigated, the action of the court with respect to his case  
19 and his probation, the subsequent history of such person, if he  
20 becomes a probationer, during the continuance of his probation,  
21 which records shall be open to inspection by any judge or by  
22 any probation officer pursuant to order of court, but shall not  
23 be a public record, and its contents shall not be divulged  
24 otherwise than as above provided, except upon order of court.

25 (5) To take charge of and watch over all persons placed on

1 probation under such regulations and for such terms as may be  
2 prescribed by the court, and giving to each probationer full  
3 instructions as to the terms of his release upon probation and  
4 requiring from him such periodical reports as shall keep the  
5 officer informed as to his conduct.

6 (6) To develop and operate programs of reasonable public or  
7 community service for any persons ordered by the court to  
8 perform public or community service, providing, however, that  
9 no probation officer or any employee of a probation office  
10 acting in the course of his official duties shall be liable for  
11 any tortious acts of any person performing public or community  
12 service except for wilful misconduct or gross negligence on the  
13 part of the probation officer or employee.

14 (7) When any person on probation removes from the county  
15 where his offense was committed, it shall be the duty of the  
16 officer under whose care he was placed to report the facts to  
17 the probation officer in the county to which the probationer  
18 has removed; and it shall thereupon become the duty of such  
19 probation officer to take charge of and watch over said  
20 probationer the same as if the case originated in that county;  
21 and for that purpose he shall have the same power and authority  
22 over said probationer as if he had been originally placed in  
23 said officer's charge; and such officer shall be required to  
24 report in writing every 6 months, or more frequently upon  
25 request the results of his supervision to the probation officer  
26 in whose charge the said probationer was originally placed by



1 the court.

2 (8) To authorize travel permits to individuals under their  
3 supervision unless otherwise ordered by the court.

4 (9) To perform such other duties as are provided for in  
5 this act or by rules of court and such incidental duties as may  
6 be implied from those expressly required.

7 (10) To send written notification to a public housing  
8 agency if a person on probation for a felony who is under the  
9 supervision of the probation officer informs the probation  
10 officer that he or she has resided, resides, or will reside at  
11 an address that is a housing facility owned, managed, operated,  
12 or leased by that public housing agency.

13 (11) If a person on probation for a felony offense who is  
14 under the supervision of the probation officer becomes a  
15 resident of a facility licensed or regulated by the Department  
16 of Public Health, the Illinois Department of Healthcare and  
17 Family Services ~~Public Aid~~, or the Illinois Department of Human  
18 Services, the probation officer shall within 3 days of the  
19 person becoming a resident, notify the licensing or regulating  
20 Department and licensed or regulated facility and shall provide  
21 the licensed or regulated facility and licensing or regulating  
22 Department with copies of the following:

23 (a) (blank);

24 (b) any applicable probation orders and corresponding  
25 compliance plans;

26 (c) the name and contact information for the assigned

1           probation officer.

2           (Source: P.A. 94-163, eff. 7-11-05; 94-752, eff. 5-10-06.)

3           Section 1190. The Code of Civil Procedure is amended by  
4 changing Sections 8-2002 and 8-2101 as follows:

5           (735 ILCS 5/8-2002) (from Ch. 110, par. 8-2002)

6           Sec. 8-2002. Application.

7           (a) Part 20 of Article VIII of this Act does not apply to  
8 the records of patients, inmates, or persons being examined,  
9 observed or treated in any institution, division, program or  
10 service now existing, or hereafter acquired or created under  
11 the jurisdiction of the Department of Human Services as  
12 successor to the Department of Mental Health and Developmental  
13 Disabilities and the Department of Alcoholism and Substance  
14 Abuse or the Department of Healthcare and Family Services as  
15 successor to the Department of Human Services with respect to  
16 functions relating to mental health or alcoholism and substance  
17 abuse, or over which, in that capacity, the Department of Human  
18 Services or the Department of Healthcare and Family Services  
19 exercises executive or administrative supervision.

20           (b) In the event of a conflict between the application of  
21 Part 20 of Article VIII of this Act and the Mental Health and  
22 Developmental Disabilities Confidentiality Act or subsection  
23 (bb) of Section 30-5 of the Alcoholism and Other Drug Abuse and  
24 Dependency Act to a specific situation, the provisions of the

1 Mental Health and Developmental Disabilities Confidentiality  
2 Act or subsection (bb) of Section 30-5 of the Alcoholism and  
3 Other Drug Abuse and Dependency Act shall control. The  
4 provisions of federal law concerning the confidentiality of  
5 alcohol and drug abuse patient records, as contained in Title  
6 21 of the United States Code, Section 1175; Title 42 of the  
7 United States Code, Section 4582; 42 CFR Part 2; and any other  
8 regulations promulgated pursuant thereto, all as now or  
9 hereafter amended, shall supersede all other laws and  
10 regulations concerning such confidentiality, except where any  
11 such otherwise applicable laws or regulations are more  
12 stringent, in which case the most stringent shall apply.

13 (Source: P.A. 88-670, eff. 12-2-94; 89-507, eff. 7-1-97.)

14 (735 ILCS 5/8-2101) (from Ch. 110, par. 8-2101)

15 Sec. 8-2101. Information obtained. All information,  
16 interviews, reports, statements, memoranda, recommendations,  
17 letters of reference or other third party confidential  
18 assessments of a health care practitioner's professional  
19 competence, or other data of the Illinois Department of Public  
20 Health, local health departments, the Department of Human  
21 Services (as successor to the Department of Mental Health and  
22 Developmental Disabilities)or the Department of Healthcare and  
23 Family Services (as successor to the Department of Human  
24 Services with respect to functions relating to mental health),  
25 the Mental Health and Developmental Disabilities Medical

1 Review Board, the Illinois State Medical Society, allied  
2 medical societies, health maintenance organizations, medical  
3 organizations under contract with health maintenance  
4 organizations or with insurance or other health care delivery  
5 entities or facilities, tissue banks, organ procurement  
6 agencies, physician-owned insurance companies and their  
7 agents, committees of ambulatory surgical treatment centers or  
8 post-surgical recovery centers or their medical staffs, or  
9 committees of licensed or accredited hospitals or their medical  
10 staffs, including Patient Care Audit Committees, Medical Care  
11 Evaluation Committees, Utilization Review Committees,  
12 Credential Committees and Executive Committees, or their  
13 designees (but not the medical records pertaining to the  
14 patient), used in the course of internal quality control or of  
15 medical study for the purpose of reducing morbidity or  
16 mortality, or for improving patient care or increasing organ  
17 and tissue donation, shall be privileged, strictly  
18 confidential and shall be used only for medical research,  
19 increasing organ and tissue donation, the evaluation and  
20 improvement of quality care, or granting, limiting or revoking  
21 staff privileges or agreements for services, except that in any  
22 health maintenance organization proceeding to decide upon a  
23 physician's services or any hospital or ambulatory surgical  
24 treatment center proceeding to decide upon a physician's staff  
25 privileges, or in any judicial review of either, the claim of  
26 confidentiality shall not be invoked to deny such physician

1 access to or use of data upon which such a decision was based.

2 (Source: P.A. 92-644, eff. 1-1-03.)

3 Section 1195. The Controlled Substance and Cannabis  
4 Nuisance Act is amended by changing Section 7 as follows:

5 (740 ILCS 40/7) (from Ch. 100 1/2, par. 20)

6 Sec. 7. The proceeds of the sale of the movable property  
7 shall be applied in payment of the costs of the proceeding, and  
8 the balance, if any, shall be forwarded by the clerk of the  
9 circuit court to the State Treasurer for deposit into the Drug  
10 Treatment Fund, which is established as a special fund within  
11 the State Treasury. The Department of Human Services (before  
12 January 1, 2011) or the Department of Healthcare and Family  
13 Services (on or after January 1, 2011) may make grants to  
14 persons licensed under Section 15-10 of the Alcoholism and  
15 Other Drug Abuse and Dependency Act or to municipalities or  
16 counties from funds appropriated to the Department from the  
17 Drug Treatment Fund for the treatment of persons addicted to  
18 alcohol, cannabis, or controlled substances. The Department  
19 may adopt any rules it deems appropriate for the administration  
20 of these grants. The Department shall ensure that the moneys  
21 collected in each county be returned proportionately to the  
22 counties through grants to licensees located within the county  
23 in which the assessment was collected. Moneys in the Fund shall  
24 not supplant other local, state or federal funds.

1 (Source: P.A. 88-670, eff. 12-2-94; 89-507, eff. 7-1-97.)

2 Section 1200. The Escaped Inmate Damages Act is amended by  
3 changing Section 1 as follows:

4 (740 ILCS 60/1) (from Ch. 23, par. 4041)

5 Sec. 1. Whenever a claim is filed with the Department of  
6 Human Services (as successor to the Department of Mental Health  
7 and Developmental Disabilities) or the Department of  
8 Healthcare and Family Services (as successor to the Department  
9 of Human Services with respect to functions relating to mental  
10 health), the Department of Children and Family Services, or the  
11 Department of Corrections for damages resulting from personal  
12 injuries or damages to property, or both, or for damages  
13 resulting from property being stolen, heretofore or hereafter  
14 caused by an inmate who has escaped from a charitable, penal,  
15 reformatory or other institution over which the State of  
16 Illinois has control while he was at liberty after his escape,  
17 the Department of Human Services, the Department of Healthcare  
18 and Family Services, the Department of Children and Family  
19 Services, or the Department of Corrections shall conduct an  
20 investigation to determine the cause, nature and extent of the  
21 damages and if it be found after investigation that the damage  
22 was caused by one who had been an inmate of such institution  
23 and had escaped, the Department may recommend to the Court of  
24 Claims that an award be made to the injured party, and the

1 Court of Claims shall have the power to hear and determine such  
2 claims.

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

4 Section 1205. The Mental Health and Developmental  
5 Disabilities Confidentiality Act is amended by changing  
6 Sections 9.1, 9.2, 9.3, 11, 12, and 17 as follows:

7 (740 ILCS 110/9.1) (from Ch. 91 1/2, par. 809.1)

8 Sec. 9.1. The Department of Human Services, the Department  
9 of Healthcare and Family Services, and other agencies and  
10 institutions which provide services, may disclose a  
11 recipient's record or communications, without consent, to the  
12 Institute for Juvenile Research and the Institute for the Study  
13 of Developmental Disabilities for purposes of research,  
14 education and treatment. The Institutes shall not redisclose  
15 any personally identifiable information, unless necessary for  
16 treatment of the identified recipient.

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

18 (740 ILCS 110/9.2)

19 Sec. 9.2. Interagency disclosure of recipient information.  
20 For the purposes of continuity of care, the Department of Human  
21 Services (as successor to the Department of Mental Health and  
22 Developmental Disabilities) or the Department of Healthcare  
23 and Family Services (as successor to the Department of Human

1 Services with respect to functions relating to mental health),  
2 community agencies funded by the Department of Human Services  
3 or the Department of Healthcare and Family Services in that  
4 capacity, prisons operated by the Department of Corrections,  
5 mental health facilities operated by a county, and jails  
6 operated by any county of this State may disclose a recipient's  
7 record or communications, without consent, to each other, but  
8 only for the purpose of admission, treatment, planning, or  
9 discharge. Entities shall not redisclose any personally  
10 identifiable information, unless necessary for admission,  
11 treatment, planning, or discharge of the identified recipient  
12 to another setting. No records or communications may be  
13 disclosed to a county jail or State prison pursuant to this  
14 Section unless the Department has entered into a written  
15 agreement with the county jail or State prison requiring that  
16 the county jail or State prison adopt written policies and  
17 procedures designed to ensure that the records and  
18 communications are disclosed only to those persons employed by  
19 or under contract to the county jail or State prison who are  
20 involved in the provision of mental health services to inmates  
21 and that the records and communications are protected from  
22 further disclosure.

23 (Source: P.A. 94-182, eff. 7-12-05.)

24 (740 ILCS 110/9.3)

25 Sec. 9.3. Disclosure without consent under the Sexually



1 Violent Persons Commitment Act. Disclosure may be made without  
2 consent by any therapist or other treatment provider providing  
3 mental health or developmental disabilities services pursuant  
4 to the provisions of the Sexually Violent Persons Commitment  
5 Act or who previously provided any type of mental health or  
6 developmental disabilities services to a person who is subject  
7 to an evaluation, investigation, or prosecution of a petition  
8 under the Sexually Violent Persons Commitment Act. Disclosure  
9 may be made to the Attorney General, the State's Attorney  
10 participating in the case, the Department of Human Services,  
11 the Department of Healthcare and Family Services, the court,  
12 and any other party to whom the court directs disclosure to be  
13 made. The information disclosed may include any records or  
14 communications in the possession of the Department of  
15 Corrections, if those records or communications were relied  
16 upon by the therapist in providing mental health or  
17 developmental disabilities services pursuant to the Sexually  
18 Violent Persons Commitment Act. Any records and any information  
19 obtained from those records under this Section may be used only  
20 in sexually violent persons commitment proceedings.

21 (Source: P.A. 92-415, eff. 8-17-01.)

22 (740 ILCS 110/11) (from Ch. 91 1/2, par. 811)

23 Sec. 11. Disclosure of records and communications. Records  
24 and communications may be disclosed:

25 (i) in accordance with the provisions of the Abused and

1 Neglected Child Reporting Act, subsection (u) of Section 5  
2 of the Children and Family Services Act, or Section 7.4 of  
3 the Child Care Act of 1969;

4 (ii) when, and to the extent, a therapist, in his or  
5 her sole discretion, determines that disclosure is  
6 necessary to initiate or continue civil commitment or  
7 involuntary treatment proceedings under the laws of this  
8 State or to otherwise protect the recipient or other person  
9 against a clear, imminent risk of serious physical or  
10 mental injury or disease or death being inflicted upon the  
11 recipient or by the recipient on himself or another;

12 (iii) when, and to the extent disclosure is, in the  
13 sole discretion of the therapist, necessary to the  
14 provision of emergency medical care to a recipient who is  
15 unable to assert or waive his or her rights hereunder;

16 (iv) when disclosure is necessary to collect sums or  
17 receive third party payment representing charges for  
18 mental health or developmental disabilities services  
19 provided by a therapist or agency to a recipient under  
20 Chapter V of the Mental Health and Developmental  
21 Disabilities Code or to transfer debts under the  
22 Uncollected State Claims Act; however, disclosure shall be  
23 limited to information needed to pursue collection, and the  
24 information so disclosed shall not be used for any other  
25 purposes nor shall it be redisclosed except in connection  
26 with collection activities;

1           (v) when requested by a family member, the Department  
2 of Human Services or the Department of Healthcare and  
3 Family Services may assist in the location of the interment  
4 site of a deceased recipient who is interred in a cemetery  
5 established under Section 26 ~~100-26~~ of the Mental Health  
6 and Developmental Disabilities Administrative Act;

7           (vi) in judicial proceedings under Article VIII of  
8 Chapter III and Article V of Chapter IV of the Mental  
9 Health and Developmental Disabilities Code and proceedings  
10 and investigations preliminary thereto, to the State's  
11 Attorney for the county or residence of a person who is the  
12 subject of such proceedings, or in which the person is  
13 found, or in which the facility is located, to the attorney  
14 representing the recipient in the judicial proceedings, to  
15 any person or agency providing mental health services that  
16 are the subject of the proceedings and to that person's or  
17 agency's attorney, to any court personnel, including but  
18 not limited to judges and circuit court clerks, and to a  
19 guardian ad litem if one has been appointed by the court,  
20 provided that the information so disclosed shall not be  
21 utilized for any other purpose nor be redisclosed except in  
22 connection with the proceedings or investigations;

23           (vii) when, and to the extent disclosure is necessary  
24 to comply with the requirements of the Census Bureau in  
25 taking the federal Decennial Census;

26           (viii) when, and to the extent, in the therapist's sole

1 discretion, disclosure is necessary to warn or protect a  
2 specific individual against whom a recipient has made a  
3 specific threat of violence where there exists a  
4 therapist-recipient relationship or a special  
5 recipient-individual relationship;

6 (ix) in accordance with the Sex Offender Registration  
7 Act;

8 (x) in accordance with the Rights of Crime Victims and  
9 Witnesses Act;

10 (xi) in accordance with Section 6 of the Abused and  
11 Neglected Long Term Care Facility Residents Reporting Act;  
12 and

13 (xii) in accordance with Section 55 of the Abuse of  
14 Adults with Disabilities Intervention Act.

15 Any person, institution, or agency, under this Act,  
16 participating in good faith in the making of a report under the  
17 Abused and Neglected Child Reporting Act or in the disclosure  
18 of records and communications under this Section, shall have  
19 immunity from any liability, civil, criminal or otherwise, that  
20 might result by reason of such action. For the purpose of any  
21 proceeding, civil or criminal, arising out of a report or  
22 disclosure under this Section, the good faith of any person,  
23 institution, or agency so reporting or disclosing shall be  
24 presumed.

25 (Source: P.A. 95-331, eff. 8-21-07; 96-466, eff. 8-14-09.)

1 (740 ILCS 110/12) (from Ch. 91 1/2, par. 812)

2 Sec. 12. (a) If the United States Secret Service or the  
3 Department of State Police requests information from a mental  
4 health or developmental disability facility, as defined in  
5 Section 1-107 and 1-114 of the Mental Health and Developmental  
6 Disabilities Code, relating to a specific recipient and the  
7 facility director determines that disclosure of such  
8 information may be necessary to protect the life of, or to  
9 prevent the infliction of great bodily harm to, a public  
10 official, or a person under the protection of the United States  
11 Secret Service, only the following information may be  
12 disclosed: the recipient's name, address, and age and the date  
13 of any admission to or discharge from a facility; and any  
14 information which would indicate whether or not the recipient  
15 has a history of violence or presents a danger of violence to  
16 the person under protection. Any information so disclosed shall  
17 be used for investigative purposes only and shall not be  
18 publicly disseminated. Any person participating in good faith  
19 in the disclosure of such information in accordance with this  
20 provision shall have immunity from any liability, civil,  
21 criminal or otherwise, if such information is disclosed relying  
22 upon the representation of an officer of the United States  
23 Secret Service or the Department of State Police that a person  
24 is under the protection of the United States Secret Service or  
25 is a public official.

26 For the purpose of this subsection (a), the term "public

1 official" means the Governor, Lieutenant Governor, Attorney  
2 General, Secretary of State, State Comptroller, State  
3 Treasurer, member of the General Assembly, member of the United  
4 States Congress, Judge of the United States as defined in 28  
5 U.S.C. 451, Justice of the United States as defined in 28  
6 U.S.C. 451, United States Magistrate Judge as defined in 28  
7 U.S.C. 639, Bankruptcy Judge appointed under 28 U.S.C. 152, or  
8 Supreme, Appellate, Circuit, or Associate Judge of the State of  
9 Illinois. The term shall also include the spouse, child or  
10 children of a public official.

11 (b) The Department of Human Services or the Department of  
12 Healthcare and Family Services (acting with respect to their  
13 functions relating to mental health or developmental  
14 disabilities ~~as successor to the Department of Mental Health~~  
15 ~~and Developmental Disabilities~~) and all public or private  
16 hospitals and mental health facilities are required, as  
17 hereafter described in this subsection, to furnish the  
18 Department of State Police only such information as may be  
19 required for the sole purpose of determining whether an  
20 individual who may be or may have been a patient is  
21 disqualified because of that status from receiving or retaining  
22 a Firearm Owner's Identification Card under subsection (e) or  
23 (f) of Section 8 of the Firearm Owners Identification Card Act  
24 or 18 U.S.C. 922(g) and (n). All public or private hospitals  
25 and mental health facilities shall, in the form and manner  
26 required by the Department, provide such information as shall

1 be necessary for the Department to comply with the reporting  
2 requirements to the Department of State Police. Such  
3 information shall be furnished within 7 days after admission to  
4 a public or private hospital or mental health facility or the  
5 provision of services to a patient described in clause (2) of  
6 this subsection (b). Any such information disclosed under this  
7 subsection shall remain privileged and confidential, and shall  
8 not be redisclosed, except as required by clause (e)(2) of  
9 Section 3.1 of the Firearm Owners Identification Card Act, nor  
10 utilized for any other purpose. The method of requiring the  
11 providing of such information shall guarantee that no  
12 information is released beyond what is necessary for this  
13 purpose. In addition, the information disclosed shall be  
14 provided by the Department within the time period established  
15 by Section 24-3 of the Criminal Code of 1961 regarding the  
16 delivery of firearms. The method used shall be sufficient to  
17 provide the necessary information within the prescribed time  
18 period, which may include periodically providing lists to the  
19 Department of Human Services or the Department of Healthcare  
20 and Family Services or any public or private hospital or mental  
21 health facility of Firearm Owner's Identification Card  
22 applicants on which the Department or hospital shall indicate  
23 the identities of those individuals who are to its knowledge  
24 disqualified from having a Firearm Owner's Identification Card  
25 for reasons described herein. The Department may provide for a  
26 centralized source of information for the State on this subject

1 under its jurisdiction.

2 Any person, institution, or agency, under this Act,  
3 participating in good faith in the reporting or disclosure of  
4 records and communications otherwise in accordance with this  
5 provision or with rules, regulations or guidelines issued by  
6 the Department shall have immunity from any liability, civil,  
7 criminal or otherwise, that might result by reason of the  
8 action. For the purpose of any proceeding, civil or criminal,  
9 arising out of a report or disclosure in accordance with this  
10 provision, the good faith of any person, institution, or agency  
11 so reporting or disclosing shall be presumed. The full extent  
12 of the immunity provided in this subsection (b) shall apply to  
13 any person, institution or agency that fails to make a report  
14 or disclosure in the good faith belief that the report or  
15 disclosure would violate federal regulations governing the  
16 confidentiality of alcohol and drug abuse patient records  
17 implementing 42 U.S.C. 290dd-3 and 290ee-3.

18 For purposes of this subsection (b) only, the following  
19 terms shall have the meaning prescribed:

20 (1) "Hospital" means only that type of institution  
21 which is providing full-time residential facilities and  
22 treatment.

23 (2) "Patient" shall include only: (i) a person who is  
24 an in-patient or resident of any public or private hospital  
25 or mental health facility or (ii) a person who is an  
26 out-patient or provided services by a public or private



1 hospital or mental health facility whose mental condition  
2 is of such a nature that it is manifested by violent,  
3 suicidal, threatening, or assaultive behavior or reported  
4 behavior, for which there is a reasonable belief by a  
5 physician, clinical psychologist, or qualified examiner  
6 that the condition poses a clear and present or imminent  
7 danger to the patient, any other person or the community  
8 meaning the patient's condition poses a clear and present  
9 danger in accordance with subsection (f) of Section 8 of  
10 the Firearm Owners Identification Card Act. The terms  
11 physician, clinical psychologist, and qualified examiner  
12 are defined in Sections 1-120, 1-103, and 1-122 of the  
13 Mental Health and Developmental Disabilities Code.

14 (3) "Mental health facility" is defined by Section  
15 1-114 of the Mental Health and Developmental Disabilities  
16 Code.

17 (c) Upon the request of a peace officer who takes a person  
18 into custody and transports such person to a mental health or  
19 developmental disability facility pursuant to Section 3-606 or  
20 4-404 of the Mental Health and Developmental Disabilities Code  
21 or who transports a person from such facility, a facility  
22 director shall furnish said peace officer the name, address,  
23 age and name of the nearest relative of the person transported  
24 to or from the mental health or developmental disability  
25 facility. In no case shall the facility director disclose to  
26 the peace officer any information relating to the diagnosis,

1 treatment or evaluation of the person's mental or physical  
2 health.

3 For the purposes of this subsection (c), the terms "mental  
4 health or developmental disability facility", "peace officer"  
5 and "facility director" shall have the meanings ascribed to  
6 them in the Mental Health and Developmental Disabilities Code.

7 (d) Upon the request of a peace officer or prosecuting  
8 authority who is conducting a bona fide investigation of a  
9 criminal offense, or attempting to apprehend a fugitive from  
10 justice, a facility director may disclose whether a person is  
11 present at the facility. Upon request of a peace officer or  
12 prosecuting authority who has a valid forcible felony warrant  
13 issued, a facility director shall disclose: (1) whether the  
14 person who is the subject of the warrant is present at the  
15 facility and (2) the date of that person's discharge or future  
16 discharge from the facility. The requesting peace officer or  
17 prosecuting authority must furnish a case number and the  
18 purpose of the investigation or an outstanding arrest warrant  
19 at the time of the request. Any person, institution, or agency  
20 participating in good faith in disclosing such information in  
21 accordance with this subsection (d) is immune from any  
22 liability, civil, criminal or otherwise, that might result by  
23 reason of the action.

24 (Source: P.A. 95-564, eff. 6-1-08; 96-193, eff. 8-10-09.)

25 (740 ILCS 110/17) (from Ch. 91 1/2, par. 817)

1           Sec. 17. The Secretary of Human Services and the Director  
2 of Healthcare and Family Services shall adopt rules and  
3 regulations to implement this Act.

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

5           Section 1210. The Probate Act of 1975 is amended by  
6 changing Sections 11-3, 11a-10, and 27-1 as follows:

7           (755 ILCS 5/11-3) (from Ch. 110 1/2, par. 11-3)

8           Sec. 11-3. Who may act as guardian.

9           (a) A person is qualified to act as guardian of the person  
10 and as guardian of the estate if the court finds that the  
11 proposed guardian is capable of providing an active and  
12 suitable program of guardianship for the minor and that the  
13 proposed guardian:

14                   (1) has attained the age of 18 years;

15                   (2) is a resident of the United States;

16                   (3) is not of unsound mind;

17                   (4) is not an adjudged disabled person as defined in  
18 this Act; and

19                   (5) has not been convicted of a felony, unless the  
20 court finds appointment of the person convicted of a felony  
21 to be in the minor's best interests, and as part of the  
22 best interest determination, the court has considered the  
23 nature of the offense, the date of offense, and the  
24 evidence of the proposed guardian's rehabilitation. No

1 person shall be appointed who has been convicted of a  
2 felony involving harm or threat to a child, including a  
3 felony sexual offense.

4 One person may be appointed guardian of the person and another  
5 person appointed guardian of the estate.

6 (b) The Department of Human Services, the Department of  
7 Healthcare and Family Services, or the Department of Children  
8 and Family Services may with the approval of the court  
9 designate one of its employees to serve without fees as  
10 guardian of the estate of a minor patient in a State mental  
11 hospital or a resident in a State institution when the value of  
12 the personal estate does not exceed \$1,000.

13 (Source: P.A. 94-579, eff. 8-12-05.)

14 (755 ILCS 5/11a-10) (from Ch. 110 1/2, par. 11a-10)

15 Sec. 11a-10. Procedures preliminary to hearing.

16 (a) Upon the filing of a petition pursuant to Section  
17 11a-8, the court shall set a date and place for hearing to take  
18 place within 30 days. The court shall appoint a guardian ad  
19 litem to report to the court concerning the respondent's best  
20 interests consistent with the provisions of this Section,  
21 except that the appointment of a guardian ad litem shall not be  
22 required when the court determines that such appointment is not  
23 necessary for the protection of the respondent or a reasonably  
24 informed decision on the petition. If the guardian ad litem is  
25 not a licensed attorney, he or she shall be qualified, by

1 training or experience, to work with or advocate for the  
2 developmentally disabled, mentally ill, physically disabled,  
3 the elderly, or persons disabled because of mental  
4 deterioration, depending on the type of disability that is  
5 alleged in the petition. The court may allow the guardian ad  
6 litem reasonable compensation. The guardian ad litem may  
7 consult with a person who by training or experience is  
8 qualified to work with persons with a developmental disability,  
9 persons with mental illness, or physically disabled persons, or  
10 persons disabled because of mental deterioration, depending on  
11 the type of disability that is alleged. The guardian ad litem  
12 shall personally observe the respondent prior to the hearing  
13 and shall inform him orally and in writing of the contents of  
14 the petition and of his rights under Section 11a-11. The  
15 guardian ad litem shall also attempt to elicit the respondent's  
16 position concerning the adjudication of disability, the  
17 proposed guardian, a proposed change in residential placement,  
18 changes in care that might result from the guardianship, and  
19 other areas of inquiry deemed appropriate by the court. At or  
20 before the hearing, the guardian ad litem shall file a written  
21 report detailing his or her observations of the respondent, the  
22 responses of the respondent to any of the inquiries detailed in  
23 this Section, the opinion of the guardian ad litem or other  
24 professionals with whom the guardian ad litem consulted  
25 concerning the appropriateness of guardianship, and any other  
26 material issue discovered by the guardian ad litem. The

1 guardian ad litem shall appear at the hearing and testify as to  
2 any issues presented in his or her report.

3 (b) The court (1) may appoint counsel for the respondent,  
4 if the court finds that the interests of the respondent will be  
5 best served by the appointment, and (2) shall appoint counsel  
6 upon respondent's request or if the respondent takes a position  
7 adverse to that of the guardian ad litem. The respondent shall  
8 be permitted to obtain the appointment of counsel either at the  
9 hearing or by any written or oral request communicated to the  
10 court prior to the hearing. The summons shall inform the  
11 respondent of this right to obtain appointed counsel. The court  
12 may allow counsel for the respondent reasonable compensation.

13 (c) If the respondent is unable to pay the fee of the  
14 guardian ad litem or appointed counsel, or both, the court may  
15 enter an order for the petitioner to pay all such fees or such  
16 amounts as the respondent or the respondent's estate may be  
17 unable to pay. However, in cases where the Office of State  
18 Guardian is the petitioner, consistent with Section 30 of the  
19 Guardianship and Advocacy Act, where an elder abuse provider  
20 agency is the petitioner, pursuant to Section 9 of the Elder  
21 Abuse and Neglect Act, or where the Department of Human  
22 Services or Department of Healthcare and Family Services Office  
23 of Inspector General is the petitioner, consistent with Section  
24 45(b) of the Abuse of Adults with Disabilities Intervention  
25 Act, no guardian ad litem or legal fees shall be assessed  
26 against the Office of State Guardian, the elder abuse provider

1 agency, or the Department of Human Services or Department of  
2 Healthcare and Family Services Office of Inspector General.

3 (d) The hearing may be held at such convenient place as the  
4 court directs, including at a facility in which the respondent  
5 resides.

6 (e) Unless he is the petitioner, the respondent shall be  
7 personally served with a copy of the petition and a summons not  
8 less than 14 days before the hearing. The summons shall be  
9 printed in large, bold type and shall include the following  
10 notice:

11 NOTICE OF RIGHTS OF RESPONDENT

12 You have been named as a respondent in a guardianship  
13 petition asking that you be declared a disabled person. If the  
14 court grants the petition, a guardian will be appointed for  
15 you. A copy of the guardianship petition is attached for your  
16 convenience.

17 The date and time of the hearing are:

18 The place where the hearing will occur is:

19 The Judge's name and phone number is:

20 If a guardian is appointed for you, the guardian may be  
21 given the right to make all important personal decisions for  
22 you, such as where you may live, what medical treatment you may  
23 receive, what places you may visit, and who may visit you. A  
24 guardian may also be given the right to control and manage your  
25 money and other property, including your home, if you own one.  
26 You may lose the right to make these decisions for yourself.

1           You have the following legal rights:

2           (1) You have the right to be present at the court  
3 hearing.

4           (2) You have the right to be represented by a lawyer,  
5 either one that you retain, or one appointed by the Judge.

6           (3) You have the right to ask for a jury of six persons  
7 to hear your case.

8           (4) You have the right to present evidence to the court  
9 and to confront and cross-examine witnesses.

10           (5) You have the right to ask the Judge to appoint an  
11 independent expert to examine you and give an opinion about  
12 your need for a guardian.

13           (6) You have the right to ask that the court hearing be  
14 closed to the public.

15           (7) You have the right to tell the court whom you  
16 prefer to have for your guardian.

17           You do not have to attend the court hearing if you do not  
18 want to be there. If you do not attend, the Judge may appoint a  
19 guardian if the Judge finds that a guardian would be of benefit  
20 to you. The hearing will not be postponed or canceled if you do  
21 not attend.

22           IT IS VERY IMPORTANT THAT YOU ATTEND THE HEARING IF YOU DO  
23 NOT WANT A GUARDIAN OR IF YOU WANT SOMEONE OTHER THAN THE  
24 PERSON NAMED IN THE GUARDIANSHIP PETITION TO BE YOUR GUARDIAN.  
25 IF YOU DO NOT WANT A GUARDIAN OR IF YOU HAVE ANY OTHER  
26 PROBLEMS, YOU SHOULD CONTACT AN ATTORNEY OR COME TO COURT AND



1 TELL THE JUDGE.

2 Service of summons and the petition may be made by a  
3 private person 18 years of age or over who is not a party to the  
4 action.

5 (f) Notice of the time and place of the hearing shall be  
6 given by the petitioner by mail or in person to those persons,  
7 including the proposed guardian, whose names and addresses  
8 appear in the petition and who do not waive notice, not less  
9 than 14 days before the hearing.

10 (Source: P.A. 95-373, eff. 8-23-07.)

11 (755 ILCS 5/27-1) (from Ch. 110 1/2, par. 27-1)

12 Sec. 27-1. Fees of representative. A representative is  
13 entitled to reasonable compensation for his services, but no  
14 fees, charges or other compensation may be allowed a public  
15 administrator for services performed in administering that  
16 part of the estate of any United States war veteran which  
17 consists of compensation, insurance or other monies due or  
18 payable from the United States because of the veteran's war  
19 service. No fees, charges or other compensation may be allowed  
20 an employee of the Department of Human Services, the Department  
21 of Healthcare and Family Services, or the Department of  
22 Children and Family Services designated under paragraph (b) of  
23 Section 11-3 for services as guardian of the estate of a  
24 patient or resident in a State mental health or developmental  
25 disabilities facility or other State institution.

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

2 Section 9995. No acceleration or delay. Where this Act  
3 makes changes in a statute that is represented in this Act by  
4 text that is not yet or no longer in effect (for example, a  
5 Section represented by multiple versions), the use of that text  
6 does not accelerate or delay the taking effect of (i) the  
7 changes made by this Act or (ii) provisions derived from any  
8 other Public Act.

9 Section 9999. Effective date. This Act takes effect upon  
10 becoming law.

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