

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 11-6.6, 11-9.1, 11-15.1, 11-17.1, 11-18.1, 11-19.1,
17 11-19.2, 11-20.1, 11-20.3, 11-21, 11-23, 11-25, 11-26,
18 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code
19 of 1961 or any attempt to commit any of these offenses when
20 the victim is under 18 years of age.

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

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

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

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

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

7 (e) Ex parte order. An Illinois circuit court for the
8 circuit in which the subpoena is or will be issued, upon
9 application of the Attorney General, or his or her designee, or
10 State's Attorney, or his or her designee, may issue an ex parte
11 order that no person or entity disclose to any other person or
12 entity (other than persons necessary to comply with the
13 subpoena) the existence of such subpoena for a period of up to
14 90 days.

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

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

21 (B) flight to avoid prosecution;

22 (C) destruction of or tampering with evidence;

23 (D) intimidation of potential witnesses; or

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

26 (2) An order under this Section may be renewed for

1 additional periods of up to 90 days upon a showing that the
2 circumstances described in paragraph (1) of this
3 subsection (e) continue to exist.

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

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

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

20 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

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

23 (a) Concurrent terms; multiple or additional sentences.
24 When an Illinois court (i) imposes multiple sentences of

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

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

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

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

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

26 (d) Consecutive terms; mandatory. The court shall impose

1 consecutive sentences in each of the following circumstances:

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

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

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

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

12 (5) The defendant was convicted of a violation of
13 Section 9-3.1 (concealment of homicidal death) or Section
14 12-20.5 (dismembering a human body) of the Criminal Code of
15 1961 (720 ILCS 5/9-3.1 or 5/12-20.5).

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

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

1 the Department.

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

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

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

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

1 the defendant was on bond or detained.

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

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

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

1 the defendant applies to that same Illinois court within 30
2 days after the sentence imposed by the court of the other state
3 or the federal court is finalized.

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

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

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

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

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

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

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

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

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

7 (Source: P.A. 95-379, eff. 8-23-07; 95-766, eff. 1-1-09;
8 95-1052, eff. 7-1-09; 96-190, eff. 1-1-10; 96-1000, eff.
9 7-2-10; 96-1200, eff. 7-22-10.)

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