

1 AN ACT concerning criminal law.

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

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by adding Section 115-17b as follows:

6 (725 ILCS 5/115-17b new)

7 Sec. 115-17b. Administrative subpoenas.

8 (a) Definitions. As used in this Section:

9 "Electronic communication services" and "remote
10 computing services" have the same meaning as provided in
11 the Electronic Communications Privacy Act in Chapter 121
12 (commencing with Section 2701) of Part I of Title 18 of the
13 United States Code Annotated.

14 "Offense involving the sexual exploitation of
15 children" means an offense under Section 11-6, 11-6.5,
16 11-9.1, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2,
17 11-20.1, 11-20.3, 11-21, 11-23, 12-13, 12-14, 12-14.1,
18 12-15, or 12-16 of the Criminal Code of 1961 or any attempt
19 to commit any of these offenses.

20 (b) Subpoenas duces tecum. In any criminal investigation of
21 an offense involving the sexual exploitation of children, the
22 Attorney General, or his or her designee, or a State's
23 Attorney, or his or her designee, may issue in writing and

1 cause to be served subpoenas duces tecum to providers of
2 electronic communication services or remote computing services
3 requiring the production of records relevant to the
4 investigation. Any such request for records shall not extend
5 beyond requiring the provider to disclose the information
6 specified in 18 U.S.C. 2703(c)(2). Any subpoena duces tecum
7 issued under this Section shall be made returnable to the Chief
8 Judge of the Circuit Court for the Circuit in which the State's
9 Attorney resides, or his or her designee, or for subpoenas
10 issued by the Attorney General, the subpoena shall be made
11 returnable to the Chief Judge of the Circuit Court for the
12 Circuit to which the investigation pertains, or his or her
13 designee, to determine whether the documents are privileged and
14 whether the subpoena is unreasonable or oppressive.

15 (c) Contents of subpoena. A subpoena under this Section
16 shall describe the records or other things required to be
17 produced and prescribe a return date within a reasonable period
18 of time within which the objects or records can be assembled
19 and made available.

20 (c-5) Contemporaneous notice to Chief Judge. Whenever a
21 subpoena is issued under this Section, the Attorney General or
22 his or her designee or the State's Attorney or his or her
23 designee shall be required to provide a copy of the subpoena to
24 the Chief Judge of the county in which the subpoena is
25 returnable.

26 (d) Modifying or quashing subpoena. At any time before the

1 return date specified in the subpoena, the person or entity to
2 whom the subpoena is directed may petition for an order
3 modifying or quashing the subpoena on the grounds that the
4 subpoena is oppressive or unreasonable or that the subpoena
5 seeks privileged documents or records.

6 (e) Ex parte order. An Illinois circuit court for the
7 circuit in which the subpoena is or will be issued, upon
8 application of the Attorney General, or his or her designee, or
9 State's Attorney, or his or her designee, may issue an ex parte
10 order that no person or entity disclose to any other person or
11 entity (other than persons necessary to comply with the
12 subpoena) the existence of such subpoena for a period of up to
13 90 days.

14 (1) Such order may be issued upon a showing that the
15 things being sought may be relevant to the investigation
16 and there is reason to believe that such disclosure may
17 result in:

18 (A) endangerment to the life or physical safety of
19 any person;

20 (B) flight to avoid prosecution;

21 (C) destruction of or tampering with evidence;

22 (D) intimidation of potential witnesses; or

23 (E) otherwise seriously jeopardizing an
24 investigation or unduly delaying a trial.

25 (2) An order under this Section may be renewed for
26 additional periods of up to 90 days upon a showing that the

1 circumstances described in paragraph (1) of this
2 subsection (e) continue to exist.

3 (f) Enforcement. A witness who is duly subpoenaed who
4 neglects or refuses to comply with the subpoena shall be
5 proceeded against and punished for contempt of the court. A
6 subpoena duces tecum issued under this Section may be enforced
7 pursuant to the Uniform Act to Secure the Attendance of
8 Witnesses from Within or Without a State in Criminal
9 Proceedings.

10 (g) Immunity from civil liability. Notwithstanding any
11 federal, State, or local law, any person, including officers,
12 agents, and employees, receiving a subpoena under this Section,
13 who complies in good faith with the subpoena and thus produces
14 the materials sought, shall not be liable in any court of
15 Illinois to any customer or other person for such production or
16 for nondisclosure of that production to the customer.

17 Section 10. The Unified Code of Corrections is amended by
18 changing Section 5-8-4 as follows:

19 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

20 Sec. 5-8-4. Concurrent and consecutive terms of
21 imprisonment.

22 (a) Concurrent terms; multiple or additional sentences.
23 When an Illinois court (i) imposes multiple sentences of
24 imprisonment on a defendant at the same time or (ii) imposes a

1 sentence of imprisonment on a defendant who is already subject
2 to a sentence of imprisonment imposed by an Illinois court, a
3 court of another state, or a federal court, then the sentences
4 shall run concurrently unless otherwise determined by the
5 Illinois court under this Section.

6 (b) Concurrent terms; misdemeanor and felony. A defendant
7 serving a sentence for a misdemeanor who is convicted of a
8 felony and sentenced to imprisonment shall be transferred to
9 the Department of Corrections, and the misdemeanor sentence
10 shall be merged in and run concurrently with the felony
11 sentence.

12 (c) Consecutive terms; permissive. The court may impose
13 consecutive sentences in any of the following circumstances:

14 (1) If, having regard to the nature and circumstances
15 of the offense and the history and character of the
16 defendant, it is the opinion of the court that consecutive
17 sentences are required to protect the public from further
18 criminal conduct by the defendant, the basis for which the
19 court shall set forth in the record.

20 (2) If one of the offenses for which a defendant was
21 convicted was a violation of Section 32-5.2 (aggravated
22 false personation of a peace officer) of the Criminal Code
23 of 1961 (720 ILCS 5/32-5.2) and the offense was committed
24 in attempting or committing a forcible felony.

25 (d) Consecutive terms; mandatory. The court shall impose
26 consecutive sentences in each of the following circumstances:

1 (1) One of the offenses for which the defendant was
2 convicted was first degree murder or a Class X or Class 1
3 felony and the defendant inflicted severe bodily injury.

4 (2) The defendant was convicted of a violation of
5 Section 11-20.1 (child pornography), 11-20.3 (aggravated
6 child pornography), 12-13 (criminal sexual assault), 12-14
7 (aggravated criminal sexual assault), or 12-14.1
8 (predatory criminal sexual assault of a child) of the
9 Criminal Code of 1961 (720 ILCS 5/11-20.1, 5/11-20.3,
10 5/12-13, 5/12-14, or 5/12-14.1).

11 (3) The defendant was convicted of armed violence based
12 upon the predicate offense of any of the following:
13 solicitation of murder, solicitation of murder for hire,
14 heinous battery, aggravated battery of a senior citizen,
15 criminal sexual assault, a violation of subsection (g) of
16 Section 5 of the Cannabis Control Act (720 ILCS 550/5),
17 cannabis trafficking, a violation of subsection (a) of
18 Section 401 of the Illinois Controlled Substances Act (720
19 ILCS 570/401), controlled substance trafficking involving
20 a Class X felony amount of controlled substance under
21 Section 401 of the Illinois Controlled Substances Act (720
22 ILCS 570/401), a violation of the Methamphetamine Control
23 and Community Protection Act (720 ILCS 646/), calculated
24 criminal drug conspiracy, or streetgang criminal drug
25 conspiracy.

26 (4) The defendant was convicted of the offense of

1 leaving the scene of a motor vehicle accident involving
2 death or personal injuries under Section 11-401 of the
3 Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A)
4 aggravated driving under the influence of alcohol, other
5 drug or drugs, or intoxicating compound or compounds, or
6 any combination thereof under Section 11-501 of the
7 Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless
8 homicide under Section 9-3 of the Criminal Code of 1961
9 (720 ILCS 5/9-3), or (C) both an offense described in item
10 (A) and an offense described in item (B).

11 (5) The defendant was convicted of a violation of
12 Section 9-3.1 (concealment of homicidal death) or Section
13 12-20.5 (dismembering a human body) of the Criminal Code of
14 1961 (720 ILCS 5/9-3.1 or 5/12-20.5).

15 (5.5) The defendant was convicted of a violation of
16 Section 24-3.7 (use of a stolen firearm in the commission
17 of an offense) of the Criminal Code of 1961.

18 (6) If the defendant was in the custody of the
19 Department of Corrections at the time of the commission of
20 the offense, the sentence shall be served consecutive to
21 the sentence under which the defendant is held by the
22 Department of Corrections. If, however, the defendant is
23 sentenced to punishment by death, the sentence shall be
24 executed at such time as the court may fix without regard
25 to the sentence under which the defendant may be held by
26 the Department.

1 (7) A sentence under Section 3-6-4 (730 ILCS 5/3-6-4)
2 for escape or attempted escape shall be served consecutive
3 to the terms under which the offender is held by the
4 Department of Corrections.

5 (8) If a person charged with a felony commits a
6 separate felony while on pretrial release or in pretrial
7 detention in a county jail facility or county detention
8 facility, then the sentences imposed upon conviction of
9 these felonies shall be served consecutively regardless of
10 the order in which the judgments of conviction are entered.

11 (8.5) If a person commits a battery against a county
12 correctional officer or sheriff's employee while serving a
13 sentence or in pretrial detention in a county jail
14 facility, then the sentence imposed upon conviction of the
15 battery shall be served consecutively with the sentence
16 imposed upon conviction of the earlier misdemeanor or
17 felony, regardless of the order in which the judgments of
18 conviction are entered.

19 (9) If a person admitted to bail following conviction
20 of a felony commits a separate felony while free on bond or
21 if a person detained in a county jail facility or county
22 detention facility following conviction of a felony
23 commits a separate felony while in detention, then any
24 sentence following conviction of the separate felony shall
25 be consecutive to that of the original sentence for which
26 the defendant was on bond or detained.

1 (10) If a person is found to be in possession of an
2 item of contraband, as defined in clause (c)(2) of Section
3 31A-1.1 of the Criminal Code of 1961, while serving a
4 sentence in a county jail or while in pre-trial detention
5 in a county jail, the sentence imposed upon conviction for
6 the offense of possessing contraband in a penal institution
7 shall be served consecutively to the sentence imposed for
8 the offense in which the person is serving sentence in the
9 county jail or serving pretrial detention, regardless of
10 the order in which the judgments of conviction are entered.

11 (11) If a person is sentenced for a violation of bail
12 bond under Section 32-10 of the Criminal Code of 1961, any
13 sentence imposed for that violation shall be served
14 consecutive to the sentence imposed for the charge for
15 which bail had been granted and with respect to which the
16 defendant has been convicted.

17 (e) Consecutive terms; subsequent non-Illinois term. If an
18 Illinois court has imposed a sentence of imprisonment on a
19 defendant and the defendant is subsequently sentenced to a term
20 of imprisonment by a court of another state or a federal court,
21 then the Illinois sentence shall run consecutively to the
22 sentence imposed by the court of the other state or the federal
23 court. That same Illinois court, however, may order that the
24 Illinois sentence run concurrently with the sentence imposed by
25 the court of the other state or the federal court, but only if
26 the defendant applies to that same Illinois court within 30

1 days after the sentence imposed by the court of the other state
2 or the federal court is finalized.

3 (f) Consecutive terms; aggregate maximums and minimums.
4 The aggregate maximum and aggregate minimum of consecutive
5 sentences shall be determined as follows:

6 (1) For sentences imposed under law in effect prior to
7 February 1, 1978, the aggregate maximum of consecutive
8 sentences shall not exceed the maximum term authorized
9 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of
10 Chapter V for the 2 most serious felonies involved. The
11 aggregate minimum period of consecutive sentences shall
12 not exceed the highest minimum term authorized under
13 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter
14 V for the 2 most serious felonies involved. When sentenced
15 only for misdemeanors, a defendant shall not be
16 consecutively sentenced to more than the maximum for one
17 Class A misdemeanor.

18 (2) For sentences imposed under the law in effect on or
19 after February 1, 1978, the aggregate of consecutive
20 sentences for offenses that were committed as part of a
21 single course of conduct during which there was no
22 substantial change in the nature of the criminal objective
23 shall not exceed the sum of the maximum terms authorized
24 under Article 4.5 of Chapter V for the 2 most serious
25 felonies involved, but no such limitation shall apply for
26 offenses that were not committed as part of a single course

1 of conduct during which there was no substantial change in
2 the nature of the criminal objective. When sentenced only
3 for misdemeanors, a defendant shall not be consecutively
4 sentenced to more than the maximum for one Class A
5 misdemeanor.

6 (g) Consecutive terms; manner served. In determining the
7 manner in which consecutive sentences of imprisonment, one or
8 more of which is for a felony, will be served, the Department
9 of Corrections shall treat the defendant as though he or she
10 had been committed for a single term subject to each of the
11 following:

12 (1) The maximum period of a term of imprisonment shall
13 consist of the aggregate of the maximums of the imposed
14 indeterminate terms, if any, plus the aggregate of the
15 imposed determinate sentences for felonies, plus the
16 aggregate of the imposed determinate sentences for
17 misdemeanors, subject to subsection (f) of this Section.

18 (2) The parole or mandatory supervised release term
19 shall be as provided in paragraph (e) of Section 5-4.5-50
20 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
21 involved.

22 (3) The minimum period of imprisonment shall be the
23 aggregate of the minimum and determinate periods of
24 imprisonment imposed by the court, subject to subsection
25 (f) of this Section.

26 (4) The defendant shall be awarded credit against the

1 aggregate maximum term and the aggregate minimum term of
2 imprisonment for all time served in an institution since
3 the commission of the offense or offenses and as a
4 consequence thereof at the rate specified in Section 3-6-3
5 (730 ILCS 5/3-6-3).

6 (Source: P.A. 95-379, eff. 8-23-07; 95-766, eff. 1-1-09;
7 95-1052, eff. 7-1-09; 96-190, eff. 1-1-10; 96-1000, eff.
8 7-2-10; 96-1200, eff. 7-22-10.)

9 Section 99. Effective date. This Act takes effect upon
10 becoming law.