

1 AN ACT concerning health.

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

4 Section 1. Rule of construction. This Act shall be  
5 construed to make amendments to provisions of State law to  
6 substitute the term "intellectual disability" for "mental  
7 retardation", "intellectually disabled" for "mentally  
8 retarded", "ID/DD Community Care Act" for "MR/DD Community Care  
9 Act", "physically disabled" for "crippled", and "physical  
10 disability" or "physically disabling", as appropriate, for  
11 "crippling" without any intent to change the substantive  
12 rights, responsibilities, coverage, eligibility, or  
13 definitions referred to in the amended provisions represented  
14 in this Act.

15 Section 3. The Statute on Statutes is amended by adding  
16 Sections 1.37 and 1.38 as follows:

17 (5 ILCS 70/1.37 new)

18 Sec. 1.37. Intellectual disability. Except where the  
19 context indicates otherwise, in any rule, contract, or other  
20 document a reference to the term "mental retardation" shall be  
21 considered a reference to the term "intellectual disability"  
22 and a reference to the term "mentally retarded" shall be

1 considered a reference to the term "intellectually disabled".  
2 The use of either "mental retardation" or "intellectually  
3 disabled", or "mentally retarded" or "intellectually disabled"  
4 shall not invalidate any rule, contract, or other document.

5 (5 ILCS 70/1.38 new)

6 Sec. 1.38. Physical disability. Except where the context  
7 indicates otherwise, in any rule, contract, or other document a  
8 reference to the term "crippled" shall be considered a  
9 reference to the term "physically disabled" and a reference to  
10 the term "crippling" shall be considered a reference to the  
11 term "physical disability" or "physically disabling", as  
12 appropriate, when referring to a person. The use of either  
13 "crippled" or "physically disabled", or "crippling" or  
14 "physical disability" shall not invalidate any rule, contract,  
15 or other document.

16 Section 4. The Illinois Administrative Procedure Act is  
17 amended by adding Sections 5-146 and 5-147 as follows:

18 (5 ILCS 100/5-146 new)

19 Sec. 5-146. Rule change; intellectual disability. Any  
20 State agency with a rule that contains the term "mentally  
21 retarded" or "mental retardation" shall amend the text of the  
22 rule to substitute the term "intellectually disabled" for  
23 "mentally retarded" and "intellectual disability" for "mental

1 retardation", and shall make any other changes that may be  
2 necessary to conform to the changes made by this amendatory Act  
3 of the 97th General Assembly.

4 (5 ILCS 100/5-147 new)

5 Sec. 5-147. Rule change; physical disability. Any State  
6 agency with a rule that contains the term "crippled" or  
7 "crippling" to refer to a person with a physical disability  
8 shall amend the text of the rule to substitute the term  
9 "physically disabled" for "crippled" and "physical disability"  
10 or "physically disabling", as appropriate, for "crippling",  
11 and shall make any other changes that may be necessary to  
12 conform to the changes made by this amendatory Act of the 97th  
13 General Assembly.

14 Section 5. The Supported Employees Act is amended by  
15 changing Section 3 as follows:

16 (5 ILCS 390/3) (from Ch. 127, par. 3903)

17 Sec. 3. As used in this Act:

18 (a) "Agency" means those Departments, Boards, Commissions  
19 and Authorities that are under the jurisdiction and control of  
20 the Governor and are subject to the provisions and requirements  
21 of the Personnel Code, the State Universities Civil Service Act  
22 and the Secretary of State Merit Employment Code.

23 (b) "Department" means the Department of Central

1 Management Services.

2 (c) "Director" means the Director of the Department of  
3 Central Management Services.

4 (d) "Supported employee" means any individual who:

5 (1) has a severe physical or mental disability which  
6 seriously limits functional capacities including but not  
7 limited to mobility, communication, self-care,  
8 self-direction, work tolerance or work skills, in terms of  
9 employability as defined, determined and certified by the  
10 Department of Human Services; and

11 (2) has one or more physical or mental disabilities  
12 resulting from amputation; arthritis; blindness; cancer;  
13 cerebral palsy; cystic fibrosis; deafness; heart disease;  
14 hemiplegia; respiratory or pulmonary dysfunction; an  
15 intellectual disability ~~mental retardation~~; mental  
16 illness; multiple sclerosis; muscular dystrophy;  
17 musculoskeletal disorders; neurological disorders,  
18 including stroke and epilepsy; paraplegia; quadriplegia  
19 and other spinal cord conditions; sickle cell anemia; and  
20 end-stage renal disease; or another disability or  
21 combination of disabilities determined on the basis of an  
22 evaluation of rehabilitation potential to cause comparable  
23 substantial functional limitation.

24 (e) "Supported employment" means competitive work in  
25 integrated work settings:

26 (1) for individuals with severe handicaps for whom

1 competitive employment has not traditionally occurred, or  
2 (2) for individuals for whom competitive employment  
3 has been interrupted or intermittent as a result of a  
4 severe disability, and who because of their handicap, need  
5 on-going support services to perform such work. The term  
6 includes transitional employment for individuals with  
7 chronic mental illness.

8 (f) "Participation in a supported employee program" means  
9 participation as a supported employee that is not based on the  
10 expectation that an individual will have the skills to perform  
11 all the duties in a job class, but on the assumption that with  
12 support and adaptation, or both, a job can be designed to take  
13 advantage of the supported employee's special strengths.

14 (g) "Funder" means any entity either State, local or  
15 federal, or private not-for-profit or for-profit that provides  
16 monies to programs that provide services related to supported  
17 employment.

18 (h) "Provider" means any entity either public or private  
19 that provides technical support and services to any department  
20 or agency subject to the control of the Governor, the Secretary  
21 of State or the University Civil Service System.

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

23 Section 7. The Election Code is amended by changing  
24 Sections 3-3, 4-6.3, 4-10, 5-9, 5-16.3, 6-50.3, 6-56, 19-4,  
25 19-12.1, and 19-12.2 as follows:

1 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

2 Sec. 3-3. Every honorably discharged soldier or sailor who  
3 is an inmate of any soldiers' and sailors' home within the  
4 State of Illinois, any person who is a resident of a facility  
5 licensed or certified pursuant to the Nursing Home Care Act or  
6 the ID/DD ~~MR/DD~~ Community Care Act, or any person who is a  
7 resident of a community-integrated living arrangement, as  
8 defined in Section 3 of the Community-Integrated Living  
9 Arrangements Licensure and Certification Act, for 30 days or  
10 longer, and who is a citizen of the United States and has  
11 resided in this State and in the election district 30 days next  
12 preceding any election shall be entitled to vote in the  
13 election district in which any such home or  
14 community-integrated living arrangement in which he is an  
15 inmate or resident is located, for all officers that now are or  
16 hereafter may be elected by the people, and upon all questions  
17 that may be submitted to the vote of the people: Provided, that  
18 he shall declare upon oath, that it was his bona fide intention  
19 at the time he entered said home or community-integrated living  
20 arrangement to become a resident thereof.

21 (Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10;  
22 96-1000, eff. 7-2-10.)

23 (10 ILCS 5/4-6.3) (from Ch. 46, par. 4-6.3)

24 Sec. 4-6.3. The county clerk may establish a temporary

1 place of registration for such times and at such locations  
2 within the county as the county clerk may select. However, no  
3 temporary place of registration may be in operation during the  
4 27 days preceding an election. Notice of the time and place of  
5 registration under this Section shall be published by the  
6 county clerk in a newspaper having a general circulation in the  
7 county not less than 3 nor more than 15 days before the holding  
8 of such registration.

9 Temporary places of registration shall be established so  
10 that the areas of concentration of population or use by the  
11 public are served, whether by facilities provided in places of  
12 private business or in public buildings or in mobile units.  
13 Areas which may be designated as temporary places of  
14 registration include, but are not limited to, facilities  
15 licensed or certified pursuant to the Nursing Home Care Act or  
16 the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors'  
17 Homes, shopping centers, business districts, public buildings  
18 and county fairs.

19 Temporary places of registration shall be available to the  
20 public not less than 2 hours per year for each 1,000 population  
21 or fraction thereof in the county.

22 All temporary places of registration shall be manned by  
23 deputy county clerks or deputy registrars appointed pursuant to  
24 Section 4-6.2.

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

1 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

2 Sec. 4-10. Except as herein provided, no person shall be  
3 registered, unless he applies in person to a registration  
4 officer, answers such relevant questions as may be asked of him  
5 by the registration officer, and executes the affidavit of  
6 registration. The registration officer shall require the  
7 applicant to furnish two forms of identification, and except in  
8 the case of a homeless individual, one of which must include  
9 his or her residence address. These forms of identification  
10 shall include, but not be limited to, any of the following:  
11 driver's license, social security card, public aid  
12 identification card, utility bill, employee or student  
13 identification card, lease or contract for a residence, credit  
14 card, or a civic, union or professional association membership  
15 card. The registration officer shall require a homeless  
16 individual to furnish evidence of his or her use of the mailing  
17 address stated. This use may be demonstrated by a piece of mail  
18 addressed to that individual and received at that address or by  
19 a statement from a person authorizing use of the mailing  
20 address. The registration officer shall require each applicant  
21 for registration to read or have read to him the affidavit of  
22 registration before permitting him to execute the affidavit.

23 One of the registration officers or a deputy registration  
24 officer, county clerk, or clerk in the office of the county  
25 clerk, shall administer to all persons who shall personally  
26 apply to register the following oath or affirmation:



1            "You do solemnly swear (or affirm) that you will fully and  
2 truly answer all such questions as shall be put to you touching  
3 your name, place of residence, place of birth, your  
4 qualifications as an elector and your right as such to register  
5 and vote under the laws of the State of Illinois."

6            The registration officer shall satisfy himself that each  
7 applicant for registration is qualified to register before  
8 registering him. If the registration officer has reason to  
9 believe that the applicant is a resident of a Soldiers' and  
10 Sailors' Home or any facility which is licensed or certified  
11 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
12 Community Care Act, the following question shall be put, "When  
13 you entered the home which is your present address, was it your  
14 bona fide intention to become a resident thereof?" Any voter of  
15 a township, city, village or incorporated town in which such  
16 applicant resides, shall be permitted to be present at the  
17 place of any precinct registration and shall have the right to  
18 challenge any applicant who applies to be registered.

19            In case the officer is not satisfied that the applicant is  
20 qualified he shall forthwith notify such applicant in writing  
21 to appear before the county clerk to complete his registration.  
22 Upon the card of such applicant shall be written the word  
23 "incomplete" and no such applicant shall be permitted to vote  
24 unless such registration is satisfactorily completed as  
25 hereinafter provided. No registration shall be taken and marked  
26 as incomplete if information to complete it can be furnished on

1 the date of the original application.

2 Any person claiming to be an elector in any election  
3 precinct and whose registration card is marked "Incomplete" may  
4 make and sign an application in writing, under oath, to the  
5 county clerk in substance in the following form:

6 "I do solemnly swear that I, ....., did on (insert date)  
7 make application to the board of registry of the .... precinct  
8 of the township of .... (or to the county clerk of .... county)  
9 and that said board or clerk refused to complete my  
10 registration as a qualified voter in said precinct. That I  
11 reside in said precinct, that I intend to reside in said  
12 precinct, and am a duly qualified voter of said precinct and am  
13 entitled to be registered to vote in said precinct at the next  
14 election.

15 (Signature of applicant) ....."

16 All such applications shall be presented to the county  
17 clerk or to his duly authorized representative by the  
18 applicant, in person between the hours of 9:00 a.m. and 5:00  
19 p.m. on any day after the days on which the 1969 and 1970  
20 precinct re-registrations are held but not on any day within 27  
21 days preceding the ensuing general election and thereafter for  
22 the registration provided in Section 4-7 all such applications  
23 shall be presented to the county clerk or his duly authorized  
24 representative by the applicant in person between the hours of  
25 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding

1 the ensuing general election. Such application shall be heard  
2 by the county clerk or his duly authorized representative at  
3 the time the application is presented. If the applicant for  
4 registration has registered with the county clerk, such  
5 application may be presented to and heard by the county clerk  
6 or by his duly authorized representative upon the dates  
7 specified above or at any time prior thereto designated by the  
8 county clerk.

9 Any otherwise qualified person who is absent from his  
10 county of residence either due to business of the United States  
11 or because he is temporarily outside the territorial limits of  
12 the United States may become registered by mailing an  
13 application to the county clerk within the periods of  
14 registration provided for in this Article, or by simultaneous  
15 application for absentee registration and absentee ballot as  
16 provided in Article 20 of this Code.

17 Upon receipt of such application the county clerk shall  
18 immediately mail an affidavit of registration in duplicate,  
19 which affidavit shall contain the following and such other  
20 information as the State Board of Elections may think it proper  
21 to require for the identification of the applicant:

22 Name. The name of the applicant, giving surname and first  
23 or Christian name in full, and the middle name or the initial  
24 for such middle name, if any.

25 Sex.

26 Residence. The name and number of the street, avenue or

1 other location of the dwelling, and such additional clear and  
 2 definite description as may be necessary to determine the exact  
 3 location of the dwelling of the applicant. Where the location  
 4 cannot be determined by street and number, then the Section,  
 5 congressional township and range number may be used, or such  
 6 other information as may be necessary, including post office  
 7 mailing address.

8 Term of residence in the State of Illinois and the  
 9 precinct.

10 Nativity. The State or country in which the applicant was  
 11 born.

12 Citizenship. Whether the applicant is native born or  
 13 naturalized. If naturalized, the court, place and date of  
 14 naturalization.

15 Age. Date of birth, by month, day and year.

16 Out of State address of .....

17 AFFIDAVIT OF REGISTRATION

18 State of .....)

19 )ss

20 County of .....)

21 I hereby swear (or affirm) that I am a citizen of the  
 22 United States; that on the day of the next election I shall  
 23 have resided in the State of Illinois and in the election  
 24 precinct 30 days; that I am fully qualified to vote, that I am  
 25 not registered to vote anywhere else in the United States, that  
 26 I intend to remain a resident of the State of Illinois and of

1 the election precinct, that I intend to return to the State of  
2 Illinois, and that the above statements are true.

3 .....  
4 (His or her signature or mark)

5 Subscribed and sworn to before me, an officer qualified to  
6 administer oaths, on (insert date).

7 .....  
8 Signature of officer administering oath.

9 Upon receipt of the executed duplicate affidavit of  
10 Registration, the county clerk shall transfer the information  
11 contained thereon to duplicate Registration Cards provided for  
12 in Section 4-8 of this Article and shall attach thereto a copy  
13 of each of the duplicate affidavit of registration and  
14 thereafter such registration card and affidavit shall  
15 constitute the registration of such person the same as if he  
16 had applied for registration in person.

17 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
18 96-1000, eff. 7-2-10.)

19 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

20 Sec. 5-9. Except as herein provided, no person shall be  
21 registered unless he applies in person to registration officer,  
22 answers such relevant questions as may be asked of him by the  
23 registration officer, and executes the affidavit of  
24 registration. The registration officer shall require the  
25 applicant to furnish two forms of identification, and except in

1 the case of a homeless individual, one of which must include  
2 his or her residence address. These forms of identification  
3 shall include, but not be limited to, any of the following:  
4 driver's license, social security card, public aid  
5 identification card, utility bill, employee or student  
6 identification card, lease or contract for a residence, credit  
7 card, or a civic, union or professional association membership  
8 card. The registration officer shall require a homeless  
9 individual to furnish evidence of his or her use of the mailing  
10 address stated. This use may be demonstrated by a piece of mail  
11 addressed to that individual and received at that address or by  
12 a statement from a person authorizing use of the mailing  
13 address. The registration officer shall require each applicant  
14 for registration to read or have read to him the affidavit of  
15 registration before permitting him to execute the affidavit.

16 One of the Deputy Registrars, the Judge of Registration, or  
17 an Officer of Registration, County Clerk, or clerk in the  
18 office of the County Clerk, shall administer to all persons who  
19 shall personally apply to register the following oath or  
20 affirmation:

21 "You do solemnly swear (or affirm) that you will fully and  
22 truly answer all such questions as shall be put to you touching  
23 your place of residence, name, place of birth, your  
24 qualifications as an elector and your right as such to register  
25 and vote under the laws of the State of Illinois."

26 The Registration Officer shall satisfy himself that each

1 applicant for registration is qualified to register before  
2 registering him. If the registration officer has reason to  
3 believe that the applicant is a resident of a Soldiers' and  
4 Sailors' Home or any facility which is licensed or certified  
5 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
6 Community Care Act, the following question shall be put, "When  
7 you entered the home which is your present address, was it your  
8 bona fide intention to become a resident thereof?" Any voter of  
9 a township, city, village or incorporated town in which such  
10 applicant resides, shall be permitted to be present at the  
11 place of precinct registration, and shall have the right to  
12 challenge any applicant who applies to be registered.

13 In case the officer is not satisfied that the applicant is  
14 qualified, he shall forthwith in writing notify such applicant  
15 to appear before the County Clerk to furnish further proof of  
16 his qualifications. Upon the card of such applicant shall be  
17 written the word "Incomplete" and no such applicant shall be  
18 permitted to vote unless such registration is satisfactorily  
19 completed as hereinafter provided. No registration shall be  
20 taken and marked as "incomplete" if information to complete it  
21 can be furnished on the date of the original application.

22 Any person claiming to be an elector in any election  
23 precinct in such township, city, village or incorporated town  
24 and whose registration is marked "Incomplete" may make and sign  
25 an application in writing, under oath, to the County Clerk in  
26 substance in the following form:

1 "I do solemnly swear that I, ....., did on (insert  
 2 date) make application to the Board of Registry of the .....  
 3 precinct of ..... ward of the City of .... or of the  
 4 ..... District ..... Town of ..... (or to the  
 5 County Clerk of ..... ) and ..... County; that  
 6 said Board or Clerk refused to complete my registration as a  
 7 qualified voter in said precinct, that I reside in said  
 8 precinct (or that I intend to reside in said precinct), am a  
 9 duly qualified voter and entitled to vote in said precinct at  
 10 the next election.

11 .....  
 12 (Signature of Applicant)"

13 All such applications shall be presented to the County  
 14 Clerk by the applicant, in person between the hours of nine  
 15 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of  
 16 the third week subsequent to the weeks in which the 1961 and  
 17 1962 precinct re-registrations are to be held, and thereafter  
 18 for the registration provided in Section 5-17 of this Article,  
 19 all such applications shall be presented to the County Clerk by  
 20 the applicant in person between the hours of nine o'clock a.m.  
 21 and nine o'clock p.m. on Monday and Tuesday of the third week  
 22 prior to the date on which such election is to be held.

23 Any otherwise qualified person who is absent from his  
 24 county of residence either due to business of the United States  
 25 or because he is temporarily outside the territorial limits of  
 26 the United States may become registered by mailing an



1 application to the county clerk within the periods of  
2 registration provided for in this Article or by simultaneous  
3 application for absentee registration and absentee ballot as  
4 provided in Article 20 of this Code.

5 Upon receipt of such application the county clerk shall  
6 immediately mail an affidavit of registration in duplicate,  
7 which affidavit shall contain the following and such other  
8 information as the State Board of Elections may think it proper  
9 to require for the identification of the applicant:

10 Name. The name of the applicant, giving surname and first  
11 or Christian name in full, and the middle name or the initial  
12 for such middle name, if any.

13 Sex.

14 Residence. The name and number of the street, avenue or  
15 other location of the dwelling, and such additional clear and  
16 definite description as may be necessary to determine the exact  
17 location of the dwelling of the applicant. Where the location  
18 cannot be determined by street and number, then the Section,  
19 congressional township and range number may be used, or such  
20 other information as may be necessary, including post office  
21 mailing address.

22 Term of residence in the State of Illinois and the  
23 precinct.

24 Nativity. The State or country in which the applicant was  
25 born.

26 Citizenship. Whether the applicant is native born or

1 naturalized. If naturalized, the court, place and date of  
2 naturalization.

3 Age. Date of birth, by month, day and year.

4 Out of State address of .....

5 AFFIDAVIT OF REGISTRATION

6 State of .....)

7 )ss

8 County of .....)

9 I hereby swear (or affirm) that I am a citizen of the  
10 United States; that on the day of the next election I shall  
11 have resided in the State of Illinois for 6 months and in the  
12 election precinct 30 days; that I am fully qualified to vote,  
13 that I am not registered to vote anywhere else in the United  
14 States, that I intend to remain a resident of the State of  
15 Illinois and of the election precinct, that I intend to return  
16 to the State of Illinois, and that the above statements are  
17 true.

18 .....

19 (His or her signature or mark)

20 Subscribed and sworn to before me, an officer qualified to  
21 administer oaths, on (insert date).

22 .....

23 Signature of officer administering oath.

24

25 Upon receipt of the executed duplicate affidavit of

1 Registration, the county clerk shall transfer the information  
2 contained thereon to duplicate Registration Cards provided for  
3 in Section 5-7 of this Article and shall attach thereto a copy  
4 of each of the duplicate affidavit of registration and  
5 thereafter such registration card and affidavit shall  
6 constitute the registration of such person the same as if he  
7 had applied for registration in person.

8 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;  
9 96-1000, eff. 7-2-10.)

10 (10 ILCS 5/5-16.3) (from Ch. 46, par. 5-16.3)

11 Sec. 5-16.3. The county clerk may establish temporary  
12 places of registration for such times and at such locations  
13 within the county as the county clerk may select. However, no  
14 temporary place of registration may be in operation during the  
15 27 days preceding an election. Notice of time and place of  
16 registration at any such temporary place of registration under  
17 this Section shall be published by the county clerk in a  
18 newspaper having a general circulation in the county not less  
19 than 3 nor more than 15 days before the holding of such  
20 registration.

21 Temporary places of registration shall be established so  
22 that the areas of concentration of population or use by the  
23 public are served, whether by facilities provided in places of  
24 private business or in public buildings or in mobile units.  
25 Areas which may be designated as temporary places of

1 registration include, but are not limited to, facilities  
2 licensed or certified pursuant to the Nursing Home Care Act or  
3 the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors'  
4 Homes, shopping centers, business districts, public buildings  
5 and county fairs.

6 Temporary places of registration shall be available to the  
7 public not less than 2 hours per year for each 1,000 population  
8 or fraction thereof in the county.

9 All temporary places of registration shall be manned by  
10 deputy county clerks or deputy registrars appointed pursuant to  
11 Section 5-16.2.

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

13 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

14 Sec. 6-50.3. The board of election commissioners may  
15 establish temporary places of registration for such times and  
16 at such locations as the board may select. However, no  
17 temporary place of registration may be in operation during the  
18 27 days preceding an election. Notice of the time and place of  
19 registration at any such temporary place of registration under  
20 this Section shall be published by the board of election  
21 commissioners in a newspaper having a general circulation in  
22 the city, village or incorporated town not less than 3 nor more  
23 than 15 days before the holding of such registration.

24 Temporary places of registration shall be established so  
25 that the areas of concentration of population or use by the

1 public are served, whether by facilities provided in places of  
2 private business or in public buildings or in mobile units.  
3 Areas which may be designated as temporary places of  
4 registration include, but are not limited to facilities  
5 licensed or certified pursuant to the Nursing Home Care Act or  
6 the ID/DD ~~MR/DD~~ Community Care Act, Soldiers' and Sailors'  
7 Homes, shopping centers, business districts, public buildings  
8 and county fairs.

9 Temporary places of registration shall be available to the  
10 public not less than 2 hours per year for each 1,000 population  
11 or fraction thereof in the county.

12 All temporary places of registration shall be manned by  
13 employees of the board of election commissioners or deputy  
14 registrars appointed pursuant to Section 6-50.2.

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

16 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

17 Sec. 6-56. Not more than 30 nor less than 28 days before  
18 any election under this Article, all owners, managers,  
19 administrators or operators of hotels, lodging houses, rooming  
20 houses, furnished apartments or facilities licensed or  
21 certified under the Nursing Home Care Act, which house 4 or  
22 more persons, outside the members of the family of such owner,  
23 manager, administrator or operator, shall file with the board  
24 of election commissioners a report, under oath, together with  
25 one copy thereof, in such form as may be required by the board

1 of election commissioners, of the names and descriptions of all  
2 lodgers, guests or residents claiming a voting residence at the  
3 hotels, lodging houses, rooming houses, furnished apartments,  
4 or facility licensed or certified under the Nursing Home Care  
5 Act or the ID/DD ~~MR/DD~~ Community Care Act under their control.  
6 In counties having a population of 500,000 or more such report  
7 shall be made on forms mailed to them by the board of election  
8 commissioners. The board of election commissioners shall sort  
9 and assemble the sworn copies of the reports in numerical order  
10 according to ward and according to precincts within each ward  
11 and shall, not later than 5 days after the last day allowed by  
12 this Article for the filing of the reports, maintain one  
13 assembled set of sworn duplicate reports available for public  
14 inspection until 60 days after election days. Except as is  
15 otherwise expressly provided in this Article, the board shall  
16 not be required to perform any duties with respect to the sworn  
17 reports other than to mail, sort, assemble, post and file them  
18 as hereinabove provided.

19 Except in such cases where a precinct canvass is being  
20 conducted by the Board of Election Commissioners prior to a  
21 Primary or Election, the board of election commissioners shall  
22 compare the original copy of each such report with the list of  
23 registered voters from such addresses. Every person registered  
24 from such address and not listed in such report or whose name  
25 is different from any name so listed, shall immediately after  
26 the last day of registration be sent a notice through the

1 United States mail, at the address appearing upon his  
2 registration record card, requiring him to appear before the  
3 board of election commissioners on one of the days specified in  
4 Section 6-45 of this Article and show cause why his  
5 registration should not be cancelled. The provisions of  
6 Sections 6-45, 6-46 and 6-47 of this Article shall apply to  
7 such hearing and proceedings subsequent thereto.

8 Any owner, manager or operator of any such hotel, lodging  
9 house, rooming house or furnished apartment who shall fail or  
10 neglect to file such statement and copy thereof as in this  
11 Article provided, may, upon written information of the attorney  
12 for the election commissioners, be cited by the election  
13 commissioners or upon the complaint of any voter of such city,  
14 village or incorporated town, to appear before them and furnish  
15 such sworn statement and copy thereof and make such oral  
16 statements under oath regarding such hotel, lodging house,  
17 rooming house or furnished apartment, as the election  
18 commissioners may require. The election commissioners shall  
19 sit to hear such citations on the Friday of the fourth week  
20 preceding the week in which such election is to be held. Such  
21 citation shall be served not later than the day preceding the  
22 day on which it is returnable.

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

24 (10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

25 Sec. 19-4. Mailing or delivery of ballots - Time.)

1 Immediately upon the receipt of such application either by  
2 mail, not more than 40 days nor less than 5 days prior to such  
3 election, or by personal delivery not more than 40 days nor  
4 less than one day prior to such election, at the office of such  
5 election authority, it shall be the duty of such election  
6 authority to examine the records to ascertain whether or not  
7 such applicant is lawfully entitled to vote as requested,  
8 including a verification of the applicant's signature by  
9 comparison with the signature on the official registration  
10 record card, and if found so to be entitled to vote, to post  
11 within one business day thereafter the name, street address,  
12 ward and precinct number or township and district number, as  
13 the case may be, of such applicant given on a list, the pages  
14 of which are to be numbered consecutively to be kept by such  
15 election authority for such purpose in a conspicuous, open and  
16 public place accessible to the public at the entrance of the  
17 office of such election authority, and in such a manner that  
18 such list may be viewed without necessity of requesting  
19 permission therefor. Within one day after posting the name and  
20 other information of an applicant for an absentee ballot, the  
21 election authority shall transmit that name and other posted  
22 information to the State Board of Elections, which shall  
23 maintain those names and other information in an electronic  
24 format on its website, arranged by county and accessible to  
25 State and local political committees. Within 2 business days  
26 after posting a name and other information on the list within



1 its office, the election authority shall mail, postage prepaid,  
2 or deliver in person in such office an official ballot or  
3 ballots if more than one are to be voted at said election. Mail  
4 delivery of Temporarily Absent Student ballot applications  
5 pursuant to Section 19-12.3 shall be by nonforwardable mail.  
6 However, for the consolidated election, absentee ballots for  
7 certain precincts may be delivered to applicants not less than  
8 25 days before the election if so much time is required to have  
9 prepared and printed the ballots containing the names of  
10 persons nominated for offices at the consolidated primary. The  
11 election authority shall enclose with each absentee ballot or  
12 application written instructions on how voting assistance  
13 shall be provided pursuant to Section 17-14 and a document,  
14 written and approved by the State Board of Elections,  
15 enumerating the circumstances under which a person is  
16 authorized to vote by absentee ballot pursuant to this Article;  
17 such document shall also include a statement informing the  
18 applicant that if he or she falsifies or is solicited by  
19 another to falsify his or her eligibility to cast an absentee  
20 ballot, such applicant or other is subject to penalties  
21 pursuant to Section 29-10 and Section 29-20 of the Election  
22 Code. Each election authority shall maintain a list of the  
23 name, street address, ward and precinct, or township and  
24 district number, as the case may be, of all applicants who have  
25 returned absentee ballots to such authority, and the name of  
26 such absent voter shall be added to such list within one

1 business day from receipt of such ballot. If the absentee  
2 ballot envelope indicates that the voter was assisted in  
3 casting the ballot, the name of the person so assisting shall  
4 be included on the list. The list, the pages of which are to be  
5 numbered consecutively, shall be kept by each election  
6 authority in a conspicuous, open, and public place accessible  
7 to the public at the entrance of the office of the election  
8 authority and in a manner that the list may be viewed without  
9 necessity of requesting permission for viewing.

10 Each election authority shall maintain a list for each  
11 election of the voters to whom it has issued absentee ballots.  
12 The list shall be maintained for each precinct within the  
13 jurisdiction of the election authority. Prior to the opening of  
14 the polls on election day, the election authority shall deliver  
15 to the judges of election in each precinct the list of  
16 registered voters in that precinct to whom absentee ballots  
17 have been issued by mail.

18 Each election authority shall maintain a list for each  
19 election of voters to whom it has issued temporarily absent  
20 student ballots. The list shall be maintained for each election  
21 jurisdiction within which such voters temporarily abide.  
22 Immediately after the close of the period during which  
23 application may be made by mail for absentee ballots, each  
24 election authority shall mail to each other election authority  
25 within the State a certified list of all such voters  
26 temporarily abiding within the jurisdiction of the other

1 election authority.

2 In the event that the return address of an application for  
3 ballot by a physically incapacitated elector is that of a  
4 facility licensed or certified under the Nursing Home Care Act  
5 or the ID/DD ~~MR/DD~~ Community Care Act, within the jurisdiction  
6 of the election authority, and the applicant is a registered  
7 voter in the precinct in which such facility is located, the  
8 ballots shall be prepared and transmitted to a responsible  
9 judge of election no later than 9 a.m. on the Saturday, Sunday  
10 or Monday immediately preceding the election as designated by  
11 the election authority under Section 19-12.2. Such judge shall  
12 deliver in person on the designated day the ballot to the  
13 applicant on the premises of the facility from which  
14 application was made. The election authority shall by mail  
15 notify the applicant in such facility that the ballot will be  
16 delivered by a judge of election on the designated day.

17 All applications for absentee ballots shall be available at  
18 the office of the election authority for public inspection upon  
19 request from the time of receipt thereof by the election  
20 authority until 30 days after the election, except during the  
21 time such applications are kept in the office of the election  
22 authority pursuant to Section 19-7, and except during the time  
23 such applications are in the possession of the judges of  
24 election.

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

1 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

2 Sec. 19-12.1. Any qualified elector who has secured an  
3 Illinois Disabled Person Identification Card in accordance  
4 with The Illinois Identification Card Act, indicating that the  
5 person named thereon has a Class 1A or Class 2 disability or  
6 any qualified voter who has a permanent physical incapacity of  
7 such a nature as to make it improbable that he will be able to  
8 be present at the polls at any future election, or any voter  
9 who is a resident of a facility licensed or certified pursuant  
10 to the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
11 Act and has a condition or disability of such a nature as to  
12 make it improbable that he will be able to be present at the  
13 polls at any future election, may secure a disabled voter's or  
14 nursing home resident's identification card, which will enable  
15 him to vote under this Article as a physically incapacitated or  
16 nursing home voter.

17 Application for a disabled voter's or nursing home  
18 resident's identification card shall be made either: (a) in  
19 writing, with voter's sworn affidavit, to the county clerk or  
20 board of election commissioners, as the case may be, and shall  
21 be accompanied by the affidavit of the attending physician  
22 specifically describing the nature of the physical incapacity  
23 or the fact that the voter is a nursing home resident and is  
24 physically unable to be present at the polls on election days;  
25 or (b) by presenting, in writing or otherwise, to the county  
26 clerk or board of election commissioners, as the case may be,

1 proof that the applicant has secured an Illinois Disabled  
2 Person Identification Card indicating that the person named  
3 thereon has a Class 1A or Class 2 disability. Upon the receipt  
4 of either the sworn-to application and the physician's  
5 affidavit or proof that the applicant has secured an Illinois  
6 Disabled Person Identification Card indicating that the person  
7 named thereon has a Class 1A or Class 2 disability, the county  
8 clerk or board of election commissioners shall issue a disabled  
9 voter's or nursing home resident's identification card. Such  
10 identification cards shall be issued for a period of 5 years,  
11 upon the expiration of which time the voter may secure a new  
12 card by making application in the same manner as is prescribed  
13 for the issuance of an original card, accompanied by a new  
14 affidavit of the attending physician. The date of expiration of  
15 such five-year period shall be made known to any interested  
16 person by the election authority upon the request of such  
17 person. Applications for the renewal of the identification  
18 cards shall be mailed to the voters holding such cards not less  
19 than 3 months prior to the date of expiration of the cards.

20 Each disabled voter's or nursing home resident's  
21 identification card shall bear an identification number, which  
22 shall be clearly noted on the voter's original and duplicate  
23 registration record cards. In the event the holder becomes  
24 physically capable of resuming normal voting, he must surrender  
25 his disabled voter's or nursing home resident's identification  
26 card to the county clerk or board of election commissioners

1 before the next election.

2 The holder of a disabled voter's or nursing home resident's  
3 identification card may make application by mail for an  
4 official ballot within the time prescribed by Section 19-2.  
5 Such application shall contain the same information as is  
6 included in the form of application for ballot by a physically  
7 incapacitated elector prescribed in Section 19-3 except that it  
8 shall also include the applicant's disabled voter's  
9 identification card number and except that it need not be sworn  
10 to. If an examination of the records discloses that the  
11 applicant is lawfully entitled to vote, he shall be mailed a  
12 ballot as provided in Section 19-4. The ballot envelope shall  
13 be the same as that prescribed in Section 19-5 for physically  
14 disabled voters, and the manner of voting and returning the  
15 ballot shall be the same as that provided in this Article for  
16 other absentee ballots, except that a statement to be  
17 subscribed to by the voter but which need not be sworn to shall  
18 be placed on the ballot envelope in lieu of the affidavit  
19 prescribed by Section 19-5.

20 Any person who knowingly subscribes to a false statement in  
21 connection with voting under this Section shall be guilty of a  
22 Class A misdemeanor.

23 For the purposes of this Section, "nursing home resident"  
24 includes a resident of a facility licensed under the MR/DD  
25 Community Care Act.

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

1 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

2 Sec. 19-12.2. Voting by physically incapacitated electors  
3 who have made proper application to the election authority not  
4 later than 5 days before the regular primary and general  
5 election of 1980 and before each election thereafter shall be  
6 conducted on the premises of facilities licensed or certified  
7 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
8 Community Care Act for the sole benefit of residents of such  
9 facilities. Such voting shall be conducted during any  
10 continuous period sufficient to allow all applicants to cast  
11 their ballots between the hours of 9 a.m. and 7 p.m. either on  
12 the Friday, Saturday, Sunday or Monday immediately preceding  
13 the regular election. This absentee voting on one of said days  
14 designated by the election authority shall be supervised by two  
15 election judges who must be selected by the election authority  
16 in the following order of priority: (1) from the panel of  
17 judges appointed for the precinct in which such facility is  
18 located, or from a panel of judges appointed for any other  
19 precinct within the jurisdiction of the election authority in  
20 the same ward or township, as the case may be, in which the  
21 facility is located or, only in the case where a judge or  
22 judges from the precinct, township or ward are unavailable to  
23 serve, (3) from a panel of judges appointed for any other  
24 precinct within the jurisdiction of the election authority. The  
25 two judges shall be from different political parties. Not less

1 than 30 days before each regular election, the election  
2 authority shall have arranged with the chief administrative  
3 officer of each facility in his or its election jurisdiction a  
4 mutually convenient time period on the Friday, Saturday, Sunday  
5 or Monday immediately preceding the election for such voting on  
6 the premises of the facility and shall post in a prominent  
7 place in his or its office a notice of the agreed day and time  
8 period for conducting such voting at each facility; provided  
9 that the election authority shall not later than noon on the  
10 Thursday before the election also post the names and addresses  
11 of those facilities from which no applications were received  
12 and in which no supervised absentee voting will be conducted.  
13 All provisions of this Code applicable to pollwatchers shall be  
14 applicable herein. To the maximum extent feasible, voting  
15 booths or screens shall be provided to insure the privacy of  
16 the voter. Voting procedures shall be as described in Article  
17 17 of this Code, except that ballots shall be treated as  
18 absentee ballots and shall not be counted until the close of  
19 the polls on the following day. After the last voter has  
20 concluded voting, the judges shall seal the ballots in an  
21 envelope and affix their signatures across the flap of the  
22 envelope. Immediately thereafter, the judges shall bring the  
23 sealed envelope to the office of the election authority who  
24 shall deliver such ballots to the election authority's central  
25 ballot counting location prior to the closing of the polls on  
26 the day of election. The judges of election shall also report



1 to the election authority the name of any applicant in the  
2 facility who, due to unforeseen circumstance or condition or  
3 because of a religious holiday, was unable to vote. In this  
4 event, the election authority may appoint a qualified person  
5 from his or its staff to deliver the ballot to such applicant  
6 on the day of election. This staff person shall follow the same  
7 procedures prescribed for judges conducting absentee voting in  
8 such facilities and shall return the ballot to the central  
9 ballot counting location before the polls close. However, if  
10 the facility from which the application was made is also used  
11 as a regular precinct polling place for that voter, voting  
12 procedures heretofore prescribed may be implemented by 2 of the  
13 election judges of opposite party affiliation assigned to that  
14 polling place during the hours of voting on the day of the  
15 election. Judges of election shall be compensated not less than  
16 \$25.00 for conducting absentee voting in such facilities.

17 Not less than 120 days before each regular election, the  
18 Department of Public Health shall certify to the State Board of  
19 Elections a list of the facilities licensed or certified  
20 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
21 Community Care Act, and shall indicate the approved bed  
22 capacity and the name of the chief administrative officer of  
23 each such facility, and the State Board of Elections shall  
24 certify the same to the appropriate election authority within  
25 20 days thereafter.

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

1           Section 10. The Secretary of State Merit Employment Code is  
2 amended by changing Section 18c as follows:

3           (15 ILCS 310/18c) (from Ch. 124, par. 118c)

4           Sec. 18c. Supported employees.

5           (a) The Director shall develop and implement a supported  
6 employment program. It shall be the goal of the program to  
7 appoint a minimum of 10 supported employees to Secretary of  
8 State positions before June 30, 1992.

9           (b) The Director shall designate a liaison to work with  
10 State agencies and departments under the jurisdiction of the  
11 Secretary of State and any funder or provider or both in the  
12 implementation of a supported employment program.

13           (c) As used in this Section:

14           (1) "Supported employee" means any individual who:

15           (A) has a severe physical or mental disability  
16 which seriously limits functional capacities including  
17 but not limited to mobility, communication, self-care,  
18 self-direction, work tolerance or work skills, in  
19 terms of employability as defined, determined and  
20 certified by the Department of Human Services; and

21           (B) has one or more physical or mental disabilities  
22 resulting from amputation; arthritis; blindness;  
23 cancer; cerebral palsy; cystic fibrosis; deafness;  
24 heart disease; hemiplegia; respiratory or pulmonary

1 dysfunction; an intellectual disability ~~mental~~  
2 ~~retardation~~; mental illness; multiple sclerosis;  
3 muscular dystrophy; musculoskeletal disorders;  
4 neurological disorders, including stroke and epilepsy;  
5 paraplegia; quadriplegia and other spinal cord  
6 conditions; sickle cell anemia; and end-stage renal  
7 disease; or another disability or combination of  
8 disabilities determined on the basis of an evaluation  
9 of rehabilitation potential to cause comparable  
10 substantial functional limitation.

11 (2) "Supported employment" means competitive work in  
12 integrated work settings:

13 (A) for individuals with severe handicaps for whom  
14 competitive employment has not traditionally occurred,  
15 or

16 (B) for individuals for whom competitive  
17 employment has been interrupted or intermittent as a  
18 result of a severe disability, and who because of their  
19 handicap, need on-going support services to perform  
20 such work. The term includes transitional employment  
21 for individuals with chronic mental illness.

22 (3) "Participation in a supported employee program"  
23 means participation as a supported employee that is not  
24 based on the expectation that an individual will have the  
25 skills to perform all the duties in a job class, but on the  
26 assumption that with support and adaptation, or both, a job

1 can be designed to take advantage of the supported  
2 employee's special strengths.

3 (4) "Funder" means any entity either State, local or  
4 federal, or private not-for-profit or for-profit that  
5 provides monies to programs that provide services related  
6 to supported employment.

7 (5) "Provider" means any entity either public or  
8 private that provides technical support and services to any  
9 department or agency subject to the control of the  
10 Governor, the Secretary of State or the University Civil  
11 Service System.

12 (d) The Director shall establish job classifications for  
13 supported employees who may be appointed into the  
14 classifications without open competitive testing requirements.  
15 Supported employees shall serve in a trial employment capacity  
16 for not less than 3 or more than 12 months.

17 (e) The Director shall maintain a record of all individuals  
18 hired as supported employees. The record shall include:

19 (1) the number of supported employees initially  
20 appointed;

21 (2) the number of supported employees who successfully  
22 complete the trial employment periods; and

23 (3) the number of permanent targeted positions by  
24 titles.

25 (f) The Director shall submit an annual report to the  
26 General Assembly regarding the employment progress of

1 supported employees, with recommendations for legislative  
2 action.

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

4 Section 15. The Illinois Identification Card Act is amended  
5 by changing Section 4A as follows:

6 (15 ILCS 335/4A) (from Ch. 124, par. 24A)

7 Sec. 4A. (a) "Disabled person" as used in this Act means  
8 any person who is, and who is expected to indefinitely continue  
9 to be, subject to any of the following five types of  
10 disabilities:

11 Type One: Physical disability. A physical disability is a  
12 physical impairment, disease, or loss, which is of a permanent  
13 nature, and which substantially impairs normal physical  
14 ability or motor skills. The Secretary of State shall establish  
15 standards not inconsistent with this provision necessary to  
16 determine the presence of a physical disability.

17 Type Two: Developmental disability. A developmental  
18 disability is a disability which originates before the age of  
19 18 years, and results in or has resulted in impairment similar  
20 to that caused by an intellectual disability ~~mental retardation~~  
21 and which requires services similar to those required by  
22 intellectually disabled ~~mentally retarded~~ persons and which is  
23 attributable to an intellectual disability ~~mental retardation~~,  
24 cerebral palsy, epilepsy, autism, or other conditions or

1 similar disorders. The Secretary of State shall establish  
2 standards not inconsistent with this provision necessary to  
3 determine the presence of a developmental disability.

4       Type Three: Visual disability. A visual disability is a  
5 disability resulting in complete absence of vision, or vision  
6 that with corrective glasses is so defective as to prevent  
7 performance of tasks or activities for which eyesight is  
8 essential. The Secretary of State shall establish standards not  
9 inconsistent with this Section necessary to determine the  
10 presence of a visual disability.

11       Type Four: Hearing disability. A hearing disability is a  
12 disability resulting in complete absence of hearing, or hearing  
13 that with sound enhancing or magnifying equipment is so  
14 impaired as to require the use of sensory input other than  
15 hearing as the principal means of receiving spoken language.  
16 The Secretary of State shall establish standards not  
17 inconsistent with this Section necessary to determine the  
18 presence of a hearing disability.

19       Type Five: Mental Disability. A mental disability is an  
20 emotional or psychological impairment or disease, which  
21 substantially impairs the ability to meet individual or  
22 societal needs. The Secretary of State shall establish  
23 standards not inconsistent with this provision necessary to  
24 determine the presence of a mental disability.

25       (b) For purposes of this Act, a disability shall be  
26 classified as follows: Class 1 disability: A Class 1 disability

1 is any type disability which does not render a person unable to  
2 engage in any substantial gainful activity or which does not  
3 impair his ability to live independently or to perform labor or  
4 services for which he is qualified. The Secretary of State  
5 shall establish standards not inconsistent with this Section  
6 necessary to determine the presence of a Class 1 disability.  
7 Class 1A disability: A Class 1A disability is a Class 1  
8 disability which renders a person unable to walk 200 feet or  
9 more unassisted by another person or without the aid of a  
10 walker, crutches, braces, prosthetic device or a wheelchair or  
11 without great difficulty or discomfort due to the following  
12 impairments: neurologic, orthopedic, respiratory, cardiac,  
13 arthritic disorder, or the loss of function or absence of a  
14 limb or limbs. The Secretary of State shall establish standards  
15 not inconsistent with this Section necessary to determine the  
16 presence of a Class 1A disability. Class 2 disability: A Class  
17 2 disability is any type disability which renders a person  
18 unable to engage in any substantial gainful activity, which  
19 substantially impairs his ability to live independently  
20 without supervision or in-home support services, or which  
21 substantially impairs his ability to perform labor or services  
22 for which he is qualified or significantly restricts the labor  
23 or services which he is able to perform. The Secretary of State  
24 shall establish standards not inconsistent with this Section  
25 necessary to determine the presence of a Class 2 disability.  
26 Class 2A disability: A Class 2A disability is a Class 2

1 disability which renders a person unable to walk 200 feet or  
2 more unassisted by another person or without the aid of a  
3 walker, crutches, braces, prosthetic device or a wheelchair or  
4 without great difficulty or discomfort due to the following  
5 impairments: neurologic, orthopedic, respiratory, cardiac,  
6 arthritic disorder, blindness, or the loss of function or  
7 absence of a limb or limbs. The Secretary of State shall  
8 establish standards not inconsistent with this Section  
9 necessary to determine the presence of a Class 2A disability.

10 (Source: P.A. 85-354.)

11 Section 17. The Illinois Act on the Aging is amended by  
12 changing Section 4.08 as follows:

13 (20 ILCS 105/4.08)

14 Sec. 4.08. Rural and small town meals program. Subject to  
15 appropriation, the Department may establish a program to ensure  
16 the availability of congregate or home-delivered meals in  
17 communities with populations of under 5,000 that are not  
18 located within the large urban counties of Cook, DuPage, Kane,  
19 Lake, or Will.

20 The Department may meet these requirements by entering into  
21 agreements with Area Agencies on Aging or Department designees,  
22 which shall in turn enter into grants or contractual agreements  
23 with such local entities as restaurants, cafes, churches,  
24 facilities licensed under the Nursing Home Care Act, the ID/DD



1 ~~MR/DD~~ Community Care Act, the Assisted Living and Shared  
2 Housing Act, or the Hospital Licensing Act, facilities  
3 certified by the Department of Healthcare and Family Services,  
4 senior centers, or Older American Act designated nutrition  
5 service providers.

6 First consideration shall be given to entities that can  
7 cost effectively meet the needs of seniors in the community by  
8 preparing the food locally.

9 In no instance shall funds provided pursuant to this  
10 Section be used to replace funds allocated to a given area or  
11 program as of the effective date of this amendatory Act of the  
12 95th General Assembly.

13 The Department shall establish guidelines and standards by  
14 administrative rule, which shall include submission of an  
15 expenditure plan by the recipient of the funds.

16 (Source: P.A. 95-68, eff. 8-13-07; 95-876, eff. 8-21-08;  
17 96-339, eff. 7-1-10.)

18 Section 20. The Mental Health and Developmental  
19 Disabilities Administrative Act is amended by changing  
20 Sections 7, 15, 34, 43, 45, 46, and 57.6 as follows:

21 (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

22 Sec. 7. To receive and provide the highest possible quality  
23 of humane and rehabilitative care and treatment to all persons  
24 admitted or committed or transferred in accordance with law to

1 the facilities, divisions, programs, and services under the  
2 jurisdiction of the Department. No resident of another state  
3 shall be received or retained to the exclusion of any resident  
4 of this State. No resident of another state shall be received  
5 or retained to the exclusion of any resident of this State. All  
6 recipients of 17 years of age and under in residence in a  
7 Department facility other than a facility for the care of the  
8 intellectually disabled ~~mentally retarded~~ shall be housed in  
9 quarters separated from older recipients except for: (a)  
10 recipients who are placed in medical-surgical units because of  
11 physical illness; and (b) recipients between 13 and 18 years of  
12 age who need temporary security measures.

13 All recipients in a Department facility shall be given a  
14 dental examination by a licensed dentist or registered dental  
15 hygienist at least once every 18 months and shall be assigned  
16 to a dentist for such dental care and treatment as is  
17 necessary.

18 All medications administered to recipients shall be  
19 administered only by those persons who are legally qualified to  
20 do so by the laws of the State of Illinois. Medication shall  
21 not be prescribed until a physical and mental examination of  
22 the recipient has been completed. If, in the clinical judgment  
23 of a physician, it is necessary to administer medication to a  
24 recipient before the completion of the physical and mental  
25 examination, he may prescribe such medication but he must file  
26 a report with the facility director setting forth the reasons

1 for prescribing such medication within 24 hours of the  
2 prescription. A copy of the report shall be part of the  
3 recipient's record.

4 No later than January 1, 2005, the Department shall adopt a  
5 model protocol and forms for recording all patient diagnosis,  
6 care, and treatment at each State-operated facility for the  
7 mentally ill and developmentally disabled under the  
8 jurisdiction of the Department. The model protocol and forms  
9 shall be used by each facility unless the Department determines  
10 that equivalent alternatives justify an exemption.

11 Every facility under the jurisdiction of the Department  
12 shall maintain a copy of each report of suspected abuse or  
13 neglect of the patient. Copies of those reports shall be made  
14 available to the State Auditor General in connection with his  
15 biennial program audit of the facility as required by Section  
16 3-2 of the Illinois State Auditing Act.

17 No later than January 1 2004, the Department shall report  
18 to the Governor and the General Assembly whether each  
19 State-operated facility for the mentally ill and  
20 developmentally disabled under the jurisdiction of the  
21 Department and all services provided in those facilities comply  
22 with all of the applicable standards adopted by the Social  
23 Security Administration under Subchapter XVIII (Medicare) of  
24 the Social Security Act (42 U.S.C. 1395-1395ccc), if the  
25 facility and services may be eligible for federal financial  
26 participation under that federal law. For those facilities that

1 do comply, the report shall indicate what actions need to be  
2 taken to ensure continued compliance. For those facilities that  
3 do not comply, the report shall indicate what actions need to  
4 be taken to bring each facility into compliance.

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

6 (20 ILCS 1705/15) (from Ch. 91 1/2, par. 100-15)

7 Sec. 15. Before any person is released from a facility  
8 operated by the State pursuant to an absolute discharge or a  
9 conditional discharge from hospitalization under this Act, the  
10 facility director of the facility in which such person is  
11 hospitalized shall determine that such person is not currently  
12 in need of hospitalization and:

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

14 (b) requires further oversight and supervisory care  
15 for which arrangements have been made with responsible  
16 relatives or supervised residential program approved by  
17 the Department; or

18 (c) requires further personal care or general  
19 oversight as defined by the ID/DD ~~MR/DD~~ Community Care Act,  
20 for which placement arrangements have been made with a  
21 suitable family home or other licensed facility approved by  
22 the Department under this Section; or

23 (d) requires community mental health services for  
24 which arrangements have been made with a community mental  
25 health provider in accordance with criteria, standards,

1           and procedures promulgated by rule.

2           Such determination shall be made in writing and shall  
3 become a part of the facility record of such absolutely or  
4 conditionally discharged person. When the determination  
5 indicates that the condition of the person to be granted an  
6 absolute discharge or a conditional discharge is described  
7 under subparagraph (c) or (d) of this Section, the name and  
8 address of the continuing care facility or home to which such  
9 person is to be released shall be entered in the facility  
10 record. Where a discharge from a mental health facility is made  
11 under subparagraph (c), the Department shall assign the person  
12 so discharged to an existing community based not-for-profit  
13 agency for participation in day activities suitable to the  
14 person's needs, such as but not limited to social and  
15 vocational rehabilitation, and other recreational, educational  
16 and financial activities unless the community based  
17 not-for-profit agency is unqualified to accept such  
18 assignment. Where the clientele of any not-for-profit agency  
19 increases as a result of assignments under this amendatory Act  
20 of 1977 by more than 3% over the prior year, the Department  
21 shall fully reimburse such agency for the costs of providing  
22 services to such persons in excess of such 3% increase. The  
23 Department shall keep written records detailing how many  
24 persons have been assigned to a community based not-for-profit  
25 agency and how many persons were not so assigned because the  
26 community based agency was unable to accept the assignments, in

1 accordance with criteria, standards, and procedures  
2 promulgated by rule. Whenever a community based agency is found  
3 to be unable to accept the assignments, the name of the agency  
4 and the reason for the finding shall be included in the report.

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

24 To place any person who is under a program of the  
25 Department at board in a suitable family home or in such other  
26 facility or program as the Department may consider desirable.

1 The Department may place in licensed nursing homes, sheltered  
2 care homes, or homes for the aged those persons whose  
3 behavioral manifestations and medical and nursing care needs  
4 are such as to be substantially indistinguishable from persons  
5 already living in such facilities. Prior to any placement by  
6 the Department under this Section, a determination shall be  
7 made by the personnel of the Department, as to the capability  
8 and suitability of such facility to adequately meet the needs  
9 of the person to be discharged. When specialized programs are  
10 necessary in order to enable persons in need of supervised  
11 living to develop and improve in the community, the Department  
12 shall place such persons only in specialized residential care  
13 facilities which shall meet Department standards including  
14 restricted admission policy, special staffing and programming  
15 for social and vocational rehabilitation, in addition to the  
16 requirements of the appropriate State licensing agency. The  
17 Department shall not place any new person in a facility the  
18 license of which has been revoked or not renewed on grounds of  
19 inadequate programming, staffing, or medical or adjunctive  
20 services, regardless of the pendency of an action for  
21 administrative review regarding such revocation or failure to  
22 renew. Before the Department may transfer any person to a  
23 licensed nursing home, sheltered care home or home for the aged  
24 or place any person in a specialized residential care facility  
25 the Department shall notify the person to be transferred, or a  
26 responsible relative of such person, in writing, at least 30

1 days before the proposed transfer, with respect to all the  
2 relevant facts concerning such transfer, except in cases of  
3 emergency when such notice is not required. If either the  
4 person to be transferred or a responsible relative of such  
5 person objects to such transfer, in writing to the Department,  
6 at any time after receipt of notice and before the transfer,  
7 the facility director of the facility in which the person was a  
8 recipient shall immediately schedule a hearing at the facility  
9 with the presence of the facility director, the person who  
10 objected to such proposed transfer, and a psychiatrist who is  
11 familiar with the record of the person to be transferred. Such  
12 person to be transferred or a responsible relative may be  
13 represented by such counsel or interested party as he may  
14 appoint, who may present such testimony with respect to the  
15 proposed transfer. Testimony presented at such hearing shall  
16 become a part of the facility record of the  
17 person-to-be-transferred. The record of testimony shall be  
18 held in the person-to-be-transferred's record in the central  
19 files of the facility. If such hearing is held a transfer may  
20 only be implemented, if at all, in accordance with the results  
21 of such hearing. Within 15 days after such hearing the facility  
22 director shall deliver his findings based on the record of the  
23 case and the testimony presented at the hearing, by registered  
24 or certified mail, to the parties to such hearing. The findings  
25 of the facility director shall be deemed a final administrative  
26 decision of the Department. For purposes of this Section, "case



1 of emergency" means those instances in which the health of the  
2 person to be transferred is imperiled and the most appropriate  
3 mental health care or medical care is available at a licensed  
4 nursing home, sheltered care home or home for the aged or a  
5 specialized residential care facility.

6 Prior to placement of any person in a facility under this  
7 Section the Department shall ensure that an appropriate  
8 training plan for staff is provided by the facility. Said  
9 training may include instruction and demonstration by  
10 Department personnel qualified in the area of mental illness or  
11 intellectual disabilities ~~mental retardation~~, as applicable to  
12 the person to be placed. Training may be given both at the  
13 facility from which the recipient is transferred and at the  
14 facility receiving the recipient, and may be available on a  
15 continuing basis subsequent to placement. In a facility  
16 providing services to former Department recipients, training  
17 shall be available as necessary for facility staff. Such  
18 training will be on a continuing basis as the needs of the  
19 facility and recipients change and further training is  
20 required.

21 The Department shall not place any person in a facility  
22 which does not have appropriately trained staff in sufficient  
23 numbers to accommodate the recipient population already at the  
24 facility. As a condition of further or future placements of  
25 persons, the Department shall require the employment of  
26 additional trained staff members at the facility where said

1 persons are to be placed. The Secretary, or his or her  
2 designate, shall establish written guidelines for placement of  
3 persons in facilities under this Act. The Department shall keep  
4 written records detailing which facilities have been  
5 determined to have staff who have been appropriately trained by  
6 the Department and all training which it has provided or  
7 required under this Section.

8 Bills for the support for a person boarded out shall be  
9 payable monthly out of the proper maintenance funds and shall  
10 be audited as any other accounts of the Department. If a person  
11 is placed in a facility or program outside the Department, the  
12 Department may pay the actual costs of residence, treatment or  
13 maintenance in such facility and may collect such actual costs  
14 or a portion thereof from the recipient or the estate of a  
15 person placed in accordance with this Section.

16 Other than those placed in a family home the Department  
17 shall cause all persons who are placed in a facility, as  
18 defined by the ID/DD ~~MR/DD~~ Community Care Act, or in designated  
19 community living situations or programs, to be visited at least  
20 once during the first month following placement, and once every  
21 month thereafter for the first year following placement when  
22 indicated, but at least quarterly. After the first year, the  
23 Department shall determine at what point the appropriate  
24 licensing entity for the facility or designated community  
25 living situation or program will assume the responsibility of  
26 ensuring that appropriate services are being provided to the

1 resident. Once that responsibility is assumed, the Department  
2 may discontinue such visits. If a long term care facility has  
3 periodic care plan conferences, the visitor may participate in  
4 those conferences, if such participation is approved by the  
5 resident or the resident's guardian. Visits shall be made by  
6 qualified and trained Department personnel, or their designee,  
7 in the area of mental health or developmental disabilities  
8 applicable to the person visited, and shall be made on a more  
9 frequent basis when indicated. The Department may not use as  
10 designee any personnel connected with or responsible to the  
11 representatives of any facility in which persons who have been  
12 transferred under this Section are placed. In the course of  
13 such visit there shall be consideration of the following areas,  
14 but not limited thereto: effects of transfer on physical and  
15 mental health of the person, sufficiency of nursing care and  
16 medical coverage required by the person, sufficiency of staff  
17 personnel and ability to provide basic care for the person,  
18 social, recreational and programmatic activities available for  
19 the person, and other appropriate aspects of the person's  
20 environment.

21 A report containing the above observations shall be made to  
22 the Department, to the licensing agency, and to any other  
23 appropriate agency subsequent to each visitation. The report  
24 shall contain recommendations to improve the care and treatment  
25 of the resident, as necessary, which shall be reviewed by the  
26 facility's interdisciplinary team and the resident or the

1 resident's legal guardian.

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

19       The Department shall promulgate rules and regulations  
20 governing the purchase of care for persons who are wards of or  
21 who are receiving services from the Department. Such rules and  
22 regulations shall apply to all monies expended by any agency of  
23 the State of Illinois for services rendered by any person,  
24 corporate entity, agency, governmental agency or political  
25 subdivision whether public or private outside of the Department  
26 whether payment is made through a contractual, per-diem or

1 other arrangement. No funds shall be paid to any person,  
2 corporation, agency, governmental entity or political  
3 subdivision without compliance with such rules and  
4 regulations.

5 The rules and regulations governing purchase of care shall  
6 describe categories and types of service deemed appropriate for  
7 purchase by the Department.

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

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

18 (20 ILCS 1705/34) (from Ch. 91 1/2, par. 100-34)

19 Sec. 34. To make grants-in-aid to community clinics and  
20 agencies for psychiatric or clinical services, training,  
21 research and other mental health, intellectual disabilities  
22 ~~mental-retardation~~ and other developmental disabilities  
23 programs, for persons of all ages including those aged 3 to 21.

24 In addition to other standards and procedures governing the  
25 disbursement of grants-in-aid implemented under this Section,

1 the Secretary shall require that each application for such aid  
2 submitted by public agencies or public clinics with respect to  
3 services to be provided by a municipality with a population of  
4 500,000 or more shall include review and comment by a community  
5 mental health board that is organized under local authority and  
6 broadly representative of the geographic, social, cultural,  
7 and economic interests of the area to be served, and which  
8 includes persons who are professionals in the field of mental  
9 health, consumers of services or representative of the general  
10 public. Within planning and service areas designated by the  
11 Secretary where more than one clinic or agency applies under  
12 this paragraph, each application shall be reviewed by a single  
13 community mental health board that is representative of the  
14 areas to be served by each clinic or agency.

15 The Secretary may authorize advance disbursements to any  
16 clinic or agency that has been awarded a grant-in-aid, provided  
17 that the Secretary shall, within 30 days before the making of  
18 such disbursement, certify to the Comptroller that (a) the  
19 provider is eligible to receive that disbursement, and (b) the  
20 disbursement is made as compensation for services to be  
21 rendered within 60 days of that certification.

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

23 (20 ILCS 1705/43) (from Ch. 91 1/2, par. 100-43)

24 Sec. 43. To provide habilitation and care for the  
25 intellectually disabled ~~mentally retarded~~ and persons with a

1 developmental disability and counseling for their families in  
2 accordance with programs established and conducted by the  
3 Department.

4 In assisting families to place such persons in need of care  
5 in licensed facilities for the intellectually disabled  
6 ~~mentally retarded~~ and persons with a developmental disability,  
7 the Department may supplement the amount a family is able to  
8 pay, as determined by the Department in accordance with  
9 Sections 5-105 through 5-116 of the "Mental Health and  
10 Developmental Disabilities Code" as amended, and the amount  
11 available from other sources. The Department shall have the  
12 authority to determine eligibility for placement of a person in  
13 a private facility.

14 Whenever an intellectually disabled ~~a mentally retarded~~  
15 person or a client is placed in a private facility pursuant to  
16 this Section, such private facility must give the Department  
17 and the person's guardian or nearest relative, at least 30  
18 days' notice in writing before such person may be discharged or  
19 transferred from the private facility, except in an emergency.

20 (Source: P.A. 90-14, eff. 7-1-97.)

21 (20 ILCS 1705/45) (from Ch. 91 1/2, par. 100-45)

22 Sec. 45. The following Acts are repealed:

23 "An Act to provide for the establishment and maintenance of  
24 services and facilities for severely physically handicapped  
25 children", approved June 29, 1945.

1 "An Act in relation to the visitation, instruction, and  
2 rehabilitation of major visually handicapped persons and to  
3 repeal acts herein named", approved July 21, 1959.

4 "An Act in relation to the rehabilitation of physically  
5 handicapped persons", approved June 28, 1919.

6 "An Act for the treatment, care and maintenance of persons  
7 mentally ill or in need of mental treatment who are inmates of  
8 the Illinois Soldiers' and Sailors' Home", approved June 15,  
9 1895, as amended.

10 "An Act to establish and maintain a home for the disabled  
11 mothers, wives, widows and daughters of disabled or deceased  
12 soldiers in the State of Illinois, and to provide for the  
13 purchase and maintenance thereof", approved June 13, 1895, as  
14 amended.

15 "An Act to establish and maintain a Soldiers' and Sailors'  
16 Home in the State of Illinois, and making an appropriation for  
17 the purchase of land and the construction of the necessary  
18 buildings", approved June 26, 1885, as amended.

19 "An Act in relation to the disposal of certain funds and  
20 property which now are or hereafter may be in the custody of  
21 the managing officer of the Illinois Soldiers' and Sailors'  
22 Home at Quincy", approved June 24, 1921.

23 "An Act in relation to the establishment in the Department  
24 of Public Welfare of a Division to be known as the Institute  
25 for Juvenile Research and to define its powers and duties",  
26 approved July 16, 1941.



1 "An Act to provide for the establishment, maintenance and  
2 operation of the Southern Illinois Children's Service Center",  
3 approved August 2, 1951.

4 "An Act to change the name of the Illinois Charitable Eye  
5 and Ear Infirmary", approved June 27, 1923.

6 "An Act to establish and provide for the conduct of an  
7 institution for the care and custody of persons of unsound or  
8 feeble mind, to be known as the Illinois Security Hospital, and  
9 to designate the classes of persons to be confined therein",  
10 approved June 30, 1933, as amended.

11 Sections one through 27 and Sections 29 through 34 of "An  
12 Act to revise the laws relating to charities", approved June  
13 11, 1912, as amended.

14 "An Act creating a Division of Alcoholism in the Department  
15 of Public Welfare, defining its rights, powers and duties, and  
16 making an appropriation therefor", approved July 5, 1957.

17 "An Act to establish in the Department of Public Welfare a  
18 Psychiatric Training and Research Authority", approved July  
19 14, 1955.

20 "An Act creating the Advisory Board on Intellectual  
21 Disabilities ~~Mental Retardation~~ in the Department of Public  
22 Welfare, defining its powers and duties and making an  
23 appropriation therefor", approved July 17, 1959.

24 "An Act to provide for the construction, equipment, and  
25 operation of a psychiatric institute state hospital to promote  
26 and advance knowledge, through research, in the causes and

1 treatment of mental illness; to train competent psychiatric  
2 personnel available for service in the state hospitals and  
3 elsewhere; and to contribute to meeting the need for treatment  
4 for mentally ill patients", approved June 30, 1953, as amended.

5 "An Act in relation to the disposal of certain funds and  
6 property paid to, or received by, the officials of the State  
7 institutions under the direction and supervision of the  
8 Department of Public Welfare", approved June 10, 1929.

9 "An Act to require professional persons having patients  
10 with major visual limitations to report information regarding  
11 such cases to the Department of Public Welfare and to authorize  
12 the Department to inform such patients of services and training  
13 available," approved July 5, 1957.

14 Sections 3, 4, 5, 5a, 6, 22, 24, 25, 26 of "An Act to  
15 regulate the state charitable institutions and the state reform  
16 school, and to improve their organization and increase their  
17 efficiency," approved April 15, 1875.

18 (Source: Laws 1961, p. 2666.)

19 (20 ILCS 1705/46) (from Ch. 91 1/2, par. 100-46)

20 Sec. 46. Separation between the sexes shall be maintained  
21 relative to sleeping quarters in each facility under the  
22 jurisdiction of the Department, except in relation to quarters  
23 for intellectually disabled ~~mentally-retarded~~ children under  
24 age 6 and quarters for severely-profoundly intellectually  
25 disabled ~~mentally-retarded~~ persons and nonambulatory

1 intellectually disabled ~~mentally retarded~~ persons, regardless  
2 of age.

3 (Source: P.A. 85-971.)

4 (20 ILCS 1705/57.6)

5 Sec. 57.6. Adult autism; funding for services. Subject to  
6 appropriations, the Department, or independent contractual  
7 consultants engaged by the Department, shall research possible  
8 funding streams for the development and implementation of  
9 services for adults with autism spectrum disorders without an  
10 intellectual disability ~~mental retardation~~. Independent  
11 consultants must have expertise in Medicaid services and  
12 alternative federal and State funding mechanisms. The research  
13 may include, but need not be limited to, research of a Medicaid  
14 state plan amendment, a Section 1915(c) home and community  
15 based waiver, a Section 1115 research and demonstration waiver,  
16 vocational rehabilitation funding, mental health block grants,  
17 and other appropriate funding sources. The Department shall  
18 report the results of the research and its recommendations to  
19 the Governor and the General Assembly by April 1, 2008.

20 (Source: P.A. 95-106, eff. 1-1-08.)

21 Section 22. The Civil Administrative Code of Illinois is  
22 amended by changing Sections 2310-550, 2310-560, 2310-565, and  
23 2310-625 as follows:

1 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

2 Sec. 2310-550. Long-term care facilities. The Department  
3 may perform, in all long-term care facilities as defined in the  
4 Nursing Home Care Act and all facilities as defined in the  
5 ID/DD ~~MR/DD~~ Community Care Act, all inspection, evaluation,  
6 certification, and inspection of care duties that the federal  
7 government may require the State of Illinois to perform or have  
8 performed as a condition of participation in any programs under  
9 Title XVIII or Title XIX of the federal Social Security Act.  
10 (Source: P.A. 96-339, eff. 7-1-10.)

11 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

12 Sec. 2310-560. Advisory committees concerning construction  
13 of facilities.

14 (a) The Director shall appoint an advisory committee. The  
15 committee shall be established by the Department by rule. The  
16 Director and the Department shall consult with the advisory  
17 committee concerning the application of building codes and  
18 Department rules related to those building codes to facilities  
19 under the Ambulatory Surgical Treatment Center Act, the Nursing  
20 Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.

21 (b) The Director shall appoint an advisory committee to  
22 advise the Department and to conduct informal dispute  
23 resolution concerning the application of building codes for new  
24 and existing construction and related Department rules and  
25 standards under the Hospital Licensing Act, including without

1 limitation rules and standards for (i) design and construction,  
2 (ii) engineering and maintenance of the physical plant, site,  
3 equipment, and systems (heating, cooling, electrical,  
4 ventilation, plumbing, water, sewer, and solid waste  
5 disposal), and (iii) fire and safety. The advisory committee  
6 shall be composed of all of the following members:

7 (1) The chairperson or an elected representative from  
8 the Hospital Licensing Board under the Hospital Licensing  
9 Act.

10 (2) Two health care architects with a minimum of 10  
11 years of experience in institutional design and building  
12 code analysis.

13 (3) Two engineering professionals (one mechanical and  
14 one electrical) with a minimum of 10 years of experience in  
15 institutional design and building code analysis.

16 (4) One commercial interior design professional with a  
17 minimum of 10 years of experience.

18 (5) Two representatives from provider associations.

19 (6) The Director or his or her designee, who shall  
20 serve as the committee moderator.

21 Appointments shall be made with the concurrence of the  
22 Hospital Licensing Board. The committee shall submit  
23 recommendations concerning the application of building codes  
24 and related Department rules and standards to the Hospital  
25 Licensing Board for review and comment prior to submission to  
26 the Department. The committee shall submit recommendations

1 concerning informal dispute resolution to the Director. The  
2 Department shall provide per diem and travel expenses to the  
3 committee members.

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

5 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

6 Sec. 2310-565. Facility construction training program. The  
7 Department shall conduct, at least annually, a joint in-service  
8 training program for architects, engineers, interior  
9 designers, and other persons involved in the construction of a  
10 facility under the Ambulatory Surgical Treatment Center Act,  
11 the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act,  
12 or the Hospital Licensing Act on problems and issues relating  
13 to the construction of facilities under any of those Acts.

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

15 (20 ILCS 2310/2310-625)

16 Sec. 2310-625. Emergency Powers.

17 (a) Upon proclamation of a disaster by the Governor, as  
18 provided for in the Illinois Emergency Management Agency Act,  
19 the Director of Public Health shall have the following powers,  
20 which shall be exercised only in coordination with the Illinois  
21 Emergency Management Agency and the Department of Financial and  
22 Professional Regulation:

23 (1) The power to suspend the requirements for temporary  
24 or permanent licensure or certification of persons who are

1 licensed or certified in another state and are working  
2 under the direction of the Illinois Emergency Management  
3 Agency and the Illinois Department of Public Health  
4 pursuant to the declared disaster.

5 (2) The power to modify the scope of practice  
6 restrictions under the Emergency Medical Services (EMS)  
7 Systems Act for any persons who are licensed under that Act  
8 for any person working under the direction of the Illinois  
9 Emergency Management Agency and the Illinois Department of  
10 Public Health pursuant to the declared disaster.

11 (3) The power to modify the scope of practice  
12 restrictions under the Nursing Home Care Act or the ID/DD  
13 ~~MR/DD~~ Community Care Act for Certified Nursing Assistants  
14 for any person working under the direction of the Illinois  
15 Emergency Management Agency and the Illinois Department of  
16 Public Health pursuant to the declared disaster.

17 (b) Persons exempt from licensure or certification under  
18 paragraph (1) of subsection (a) and persons operating under  
19 modified scope of practice provisions under paragraph (2) of  
20 subsection (a) and paragraph (3) of subsection (a) shall be  
21 exempt from licensure or certification or subject to modified  
22 scope of practice only until the declared disaster has ended as  
23 provided by law. For purposes of this Section, persons working  
24 under the direction of an emergency services and disaster  
25 agency accredited by the Illinois Emergency Management Agency  
26 and a local public health department, pursuant to a declared

1 disaster, shall be deemed to be working under the direction of  
2 the Illinois Emergency Management Agency and the Department of  
3 Public Health.

4 (c) The Director shall exercise these powers by way of  
5 proclamation.

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

7 Section 25. The Disabilities Services Act of 2003 is  
8 amended by changing Sections 10 and 52 as follows:

9 (20 ILCS 2407/10)

10 Sec. 10. Application of Act; definitions.

11 (a) This Act applies to persons with disabilities. The  
12 disabilities included are defined for purposes of this Act as  
13 follows:

14 "Disability" means a disability as defined by the Americans  
15 with Disabilities Act of 1990 that is attributable to a  
16 developmental disability, a mental illness, or a physical  
17 disability, or combination of those.

18 "Developmental disability" means a disability that is  
19 attributable to an intellectual disability ~~mental retardation~~  
20 or a related condition. A related condition must meet all of  
21 the following conditions:

22 (1) It must be attributable to cerebral palsy,  
23 epilepsy, or any other condition (other than mental  
24 illness) found to be closely related to an intellectual



1        disability ~~mental-retardation~~ because that condition  
2        results in impairment of general intellectual functioning  
3        or adaptive behavior similar to that of individuals with an  
4        intellectual disability ~~mental-retardation~~, and requires  
5        treatment or services similar to those required for those  
6        individuals. For purposes of this Section, autism is  
7        considered a related condition.

8            (2) It must be manifested before the individual reaches  
9        age 22.

10           (3) It must be likely to continue indefinitely.

11           (4) It must result in substantial functional  
12        limitations in 3 or more of the following areas of major  
13        life activity: self-care, language, learning, mobility,  
14        self-direction, and capacity for independent living.

15        "Mental Illness" means a mental or emotional disorder  
16        verified by a diagnosis contained in the Diagnostic and  
17        Statistical Manual of Mental Disorders-Fourth Edition,  
18        published by the American Psychiatric Association (DSM-IV), or  
19        its successor, or International Classification of Diseases,  
20        9th Revision, Clinical Modification (ICD-9-CM), or its  
21        successor, that substantially impairs a person's cognitive,  
22        emotional, or behavioral functioning, or any combination of  
23        those, excluding (i) conditions that may be the focus of  
24        clinical attention but are not of sufficient duration or  
25        severity to be categorized as a mental illness, such as  
26        parent-child relational problems, partner-relational problems,

1 sexual abuse of a child, bereavement, academic problems,  
2 phase-of-life problems, and occupational problems  
3 (collectively, "V codes"), (ii) organic disorders such as  
4 substance intoxication dementia, substance withdrawal  
5 dementia, Alzheimer's disease, vascular dementia, dementia due  
6 to HIV infection, and dementia due to Creutzfeld-Jakob disease  
7 and disorders associated with known or unknown physical  
8 conditions such as hallucinosis, amnestic disorders and  
9 delirium, and psychoactive substance-induced organic  
10 disorders, and (iii) an intellectual disability ~~mental~~  
11 ~~retardation~~ or psychoactive substance use disorders.

12 "Intellectual disability ~~Mental—retardation~~" means  
13 significantly sub-average general intellectual functioning  
14 existing concurrently with deficits in adaptive behavior and  
15 manifested before the age of 22 years.

16 "Physical disability" means a disability as defined by the  
17 Americans with Disabilities Act of 1990 that meets the  
18 following criteria:

19 (1) It is attributable to a physical impairment.

20 (2) It results in a substantial functional limitation  
21 in any of the following areas of major life activity: (i)  
22 self-care, (ii) receptive and expressive language, (iii)  
23 learning, (iv) mobility, (v) self-direction, (vi) capacity  
24 for independent living, and (vii) economic sufficiency.

25 (3) It reflects the person's need for a combination and  
26 sequence of special, interdisciplinary, or general care,

1 treatment, or other services that are of lifelong or of  
2 extended duration and must be individually planned and  
3 coordinated.

4 (b) In this Act:

5 "Chronological age-appropriate services" means services,  
6 activities, and strategies for persons with disabilities that  
7 are representative of the lifestyle activities of nondisabled  
8 peers of similar age in the community.

9 "Comprehensive evaluation" means procedures used by  
10 qualified professionals selectively with an individual to  
11 determine whether a person has a disability and the nature and  
12 extent of the services that the person with a disability needs.

13 "Department" means the Department on Aging, the Department  
14 of Human Services, the Department of Public Health, the  
15 Department of Public Aid (now Department Healthcare and Family  
16 Services), the University of Illinois Division of Specialized  
17 Care for Children, the Department of Children and Family  
18 Services, and the Illinois State Board of Education, where  
19 appropriate, as designated in the implementation plan  
20 developed under Section 20.

21 "Family" means a natural, adoptive, or foster parent or  
22 parents or other person or persons responsible for the care of  
23 an individual with a disability in a family setting.

24 "Family or individual support" means those resources and  
25 services that are necessary to maintain an individual with a  
26 disability within the family home or his or her own home. These

1 services may include, but are not limited to, cash subsidy,  
2 respite care, and counseling services.

3 "Independent service coordination" means a social service  
4 that enables persons with developmental disabilities and their  
5 families to locate, use, and coordinate resources and  
6 opportunities in their communities on the basis of individual  
7 need. Independent service coordination is independent of  
8 providers of services and funding sources and is designed to  
9 ensure accessibility, continuity of care, and accountability  
10 and to maximize the potential of persons with developmental  
11 disabilities for independence, productivity, and integration  
12 into the community. Independent service coordination includes,  
13 at a minimum: (i) outreach to identify eligible individuals;  
14 (ii) assessment and periodic reassessment to determine each  
15 individual's strengths, functional limitations, and need for  
16 specific services; (iii) participation in the development of a  
17 comprehensive individual service or treatment plan; (iv)  
18 referral to and linkage with needed services and supports; (v)  
19 monitoring to ensure the delivery of appropriate services and  
20 to determine individual progress in meeting goals and  
21 objectives; and (vi) advocacy to assist the person in obtaining  
22 all services for which he or she is eligible or entitled.

23 "Individual service or treatment plan" means a recorded  
24 assessment of the needs of a person with a disability, a  
25 description of the services recommended, the goals of each type  
26 of element of service, an anticipated timetable for the

1 accomplishment of the goals, and a designation of the qualified  
2 professionals responsible for the implementation of the plan.

3 "Least restrictive environment" means an environment that  
4 represents the least departure from the normal patterns of  
5 living and that effectively meets the needs of the person  
6 receiving the service.

7 (Source: P.A. 95-331, eff. 8-21-07.)

8 (20 ILCS 2407/52)

9 Sec. 52. Applicability; definitions. In accordance with  
10 Section 6071 of the Deficit Reduction Act of 2005 (P.L.  
11 109-171), as used in this Article:

12 "Departments". The term "Departments" means for the  
13 purposes of this Act, the Department of Human Services, the  
14 Department on Aging, Department of Healthcare and Family  
15 Services and Department of Public Health, unless otherwise  
16 noted.

17 "Home and community-based long-term care services". The  
18 term "home and community-based long-term care services" means,  
19 with respect to the State Medicaid program, a service aid, or  
20 benefit, home and community-based services, including but not  
21 limited to home health and personal care services, that are  
22 provided to a person with a disability, and are voluntarily  
23 accepted, as part of his or her long-term care that: (i) is  
24 provided under the State's qualified home and community-based  
25 program or that could be provided under such a program but is

1 otherwise provided under the Medicaid program; (ii) is  
2 delivered in a qualified residence; and (iii) is necessary for  
3 the person with a disability to live in the community.

4 "ID/DD~~MR/DD~~ community care facility". The term "ID/DD~~MR/DD~~  
5 community care facility", for the purposes of this Article,  
6 means a skilled nursing or intermediate long-term care facility  
7 subject to licensure by the Department of Public Health under  
8 the ID/DD ~~MR/DD~~ Community Care Act, an intermediate care  
9 facility for the developmentally disabled (ICF-DDs), and a  
10 State-operated developmental center or mental health center,  
11 whether publicly or privately owned.

12 "Money Follows the Person" Demonstration. Enacted by the  
13 Deficit Reduction Act of 2005, the Money Follows the Person  
14 (MFP) Rebalancing Demonstration is part of a comprehensive,  
15 coordinated strategy to assist states, in collaboration with  
16 stakeholders, to make widespread changes to their long-term  
17 care support systems. This initiative will assist states in  
18 their efforts to reduce their reliance on institutional care  
19 while developing community-based long-term care opportunities,  
20 enabling the elderly and people with disabilities to fully  
21 participate in their communities.

22 "Public funds" mean any funds appropriated by the General  
23 Assembly to the Departments of Human Services, on Aging, of  
24 Healthcare and Family Services and of Public Health for  
25 settings and services as defined in this Article.

26 "Qualified residence". The term "qualified residence"

1 means, with respect to an eligible individual: (i) a home owned  
2 or leased by the individual or the individual's authorized  
3 representative (as defined by P.L. 109-171); (ii) an apartment  
4 with an individual lease, with lockable access and egress, and  
5 which includes living, sleeping, bathing, and cooking areas  
6 over which the individual or the individual's family has domain  
7 and control; or (iii) a residence, in a community-based  
8 residential setting, in which no more than 4 unrelated  
9 individuals reside. Where qualified residences are not  
10 sufficient to meet the demand of eligible individuals,  
11 time-limited exceptions to this definition may be developed  
12 through administrative rule.

13 "Self-directed services". The term "self-directed  
14 services" means, with respect to home and community-based  
15 long-term services for an eligible individual, those services  
16 for the individual that are planned and purchased under the  
17 direction and control of the individual or the individual's  
18 authorized representative, including the amount, duration,  
19 scope, provider, and location of such services, under the State  
20 Medicaid program consistent with the following requirements:

21 (a) Assessment: there is an assessment of the needs,  
22 capabilities, and preference of the individual with  
23 respect to such services.

24 (b) Individual service care or treatment plan: based on  
25 the assessment, there is development jointly with such  
26 individual or individual's authorized representative, a

1 plan for such services for the individual that (i)  
2 specifies those services, if any, that the individual or  
3 the individual's authorized representative would be  
4 responsible for directing; (ii) identifies the methods by  
5 which the individual or the individual's authorized  
6 representative or an agency designated by an individual or  
7 representative will select, manage, and dismiss providers  
8 of such services.

9 (Source: P.A. 95-438, eff. 1-1-08; 96-339, eff. 7-1-10.)

10 Section 26. The Abuse of Adults with Disabilities  
11 Intervention Act is amended by changing Section 15 as follows:

12 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

13 Sec. 15. Definitions. As used in this Act:

14 "Abuse" means causing any physical, sexual, or mental  
15 injury to an adult with disabilities, including exploitation of  
16 the adult's financial resources. Nothing in this Act shall be  
17 construed to mean that an adult with disabilities is a victim  
18 of abuse or neglect for the sole reason that he or she is being  
19 furnished with or relies upon treatment by spiritual means  
20 through prayer alone, in accordance with the tenets and  
21 practices of a recognized church or religious denomination.  
22 Nothing in this Act shall be construed to mean that an adult  
23 with disabilities is a victim of abuse because of health care  
24 services provided or not provided by licensed health care



1 professionals.

2 "Adult with disabilities" means a person aged 18 through 59  
3 who resides in a domestic living situation and whose physical  
4 or mental disability impairs his or her ability to seek or  
5 obtain protection from abuse, neglect, or exploitation.

6 "Department" means the Department of Human Services.

7 "Adults with Disabilities Abuse Project" or "project"  
8 means that program within the Office of Inspector General  
9 designated by the Department of Human Services to receive and  
10 assess reports of alleged or suspected abuse, neglect, or  
11 exploitation of adults with disabilities.

12 "Domestic living situation" means a residence where the  
13 adult with disabilities lives alone or with his or her family  
14 or household members, a care giver, or others or at a board and  
15 care home or other community-based unlicensed facility, but is  
16 not:

17 (1) A licensed facility as defined in Section 1-113 of  
18 the Nursing Home Care Act or Section 1-113 of the ID/DD  
19 ~~MR/DD~~ Community Care Act.

20 (2) A life care facility as defined in the Life Care  
21 Facilities Act.

22 (3) A home, institution, or other place operated by the  
23 federal government, a federal agency, or the State.

24 (4) A hospital, sanitarium, or other institution, the  
25 principal activity or business of which is the diagnosis,  
26 care, and treatment of human illness through the

1 maintenance and operation of organized facilities and that  
2 is required to be licensed under the Hospital Licensing  
3 Act.

4 (5) A community living facility as defined in the  
5 Community Living Facilities Licensing Act.

6 (6) A community-integrated living arrangement as  
7 defined in the Community-Integrated Living Arrangements  
8 Licensure and Certification Act or community residential  
9 alternative as licensed under that Act.

10 "Emergency" means a situation in which an adult with  
11 disabilities is in danger of death or great bodily harm.

12 "Exploitation" means the illegal, including tortious, use  
13 of the assets or resources of an adult with disabilities.  
14 Exploitation includes, but is not limited to, the  
15 misappropriation of assets or resources of an adult with  
16 disabilities by undue influence, by breach of a fiduciary  
17 relationship, by fraud, deception, or extortion, or by the use  
18 of the assets or resources in a manner contrary to law.

19 "Family or household members" means a person who as a  
20 family member, volunteer, or paid care provider has assumed  
21 responsibility for all or a portion of the care of an adult  
22 with disabilities who needs assistance with activities of daily  
23 living.

24 "Neglect" means the failure of another individual to  
25 provide an adult with disabilities with or the willful  
26 withholding from an adult with disabilities the necessities of

1 life, including, but not limited to, food, clothing, shelter,  
2 or medical care.

3 Nothing in the definition of "neglect" shall be construed to  
4 impose a requirement that assistance be provided to an adult  
5 with disabilities over his or her objection in the absence of a  
6 court order, nor to create any new affirmative duty to provide  
7 support, assistance, or intervention to an adult with  
8 disabilities. Nothing in this Act shall be construed to mean  
9 that an adult with disabilities is a victim of neglect because  
10 of health care services provided or not provided by licensed  
11 health care professionals.

12 "Physical abuse" includes sexual abuse and means any of the  
13 following:

14 (1) knowing or reckless use of physical force,  
15 confinement, or restraint;

16 (2) knowing, repeated, and unnecessary sleep  
17 deprivation; or

18 (3) knowing or reckless conduct which creates an  
19 immediate risk of physical harm.

20 "Secretary" means the Secretary of Human Services.

21 "Sexual abuse" means touching, fondling, sexual threats,  
22 sexually inappropriate remarks, or any other sexual activity  
23 with an adult with disabilities when the adult with  
24 disabilities is unable to understand, unwilling to consent,  
25 threatened, or physically forced to engage in sexual behavior.

26 "Substantiated case" means a reported case of alleged or

1 suspected abuse, neglect, or exploitation in which the Adults  
2 with Disabilities Abuse Project staff, after assessment,  
3 determines that there is reason to believe abuse, neglect, or  
4 exploitation has occurred.

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

6 Section 27. The Illinois Finance Authority Act is amended  
7 by changing Section 801-10 as follows:

8 (20 ILCS 3501/801-10)

9 Sec. 801-10. Definitions. The following terms, whenever  
10 used or referred to in this Act, shall have the following  
11 meanings, except in such instances where the context may  
12 clearly indicate otherwise:

13 (a) The term "Authority" means the Illinois Finance  
14 Authority created by this Act.

15 (b) The term "project" means an industrial project,  
16 conservation project, housing project, public purpose project,  
17 higher education project, health facility project, cultural  
18 institution project, agricultural facility or agribusiness,  
19 and "project" may include any combination of one or more of the  
20 foregoing undertaken jointly by any person with one or more  
21 other persons.

22 (c) The term "public purpose project" means any project or  
23 facility including without limitation land, buildings,  
24 structures, machinery, equipment and all other real and

1 personal property, which is authorized or required by law to be  
2 acquired, constructed, improved, rehabilitated, reconstructed,  
3 replaced or maintained by any unit of government or any other  
4 lawful public purpose which is authorized or required by law to  
5 be undertaken by any unit of government.

6 (d) The term "industrial project" means the acquisition,  
7 construction, refurbishment, creation, development or  
8 redevelopment of any facility, equipment, machinery, real  
9 property or personal property for use by any instrumentality of  
10 the State or its political subdivisions, for use by any person  
11 or institution, public or private, for profit or not for  
12 profit, or for use in any trade or business including, but not  
13 limited to, any industrial, manufacturing or commercial  
14 enterprise and which is (1) a capital project including but not  
15 limited to: (i) land and any rights therein, one or more  
16 buildings, structures or other improvements, machinery and  
17 equipment, whether now existing or hereafter acquired, and  
18 whether or not located on the same site or sites; (ii) all  
19 appurtenances and facilities incidental to the foregoing,  
20 including, but not limited to utilities, access roads, railroad  
21 sidings, track, docking and similar facilities, parking  
22 facilities, dockage, wharfage, railroad roadbed, track,  
23 trestle, depot, terminal, switching and signaling or related  
24 equipment, site preparation and landscaping; and (iii) all  
25 non-capital costs and expenses relating thereto or (2) any  
26 addition to, renovation, rehabilitation or improvement of a

1 capital project or (3) any activity or undertaking which the  
2 Authority determines will aid, assist or encourage economic  
3 growth, development or redevelopment within the State or any  
4 area thereof, will promote the expansion, retention or  
5 diversification of employment opportunities within the State  
6 or any area thereof or will aid in stabilizing or developing  
7 any industry or economic sector of the State economy. The term  
8 "industrial project" also means the production of motion  
9 pictures.

10 (e) The term "bond" or "bonds" shall include bonds, notes  
11 (including bond, grant or revenue anticipation notes),  
12 certificates and/or other evidences of indebtedness  
13 representing an obligation to pay money, including refunding  
14 bonds.

15 (f) The terms "lease agreement" and "loan agreement" shall  
16 mean: (i) an agreement whereby a project acquired by the  
17 Authority by purchase, gift or lease is leased to any person,  
18 corporation or unit of local government which will use or cause  
19 the project to be used as a project as heretofore defined upon  
20 terms providing for lease rental payments at least sufficient  
21 to pay when due all principal of, interest and premium, if any,  
22 on any bonds of the Authority issued with respect to such  
23 project, providing for the maintenance, insuring and operation  
24 of the project on terms satisfactory to the Authority,  
25 providing for disposition of the project upon termination of  
26 the lease term, including purchase options or abandonment of

1 the premises, and such other terms as may be deemed desirable  
2 by the Authority, or (ii) any agreement pursuant to which the  
3 Authority agrees to loan the proceeds of its bonds issued with  
4 respect to a project or other funds of the Authority to any  
5 person which will use or cause the project to be used as a  
6 project as heretofore defined upon terms providing for loan  
7 repayment installments at least sufficient to pay when due all  
8 principal of, interest and premium, if any, on any bonds of the  
9 Authority, if any, issued with respect to the project, and  
10 providing for maintenance, insurance and other matters as may  
11 be deemed desirable by the Authority.

12 (g) The term "financial aid" means the expenditure of  
13 Authority funds or funds provided by the Authority through the  
14 issuance of its bonds, notes or other evidences of indebtedness  
15 or from other sources for the development, construction,  
16 acquisition or improvement of a project.

17 (h) The term "person" means an individual, corporation,  
18 unit of government, business trust, estate, trust, partnership  
19 or association, 2 or more persons having a joint or common  
20 interest, or any other legal entity.

21 (i) The term "unit of government" means the federal  
22 government, the State or unit of local government, a school  
23 district, or any agency or instrumentality, office, officer,  
24 department, division, bureau, commission, college or  
25 university thereof.

26 (j) The term "health facility" means: (a) any public or

1 private institution, place, building, or agency required to be  
2 licensed under the Hospital Licensing Act; (b) any public or  
3 private institution, place, building, or agency required to be  
4 licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
5 Community Care Act; (c) any public or licensed private hospital  
6 as defined in the Mental Health and Developmental Disabilities  
7 Code; (d) any such facility exempted from such licensure when  
8 the Director of Public Health attests that such exempted  
9 facility meets the statutory definition of a facility subject  
10 to licensure; (e) any other public or private health service  
11 institution, place, building, or agency which the Director of  
12 Public Health attests is subject to certification by the  
13 Secretary, U.S. Department of Health and Human Services under  
14 the Social Security Act, as now or hereafter amended, or which  
15 the Director of Public Health attests is subject to  
16 standard-setting by a recognized public or voluntary  
17 accrediting or standard-setting agency; (f) any public or  
18 private institution, place, building or agency engaged in  
19 providing one or more supporting services to a health facility;  
20 (g) any public or private institution, place, building or  
21 agency engaged in providing training in the healing arts,  
22 including but not limited to schools of medicine, dentistry,  
23 osteopathy, optometry, podiatry, pharmacy or nursing, schools  
24 for the training of x-ray, laboratory or other health care  
25 technicians and schools for the training of para-professionals  
26 in the health care field; (h) any public or private congregate,



1 life or extended care or elderly housing facility or any public  
2 or private home for the aged or infirm, including, without  
3 limitation, any Facility as defined in the Life Care Facilities  
4 Act; (i) any public or private mental, emotional or physical  
5 rehabilitation facility or any public or private educational,  
6 counseling, or rehabilitation facility or home, for those  
7 persons with a developmental disability, those who are  
8 physically ill or disabled, the emotionally disturbed, those  
9 persons with a mental illness or persons with learning or  
10 similar disabilities or problems; (j) any public or private  
11 alcohol, drug or substance abuse diagnosis, counseling  
12 treatment or rehabilitation facility, (k) any public or private  
13 institution, place, building or agency licensed by the  
14 Department of Children and Family Services or which is not so  
15 licensed but which the Director of Children and Family Services  
16 attests provides child care, child welfare or other services of  
17 the type provided by facilities subject to such licensure; (l)  
18 any public or private adoption agency or facility; and (m) any  
19 public or private blood bank or blood center. "Health facility"  
20 also means a public or private structure or structures suitable  
21 primarily for use as a laboratory, laundry, nurses or interns  
22 residence or other housing or hotel facility used in whole or  
23 in part for staff, employees or students and their families,  
24 patients or relatives of patients admitted for treatment or  
25 care in a health facility, or persons conducting business with  
26 a health facility, physician's facility, surgicenter,

1 administration building, research facility, maintenance,  
2 storage or utility facility and all structures or facilities  
3 related to any of the foregoing or required or useful for the  
4 operation of a health facility, including parking or other  
5 facilities or other supporting service structures required or  
6 useful for the orderly conduct of such health facility. "Health  
7 facility" also means, with respect to a project located outside  
8 the State, any public or private institution, place, building,  
9 or agency which provides services similar to those described  
10 above, provided that such project is owned, operated, leased or  
11 managed by a participating health institution located within  
12 the State, or a participating health institution affiliated  
13 with an entity located within the State.

14 (k) The term "participating health institution" means (i) a  
15 private corporation or association or (ii) a public entity of  
16 this State, in either case authorized by the laws of this State  
17 or the applicable state to provide or operate a health facility  
18 as defined in this Act and which, pursuant to the provisions of  
19 this Act, undertakes the financing, construction or  
20 acquisition of a project or undertakes the refunding or  
21 refinancing of obligations, loans, indebtedness or advances as  
22 provided in this Act.

23 (l) The term "health facility project", means a specific  
24 health facility work or improvement to be financed or  
25 refinanced (including without limitation through reimbursement  
26 of prior expenditures), acquired, constructed, enlarged,

1 remodeled, renovated, improved, furnished, or equipped, with  
2 funds provided in whole or in part hereunder, any accounts  
3 receivable, working capital, liability or insurance cost or  
4 operating expense financing or refinancing program of a health  
5 facility with or involving funds provided in whole or in part  
6 hereunder, or any combination thereof.

7 (m) The term "bond resolution" means the resolution or  
8 resolutions authorizing the issuance of, or providing terms and  
9 conditions related to, bonds issued under this Act and  
10 includes, where appropriate, any trust agreement, trust  
11 indenture, indenture of mortgage or deed of trust providing  
12 terms and conditions for such bonds.

13 (n) The term "property" means any real, personal or mixed  
14 property, whether tangible or intangible, or any interest  
15 therein, including, without limitation, any real estate,  
16 leasehold interests, appurtenances, buildings, easements,  
17 equipment, furnishings, furniture, improvements, machinery,  
18 rights of way, structures, accounts, contract rights or any  
19 interest therein.

20 (o) The term "revenues" means, with respect to any project,  
21 the rents, fees, charges, interest, principal repayments,  
22 collections and other income or profit derived therefrom.

23 (p) The term "higher education project" means, in the case  
24 of a private institution of higher education, an educational  
25 facility to be acquired, constructed, enlarged, remodeled,  
26 renovated, improved, furnished, or equipped, or any

1 combination thereof.

2 (q) The term "cultural institution project" means, in the  
3 case of a cultural institution, a cultural facility to be  
4 acquired, constructed, enlarged, remodeled, renovated,  
5 improved, furnished, or equipped, or any combination thereof.

6 (r) The term "educational facility" means any property  
7 located within the State, or any property located outside the  
8 State, provided that, if the property is located outside the  
9 State, it must be owned, operated, leased or managed by an  
10 entity located within the State or an entity affiliated with an  
11 entity located within the State, in each case constructed or  
12 acquired before or after the effective date of this Act, which  
13 is or will be, in whole or in part, suitable for the  
14 instruction, feeding, recreation or housing of students, the  
15 conducting of research or other work of a private institution  
16 of higher education, the use by a private institution of higher  
17 education in connection with any educational, research or  
18 related or incidental activities then being or to be conducted  
19 by it, or any combination of the foregoing, including, without  
20 limitation, any such property suitable for use as or in  
21 connection with any one or more of the following: an academic  
22 facility, administrative facility, agricultural facility,  
23 assembly hall, athletic facility, auditorium, boating  
24 facility, campus, communication facility, computer facility,  
25 continuing education facility, classroom, dining hall,  
26 dormitory, exhibition hall, fire fighting facility, fire

1 prevention facility, food service and preparation facility,  
2 gymnasium, greenhouse, health care facility, hospital,  
3 housing, instructional facility, laboratory, library,  
4 maintenance facility, medical facility, museum, offices,  
5 parking area, physical education facility, recreational  
6 facility, research facility, stadium, storage facility,  
7 student union, study facility, theatre or utility.

8 (s) The term "cultural facility" means any property located  
9 within the State, or any property located outside the State,  
10 provided that, if the property is located outside the State, it  
11 must be owned, operated, leased or managed by an entity located  
12 within the State or an entity affiliated with an entity located  
13 within the State, in each case constructed or acquired before  
14 or after the effective date of this Act, which is or will be,  
15 in whole or in part, suitable for the particular purposes or  
16 needs of a cultural institution, including, without  
17 limitation, any such property suitable for use as or in  
18 connection with any one or more of the following: an  
19 administrative facility, aquarium, assembly hall, auditorium,  
20 botanical garden, exhibition hall, gallery, greenhouse,  
21 library, museum, scientific laboratory, theater or zoological  
22 facility, and shall also include, without limitation, books,  
23 works of art or music, animal, plant or aquatic life or other  
24 items for display, exhibition or performance. The term  
25 "cultural facility" includes buildings on the National  
26 Register of Historic Places which are owned or operated by

1 nonprofit entities.

2 (t) "Private institution of higher education" means a  
3 not-for-profit educational institution which is not owned by  
4 the State or any political subdivision, agency,  
5 instrumentality, district or municipality thereof, which is  
6 authorized by law to provide a program of education beyond the  
7 high school level and which:

8 (1) Admits as regular students only individuals having  
9 a certificate of graduation from a high school, or the  
10 recognized equivalent of such a certificate;

11 (2) Provides an educational program for which it awards  
12 a bachelor's degree, or provides an educational program,  
13 admission into which is conditioned upon the prior  
14 attainment of a bachelor's degree or its equivalent, for  
15 which it awards a postgraduate degree, or provides not less  
16 than a 2-year program which is acceptable for full credit  
17 toward such a degree, or offers a 2-year program in  
18 engineering, mathematics, or the physical or biological  
19 sciences which is designed to prepare the student to work  
20 as a technician and at a semiprofessional level in  
21 engineering, scientific, or other technological fields  
22 which require the understanding and application of basic  
23 engineering, scientific, or mathematical principles or  
24 knowledge;

25 (3) Is accredited by a nationally recognized  
26 accrediting agency or association or, if not so accredited,

1 is an institution whose credits are accepted, on transfer,  
2 by not less than 3 institutions which are so accredited,  
3 for credit on the same basis as if transferred from an  
4 institution so accredited, and holds an unrevoked  
5 certificate of approval under the Private College Act from  
6 the Board of Higher Education, or is qualified as a "degree  
7 granting institution" under the Academic Degree Act; and

8 (4) Does not discriminate in the admission of students  
9 on the basis of race or color. "Private institution of  
10 higher education" also includes any "academic  
11 institution".

12 (u) The term "academic institution" means any  
13 not-for-profit institution which is not owned by the State or  
14 any political subdivision, agency, instrumentality, district  
15 or municipality thereof, which institution engages in, or  
16 facilitates academic, scientific, educational or professional  
17 research or learning in a field or fields of study taught at a  
18 private institution of higher education. Academic institutions  
19 include, without limitation, libraries, archives, academic,  
20 scientific, educational or professional societies,  
21 institutions, associations or foundations having such  
22 purposes.

23 (v) The term "cultural institution" means any  
24 not-for-profit institution which is not owned by the State or  
25 any political subdivision, agency, instrumentality, district  
26 or municipality thereof, which institution engages in the

1 cultural, intellectual, scientific, educational or artistic  
2 enrichment of the people of the State. Cultural institutions  
3 include, without limitation, aquaria, botanical societies,  
4 historical societies, libraries, museums, performing arts  
5 associations or societies, scientific societies and zoological  
6 societies.

7 (w) The term "affiliate" means, with respect to financing  
8 of an agricultural facility or an agribusiness, any lender, any  
9 person, firm or corporation controlled by, or under common  
10 control with, such lender, and any person, firm or corporation  
11 controlling such lender.

12 (x) The term "agricultural facility" means land, any  
13 building or other improvement thereon or thereto, and any  
14 personal properties deemed necessary or suitable for use,  
15 whether or not now in existence, in farming, ranching, the  
16 production of agricultural commodities (including, without  
17 limitation, the products of aquaculture, hydroponics and  
18 silviculture) or the treating, processing or storing of such  
19 agricultural commodities when such activities are customarily  
20 engaged in by farmers as a part of farming.

21 (y) The term "lender" with respect to financing of an  
22 agricultural facility or an agribusiness, means any federal or  
23 State chartered bank, Federal Land Bank, Production Credit  
24 Association, Bank for Cooperatives, federal or State chartered  
25 savings and loan association or building and loan association,  
26 Small Business Investment Company or any other institution



1 qualified within this State to originate and service loans,  
2 including, but without limitation to, insurance companies,  
3 credit unions and mortgage loan companies. "Lender" also means  
4 a wholly owned subsidiary of a manufacturer, seller or  
5 distributor of goods or services that makes loans to businesses  
6 or individuals, commonly known as a "captive finance company".

7 (z) The term "agribusiness" means any sole proprietorship,  
8 limited partnership, co-partnership, joint venture,  
9 corporation or cooperative which operates or will operate a  
10 facility located within the State of Illinois that is related  
11 to the processing of agricultural commodities (including,  
12 without limitation, the products of aquaculture, hydroponics  
13 and silviculture) or the manufacturing, production or  
14 construction of agricultural buildings, structures, equipment,  
15 implements, and supplies, or any other facilities or processes  
16 used in agricultural production. Agribusiness includes but is  
17 not limited to the following:

18 (1) grain handling and processing, including grain  
19 storage, drying, treatment, conditioning, mailing and  
20 packaging;

21 (2) seed and feed grain development and processing;

22 (3) fruit and vegetable processing, including  
23 preparation, canning and packaging;

24 (4) processing of livestock and livestock products,  
25 dairy products, poultry and poultry products, fish or  
26 apiarian products, including slaughter, shearing,

1 collecting, preparation, canning and packaging;

2 (5) fertilizer and agricultural chemical  
3 manufacturing, processing, application and supplying;

4 (6) farm machinery, equipment and implement  
5 manufacturing and supplying;

6 (7) manufacturing and supplying of agricultural  
7 commodity processing machinery and equipment, including  
8 machinery and equipment used in slaughter, treatment,  
9 handling, collecting, preparation, canning or packaging of  
10 agricultural commodities;

11 (8) farm building and farm structure manufacturing,  
12 construction and supplying;

13 (9) construction, manufacturing, implementation,  
14 supplying or servicing of irrigation, drainage and soil and  
15 water conservation devices or equipment;

16 (10) fuel processing and development facilities that  
17 produce fuel from agricultural commodities or byproducts;

18 (11) facilities and equipment for processing and  
19 packaging agricultural commodities specifically for  
20 export;

21 (12) facilities and equipment for forestry product  
22 processing and supplying, including sawmilling operations,  
23 wood chip operations, timber harvesting operations, and  
24 manufacturing of prefabricated buildings, paper, furniture  
25 or other goods from forestry products;

26 (13) facilities and equipment for research and

1 development of products, processes and equipment for the  
2 production, processing, preparation or packaging of  
3 agricultural commodities and byproducts.

4 (aa) The term "asset" with respect to financing of any  
5 agricultural facility or any agribusiness, means, but is not  
6 limited to the following: cash crops or feed on hand; livestock  
7 held for sale; breeding stock; marketable bonds and securities;  
8 securities not readily marketable; accounts receivable; notes  
9 receivable; cash invested in growing crops; net cash value of  
10 life insurance; machinery and equipment; cars and trucks; farm  
11 and other real estate including life estates and personal  
12 residence; value of beneficial interests in trusts; government  
13 payments or grants; and any other assets.

14 (bb) The term "liability" with respect to financing of any  
15 agricultural facility or any agribusiness shall include, but  
16 not be limited to the following: accounts payable; notes or  
17 other indebtedness owed to any source; taxes; rent; amounts  
18 owed on real estate contracts or real estate mortgages;  
19 judgments; accrued interest payable; and any other liability.

20 (cc) The term "Predecessor Authorities" means those  
21 authorities as described in Section 845-75.

22 (dd) The term "housing project" means a specific work or  
23 improvement undertaken to provide residential dwelling  
24 accommodations, including the acquisition, construction or  
25 rehabilitation of lands, buildings and community facilities  
26 and in connection therewith to provide nonhousing facilities

1 which are part of the housing project, including land,  
2 buildings, improvements, equipment and all ancillary  
3 facilities for use for offices, stores, retirement homes,  
4 hotels, financial institutions, service, health care,  
5 education, recreation or research establishments, or any other  
6 commercial purpose which are or are to be related to a housing  
7 development.

8 (ee) The term "conservation project" means any project  
9 including the acquisition, construction, rehabilitation,  
10 maintenance, operation, or upgrade that is intended to create  
11 or expand open space or to reduce energy usage through  
12 efficiency measures. For the purpose of this definition, "open  
13 space" has the definition set forth under Section 10 of the  
14 Illinois Open Land Trust Act.

15 (ff) The term "significant presence" means the existence  
16 within the State of the national or regional headquarters of an  
17 entity or group or such other facility of an entity or group of  
18 entities where a significant amount of the business functions  
19 are performed for such entity or group of entities.

20 (Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10;  
21 96-1021, eff. 7-12-10.)

22 Section 29. The Illinois Health Facilities Planning Act is  
23 amended by changing Sections 3, 12, 13, and 14.1 as follows:

24 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

1 (Section scheduled to be repealed on December 31, 2019)

2 Sec. 3. Definitions. As used in this Act:

3 "Health care facilities" means and includes the following  
4 facilities and organizations:

5 1. An ambulatory surgical treatment center required to  
6 be licensed pursuant to the Ambulatory Surgical Treatment  
7 Center Act;

8 2. An institution, place, building, or agency required  
9 to be licensed pursuant to the Hospital Licensing Act;

10 3. Skilled and intermediate long term care facilities  
11 licensed under the Nursing Home Care Act;

12 3.5. Skilled and intermediate care facilities licensed  
13 under the ID/DD ~~MR/DD~~ Community Care Act;

14 4. Hospitals, nursing homes, ambulatory surgical  
15 treatment centers, or kidney disease treatment centers  
16 maintained by the State or any department or agency  
17 thereof;

18 5. Kidney disease treatment centers, including a  
19 free-standing hemodialysis unit required to be licensed  
20 under the End Stage Renal Disease Facility Act;

21 6. An institution, place, building, or room used for  
22 the performance of outpatient surgical procedures that is  
23 leased, owned, or operated by or on behalf of an  
24 out-of-state facility;

25 7. An institution, place, building, or room used for  
26 provision of a health care category of service as defined

1 by the Board, including, but not limited to, cardiac  
2 catheterization and open heart surgery; and

3 8. An institution, place, building, or room used for  
4 provision of major medical equipment used in the direct  
5 clinical diagnosis or treatment of patients, and whose  
6 project cost is in excess of the capital expenditure  
7 minimum.

8 This Act shall not apply to the construction of any new  
9 facility or the renovation of any existing facility located on  
10 any campus facility as defined in Section 5-5.8b of the  
11 Illinois Public Aid Code, provided that the campus facility  
12 encompasses 30 or more contiguous acres and that the new or  
13 renovated facility is intended for use by a licensed  
14 residential facility.

15 No federally owned facility shall be subject to the  
16 provisions of this Act, nor facilities used solely for healing  
17 by prayer or spiritual means.

18 No facility licensed under the Supportive Residences  
19 Licensing Act or the Assisted Living and Shared Housing Act  
20 shall be subject to the provisions of this Act.

21 No facility established and operating under the  
22 Alternative Health Care Delivery Act as a children's respite  
23 care center alternative health care model demonstration  
24 program or as an Alzheimer's Disease Management Center  
25 alternative health care model demonstration program shall be  
26 subject to the provisions of this Act.

1           A facility designated as a supportive living facility that  
2 is in good standing with the program established under Section  
3 5-5.01a of the Illinois Public Aid Code shall not be subject to  
4 the provisions of this Act.

5           This Act does not apply to facilities granted waivers under  
6 Section 3-102.2 of the Nursing Home Care Act. However, if a  
7 demonstration project under that Act applies for a certificate  
8 of need to convert to a nursing facility, it shall meet the  
9 licensure and certificate of need requirements in effect as of  
10 the date of application.

11           This Act does not apply to a dialysis facility that  
12 provides only dialysis training, support, and related services  
13 to individuals with end stage renal disease who have elected to  
14 receive home dialysis. This Act does not apply to a dialysis  
15 unit located in a licensed nursing home that offers or provides  
16 dialysis-related services to residents with end stage renal  
17 disease who have elected to receive home dialysis within the  
18 nursing home. The Board, however, may require these dialysis  
19 facilities and licensed nursing homes to report statistical  
20 information on a quarterly basis to the Board to be used by the  
21 Board to conduct analyses on the need for proposed kidney  
22 disease treatment centers.

23           This Act shall not apply to the closure of an entity or a  
24 portion of an entity licensed under the Nursing Home Care Act  
25 or the MR/DD Community Care Act, with the exceptions of  
26 facilities operated by a county or Illinois Veterans Homes,

1 that elects to convert, in whole or in part, to an assisted  
2 living or shared housing establishment licensed under the  
3 Assisted Living and Shared Housing Act.

4 This Act does not apply to any change of ownership of a  
5 healthcare facility that is licensed under the Nursing Home  
6 Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with the  
7 exceptions of facilities operated by a county or Illinois  
8 Veterans Homes. Changes of ownership of facilities licensed  
9 under the Nursing Home Care Act must meet the requirements set  
10 forth in Sections 3-101 through 3-119 of the Nursing Home Care  
11 Act.

12 With the exception of those health care facilities  
13 specifically included in this Section, nothing in this Act  
14 shall be intended to include facilities operated as a part of  
15 the practice of a physician or other licensed health care  
16 professional, whether practicing in his individual capacity or  
17 within the legal structure of any partnership, medical or  
18 professional corporation, or unincorporated medical or  
19 professional group. Further, this Act shall not apply to  
20 physicians or other licensed health care professional's  
21 practices where such practices are carried out in a portion of  
22 a health care facility under contract with such health care  
23 facility by a physician or by other licensed health care  
24 professionals, whether practicing in his individual capacity  
25 or within the legal structure of any partnership, medical or  
26 professional corporation, or unincorporated medical or



1 professional groups. This Act shall apply to construction or  
2 modification and to establishment by such health care facility  
3 of such contracted portion which is subject to facility  
4 licensing requirements, irrespective of the party responsible  
5 for such action or attendant financial obligation.

6 "Person" means any one or more natural persons, legal  
7 entities, governmental bodies other than federal, or any  
8 combination thereof.

9 "Consumer" means any person other than a person (a) whose  
10 major occupation currently involves or whose official capacity  
11 within the last 12 months has involved the providing,  
12 administering or financing of any type of health care facility,  
13 (b) who is engaged in health research or the teaching of  
14 health, (c) who has a material financial interest in any  
15 activity which involves the providing, administering or  
16 financing of any type of health care facility, or (d) who is or  
17 ever has been a member of the immediate family of the person  
18 defined by (a), (b), or (c).

19 "State Board" or "Board" means the Health Facilities and  
20 Services Review Board.

21 "Construction or modification" means the establishment,  
22 erection, building, alteration, reconstruction, modernization,  
23 improvement, extension, discontinuation, change of ownership,  
24 of or by a health care facility, or the purchase or acquisition  
25 by or through a health care facility of equipment or service  
26 for diagnostic or therapeutic purposes or for facility

1 administration or operation, or any capital expenditure made by  
2 or on behalf of a health care facility which exceeds the  
3 capital expenditure minimum; however, any capital expenditure  
4 made by or on behalf of a health care facility for (i) the  
5 construction or modification of a facility licensed under the  
6 Assisted Living and Shared Housing Act or (ii) a conversion  
7 project undertaken in accordance with Section 30 of the Older  
8 Adult Services Act shall be excluded from any obligations under  
9 this Act.

10 "Establish" means the construction of a health care  
11 facility or the replacement of an existing facility on another  
12 site or the initiation of a category of service as defined by  
13 the Board.

14 "Major medical equipment" means medical equipment which is  
15 used for the provision of medical and other health services and  
16 which costs in excess of the capital expenditure minimum,  
17 except that such term does not include medical equipment  
18 acquired by or on behalf of a clinical laboratory to provide  
19 clinical laboratory services if the clinical laboratory is  
20 independent of a physician's office and a hospital and it has  
21 been determined under Title XVIII of the Social Security Act to  
22 meet the requirements of paragraphs (10) and (11) of Section  
23 1861(s) of such Act. In determining whether medical equipment  
24 has a value in excess of the capital expenditure minimum, the  
25 value of studies, surveys, designs, plans, working drawings,  
26 specifications, and other activities essential to the

1 acquisition of such equipment shall be included.

2 "Capital Expenditure" means an expenditure: (A) made by or  
3 on behalf of a health care facility (as such a facility is  
4 defined in this Act); and (B) which under generally accepted  
5 accounting principles is not properly chargeable as an expense  
6 of operation and maintenance, or is made to obtain by lease or  
7 comparable arrangement any facility or part thereof or any  
8 equipment for a facility or part; and which exceeds the capital  
9 expenditure minimum.

10 For the purpose of this paragraph, the cost of any studies,  
11 surveys, designs, plans, working drawings, specifications, and  
12 other activities essential to the acquisition, improvement,  
13 expansion, or replacement of any plant or equipment with  
14 respect to which an expenditure is made shall be included in  
15 determining if such expenditure exceeds the capital  
16 expenditures minimum. Unless otherwise interdependent, or  
17 submitted as one project by the applicant, components of  
18 construction or modification undertaken by means of a single  
19 construction contract or financed through the issuance of a  
20 single debt instrument shall not be grouped together as one  
21 project. Donations of equipment or facilities to a health care  
22 facility which if acquired directly by such facility would be  
23 subject to review under this Act shall be considered capital  
24 expenditures, and a transfer of equipment or facilities for  
25 less than fair market value shall be considered a capital  
26 expenditure for purposes of this Act if a transfer of the

1 equipment or facilities at fair market value would be subject  
2 to review.

3 "Capital expenditure minimum" means \$11,500,000 for  
4 projects by hospital applicants, \$6,500,000 for applicants for  
5 projects related to skilled and intermediate care long-term  
6 care facilities licensed under the Nursing Home Care Act, and  
7 \$3,000,000 for projects by all other applicants, which shall be  
8 annually adjusted to reflect the increase in construction costs  
9 due to inflation, for major medical equipment and for all other  
10 capital expenditures.

11 "Non-clinical service area" means an area (i) for the  
12 benefit of the patients, visitors, staff, or employees of a  
13 health care facility and (ii) not directly related to the  
14 diagnosis, treatment, or rehabilitation of persons receiving  
15 services from the health care facility. "Non-clinical service  
16 areas" include, but are not limited to, chapels; gift shops;  
17 news stands; computer systems; tunnels, walkways, and  
18 elevators; telephone systems; projects to comply with life  
19 safety codes; educational facilities; student housing;  
20 patient, employee, staff, and visitor dining areas;  
21 administration and volunteer offices; modernization of  
22 structural components (such as roof replacement and masonry  
23 work); boiler repair or replacement; vehicle maintenance and  
24 storage facilities; parking facilities; mechanical systems for  
25 heating, ventilation, and air conditioning; loading docks; and  
26 repair or replacement of carpeting, tile, wall coverings,

1 window coverings or treatments, or furniture. Solely for the  
2 purpose of this definition, "non-clinical service area" does  
3 not include health and fitness centers.

4 "Areawide" means a major area of the State delineated on a  
5 geographic, demographic, and functional basis for health  
6 planning and for health service and having within it one or  
7 more local areas for health planning and health service. The  
8 term "region", as contrasted with the term "subregion", and the  
9 word "area" may be used synonymously with the term "areawide".

10 "Local" means a subarea of a delineated major area that on  
11 a geographic, demographic, and functional basis may be  
12 considered to be part of such major area. The term "subregion"  
13 may be used synonymously with the term "local".

14 "Physician" means a person licensed to practice in  
15 accordance with the Medical Practice Act of 1987, as amended.

16 "Licensed health care professional" means a person  
17 licensed to practice a health profession under pertinent  
18 licensing statutes of the State of Illinois.

19 "Director" means the Director of the Illinois Department of  
20 Public Health.

21 "Agency" means the Illinois Department of Public Health.

22 "Alternative health care model" means a facility or program  
23 authorized under the Alternative Health Care Delivery Act.

24 "Out-of-state facility" means a person that is both (i)  
25 licensed as a hospital or as an ambulatory surgery center under  
26 the laws of another state or that qualifies as a hospital or an

1 ambulatory surgery center under regulations adopted pursuant  
2 to the Social Security Act and (ii) not licensed under the  
3 Ambulatory Surgical Treatment Center Act, the Hospital  
4 Licensing Act, or the Nursing Home Care Act. Affiliates of  
5 out-of-state facilities shall be considered out-of-state  
6 facilities. Affiliates of Illinois licensed health care  
7 facilities 100% owned by an Illinois licensed health care  
8 facility, its parent, or Illinois physicians licensed to  
9 practice medicine in all its branches shall not be considered  
10 out-of-state facilities. Nothing in this definition shall be  
11 construed to include an office or any part of an office of a  
12 physician licensed to practice medicine in all its branches in  
13 Illinois that is not required to be licensed under the  
14 Ambulatory Surgical Treatment Center Act.

15 "Change of ownership of a health care facility" means a  
16 change in the person who has ownership or control of a health  
17 care facility's physical plant and capital assets. A change in  
18 ownership is indicated by the following transactions: sale,  
19 transfer, acquisition, lease, change of sponsorship, or other  
20 means of transferring control.

21 "Related person" means any person that: (i) is at least 50%  
22 owned, directly or indirectly, by either the health care  
23 facility or a person owning, directly or indirectly, at least  
24 50% of the health care facility; or (ii) owns, directly or  
25 indirectly, at least 50% of the health care facility.

26 "Charity care" means care provided by a health care

1 facility for which the provider does not expect to receive  
2 payment from the patient or a third-party payer.

3 "Freestanding emergency center" means a facility subject  
4 to licensure under Section 32.5 of the Emergency Medical  
5 Services (EMS) Systems Act.

6 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;  
7 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.  
8 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,  
9 eff. 7-2-10.)

10 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

11 (Section scheduled to be repealed on December 31, 2019)

12 Sec. 12. Powers and duties of State Board. For purposes of  
13 this Act, the State Board shall exercise the following powers  
14 and duties:

15 (1) Prescribe rules, regulations, standards, criteria,  
16 procedures or reviews which may vary according to the purpose  
17 for which a particular review is being conducted or the type of  
18 project reviewed and which are required to carry out the  
19 provisions and purposes of this Act. Policies and procedures of  
20 the State Board shall take into consideration the priorities  
21 and needs of medically underserved areas and other health care  
22 services identified through the comprehensive health planning  
23 process, giving special consideration to the impact of projects  
24 on access to safety net services.

25 (2) Adopt procedures for public notice and hearing on all

1 proposed rules, regulations, standards, criteria, and plans  
2 required to carry out the provisions of this Act.

3 (3) (Blank).

4 (4) Develop criteria and standards for health care  
5 facilities planning, conduct statewide inventories of health  
6 care facilities, maintain an updated inventory on the Board's  
7 web site reflecting the most recent bed and service changes and  
8 updated need determinations when new census data become  
9 available or new need formulae are adopted, and develop health  
10 care facility plans which shall be utilized in the review of  
11 applications for permit under this Act. Such health facility  
12 plans shall be coordinated by the Board with pertinent State  
13 Plans. Inventories pursuant to this Section of skilled or  
14 intermediate care facilities licensed under the Nursing Home  
15 Care Act, skilled or intermediate care facilities licensed  
16 under the ID/DD ~~MR/DD~~ Community Care Act, or nursing homes  
17 licensed under the Hospital Licensing Act shall be conducted on  
18 an annual basis no later than July 1 of each year and shall  
19 include among the information requested a list of all services  
20 provided by a facility to its residents and to the community at  
21 large and differentiate between active and inactive beds.

22 In developing health care facility plans, the State Board  
23 shall consider, but shall not be limited to, the following:

24 (a) The size, composition and growth of the population  
25 of the area to be served;

26 (b) The number of existing and planned facilities



1 offering similar programs;

2 (c) The extent of utilization of existing facilities;

3 (d) The availability of facilities which may serve as  
4 alternatives or substitutes;

5 (e) The availability of personnel necessary to the  
6 operation of the facility;

7 (f) Multi-institutional planning and the establishment  
8 of multi-institutional systems where feasible;

9 (g) The financial and economic feasibility of proposed  
10 construction or modification; and

11 (h) In the case of health care facilities established  
12 by a religious body or denomination, the needs of the  
13 members of such religious body or denomination may be  
14 considered to be public need.

15 The health care facility plans which are developed and  
16 adopted in accordance with this Section shall form the basis  
17 for the plan of the State to deal most effectively with  
18 statewide health needs in regard to health care facilities.

19 (5) Coordinate with the Center for Comprehensive Health  
20 Planning and other state agencies having responsibilities  
21 affecting health care facilities, including those of licensure  
22 and cost reporting.

23 (6) Solicit, accept, hold and administer on behalf of the  
24 State any grants or bequests of money, securities or property  
25 for use by the State Board or Center for Comprehensive Health  
26 Planning in the administration of this Act; and enter into

1 contracts consistent with the appropriations for purposes  
2 enumerated in this Act.

3 (7) The State Board shall prescribe procedures for review,  
4 standards, and criteria which shall be utilized to make  
5 periodic reviews and determinations of the appropriateness of  
6 any existing health services being rendered by health care  
7 facilities subject to the Act. The State Board shall consider  
8 recommendations of the Board in making its determinations.

9 (8) Prescribe, in consultation with the Center for  
10 Comprehensive Health Planning, rules, regulations, standards,  
11 and criteria for the conduct of an expeditious review of  
12 applications for permits for projects of construction or  
13 modification of a health care facility, which projects are  
14 classified as emergency, substantive, or non-substantive in  
15 nature.

16 Six months after June 30, 2009 (the effective date of  
17 Public Act 96-31), substantive projects shall include no more  
18 than the following:

19 (a) Projects to construct (1) a new or replacement  
20 facility located on a new site or (2) a replacement  
21 facility located on the same site as the original facility  
22 and the cost of the replacement facility exceeds the  
23 capital expenditure minimum;

24 (b) Projects proposing a (1) new service or (2)  
25 discontinuation of a service, which shall be reviewed by  
26 the Board within 60 days; or

1           (c) Projects proposing a change in the bed capacity of  
2           a health care facility by an increase in the total number  
3           of beds or by a redistribution of beds among various  
4           categories of service or by a relocation of beds from one  
5           physical facility or site to another by more than 20 beds  
6           or more than 10% of total bed capacity, as defined by the  
7           State Board, whichever is less, over a 2-year period.

8           The Chairman may approve applications for exemption that  
9           meet the criteria set forth in rules or refer them to the full  
10          Board. The Chairman may approve any unopposed application that  
11          meets all of the review criteria or refer them to the full  
12          Board.

13          Such rules shall not abridge the right of the Center for  
14          Comprehensive Health Planning to make recommendations on the  
15          classification and approval of projects, nor shall such rules  
16          prevent the conduct of a public hearing upon the timely request  
17          of an interested party. Such reviews shall not exceed 60 days  
18          from the date the application is declared to be complete.

19          (9) Prescribe rules, regulations, standards, and criteria  
20          pertaining to the granting of permits for construction and  
21          modifications which are emergent in nature and must be  
22          undertaken immediately to prevent or correct structural  
23          deficiencies or hazardous conditions that may harm or injure  
24          persons using the facility, as defined in the rules and  
25          regulations of the State Board. This procedure is exempt from  
26          public hearing requirements of this Act.

1           (10) Prescribe rules, regulations, standards and criteria  
2 for the conduct of an expeditious review, not exceeding 60  
3 days, of applications for permits for projects to construct or  
4 modify health care facilities which are needed for the care and  
5 treatment of persons who have acquired immunodeficiency  
6 syndrome (AIDS) or related conditions.

7           (11) Issue written decisions upon request of the applicant  
8 or an adversely affected party to the Board within 30 days of  
9 the meeting in which a final decision has been made. A "final  
10 decision" for purposes of this Act is the decision to approve  
11 or deny an application, or take other actions permitted under  
12 this Act, at the time and date of the meeting that such action  
13 is scheduled by the Board. The staff of the State Board shall  
14 prepare a written copy of the final decision and the State  
15 Board shall approve a final copy for inclusion in the formal  
16 record.

17           (12) Require at least one of its members to participate in  
18 any public hearing, after the appointment of the 9 members to  
19 the Board.

20           (13) Provide a mechanism for the public to comment on, and  
21 request changes to, draft rules and standards.

22           (14) Implement public information campaigns to regularly  
23 inform the general public about the opportunity for public  
24 hearings and public hearing procedures.

25           (15) Establish a separate set of rules and guidelines for  
26 long-term care that recognizes that nursing homes are a

1 different business line and service model from other regulated  
2 facilities. An open and transparent process shall be developed  
3 that considers the following: how skilled nursing fits in the  
4 continuum of care with other care providers, modernization of  
5 nursing homes, establishment of more private rooms,  
6 development of alternative services, and current trends in  
7 long-term care services. The Chairman of the Board shall  
8 appoint a permanent Health Services Review Board Long-term Care  
9 Facility Advisory Subcommittee that shall develop and  
10 recommend to the Board the rules to be established by the Board  
11 under this paragraph (15). The Subcommittee shall also provide  
12 continuous review and commentary on policies and procedures  
13 relative to long-term care and the review of related projects.  
14 In consultation with other experts from the health field of  
15 long-term care, the Board and the Subcommittee shall study new  
16 approaches to the current bed need formula and Health Service  
17 Area boundaries to encourage flexibility and innovation in  
18 design models reflective of the changing long-term care  
19 marketplace and consumer preferences. The Board shall file the  
20 proposed related administrative rules for the separate rules  
21 and guidelines for long-term care required by this paragraph  
22 (15) by September 1, 2010. The Subcommittee shall be provided a  
23 reasonable and timely opportunity to review and comment on any  
24 review, revision, or updating of the criteria, standards,  
25 procedures, and rules used to evaluate project applications as  
26 provided under Section 12.3 of this Act prior to approval by

1 the Board and promulgation of related rules.

2 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
3 96-1000, eff. 7-2-10.)

4 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

5 (Section scheduled to be repealed on December 31, 2019)

6 Sec. 13. Investigation of applications for permits and  
7 certificates of recognition. The Agency or the State Board  
8 shall make or cause to be made such investigations as it or the  
9 State Board deems necessary in connection with an application  
10 for a permit or an application for a certificate of  
11 recognition, or in connection with a determination of whether  
12 or not construction or modification which has been commenced is  
13 in accord with the permit issued by the State Board or whether  
14 construction or modification has been commenced without a  
15 permit having been obtained. The State Board may issue  
16 subpoenas duces tecum requiring the production of records and  
17 may administer oaths to such witnesses.

18 Any circuit court of this State, upon the application of  
19 the State Board or upon the application of any party to such  
20 proceedings, may, in its discretion, compel the attendance of  
21 witnesses, the production of books, papers, records, or  
22 memoranda and the giving of testimony before the State Board,  
23 by a proceeding as for contempt, or otherwise, in the same  
24 manner as production of evidence may be compelled before the  
25 court.

1           The State Board shall require all health facilities  
2 operating in this State to provide such reasonable reports at  
3 such times and containing such information as is needed by it  
4 to carry out the purposes and provisions of this Act. Prior to  
5 collecting information from health facilities, the State Board  
6 shall make reasonable efforts through a public process to  
7 consult with health facilities and associations that represent  
8 them to determine whether data and information requests will  
9 result in useful information for health planning, whether  
10 sufficient information is available from other sources, and  
11 whether data requested is routinely collected by health  
12 facilities and is available without retrospective record  
13 review. Data and information requests shall not impose undue  
14 paperwork burdens on health care facilities and personnel.  
15 Health facilities not complying with this requirement shall be  
16 reported to licensing, accrediting, certifying, or payment  
17 agencies as being in violation of State law. Health care  
18 facilities and other parties at interest shall have reasonable  
19 access, under rules established by the State Board, to all  
20 planning information submitted in accord with this Act  
21 pertaining to their area.

22           Among the reports to be required by the State Board are  
23 facility questionnaires for health care facilities licensed  
24 under the Ambulatory Surgical Treatment Center Act, the  
25 Hospital Licensing Act, the Nursing Home Care Act, the ID/DD  
26 ~~MR/DD~~ Community Care Act, or the End Stage Renal Disease

1 Facility Act. These questionnaires shall be conducted on an  
2 annual basis and compiled by the Agency. For health care  
3 facilities licensed under the Nursing Home Care Act or the  
4 ID/DD ~~MR/DD~~ Community Care Act, these reports shall include,  
5 but not be limited to, the identification of specialty services  
6 provided by the facility to patients, residents, and the  
7 community at large. For health care facilities that contain  
8 long term care beds, the reports shall also include the number  
9 of staffed long term care beds, physical capacity for long term  
10 care beds at the facility, and long term care beds available  
11 for immediate occupancy. For purposes of this paragraph, "long  
12 term care beds" means beds (i) licensed under the Nursing Home  
13 Care Act, (ii) licensed under the ID/DD ~~MR/DD~~ Community Care  
14 Act, or (iii) licensed under the Hospital Licensing Act and  
15 certified as skilled nursing or nursing facility beds under  
16 Medicaid or Medicare.

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

18 (20 ILCS 3960/14.1)

19 Sec. 14.1. Denial of permit; other sanctions.

20 (a) The State Board may deny an application for a permit or  
21 may revoke or take other action as permitted by this Act with  
22 regard to a permit as the State Board deems appropriate,  
23 including the imposition of fines as set forth in this Section,  
24 for any one or a combination of the following:

25 (1) The acquisition of major medical equipment without



1 a permit or in violation of the terms of a permit.

2 (2) The establishment, construction, or modification  
3 of a health care facility without a permit or in violation  
4 of the terms of a permit.

5 (3) The violation of any provision of this Act or any  
6 rule adopted under this Act.

7 (4) The failure, by any person subject to this Act, to  
8 provide information requested by the State Board or Agency  
9 within 30 days after a formal written request for the  
10 information.

11 (5) The failure to pay any fine imposed under this  
12 Section within 30 days of its imposition.

13 (a-5) For facilities licensed under the ID/DD ~~MR/DD~~  
14 Community Care Act, no permit shall be denied on the basis of  
15 prior operator history, other than for actions specified under  
16 item (2), (4), or (5) of Section 3-117 of the ID/DD ~~MR/DD~~  
17 Community Care Act. For facilities licensed under the Nursing  
18 Home Care Act, no permit shall be denied on the basis of prior  
19 operator history, other than for: (i) actions specified under  
20 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing  
21 Home Care Act; (ii) actions specified under item (a)(6) of  
22 Section 3-119 of the Nursing Home Care Act; or (iii) actions  
23 within the preceding 5 years constituting a substantial and  
24 repeated failure to comply with the Nursing Home Care Act or  
25 the rules and regulations adopted by the Department under that  
26 Act. The State Board shall not deny a permit on account of any

1 action described in this subsection (a-5) without also  
2 considering all such actions in the light of all relevant  
3 information available to the State Board, including whether the  
4 permit is sought to substantially comply with a mandatory or  
5 voluntary plan of correction associated with any action  
6 described in this subsection (a-5).

7 (b) Persons shall be subject to fines as follows:

8 (1) A permit holder who fails to comply with the  
9 requirements of maintaining a valid permit shall be fined  
10 an amount not to exceed 1% of the approved permit amount  
11 plus an additional 1% of the approved permit amount for  
12 each 30-day period, or fraction thereof, that the violation  
13 continues.

14 (2) A permit holder who alters the scope of an approved  
15 project or whose project costs exceed the allowable permit  
16 amount without first obtaining approval from the State  
17 Board shall be fined an amount not to exceed the sum of (i)  
18 the lesser of \$25,000 or 2% of the approved permit amount  
19 and (ii) in those cases where the approved permit amount is  
20 exceeded by more than \$1,000,000, an additional \$20,000 for  
21 each \$1,000,000, or fraction thereof, in excess of the  
22 approved permit amount.

23 (3) A person who acquires major medical equipment or  
24 who establishes a category of service without first  
25 obtaining a permit or exemption, as the case may be, shall  
26 be fined an amount not to exceed \$10,000 for each such

1 acquisition or category of service established plus an  
2 additional \$10,000 for each 30-day period, or fraction  
3 thereof, that the violation continues.

4 (4) A person who constructs, modifies, or establishes a  
5 health care facility without first obtaining a permit shall  
6 be fined an amount not to exceed \$25,000 plus an additional  
7 \$25,000 for each 30-day period, or fraction thereof, that  
8 the violation continues.

9 (5) A person who discontinues a health care facility or  
10 a category of service without first obtaining a permit  
11 shall be fined an amount not to exceed \$10,000 plus an  
12 additional \$10,000 for each 30-day period, or fraction  
13 thereof, that the violation continues. For purposes of this  
14 subparagraph (5), facilities licensed under the Nursing  
15 Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with  
16 the exceptions of facilities operated by a county or  
17 Illinois Veterans Homes, are exempt from this permit  
18 requirement. However, facilities licensed under the  
19 Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act  
20 must comply with Section 3-423 of the Nursing Home Care Act  
21 or Section 3-423 of the ID/DD ~~MR/DD~~ Community Care Act and  
22 must provide the Board with 30-days' written notice of its  
23 intent to close.

24 (6) A person subject to this Act who fails to provide  
25 information requested by the State Board or Agency within  
26 30 days of a formal written request shall be fined an

1 amount not to exceed \$1,000 plus an additional \$1,000 for  
2 each 30-day period, or fraction thereof, that the  
3 information is not received by the State Board or Agency.

4 (c) Before imposing any fine authorized under this Section,  
5 the State Board shall afford the person or permit holder, as  
6 the case may be, an appearance before the State Board and an  
7 opportunity for a hearing before a hearing officer appointed by  
8 the State Board. The hearing shall be conducted in accordance  
9 with Section 10.

10 (d) All fines collected under this Act shall be transmitted  
11 to the State Treasurer, who shall deposit them into the  
12 Illinois Health Facilities Planning Fund.

13 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;  
14 96-1372, eff. 7-29-10.)

15 Section 30. The State Finance Act is amended by changing  
16 Section 8.8 as follows:

17 (30 ILCS 105/8.8) (from Ch. 127, par. 144.8)

18 Sec. 8.8. Appropriations for the improvement, development,  
19 addition or expansion of services for the care, treatment, and  
20 training of persons who are intellectually disabled ~~mentally~~  
21 ~~retarded~~ or subject to involuntary admission under the Mental  
22 Health and Developmental Disabilities Code or for the financing  
23 of any program designed to provide such improvement,  
24 development, addition or expansion of services or for expenses

1 incurred in administering the provisions of Sections 5-105 to  
2 5-115, inclusive, of the Mental Health and Developmental  
3 Disabilities Code, or other ordinary and contingent expenses of  
4 the Department of Human Services relating to mental health and  
5 developmental disabilities, are payable from the Mental Health  
6 Fund. However, no expenditures shall be made for the purchase,  
7 construction, lease, or rental of buildings for use as  
8 State-operated mental health or developmental disability  
9 facilities.

10 (Source: P.A. 96-959, eff. 7-1-10.)

11 Section 35. The Business Enterprise for Minorities,  
12 Females, and Persons with Disabilities Act is amended by  
13 changing Section 2 as follows:

14 (30 ILCS 575/2)

15 (Section scheduled to be repealed on June 30, 2012)

16 Sec. 2. Definitions.

17 (A) For the purpose of this Act, the following terms shall  
18 have the following definitions:

19 (1) "Minority person" shall mean a person who is a citizen  
20 or lawful permanent resident of the United States and who is:

21 (a) African American (a person having origins in any of  
22 the black racial groups in Africa);

23 (b) Hispanic (a person of Spanish or Portuguese culture  
24 with origins in Mexico, South or Central America, or the

1 Caribbean Islands, regardless of race);

2 (c) Asian American (a person having origins in any of  
3 the original peoples of the Far East, Southeast Asia, the  
4 Indian Subcontinent or the Pacific Islands); or

5 (d) Native American or Alaskan Native (a person having  
6 origins in any of the original peoples of North America).

7 (2) "Female" shall mean a person who is a citizen or lawful  
8 permanent resident of the United States and who is of the  
9 female gender.

10 (2.05) "Person with a disability" means a person who is a  
11 citizen or lawful resident of the United States and is a person  
12 qualifying as being disabled under subdivision (2.1) of this  
13 subsection (A).

14 (2.1) "Disabled" means a severe physical or mental  
15 disability that:

16 (a) results from:

17 amputation,

18 arthritis,

19 autism,

20 blindness,

21 burn injury,

22 cancer,

23 cerebral palsy,

24 Crohn's disease,

25 cystic fibrosis,

26 deafness,

1 head injury,  
2 heart disease,  
3 hemiplegia,  
4 hemophilia,  
5 respiratory or pulmonary dysfunction,  
6 an intellectual disability ~~mental retardation~~,  
7 mental illness,  
8 multiple sclerosis,  
9 muscular dystrophy,  
10 musculoskeletal disorders,  
11 neurological disorders, including stroke and epilepsy,  
12 paraplegia,  
13 quadriplegia and other spinal cord conditions,  
14 sickle cell anemia,  
15 ulcerative colitis,  
16 specific learning disabilities, or  
17 end stage renal failure disease; and

18 (b) substantially limits one or more of the person's major  
19 life activities.

20 Another disability or combination of disabilities may also  
21 be considered as a severe disability for the purposes of item  
22 (a) of this subdivision (2.1) if it is determined by an  
23 evaluation of rehabilitation potential to cause a comparable  
24 degree of substantial functional limitation similar to the  
25 specific list of disabilities listed in item (a) of this  
26 subdivision (2.1).

1           (3) "Minority owned business" means a business concern  
2 which is at least 51% owned by one or more minority persons, or  
3 in the case of a corporation, at least 51% of the stock in  
4 which is owned by one or more minority persons; and the  
5 management and daily business operations of which are  
6 controlled by one or more of the minority individuals who own  
7 it.

8           (4) "Female owned business" means a business concern which  
9 is at least 51% owned by one or more females, or, in the case of  
10 a corporation, at least 51% of the stock in which is owned by  
11 one or more females; and the management and daily business  
12 operations of which are controlled by one or more of the  
13 females who own it.

14           (4.1) "Business owned by a person with a disability" means  
15 a business concern that is at least 51% owned by one or more  
16 persons with a disability and the management and daily business  
17 operations of which are controlled by one or more of the  
18 persons with disabilities who own it. A not-for-profit agency  
19 for persons with disabilities that is exempt from taxation  
20 under Section 501 of the Internal Revenue Code of 1986 is also  
21 considered a "business owned by a person with a disability".

22           (4.2) "Council" means the Business Enterprise Council for  
23 Minorities, Females, and Persons with Disabilities created  
24 under Section 5 of this Act.

25           (5) "State contracts" shall mean all State contracts,  
26 funded exclusively with State funds which are not subject to



1 federal reimbursement, whether competitively bid or negotiated  
2 as defined by the Secretary of the Council and approved by the  
3 Council.

4 "State construction contracts" means all State contracts  
5 entered into by a State agency or State university for the  
6 repair, remodeling, renovation or construction of a building or  
7 structure, or for the construction or maintenance of a highway  
8 defined in Article 2 of the Illinois Highway Code.

9 (6) "State agencies" shall mean all departments, officers,  
10 boards, commissions, institutions and bodies politic and  
11 corporate of the State, but does not include the Board of  
12 Trustees of the University of Illinois, the Board of Trustees  
13 of Southern Illinois University, the Board of Trustees of  
14 Chicago State University, the Board of Trustees of Eastern  
15 Illinois University, the Board of Trustees of Governors State  
16 University, the Board of Trustees of Illinois State University,  
17 the Board of Trustees of Northeastern Illinois University, the  
18 Board of Trustees of Northern Illinois University, the Board of  
19 Trustees of Western Illinois University, municipalities or  
20 other local governmental units, or other State constitutional  
21 officers.

22 (7) "State universities" shall mean the Board of Trustees  
23 of the University of Illinois, the Board of Trustees of  
24 Southern Illinois University, the Board of Trustees of Chicago  
25 State University, the Board of Trustees of Eastern Illinois  
26 University, the Board of Trustees of Governors State

1 University, the Board of Trustees of Illinois State University,  
2 the Board of Trustees of Northeastern Illinois University, the  
3 Board of Trustees of Northern Illinois University, and the  
4 Board of Trustees of Western Illinois University.

5 (8) "Certification" means a determination made by the  
6 Council or by one delegated authority from the Council to make  
7 certifications, or by a State agency with statutory authority  
8 to make such a certification, that a business entity is a  
9 business owned by a minority, female, or person with a  
10 disability for whatever purpose. A business owned and  
11 controlled by females shall select and designate whether such  
12 business is to be certified as a "Female-owned business" or  
13 "Minority-owned business" if the females are also minorities.

14 (9) "Control" means the exclusive or ultimate and sole  
15 control of the business including, but not limited to, capital  
16 investment and all other financial matters, property,  
17 acquisitions, contract negotiations, legal matters,  
18 officer-director-employee selection and comprehensive hiring,  
19 operating responsibilities, cost-control matters, income and  
20 dividend matters, financial transactions and rights of other  
21 shareholders or joint partners. Control shall be real,  
22 substantial and continuing, not pro forma. Control shall  
23 include the power to direct or cause the direction of the  
24 management and policies of the business and to make the  
25 day-to-day as well as major decisions in matters of policy,  
26 management and operations. Control shall be exemplified by

1 possessing the requisite knowledge and expertise to run the  
2 particular business and control shall not include simple  
3 majority or absentee ownership.

4 (10) "Business concern or business" means a business that  
5 has annual gross sales of less than \$75,000,000 as evidenced by  
6 the federal income tax return of the business. A firm with  
7 gross sales in excess of this cap may apply to the Council for  
8 certification for a particular contract if the firm can  
9 demonstrate that the contract would have significant impact on  
10 businesses owned by minorities, females, or persons with  
11 disabilities as suppliers or subcontractors or in employment of  
12 minorities, females, or persons with disabilities.

13 (B) When a business concern is owned at least 51% by any  
14 combination of minority persons, females, or persons with  
15 disabilities, even though none of the 3 classes alone holds at  
16 least a 51% interest, the ownership requirement for purposes of  
17 this Act is considered to be met. The certification category  
18 for the business is that of the class holding the largest  
19 ownership interest in the business. If 2 or more classes have  
20 equal ownership interests, the certification category shall be  
21 determined by the business concern.

22 (Source: P.A. 95-344, eff. 8-21-07; 96-453, eff. 8-14-09;  
23 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective  
24 date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

25 Section 36. The Illinois Income Tax Act is amended by

1 changing Section 806 as follows:

2 (35 ILCS 5/806)

3 Sec. 806. Exemption from penalty. An individual taxpayer  
4 shall not be subject to a penalty for failing to pay estimated  
5 tax as required by Section 803 if the taxpayer is 65 years of  
6 age or older and is a permanent resident of a nursing home. For  
7 purposes of this Section, "nursing home" means a skilled  
8 nursing or intermediate long term care facility that is subject  
9 to licensure by the Illinois Department of Public Health under  
10 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
11 Act.

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

13 Section 37. The Use Tax Act is amended by changing Section  
14 3-5 as follows:

15 (35 ILCS 105/3-5)

16 Sec. 3-5. Exemptions. Use of the following tangible  
17 personal property is exempt from the tax imposed by this Act:

18 (1) Personal property purchased from a corporation,  
19 society, association, foundation, institution, or  
20 organization, other than a limited liability company, that is  
21 organized and operated as a not-for-profit service enterprise  
22 for the benefit of persons 65 years of age or older if the  
23 personal property was not purchased by the enterprise for the

1 purpose of resale by the enterprise.

2 (2) Personal property purchased by a not-for-profit  
3 Illinois county fair association for use in conducting,  
4 operating, or promoting the county fair.

5 (3) Personal property purchased by a not-for-profit arts or  
6 cultural organization that establishes, by proof required by  
7 the Department by rule, that it has received an exemption under  
8 Section 501(c)(3) of the Internal Revenue Code and that is  
9 organized and operated primarily for the presentation or  
10 support of arts or cultural programming, activities, or  
11 services. These organizations include, but are not limited to,  
12 music and dramatic arts organizations such as symphony  
13 orchestras and theatrical groups, arts and cultural service  
14 organizations, local arts councils, visual arts organizations,  
15 and media arts organizations. On and after the effective date  
16 of this amendatory Act of the 92nd General Assembly, however,  
17 an entity otherwise eligible for this exemption shall not make  
18 tax-free purchases unless it has an active identification  
19 number issued by the Department.

20 (4) Personal property purchased by a governmental body, by  
21 a corporation, society, association, foundation, or  
22 institution organized and operated exclusively for charitable,  
23 religious, or educational purposes, or by a not-for-profit  
24 corporation, society, association, foundation, institution, or  
25 organization that has no compensated officers or employees and  
26 that is organized and operated primarily for the recreation of

1 persons 55 years of age or older. A limited liability company  
2 may qualify for the exemption under this paragraph only if the  
3 limited liability company is organized and operated  
4 exclusively for educational purposes. On and after July 1,  
5 1987, however, no entity otherwise eligible for this exemption  
6 shall make tax-free purchases unless it has an active exemption  
7 identification number issued by the Department.

8 (5) Until July 1, 2003, a passenger car that is a  
9 replacement vehicle to the extent that the purchase price of  
10 the car is subject to the Replacement Vehicle Tax.

11 (6) Until July 1, 2003 and beginning again on September 1,  
12 2004 through August 30, 2014, graphic arts machinery and  
13 equipment, including repair and replacement parts, both new and  
14 used, and including that manufactured on special order,  
15 certified by the purchaser to be used primarily for graphic  
16 arts production, and including machinery and equipment  
17 purchased for lease. Equipment includes chemicals or chemicals  
18 acting as catalysts but only if the chemicals or chemicals  
19 acting as catalysts effect a direct and immediate change upon a  
20 graphic arts product.

21 (7) Farm chemicals.

22 (8) Legal tender, currency, medallions, or gold or silver  
23 coinage issued by the State of Illinois, the government of the  
24 United States of America, or the government of any foreign  
25 country, and bullion.

26 (9) Personal property purchased from a teacher-sponsored

1 student organization affiliated with an elementary or  
2 secondary school located in Illinois.

3 (10) A motor vehicle of the first division, a motor vehicle  
4 of the second division that is a self-contained motor vehicle  
5 designed or permanently converted to provide living quarters  
6 for recreational, camping, or travel use, with direct walk  
7 through to the living quarters from the driver's seat, or a  
8 motor vehicle of the second division that is of the van  
9 configuration designed for the transportation of not less than  
10 7 nor more than 16 passengers, as defined in Section 1-146 of  
11 the Illinois Vehicle Code, that is used for automobile renting,  
12 as defined in the Automobile Renting Occupation and Use Tax  
13 Act.

14 (11) Farm machinery and equipment, both new and used,  
15 including that manufactured on special order, certified by the  
16 purchaser to be used primarily for production agriculture or  
17 State or federal agricultural programs, including individual  
18 replacement parts for the machinery and equipment, including  
19 machinery and equipment purchased for lease, and including  
20 implements of husbandry defined in Section 1-130 of the  
21 Illinois Vehicle Code, farm machinery and agricultural  
22 chemical and fertilizer spreaders, and nurse wagons required to  
23 be registered under Section 3-809 of the Illinois Vehicle Code,  
24 but excluding other motor vehicles required to be registered  
25 under the Illinois Vehicle Code. Horticultural polyhouses or  
26 hoop houses used for propagating, growing, or overwintering

1 plants shall be considered farm machinery and equipment under  
2 this item (11). Agricultural chemical tender tanks and dry  
3 boxes shall include units sold separately from a motor vehicle  
4 required to be licensed and units sold mounted on a motor  
5 vehicle required to be licensed if the selling price of the  
6 tender is separately stated.

7 Farm machinery and equipment shall include precision  
8 farming equipment that is installed or purchased to be  
9 installed on farm machinery and equipment including, but not  
10 limited to, tractors, harvesters, sprayers, planters, seeders,  
11 or spreaders. Precision farming equipment includes, but is not  
12 limited to, soil testing sensors, computers, monitors,  
13 software, global positioning and mapping systems, and other  
14 such equipment.

15 Farm machinery and equipment also includes computers,  
16 sensors, software, and related equipment used primarily in the  
17 computer-assisted operation of production agriculture  
18 facilities, equipment, and activities such as, but not limited  
19 to, the collection, monitoring, and correlation of animal and  
20 crop data for the purpose of formulating animal diets and  
21 agricultural chemicals. This item (11) is exempt from the  
22 provisions of Section 3-90.

23 (12) Fuel and petroleum products sold to or used by an air  
24 common carrier, certified by the carrier to be used for  
25 consumption, shipment, or storage in the conduct of its  
26 business as an air common carrier, for a flight destined for or



1 returning from a location or locations outside the United  
2 States without regard to previous or subsequent domestic  
3 stopovers.

4 (13) Proceeds of mandatory service charges separately  
5 stated on customers' bills for the purchase and consumption of  
6 food and beverages purchased at retail from a retailer, to the  
7 extent that the proceeds of the service charge are in fact  
8 turned over as tips or as a substitute for tips to the  
9 employees who participate directly in preparing, serving,  
10 hosting or cleaning up the food or beverage function with  
11 respect to which the service charge is imposed.

12 (14) Until July 1, 2003, oil field exploration, drilling,  
13 and production equipment, including (i) rigs and parts of rigs,  
14 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
15 tubular goods, including casing and drill strings, (iii) pumps  
16 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
17 individual replacement part for oil field exploration,  
18 drilling, and production equipment, and (vi) machinery and  
19 equipment purchased for lease; but excluding motor vehicles  
20 required to be registered under the Illinois Vehicle Code.

21 (15) Photoprocessing machinery and equipment, including  
22 repair and replacement parts, both new and used, including that  
23 manufactured on special order, certified by the purchaser to be  
24 used primarily for photoprocessing, and including  
25 photoprocessing machinery and equipment purchased for lease.

26 (16) Until July 1, 2003, coal exploration, mining,

1 offhighway hauling, processing, maintenance, and reclamation  
2 equipment, including replacement parts and equipment, and  
3 including equipment purchased for lease, but excluding motor  
4 vehicles required to be registered under the Illinois Vehicle  
5 Code.

6 (17) Until July 1, 2003, distillation machinery and  
7 equipment, sold as a unit or kit, assembled or installed by the  
8 retailer, certified by the user to be used only for the  
9 production of ethyl alcohol that will be used for consumption  
10 as motor fuel or as a component of motor fuel for the personal  
11 use of the user, and not subject to sale or resale.

12 (18) Manufacturing and assembling machinery and equipment  
13 used primarily in the process of manufacturing or assembling  
14 tangible personal property for wholesale or retail sale or  
15 lease, whether that sale or lease is made directly by the  
16 manufacturer or by some other person, whether the materials  
17 used in the process are owned by the manufacturer or some other  
18 person, or whether that sale or lease is made apart from or as  
19 an incident to the seller's engaging in the service occupation  
20 of producing machines, tools, dies, jigs, patterns, gauges, or  
21 other similar items of no commercial value on special order for  
22 a particular purchaser.

23 (19) Personal property delivered to a purchaser or  
24 purchaser's donee inside Illinois when the purchase order for  
25 that personal property was received by a florist located  
26 outside Illinois who has a florist located inside Illinois

1 deliver the personal property.

2 (20) Semen used for artificial insemination of livestock  
3 for direct agricultural production.

4 (21) Horses, or interests in horses, registered with and  
5 meeting the requirements of any of the Arabian Horse Club  
6 Registry of America, Appaloosa Horse Club, American Quarter  
7 Horse Association, United States Trotting Association, or  
8 Jockey Club, as appropriate, used for purposes of breeding or  
9 racing for prizes. This item (21) is exempt from the provisions  
10 of Section 3-90, and the exemption provided for under this item  
11 (21) applies for all periods beginning May 30, 1995, but no  
12 claim for credit or refund is allowed on or after January 1,  
13 2008 for such taxes paid during the period beginning May 30,  
14 2000 and ending on January 1, 2008.

15 (22) Computers and communications equipment utilized for  
16 any hospital purpose and equipment used in the diagnosis,  
17 analysis, or treatment of hospital patients purchased by a  
18 lessor who leases the equipment, under a lease of one year or  
19 longer executed or in effect at the time the lessor would  
20 otherwise be subject to the tax imposed by this Act, to a  
21 hospital that has been issued an active tax exemption  
22 identification number by the Department under Section 1g of the  
23 Retailers' Occupation Tax Act. If the equipment is leased in a  
24 manner that does not qualify for this exemption or is used in  
25 any other non-exempt manner, the lessor shall be liable for the  
26 tax imposed under this Act or the Service Use Tax Act, as the

1 case may be, based on the fair market value of the property at  
2 the time the non-qualifying use occurs. No lessor shall collect  
3 or attempt to collect an amount (however designated) that  
4 purports to reimburse that lessor for the tax imposed by this  
5 Act or the Service Use Tax Act, as the case may be, if the tax  
6 has not been paid by the lessor. If a lessor improperly  
7 collects any such amount from the lessee, the lessee shall have  
8 a legal right to claim a refund of that amount from the lessor.  
9 If, however, that amount is not refunded to the lessee for any  
10 reason, the lessor is liable to pay that amount to the  
11 Department.

12 (23) Personal property purchased by a lessor who leases the  
13 property, under a lease of one year or longer executed or in  
14 effect at the time the lessor would otherwise be subject to the  
15 tax imposed by this Act, to a governmental body that has been  
16 issued an active sales tax exemption identification number by  
17 the Department under Section 1g of the Retailers' Occupation  
18 Tax Act. If the property is leased in a manner that does not  
19 qualify for this exemption or used in any other non-exempt  
20 manner, the lessor shall be liable for the tax imposed under  
21 this Act or the Service Use Tax Act, as the case may be, based  
22 on the fair market value of the property at the time the  
23 non-qualifying use occurs. No lessor shall collect or attempt  
24 to collect an amount (however designated) that purports to  
25 reimburse that lessor for the tax imposed by this Act or the  
26 Service Use Tax Act, as the case may be, if the tax has not been

1 paid by the lessor. If a lessor improperly collects any such  
2 amount from the lessee, the lessee shall have a legal right to  
3 claim a refund of that amount from the lessor. If, however,  
4 that amount is not refunded to the lessee for any reason, the  
5 lessor is liable to pay that amount to the Department.

6 (24) Beginning with taxable years ending on or after  
7 December 31, 1995 and ending with taxable years ending on or  
8 before December 31, 2004, personal property that is donated for  
9 disaster relief to be used in a State or federally declared  
10 disaster area in Illinois or bordering Illinois by a  
11 manufacturer or retailer that is registered in this State to a  
12 corporation, society, association, foundation, or institution  
13 that has been issued a sales tax exemption identification  
14 number by the Department that assists victims of the disaster  
15 who reside within the declared disaster area.

16 (25) Beginning with taxable years ending on or after  
17 December 31, 1995 and ending with taxable years ending on or  
18 before December 31, 2004, personal property that is used in the  
19 performance of infrastructure repairs in this State, including  
20 but not limited to municipal roads and streets, access roads,  
21 bridges, sidewalks, waste disposal systems, water and sewer  
22 line extensions, water distribution and purification  
23 facilities, storm water drainage and retention facilities, and  
24 sewage treatment facilities, resulting from a State or  
25 federally declared disaster in Illinois or bordering Illinois  
26 when such repairs are initiated on facilities located in the

1 declared disaster area within 6 months after the disaster.

2 (26) Beginning July 1, 1999, game or game birds purchased  
3 at a "game breeding and hunting preserve area" or an "exotic  
4 game hunting area" as those terms are used in the Wildlife Code  
5 or at a hunting enclosure approved through rules adopted by the  
6 Department of Natural Resources. This paragraph is exempt from  
7 the provisions of Section 3-90.

8 (27) A motor vehicle, as that term is defined in Section  
9 1-146 of the Illinois Vehicle Code, that is donated to a  
10 corporation, limited liability company, society, association,  
11 foundation, or institution that is determined by the Department  
12 to be organized and operated exclusively for educational  
13 purposes. For purposes of this exemption, "a corporation,  
14 limited liability company, society, association, foundation,  
15 or institution organized and operated exclusively for  
16 educational purposes" means all tax-supported public schools,  
17 private schools that offer systematic instruction in useful  
18 branches of learning by methods common to public schools and  
19 that compare favorably in their scope and intensity with the  
20 course of study presented in tax-supported schools, and  
21 vocational or technical schools or institutes organized and  
22 operated exclusively to provide a course of study of not less  
23 than 6 weeks duration and designed to prepare individuals to  
24 follow a trade or to pursue a manual, technical, mechanical,  
25 industrial, business, or commercial occupation.

26 (28) Beginning January 1, 2000, personal property,

1 including food, purchased through fundraising events for the  
2 benefit of a public or private elementary or secondary school,  
3 a group of those schools, or one or more school districts if  
4 the events are sponsored by an entity recognized by the school  
5 district that consists primarily of volunteers and includes  
6 parents and teachers of the school children. This paragraph  
7 does not apply to fundraising events (i) for the benefit of  
8 private home instruction or (ii) for which the fundraising  
9 entity purchases the personal property sold at the events from  
10 another individual or entity that sold the property for the  
11 purpose of resale by the fundraising entity and that profits  
12 from the sale to the fundraising entity. This paragraph is  
13 exempt from the provisions of Section 3-90.

14 (29) Beginning January 1, 2000 and through December 31,  
15 2001, new or used automatic vending machines that prepare and  
16 serve hot food and beverages, including coffee, soup, and other  
17 items, and replacement parts for these machines. Beginning  
18 January 1, 2002 and through June 30, 2003, machines and parts  
19 for machines used in commercial, coin-operated amusement and  
20 vending business if a use or occupation tax is paid on the  
21 gross receipts derived from the use of the commercial,  
22 coin-operated amusement and vending machines. This paragraph  
23 is exempt from the provisions of Section 3-90.

24 (30) Beginning January 1, 2001 and through June 30, 2011,  
25 food for human consumption that is to be consumed off the  
26 premises where it is sold (other than alcoholic beverages, soft

1 drinks, and food that has been prepared for immediate  
2 consumption) and prescription and nonprescription medicines,  
3 drugs, medical appliances, and insulin, urine testing  
4 materials, syringes, and needles used by diabetics, for human  
5 use, when purchased for use by a person receiving medical  
6 assistance under Article V of the Illinois Public Aid Code who  
7 resides in a licensed long-term care facility, as defined in  
8 the Nursing Home Care Act, or in a licensed facility as defined  
9 in the ID/DD ~~MR/DD~~ Community Care Act.

10 (31) Beginning on the effective date of this amendatory Act  
11 of the 92nd General Assembly, computers and communications  
12 equipment utilized for any hospital purpose and equipment used  
13 in the diagnosis, analysis, or treatment of hospital patients  
14 purchased by a lessor who leases the equipment, under a lease  
15 of one year or longer executed or in effect at the time the  
16 lessor would otherwise be subject to the tax imposed by this  
17 Act, to a hospital that has been issued an active tax exemption  
18 identification number by the Department under Section 1g of the  
19 Retailers' Occupation Tax Act. If the equipment is leased in a  
20 manner that does not qualify for this exemption or is used in  
21 any other nonexempt manner, the lessor shall be liable for the  
22 tax imposed under this Act or the Service Use Tax Act, as the  
23 case may be, based on the fair market value of the property at  
24 the time the nonqualifying use occurs. No lessor shall collect  
25 or attempt to collect an amount (however designated) that  
26 purports to reimburse that lessor for the tax imposed by this



1 Act or the Service Use Tax Act, as the case may be, if the tax  
2 has not been paid by the lessor. If a lessor improperly  
3 collects any such amount from the lessee, the lessee shall have  
4 a legal right to claim a refund of that amount from the lessor.  
5 If, however, that amount is not refunded to the lessee for any  
6 reason, the lessor is liable to pay that amount to the  
7 Department. This paragraph is exempt from the provisions of  
8 Section 3-90.

9 (32) Beginning on the effective date of this amendatory Act  
10 of the 92nd General Assembly, personal property purchased by a  
11 lessor who leases the property, under a lease of one year or  
12 longer executed or in effect at the time the lessor would  
13 otherwise be subject to the tax imposed by this Act, to a  
14 governmental body that has been issued an active sales tax  
15 exemption identification number by the Department under  
16 Section 1g of the Retailers' Occupation Tax Act. If the  
17 property is leased in a manner that does not qualify for this  
18 exemption or used in any other nonexempt manner, the lessor  
19 shall be liable for the tax imposed under this Act or the  
20 Service Use Tax Act, as the case may be, based on the fair  
21 market value of the property at the time the nonqualifying use  
22 occurs. No lessor shall collect or attempt to collect an amount  
23 (however designated) that purports to reimburse that lessor for  
24 the tax imposed by this Act or the Service Use Tax Act, as the  
25 case may be, if the tax has not been paid by the lessor. If a  
26 lessor improperly collects any such amount from the lessee, the

1 lessee shall have a legal right to claim a refund of that  
2 amount from the lessor. If, however, that amount is not  
3 refunded to the lessee for any reason, the lessor is liable to  
4 pay that amount to the Department. This paragraph is exempt  
5 from the provisions of Section 3-90.

6 (33) On and after July 1, 2003 and through June 30, 2004,  
7 the use in this State of motor vehicles of the second division  
8 with a gross vehicle weight in excess of 8,000 pounds and that  
9 are subject to the commercial distribution fee imposed under  
10 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July  
11 1, 2004 and through June 30, 2005, the use in this State of  
12 motor vehicles of the second division: (i) with a gross vehicle  
13 weight rating in excess of 8,000 pounds; (ii) that are subject  
14 to the commercial distribution fee imposed under Section  
15 3-815.1 of the Illinois Vehicle Code; and (iii) that are  
16 primarily used for commercial purposes. Through June 30, 2005,  
17 this exemption applies to repair and replacement parts added  
18 after the initial purchase of such a motor vehicle if that  
19 motor vehicle is used in a manner that would qualify for the  
20 rolling stock exemption otherwise provided for in this Act. For  
21 purposes of this paragraph, the term "used for commercial  
22 purposes" means the transportation of persons or property in  
23 furtherance of any commercial or industrial enterprise,  
24 whether for-hire or not.

25 (34) Beginning January 1, 2008, tangible personal property  
26 used in the construction or maintenance of a community water

1 supply, as defined under Section 3.145 of the Environmental  
2 Protection Act, that is operated by a not-for-profit  
3 corporation that holds a valid water supply permit issued under  
4 Title IV of the Environmental Protection Act. This paragraph is  
5 exempt from the provisions of Section 3-90.

6 (35) Beginning January 1, 2010, materials, parts,  
7 equipment, components, and furnishings incorporated into or  
8 upon an aircraft as part of the modification, refurbishment,  
9 completion, replacement, repair, or maintenance of the  
10 aircraft. This exemption includes consumable supplies used in  
11 the modification, refurbishment, completion, replacement,  
12 repair, and maintenance of aircraft, but excludes any  
13 materials, parts, equipment, components, and consumable  
14 supplies used in the modification, replacement, repair, and  
15 maintenance of aircraft engines or power plants, whether such  
16 engines or power plants are installed or uninstalled upon any  
17 such aircraft. "Consumable supplies" include, but are not  
18 limited to, adhesive, tape, sandpaper, general purpose  
19 lubricants, cleaning solution, latex gloves, and protective  
20 films. This exemption applies only to those organizations that  
21 (i) hold an Air Agency Certificate and are empowered to operate  
22 an approved repair station by the Federal Aviation  
23 Administration, (ii) have a Class IV Rating, and (iii) conduct  
24 operations in accordance with Part 145 of the Federal Aviation  
25 Regulations. The exemption does not include aircraft operated  
26 by a commercial air carrier providing scheduled passenger air

1 service pursuant to authority issued under Part 121 or Part 129  
2 of the Federal Aviation Regulations.

3 (36) Tangible personal property purchased by a  
4 public-facilities corporation, as described in Section  
5 11-65-10 of the Illinois Municipal Code, for purposes of  
6 constructing or furnishing a municipal convention hall, but  
7 only if the legal title to the municipal convention hall is  
8 transferred to the municipality without any further  
9 consideration by or on behalf of the municipality at the time  
10 of the completion of the municipal convention hall or upon the  
11 retirement or redemption of any bonds or other debt instruments  
12 issued by the public-facilities corporation in connection with  
13 the development of the municipal convention hall. This  
14 exemption includes existing public-facilities corporations as  
15 provided in Section 11-65-25 of the Illinois Municipal Code.  
16 This paragraph is exempt from the provisions of Section 3-90.

17 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
18 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
19 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
20 7-2-10.)

21 Section 38. The Service Use Tax Act is amended by changing  
22 Sections 3-5 and 3-10 as follows:

23 (35 ILCS 110/3-5)

24 Sec. 3-5. Exemptions. Use of the following tangible

1 personal property is exempt from the tax imposed by this Act:

2 (1) Personal property purchased from a corporation,  
3 society, association, foundation, institution, or  
4 organization, other than a limited liability company, that is  
5 organized and operated as a not-for-profit service enterprise  
6 for the benefit of persons 65 years of age or older if the  
7 personal property was not purchased by the enterprise for the  
8 purpose of resale by the enterprise.

9 (2) Personal property purchased by a non-profit Illinois  
10 county fair association for use in conducting, operating, or  
11 promoting the county fair.

12 (3) Personal property purchased by a not-for-profit arts or  
13 cultural organization that establishes, by proof required by  
14 the Department by rule, that it has received an exemption under  
15 Section 501(c)(3) of the Internal Revenue Code and that is  
16 organized and operated primarily for the presentation or  
17 support of arts or cultural programming, activities, or  
18 services. These organizations include, but are not limited to,  
19 music and dramatic arts organizations such as symphony  
20 orchestras and theatrical groups, arts and cultural service  
21 organizations, local arts councils, visual arts organizations,  
22 and media arts organizations. On and after the effective date  
23 of this amendatory Act of the 92nd General Assembly, however,  
24 an entity otherwise eligible for this exemption shall not make  
25 tax-free purchases unless it has an active identification  
26 number issued by the Department.

1           (4) Legal tender, currency, medallions, or gold or silver  
2 coinage issued by the State of Illinois, the government of the  
3 United States of America, or the government of any foreign  
4 country, and bullion.

5           (5) Until July 1, 2003 and beginning again on September 1,  
6 2004 through August 30, 2014, graphic arts machinery and  
7 equipment, including repair and replacement parts, both new and  
8 used, and including that manufactured on special order or  
9 purchased for lease, certified by the purchaser to be used  
10 primarily for graphic arts production. Equipment includes  
11 chemicals or chemicals acting as catalysts but only if the  
12 chemicals or chemicals acting as catalysts effect a direct and  
13 immediate change upon a graphic arts product.

14           (6) Personal property purchased from a teacher-sponsored  
15 student organization affiliated with an elementary or  
16 secondary school located in Illinois.

17           (7) Farm machinery and equipment, both new and used,  
18 including that manufactured on special order, certified by the  
19 purchaser to be used primarily for production agriculture or  
20 State or federal agricultural programs, including individual  
21 replacement parts for the machinery and equipment, including  
22 machinery and equipment purchased for lease, and including  
23 implements of husbandry defined in Section 1-130 of the  
24 Illinois Vehicle Code, farm machinery and agricultural  
25 chemical and fertilizer spreaders, and nurse wagons required to  
26 be registered under Section 3-809 of the Illinois Vehicle Code,

1 but excluding other motor vehicles required to be registered  
2 under the Illinois Vehicle Code. Horticultural polyhouses or  
3 hoop houses used for propagating, growing, or overwintering  
4 plants shall be considered farm machinery and equipment under  
5 this item (7). Agricultural chemical tender tanks and dry boxes  
6 shall include units sold separately from a motor vehicle  
7 required to be licensed and units sold mounted on a motor  
8 vehicle required to be licensed if the selling price of the  
9 tender is separately stated.

10 Farm machinery and equipment shall include precision  
11 farming equipment that is installed or purchased to be  
12 installed on farm machinery and equipment including, but not  
13 limited to, tractors, harvesters, sprayers, planters, seeders,  
14 or spreaders. Precision farming equipment includes, but is not  
15 limited to, soil testing sensors, computers, monitors,  
16 software, global positioning and mapping systems, and other  
17 such equipment.

18 Farm machinery and equipment also includes computers,  
19 sensors, software, and related equipment used primarily in the  
20 computer-assisted operation of production agriculture  
21 facilities, equipment, and activities such as, but not limited  
22 to, the collection, monitoring, and correlation of animal and  
23 crop data for the purpose of formulating animal diets and  
24 agricultural chemicals. This item (7) is exempt from the  
25 provisions of Section 3-75.

26 (8) Fuel and petroleum products sold to or used by an air

1 common carrier, certified by the carrier to be used for  
2 consumption, shipment, or storage in the conduct of its  
3 business as an air common carrier, for a flight destined for or  
4 returning from a location or locations outside the United  
5 States without regard to previous or subsequent domestic  
6 stopovers.

7 (9) Proceeds of mandatory service charges separately  
8 stated on customers' bills for the purchase and consumption of  
9 food and beverages acquired as an incident to the purchase of a  
10 service from a serviceman, to the extent that the proceeds of  
11 the service charge are in fact turned over as tips or as a  
12 substitute for tips to the employees who participate directly  
13 in preparing, serving, hosting or cleaning up the food or  
14 beverage function with respect to which the service charge is  
15 imposed.

16 (10) Until July 1, 2003, oil field exploration, drilling,  
17 and production equipment, including (i) rigs and parts of rigs,  
18 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
19 tubular goods, including casing and drill strings, (iii) pumps  
20 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
21 individual replacement part for oil field exploration,  
22 drilling, and production equipment, and (vi) machinery and  
23 equipment purchased for lease; but excluding motor vehicles  
24 required to be registered under the Illinois Vehicle Code.

25 (11) Proceeds from the sale of photoprocessing machinery  
26 and equipment, including repair and replacement parts, both new



1 and used, including that manufactured on special order,  
2 certified by the purchaser to be used primarily for  
3 photoprocessing, and including photoprocessing machinery and  
4 equipment purchased for lease.

5 (12) Until July 1, 2003, coal exploration, mining,  
6 offhighway hauling, processing, maintenance, and reclamation  
7 equipment, including replacement parts and equipment, and  
8 including equipment purchased for lease, but excluding motor  
9 vehicles required to be registered under the Illinois Vehicle  
10 Code.

11 (13) Semen used for artificial insemination of livestock  
12 for direct agricultural production.

13 (14) Horses, or interests in horses, registered with and  
14 meeting the requirements of any of the Arabian Horse Club  
15 Registry of America, Appaloosa Horse Club, American Quarter  
16 Horse Association, United States Trotting Association, or  
17 Jockey Club, as appropriate, used for purposes of breeding or  
18 racing for prizes. This item (14) is exempt from the provisions  
19 of Section 3-75, and the exemption provided for under this item  
20 (14) applies for all periods beginning May 30, 1995, but no  
21 claim for credit or refund is allowed on or after the effective  
22 date of this amendatory Act of the 95th General Assembly for  
23 such taxes paid during the period beginning May 30, 2000 and  
24 ending on the effective date of this amendatory Act of the 95th  
25 General Assembly.

26 (15) Computers and communications equipment utilized for

1 any hospital purpose and equipment used in the diagnosis,  
2 analysis, or treatment of hospital patients purchased by a  
3 lessor who leases the equipment, under a lease of one year or  
4 longer executed or in effect at the time the lessor would  
5 otherwise be subject to the tax imposed by this Act, to a  
6 hospital that has been issued an active tax exemption  
7 identification number by the Department under Section 1g of the  
8 Retailers' Occupation Tax Act. If the equipment is leased in a  
9 manner that does not qualify for this exemption or is used in  
10 any other non-exempt manner, the lessor shall be liable for the  
11 tax imposed under this Act or the Use Tax Act, as the case may  
12 be, based on the fair market value of the property at the time  
13 the non-qualifying use occurs. No lessor shall collect or  
14 attempt to collect an amount (however designated) that purports  
15 to reimburse that lessor for the tax imposed by this Act or the  
16 Use Tax Act, as the case may be, if the tax has not been paid by  
17 the lessor. If a lessor improperly collects any such amount  
18 from the lessee, the lessee shall have a legal right to claim a  
19 refund of that amount from the lessor. If, however, that amount  
20 is not refunded to the lessee for any reason, the lessor is  
21 liable to pay that amount to the Department.

22 (16) Personal property purchased by a lessor who leases the  
23 property, under a lease of one year or longer executed or in  
24 effect at the time the lessor would otherwise be subject to the  
25 tax imposed by this Act, to a governmental body that has been  
26 issued an active tax exemption identification number by the

1 Department under Section 1g of the Retailers' Occupation Tax  
2 Act. If the property is leased in a manner that does not  
3 qualify for this exemption or is used in any other non-exempt  
4 manner, the lessor shall be liable for the tax imposed under  
5 this Act or the Use Tax Act, as the case may be, based on the  
6 fair market value of the property at the time the  
7 non-qualifying use occurs. No lessor shall collect or attempt  
8 to collect an amount (however designated) that purports to  
9 reimburse that lessor for the tax imposed by this Act or the  
10 Use Tax Act, as the case may be, if the tax has not been paid by  
11 the lessor. If a lessor improperly collects any such amount  
12 from the lessee, the lessee shall have a legal right to claim a  
13 refund of that amount from the lessor. If, however, that amount  
14 is not refunded to the lessee for any reason, the lessor is  
15 liable to pay that amount to the Department.

16 (17) Beginning with taxable years ending on or after  
17 December 31, 1995 and ending with taxable years ending on or  
18 before December 31, 2004, personal property that is donated for  
19 disaster relief to be used in a State or federally declared  
20 disaster area in Illinois or bordering Illinois by a  
21 manufacturer or retailer that is registered in this State to a  
22 corporation, society, association, foundation, or institution  
23 that has been issued a sales tax exemption identification  
24 number by the Department that assists victims of the disaster  
25 who reside within the declared disaster area.

26 (18) Beginning with taxable years ending on or after

1 December 31, 1995 and ending with taxable years ending on or  
2 before December 31, 2004, personal property that is used in the  
3 performance of infrastructure repairs in this State, including  
4 but not limited to municipal roads and streets, access roads,  
5 bridges, sidewalks, waste disposal systems, water and sewer  
6 line extensions, water distribution and purification  
7 facilities, storm water drainage and retention facilities, and  
8 sewage treatment facilities, resulting from a State or  
9 federally declared disaster in Illinois or bordering Illinois  
10 when such repairs are initiated on facilities located in the  
11 declared disaster area within 6 months after the disaster.

12 (19) Beginning July 1, 1999, game or game birds purchased  
13 at a "game breeding and hunting preserve area" or an "exotic  
14 game hunting area" as those terms are used in the Wildlife Code  
15 or at a hunting enclosure approved through rules adopted by the  
16 Department of Natural Resources. This paragraph is exempt from  
17 the provisions of Section 3-75.

18 (20) A motor vehicle, as that term is defined in Section  
19 1-146 of the Illinois Vehicle Code, that is donated to a  
20 corporation, limited liability company, society, association,  
21 foundation, or institution that is determined by the Department  
22 to be organized and operated exclusively for educational  
23 purposes. For purposes of this exemption, "a corporation,  
24 limited liability company, society, association, foundation,  
25 or institution organized and operated exclusively for  
26 educational purposes" means all tax-supported public schools,

1 private schools that offer systematic instruction in useful  
2 branches of learning by methods common to public schools and  
3 that compare favorably in their scope and intensity with the  
4 course of study presented in tax-supported schools, and  
5 vocational or technical schools or institutes organized and  
6 operated exclusively to provide a course of study of not less  
7 than 6 weeks duration and designed to prepare individuals to  
8 follow a trade or to pursue a manual, technical, mechanical,  
9 industrial, business, or commercial occupation.

10 (21) Beginning January 1, 2000, personal property,  
11 including food, purchased through fundraising events for the  
12 benefit of a public or private elementary or secondary school,  
13 a group of those schools, or one or more school districts if  
14 the events are sponsored by an entity recognized by the school  
15 district that consists primarily of volunteers and includes  
16 parents and teachers of the school children. This paragraph  
17 does not apply to fundraising events (i) for the benefit of  
18 private home instruction or (ii) for which the fundraising  
19 entity purchases the personal property sold at the events from  
20 another individual or entity that sold the property for the  
21 purpose of resale by the fundraising entity and that profits  
22 from the sale to the fundraising entity. This paragraph is  
23 exempt from the provisions of Section 3-75.

24 (22) Beginning January 1, 2000 and through December 31,  
25 2001, new or used automatic vending machines that prepare and  
26 serve hot food and beverages, including coffee, soup, and other

1 items, and replacement parts for these machines. Beginning  
2 January 1, 2002 and through June 30, 2003, machines and parts  
3 for machines used in commercial, coin-operated amusement and  
4 vending business if a use or occupation tax is paid on the  
5 gross receipts derived from the use of the commercial,  
6 coin-operated amusement and vending machines. This paragraph  
7 is exempt from the provisions of Section 3-75.

8 (23) Beginning August 23, 2001 and through June 30, 2011,  
9 food for human consumption that is to be consumed off the  
10 premises where it is sold (other than alcoholic beverages, soft  
11 drinks, and food that has been prepared for immediate  
12 consumption) and prescription and nonprescription medicines,  
13 drugs, medical appliances, and insulin, urine testing  
14 materials, syringes, and needles used by diabetics, for human  
15 use, when purchased for use by a person receiving medical  
16 assistance under Article V of the Illinois Public Aid Code who  
17 resides in a licensed long-term care facility, as defined in  
18 the Nursing Home Care Act, or in a licensed facility as defined  
19 in the ID/DD ~~MR/DD~~ Community Care Act.

20 (24) Beginning on the effective date of this amendatory Act  
21 of the 92nd General Assembly, computers and communications  
22 equipment utilized for any hospital purpose and equipment used  
23 in the diagnosis, analysis, or treatment of hospital patients  
24 purchased by a lessor who leases the equipment, under a lease  
25 of one year or longer executed or in effect at the time the  
26 lessor would otherwise be subject to the tax imposed by this

1 Act, to a hospital that has been issued an active tax exemption  
2 identification number by the Department under Section 1g of the  
3 Retailers' Occupation Tax Act. If the equipment is leased in a  
4 manner that does not qualify for this exemption or is used in  
5 any other nonexempt manner, the lessor shall be liable for the  
6 tax imposed under this Act or the Use Tax Act, as the case may  
7 be, based on the fair market value of the property at the time  
8 the nonqualifying use occurs. No lessor shall collect or  
9 attempt to collect an amount (however designated) that purports  
10 to reimburse that lessor for the tax imposed by this Act or the  
11 Use Tax Act, as the case may be, if the tax has not been paid by  
12 the lessor. If a lessor improperly collects any such amount  
13 from the lessee, the lessee shall have a legal right to claim a  
14 refund of that amount from the lessor. If, however, that amount  
15 is not refunded to the lessee for any reason, the lessor is  
16 liable to pay that amount to the Department. This paragraph is  
17 exempt from the provisions of Section 3-75.

18 (25) Beginning on the effective date of this amendatory Act  
19 of the 92nd General Assembly, personal property purchased by a  
20 lessor who leases the property, under a lease of one year or  
21 longer executed or in effect at the time the lessor would  
22 otherwise be subject to the tax imposed by this Act, to a  
23 governmental body that has been issued an active tax exemption  
24 identification number by the Department under Section 1g of the  
25 Retailers' Occupation Tax Act. If the property is leased in a  
26 manner that does not qualify for this exemption or is used in

1 any other nonexempt manner, the lessor shall be liable for the  
2 tax imposed under this Act or the Use Tax Act, as the case may  
3 be, based on the fair market value of the property at the time  
4 the nonqualifying use occurs. No lessor shall collect or  
5 attempt to collect an amount (however designated) that purports  
6 to reimburse that lessor for the tax imposed by this Act or the  
7 Use Tax Act, as the case may be, if the tax has not been paid by  
8 the lessor. If a lessor improperly collects any such amount  
9 from the lessee, the lessee shall have a legal right to claim a  
10 refund of that amount from the lessor. If, however, that amount  
11 is not refunded to the lessee for any reason, the lessor is  
12 liable to pay that amount to the Department. This paragraph is  
13 exempt from the provisions of Section 3-75.

14 (26) Beginning January 1, 2008, tangible personal property  
15 used in the construction or maintenance of a community water  
16 supply, as defined under Section 3.145 of the Environmental  
17 Protection Act, that is operated by a not-for-profit  
18 corporation that holds a valid water supply permit issued under  
19 Title IV of the Environmental Protection Act. This paragraph is  
20 exempt from the provisions of Section 3-75.

21 (27) Beginning January 1, 2010, materials, parts,  
22 equipment, components, and furnishings incorporated into or  
23 upon an aircraft as part of the modification, refurbishment,  
24 completion, replacement, repair, or maintenance of the  
25 aircraft. This exemption includes consumable supplies used in  
26 the modification, refurbishment, completion, replacement,



1 repair, and maintenance of aircraft, but excludes any  
2 materials, parts, equipment, components, and consumable  
3 supplies used in the modification, replacement, repair, and  
4 maintenance of aircraft engines or power plants, whether such  
5 engines or power plants are installed or uninstalled upon any  
6 such aircraft. "Consumable supplies" include, but are not  
7 limited to, adhesive, tape, sandpaper, general purpose  
8 lubricants, cleaning solution, latex gloves, and protective  
9 films. This exemption applies only to those organizations that  
10 (i) hold an Air Agency Certificate and are empowered to operate  
11 an approved repair station by the Federal Aviation  
12 Administration, (ii) have a Class IV Rating, and (iii) conduct  
13 operations in accordance with Part 145 of the Federal Aviation  
14 Regulations. The exemption does not include aircraft operated  
15 by a commercial air carrier providing scheduled passenger air  
16 service pursuant to authority issued under Part 121 or Part 129  
17 of the Federal Aviation Regulations.

18 (28) Tangible personal property purchased by a  
19 public-facilities corporation, as described in Section  
20 11-65-10 of the Illinois Municipal Code, for purposes of  
21 constructing or furnishing a municipal convention hall, but  
22 only if the legal title to the municipal convention hall is  
23 transferred to the municipality without any further  
24 consideration by or on behalf of the municipality at the time  
25 of the completion of the municipal convention hall or upon the  
26 retirement or redemption of any bonds or other debt instruments

1 issued by the public-facilities corporation in connection with  
2 the development of the municipal convention hall. This  
3 exemption includes existing public-facilities corporations as  
4 provided in Section 11-65-25 of the Illinois Municipal Code.  
5 This paragraph is exempt from the provisions of Section 3-75.

6 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
7 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
8 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
9 7-2-10.)

10 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

11 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
12 Section, the tax imposed by this Act is at the rate of 6.25% of  
13 the selling price of tangible personal property transferred as  
14 an incident to the sale of service, but, for the purpose of  
15 computing this tax, in no event shall the selling price be less  
16 than the cost price of the property to the serviceman.

17 Beginning on July 1, 2000 and through December 31, 2000,  
18 with respect to motor fuel, as defined in Section 1.1 of the  
19 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
20 the Use Tax Act, the tax is imposed at the rate of 1.25%.

21 With respect to gasohol, as defined in the Use Tax Act, the  
22 tax imposed by this Act applies to (i) 70% of the selling price  
23 of property transferred as an incident to the sale of service  
24 on or after January 1, 1990, and before July 1, 2003, (ii) 80%  
25 of the selling price of property transferred as an incident to

1 the sale of service on or after July 1, 2003 and on or before  
2 December 31, 2013, and (iii) 100% of the selling price  
3 thereafter. If, at any time, however, the tax under this Act on  
4 sales of gasohol, as defined in the Use Tax Act, is imposed at  
5 the rate of 1.25%, then the tax imposed by this Act applies to  
6 100% of the proceeds of sales of gasohol made during that time.

7 With respect to majority blended ethanol fuel, as defined  
8 in the Use Tax Act, the tax imposed by this Act does not apply  
9 to the selling price of property transferred as an incident to  
10 the sale of service on or after July 1, 2003 and on or before  
11 December 31, 2013 but applies to 100% of the selling price  
12 thereafter.

13 With respect to biodiesel blends, as defined in the Use Tax  
14 Act, with no less than 1% and no more than 10% biodiesel, the  
15 tax imposed by this Act applies to (i) 80% of the selling price  
16 of property transferred as an incident to the sale of service  
17 on or after July 1, 2003 and on or before December 31, 2013 and  
18 (ii) 100% of the proceeds of the selling price thereafter. If,  
19 at any time, however, the tax under this Act on sales of  
20 biodiesel blends, as defined in the Use Tax Act, with no less  
21 than 1% and no more than 10% biodiesel is imposed at the rate  
22 of 1.25%, then the tax imposed by this Act applies to 100% of  
23 the proceeds of sales of biodiesel blends with no less than 1%  
24 and no more than 10% biodiesel made during that time.

25 With respect to 100% biodiesel, as defined in the Use Tax  
26 Act, and biodiesel blends, as defined in the Use Tax Act, with

1 more than 10% but no more than 99% biodiesel, the tax imposed  
2 by this Act does not apply to the proceeds of the selling price  
3 of property transferred as an incident to the sale of service  
4 on or after July 1, 2003 and on or before December 31, 2013 but  
5 applies to 100% of the selling price thereafter.

6 At the election of any registered serviceman made for each  
7 fiscal year, sales of service in which the aggregate annual  
8 cost price of tangible personal property transferred as an  
9 incident to the sales of service is less than 35%, or 75% in  
10 the case of servicemen transferring prescription drugs or  
11 servicemen engaged in graphic arts production, of the aggregate  
12 annual total gross receipts from all sales of service, the tax  
13 imposed by this Act shall be based on the serviceman's cost  
14 price of the tangible personal property transferred as an  
15 incident to the sale of those services.

16 The tax shall be imposed at the rate of 1% on food prepared  
17 for immediate consumption and transferred incident to a sale of  
18 service subject to this Act or the Service Occupation Tax Act  
19 by an entity licensed under the Hospital Licensing Act, the  
20 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or  
21 the Child Care Act of 1969. The tax shall also be imposed at  
22 the rate of 1% on food for human consumption that is to be  
23 consumed off the premises where it is sold (other than  
24 alcoholic beverages, soft drinks, and food that has been  
25 prepared for immediate consumption and is not otherwise  
26 included in this paragraph) and prescription and

1 nonprescription medicines, drugs, medical appliances,  
2 modifications to a motor vehicle for the purpose of rendering  
3 it usable by a disabled person, and insulin, urine testing  
4 materials, syringes, and needles used by diabetics, for human  
5 use. For the purposes of this Section, until September 1, 2009:  
6 the term "soft drinks" means any complete, finished,  
7 ready-to-use, non-alcoholic drink, whether carbonated or not,  
8 including but not limited to soda water, cola, fruit juice,  
9 vegetable juice, carbonated water, and all other preparations  
10 commonly known as soft drinks of whatever kind or description  
11 that are contained in any closed or sealed bottle, can, carton,  
12 or container, regardless of size; but "soft drinks" does not  
13 include coffee, tea, non-carbonated water, infant formula,  
14 milk or milk products as defined in the Grade A Pasteurized  
15 Milk and Milk Products Act, or drinks containing 50% or more  
16 natural fruit or vegetable juice.

17 Notwithstanding any other provisions of this Act,  
18 beginning September 1, 2009, "soft drinks" means non-alcoholic  
19 beverages that contain natural or artificial sweeteners. "Soft  
20 drinks" do not include beverages that contain milk or milk  
21 products, soy, rice or similar milk substitutes, or greater  
22 than 50% of vegetable or fruit juice by volume.

23 Until August 1, 2009, and notwithstanding any other  
24 provisions of this Act, "food for human consumption that is to  
25 be consumed off the premises where it is sold" includes all  
26 food sold through a vending machine, except soft drinks and

1 food products that are dispensed hot from a vending machine,  
2 regardless of the location of the vending machine. Beginning  
3 August 1, 2009, and notwithstanding any other provisions of  
4 this Act, "food for human consumption that is to be consumed  
5 off the premises where it is sold" includes all food sold  
6 through a vending machine, except soft drinks, candy, and food  
7 products that are dispensed hot from a vending machine,  
8 regardless of the location of the vending machine.

9 Notwithstanding any other provisions of this Act,  
10 beginning September 1, 2009, "food for human consumption that  
11 is to be consumed off the premises where it is sold" does not  
12 include candy. For purposes of this Section, "candy" means a  
13 preparation of sugar, honey, or other natural or artificial  
14 sweeteners in combination with chocolate, fruits, nuts or other  
15 ingredients or flavorings in the form of bars, drops, or  
16 pieces. "Candy" does not include any preparation that contains  
17 flour or requires refrigeration.

18 Notwithstanding any other provisions of this Act,  
19 beginning September 1, 2009, "nonprescription medicines and  
20 drugs" does not include grooming and hygiene products. For  
21 purposes of this Section, "grooming and hygiene products"  
22 includes, but is not limited to, soaps and cleaning solutions,  
23 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
24 lotions and screens, unless those products are available by  
25 prescription only, regardless of whether the products meet the  
26 definition of "over-the-counter-drugs". For the purposes of

1 this paragraph, "over-the-counter-drug" means a drug for human  
2 use that contains a label that identifies the product as a drug  
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
4 label includes:

5 (A) A "Drug Facts" panel; or

6 (B) A statement of the "active ingredient(s)" with a  
7 list of those ingredients contained in the compound,  
8 substance or preparation.

9 If the property that is acquired from a serviceman is  
10 acquired outside Illinois and used outside Illinois before  
11 being brought to Illinois for use here and is taxable under  
12 this Act, the "selling price" on which the tax is computed  
13 shall be reduced by an amount that represents a reasonable  
14 allowance for depreciation for the period of prior out-of-state  
15 use.

16 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
17 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

18 Section 39. The Service Occupation Tax Act is amended by  
19 changing Sections 3-5 and 3-10 as follows:

20 (35 ILCS 115/3-5)

21 Sec. 3-5. Exemptions. The following tangible personal  
22 property is exempt from the tax imposed by this Act:

23 (1) Personal property sold by a corporation, society,  
24 association, foundation, institution, or organization, other

1 than a limited liability company, that is organized and  
2 operated as a not-for-profit service enterprise for the benefit  
3 of persons 65 years of age or older if the personal property  
4 was not purchased by the enterprise for the purpose of resale  
5 by the enterprise.

6 (2) Personal property purchased by a not-for-profit  
7 Illinois county fair association for use in conducting,  
8 operating, or promoting the county fair.

9 (3) Personal property purchased by any not-for-profit arts  
10 or cultural organization that establishes, by proof required by  
11 the Department by rule, that it has received an exemption under  
12 Section 501(c)(3) of the Internal Revenue Code and that is  
13 organized and operated primarily for the presentation or  
14 support of arts or cultural programming, activities, or  
15 services. These organizations include, but are not limited to,  
16 music and dramatic arts organizations such as symphony  
17 orchestras and theatrical groups, arts and cultural service  
18 organizations, local arts councils, visual arts organizations,  
19 and media arts organizations. On and after the effective date  
20 of this amendatory Act of the 92nd General Assembly, however,  
21 an entity otherwise eligible for this exemption shall not make  
22 tax-free purchases unless it has an active identification  
23 number issued by the Department.

24 (4) Legal tender, currency, medallions, or gold or silver  
25 coinage issued by the State of Illinois, the government of the  
26 United States of America, or the government of any foreign



1 country, and bullion.

2 (5) Until July 1, 2003 and beginning again on September 1,  
3 2004 through August 30, 2014, graphic arts machinery and  
4 equipment, including repair and replacement parts, both new and  
5 used, and including that manufactured on special order or  
6 purchased for lease, certified by the purchaser to be used  
7 primarily for graphic arts production. Equipment includes  
8 chemicals or chemicals acting as catalysts but only if the  
9 chemicals or chemicals acting as catalysts effect a direct and  
10 immediate change upon a graphic arts product.

11 (6) Personal property sold by a teacher-sponsored student  
12 organization affiliated with an elementary or secondary school  
13 located in Illinois.

14 (7) Farm machinery and equipment, both new and used,  
15 including that manufactured on special order, certified by the  
16 purchaser to be used primarily for production agriculture or  
17 State or federal agricultural programs, including individual  
18 replacement parts for the machinery and equipment, including  
19 machinery and equipment purchased for lease, and including  
20 implements of husbandry defined in Section 1-130 of the  
21 Illinois Vehicle Code, farm machinery and agricultural  
22 chemical and fertilizer spreaders, and nurse wagons required to  
23 be registered under Section 3-809 of the Illinois Vehicle Code,  
24 but excluding other motor vehicles required to be registered  
25 under the Illinois Vehicle Code. Horticultural polyhouses or  
26 hoop houses used for propagating, growing, or overwintering

1 plants shall be considered farm machinery and equipment under  
2 this item (7). Agricultural chemical tender tanks and dry boxes  
3 shall include units sold separately from a motor vehicle  
4 required to be licensed and units sold mounted on a motor  
5 vehicle required to be licensed if the selling price of the  
6 tender is separately stated.

7 Farm machinery and equipment shall include precision  
8 farming equipment that is installed or purchased to be  
9 installed on farm machinery and equipment including, but not  
10 limited to, tractors, harvesters, sprayers, planters, seeders,  
11 or spreaders. Precision farming equipment includes, but is not  
12 limited to, soil testing sensors, computers, monitors,  
13 software, global positioning and mapping systems, and other  
14 such equipment.

15 Farm machinery and equipment also includes computers,  
16 sensors, software, and related equipment used primarily in the  
17 computer-assisted operation of production agriculture  
18 facilities, equipment, and activities such as, but not limited  
19 to, the collection, monitoring, and correlation of animal and  
20 crop data for the purpose of formulating animal diets and  
21 agricultural chemicals. This item (7) is exempt from the  
22 provisions of Section 3-55.

23 (8) Fuel and petroleum products sold to or used by an air  
24 common carrier, certified by the carrier to be used for  
25 consumption, shipment, or storage in the conduct of its  
26 business as an air common carrier, for a flight destined for or

1 returning from a location or locations outside the United  
2 States without regard to previous or subsequent domestic  
3 stopovers.

4 (9) Proceeds of mandatory service charges separately  
5 stated on customers' bills for the purchase and consumption of  
6 food and beverages, to the extent that the proceeds of the  
7 service charge are in fact turned over as tips or as a  
8 substitute for tips to the employees who participate directly  
9 in preparing, serving, hosting or cleaning up the food or  
10 beverage function with respect to which the service charge is  
11 imposed.

12 (10) Until July 1, 2003, oil field exploration, drilling,  
13 and production equipment, including (i) rigs and parts of rigs,  
14 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
15 tubular goods, including casing and drill strings, (iii) pumps  
16 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
17 individual replacement part for oil field exploration,  
18 drilling, and production equipment, and (vi) machinery and  
19 equipment purchased for lease; but excluding motor vehicles  
20 required to be registered under the Illinois Vehicle Code.

21 (11) Photoprocessing machinery and equipment, including  
22 repair and replacement parts, both new and used, including that  
23 manufactured on special order, certified by the purchaser to be  
24 used primarily for photoprocessing, and including  
25 photoprocessing machinery and equipment purchased for lease.

26 (12) Until July 1, 2003, coal exploration, mining,

1 offhighway hauling, processing, maintenance, and reclamation  
2 equipment, including replacement parts and equipment, and  
3 including equipment purchased for lease, but excluding motor  
4 vehicles required to be registered under the Illinois Vehicle  
5 Code.

6 (13) Beginning January 1, 1992 and through June 30, 2011,  
7 food for human consumption that is to be consumed off the  
8 premises where it is sold (other than alcoholic beverages, soft  
9 drinks and food that has been prepared for immediate  
10 consumption) and prescription and non-prescription medicines,  
11 drugs, medical appliances, and insulin, urine testing  
12 materials, syringes, and needles used by diabetics, for human  
13 use, when purchased for use by a person receiving medical  
14 assistance under Article V of the Illinois Public Aid Code who  
15 resides in a licensed long-term care facility, as defined in  
16 the Nursing Home Care Act, or in a licensed facility as defined  
17 in the ID/DD ~~MR/DD~~ Community Care Act.

18 (14) Semen used for artificial insemination of livestock  
19 for direct agricultural production.

20 (15) Horses, or interests in horses, registered with and  
21 meeting the requirements of any of the Arabian Horse Club  
22 Registry of America, Appaloosa Horse Club, American Quarter  
23 Horse Association, United States Trotting Association, or  
24 Jockey Club, as appropriate, used for purposes of breeding or  
25 racing for prizes. This item (15) is exempt from the provisions  
26 of Section 3-55, and the exemption provided for under this item

1 (15) applies for all periods beginning May 30, 1995, but no  
2 claim for credit or refund is allowed on or after January 1,  
3 2008 (the effective date of Public Act 95-88) for such taxes  
4 paid during the period beginning May 30, 2000 and ending on  
5 January 1, 2008 (the effective date of Public Act 95-88).

6 (16) Computers and communications equipment utilized for  
7 any hospital purpose and equipment used in the diagnosis,  
8 analysis, or treatment of hospital patients sold to a lessor  
9 who leases the equipment, under a lease of one year or longer  
10 executed or in effect at the time of the purchase, to a  
11 hospital that has been issued an active tax exemption  
12 identification number by the Department under Section 1g of the  
13 Retailers' Occupation Tax Act.

14 (17) Personal property sold to a lessor who leases the  
15 property, under a lease of one year or longer executed or in  
16 effect at the time of the purchase, to a governmental body that  
17 has been issued an active tax exemption identification number  
18 by the Department under Section 1g of the Retailers' Occupation  
19 Tax Act.

20 (18) Beginning with taxable years ending on or after  
21 December 31, 1995 and ending with taxable years ending on or  
22 before December 31, 2004, personal property that is donated for  
23 disaster relief to be used in a State or federally declared  
24 disaster area in Illinois or bordering Illinois by a  
25 manufacturer or retailer that is registered in this State to a  
26 corporation, society, association, foundation, or institution

1 that has been issued a sales tax exemption identification  
2 number by the Department that assists victims of the disaster  
3 who reside within the declared disaster area.

4 (19) Beginning with taxable years ending on or after  
5 December 31, 1995 and ending with taxable years ending on or  
6 before December 31, 2004, personal property that is used in the  
7 performance of infrastructure repairs in this State, including  
8 but not limited to municipal roads and streets, access roads,  
9 bridges, sidewalks, waste disposal systems, water and sewer  
10 line extensions, water distribution and purification  
11 facilities, storm water drainage and retention facilities, and  
12 sewage treatment facilities, resulting from a State or  
13 federally declared disaster in Illinois or bordering Illinois  
14 when such repairs are initiated on facilities located in the  
15 declared disaster area within 6 months after the disaster.

16 (20) Beginning July 1, 1999, game or game birds sold at a  
17 "game breeding and hunting preserve area" or an "exotic game  
18 hunting area" as those terms are used in the Wildlife Code or  
19 at a hunting enclosure approved through rules adopted by the  
20 Department of Natural Resources. This paragraph is exempt from  
21 the provisions of Section 3-55.

22 (21) A motor vehicle, as that term is defined in Section  
23 1-146 of the Illinois Vehicle Code, that is donated to a  
24 corporation, limited liability company, society, association,  
25 foundation, or institution that is determined by the Department  
26 to be organized and operated exclusively for educational

1 purposes. For purposes of this exemption, "a corporation,  
2 limited liability company, society, association, foundation,  
3 or institution organized and operated exclusively for  
4 educational purposes" means all tax-supported public schools,  
5 private schools that offer systematic instruction in useful  
6 branches of learning by methods common to public schools and  
7 that compare favorably in their scope and intensity with the  
8 course of study presented in tax-supported schools, and  
9 vocational or technical schools or institutes organized and  
10 operated exclusively to provide a course of study of not less  
11 than 6 weeks duration and designed to prepare individuals to  
12 follow a trade or to pursue a manual, technical, mechanical,  
13 industrial, business, or commercial occupation.

14 (22) Beginning January 1, 2000, personal property,  
15 including food, purchased through fundraising events for the  
16 benefit of a public or private elementary or secondary school,  
17 a group of those schools, or one or more school districts if  
18 the events are sponsored by an entity recognized by the school  
19 district that consists primarily of volunteers and includes  
20 parents and teachers of the school children. This paragraph  
21 does not apply to fundraising events (i) for the benefit of  
22 private home instruction or (ii) for which the fundraising  
23 entity purchases the personal property sold at the events from  
24 another individual or entity that sold the property for the  
25 purpose of resale by the fundraising entity and that profits  
26 from the sale to the fundraising entity. This paragraph is

1 exempt from the provisions of Section 3-55.

2 (23) Beginning January 1, 2000 and through December 31,  
3 2001, new or used automatic vending machines that prepare and  
4 serve hot food and beverages, including coffee, soup, and other  
5 items, and replacement parts for these machines. Beginning  
6 January 1, 2002 and through June 30, 2003, machines and parts  
7 for machines used in commercial, coin-operated amusement and  
8 vending business if a use or occupation tax is paid on the  
9 gross receipts derived from the use of the commercial,  
10 coin-operated amusement and vending machines. This paragraph  
11 is exempt from the provisions of Section 3-55.

12 (24) Beginning on the effective date of this amendatory Act  
13 of the 92nd General Assembly, computers and communications  
14 equipment utilized for any hospital purpose and equipment used  
15 in the diagnosis, analysis, or treatment of hospital patients  
16 sold to a lessor who leases the equipment, under a lease of one  
17 year or longer executed or in effect at the time of the  
18 purchase, to a hospital that has been issued an active tax  
19 exemption identification number by the Department under  
20 Section 1g of the Retailers' Occupation Tax Act. This paragraph  
21 is exempt from the provisions of Section 3-55.

22 (25) Beginning on the effective date of this amendatory Act  
23 of the 92nd General Assembly, personal property sold to a  
24 lessor who leases the property, under a lease of one year or  
25 longer executed or in effect at the time of the purchase, to a  
26 governmental body that has been issued an active tax exemption



1 identification number by the Department under Section 1g of the  
2 Retailers' Occupation Tax Act. This paragraph is exempt from  
3 the provisions of Section 3-55.

4 (26) Beginning on January 1, 2002 and through June 30,  
5 2011, tangible personal property purchased from an Illinois  
6 retailer by a taxpayer engaged in centralized purchasing  
7 activities in Illinois who will, upon receipt of the property  
8 in Illinois, temporarily store the property in Illinois (i) for  
9 the purpose of subsequently transporting it outside this State  
10 for use or consumption thereafter solely outside this State or  
11 (ii) for the purpose of being processed, fabricated, or  
12 manufactured into, attached to, or incorporated into other  
13 tangible personal property to be transported outside this State  
14 and thereafter used or consumed solely outside this State. The  
15 Director of Revenue shall, pursuant to rules adopted in  
16 accordance with the Illinois Administrative Procedure Act,  
17 issue a permit to any taxpayer in good standing with the  
18 Department who is eligible for the exemption under this  
19 paragraph (26). The permit issued under this paragraph (26)  
20 shall authorize the holder, to the extent and in the manner  
21 specified in the rules adopted under this Act, to purchase  
22 tangible personal property from a retailer exempt from the  
23 taxes imposed by this Act. Taxpayers shall maintain all  
24 necessary books and records to substantiate the use and  
25 consumption of all such tangible personal property outside of  
26 the State of Illinois.

1           (27) Beginning January 1, 2008, tangible personal property  
2 used in the construction or maintenance of a community water  
3 supply, as defined under Section 3.145 of the Environmental  
4 Protection Act, that is operated by a not-for-profit  
5 corporation that holds a valid water supply permit issued under  
6 Title IV of the Environmental Protection Act. This paragraph is  
7 exempt from the provisions of Section 3-55.

8           (28) Tangible personal property sold to a  
9 public-facilities corporation, as described in Section  
10 11-65-10 of the Illinois Municipal Code, for purposes of  
11 constructing or furnishing a municipal convention hall, but  
12 only if the legal title to the municipal convention hall is  
13 transferred to the municipality without any further  
14 consideration by or on behalf of the municipality at the time  
15 of the completion of the municipal convention hall or upon the  
16 retirement or redemption of any bonds or other debt instruments  
17 issued by the public-facilities corporation in connection with  
18 the development of the municipal convention hall. This  
19 exemption includes existing public-facilities corporations as  
20 provided in Section 11-65-25 of the Illinois Municipal Code.  
21 This paragraph is exempt from the provisions of Section 3-55.

22           (29) Beginning January 1, 2010, materials, parts,  
23 equipment, components, and furnishings incorporated into or  
24 upon an aircraft as part of the modification, refurbishment,  
25 completion, replacement, repair, or maintenance of the  
26 aircraft. This exemption includes consumable supplies used in

1 the modification, refurbishment, completion, replacement,  
2 repair, and maintenance of aircraft, but excludes any  
3 materials, parts, equipment, components, and consumable  
4 supplies used in the modification, replacement, repair, and  
5 maintenance of aircraft engines or power plants, whether such  
6 engines or power plants are installed or uninstalled upon any  
7 such aircraft. "Consumable supplies" include, but are not  
8 limited to, adhesive, tape, sandpaper, general purpose  
9 lubricants, cleaning solution, latex gloves, and protective  
10 films. This exemption applies only to those organizations that  
11 (i) hold an Air Agency Certificate and are empowered to operate  
12 an approved repair station by the Federal Aviation  
13 Administration, (ii) have a Class IV Rating, and (iii) conduct  
14 operations in accordance with Part 145 of the Federal Aviation  
15 Regulations. The exemption does not include aircraft operated  
16 by a commercial air carrier providing scheduled passenger air  
17 service pursuant to authority issued under Part 121 or Part 129  
18 of the Federal Aviation Regulations.

19 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,  
20 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;  
21 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.  
22 7-2-10.)

23 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

24 Sec. 3-10. Rate of tax. Unless otherwise provided in this  
25 Section, the tax imposed by this Act is at the rate of 6.25% of

1 the "selling price", as defined in Section 2 of the Service Use  
2 Tax Act, of the tangible personal property. For the purpose of  
3 computing this tax, in no event shall the "selling price" be  
4 less than the cost price to the serviceman of the tangible  
5 personal property transferred. The selling price of each item  
6 of tangible personal property transferred as an incident of a  
7 sale of service may be shown as a distinct and separate item on  
8 the serviceman's billing to the service customer. If the  
9 selling price is not so shown, the selling price of the  
10 tangible personal property is deemed to be 50% of the  
11 serviceman's entire billing to the service customer. When,  
12 however, a serviceman contracts to design, develop, and produce  
13 special order machinery or equipment, the tax imposed by this  
14 Act shall be based on the serviceman's cost price of the  
15 tangible personal property transferred incident to the  
16 completion of the contract.

17 Beginning on July 1, 2000 and through December 31, 2000,  
18 with respect to motor fuel, as defined in Section 1.1 of the  
19 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of  
20 the Use Tax Act, the tax is imposed at the rate of 1.25%.

21 With respect to gasohol, as defined in the Use Tax Act, the  
22 tax imposed by this Act shall apply to (i) 70% of the cost  
23 price of property transferred as an incident to the sale of  
24 service on or after January 1, 1990, and before July 1, 2003,  
25 (ii) 80% of the selling price of property transferred as an  
26 incident to the sale of service on or after July 1, 2003 and on

1 or before December 31, 2013, and (iii) 100% of the cost price  
2 thereafter. If, at any time, however, the tax under this Act on  
3 sales of gasohol, as defined in the Use Tax Act, is imposed at  
4 the rate of 1.25%, then the tax imposed by this Act applies to  
5 100% of the proceeds of sales of gasohol made during that time.

6 With respect to majority blended ethanol fuel, as defined  
7 in the Use Tax Act, the tax imposed by this Act does not apply  
8 to the selling price of property transferred as an incident to  
9 the sale of service on or after July 1, 2003 and on or before  
10 December 31, 2013 but applies to 100% of the selling price  
11 thereafter.

12 With respect to biodiesel blends, as defined in the Use Tax  
13 Act, with no less than 1% and no more than 10% biodiesel, the  
14 tax imposed by this Act applies to (i) 80% of the selling price  
15 of property transferred as an incident to the sale of service  
16 on or after July 1, 2003 and on or before December 31, 2013 and  
17 (ii) 100% of the proceeds of the selling price thereafter. If,  
18 at any time, however, the tax under this Act on sales of  
19 biodiesel blends, as defined in the Use Tax Act, with no less  
20 than 1% and no more than 10% biodiesel is imposed at the rate  
21 of 1.25%, then the tax imposed by this Act applies to 100% of  
22 the proceeds of sales of biodiesel blends with no less than 1%  
23 and no more than 10% biodiesel made during that time.

24 With respect to 100% biodiesel, as defined in the Use Tax  
25 Act, and biodiesel blends, as defined in the Use Tax Act, with  
26 more than 10% but no more than 99% biodiesel material, the tax

1 imposed by this Act does not apply to the proceeds of the  
2 selling price of property transferred as an incident to the  
3 sale of service on or after July 1, 2003 and on or before  
4 December 31, 2013 but applies to 100% of the selling price  
5 thereafter.

6 At the election of any registered serviceman made for each  
7 fiscal year, sales of service in which the aggregate annual  
8 cost price of tangible personal property transferred as an  
9 incident to the sales of service is less than 35%, or 75% in  
10 the case of servicemen transferring prescription drugs or  
11 servicemen engaged in graphic arts production, of the aggregate  
12 annual total gross receipts from all sales of service, the tax  
13 imposed by this Act shall be based on the serviceman's cost  
14 price of the tangible personal property transferred incident to  
15 the sale of those services.

16 The tax shall be imposed at the rate of 1% on food prepared  
17 for immediate consumption and transferred incident to a sale of  
18 service subject to this Act or the Service Occupation Tax Act  
19 by an entity licensed under the Hospital Licensing Act, the  
20 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or  
21 the Child Care Act of 1969. The tax shall also be imposed at  
22 the rate of 1% on food for human consumption that is to be  
23 consumed off the premises where it is sold (other than  
24 alcoholic beverages, soft drinks, and food that has been  
25 prepared for immediate consumption and is not otherwise  
26 included in this paragraph) and prescription and

1 nonprescription medicines, drugs, medical appliances,  
2 modifications to a motor vehicle for the purpose of rendering  
3 it usable by a disabled person, and insulin, urine testing  
4 materials, syringes, and needles used by diabetics, for human  
5 use. For the purposes of this Section, until September 1, 2009:  
6 the term "soft drinks" means any complete, finished,  
7 ready-to-use, non-alcoholic drink, whether carbonated or not,  
8 including but not limited to soda water, cola, fruit juice,  
9 vegetable juice, carbonated water, and all other preparations  
10 commonly known as soft drinks of whatever kind or description  
11 that are contained in any closed or sealed can, carton, or  
12 container, regardless of size; but "soft drinks" does not  
13 include coffee, tea, non-carbonated water, infant formula,  
14 milk or milk products as defined in the Grade A Pasteurized  
15 Milk and Milk Products Act, or drinks containing 50% or more  
16 natural fruit or vegetable juice.

17 Notwithstanding any other provisions of this Act,  
18 beginning September 1, 2009, "soft drinks" means non-alcoholic  
19 beverages that contain natural or artificial sweeteners. "Soft  
20 drinks" do not include beverages that contain milk or milk  
21 products, soy, rice or similar milk substitutes, or greater  
22 than 50% of vegetable or fruit juice by volume.

23 Until August 1, 2009, and notwithstanding any other  
24 provisions of this Act, "food for human consumption that is to  
25 be consumed off the premises where it is sold" includes all  
26 food sold through a vending machine, except soft drinks and

1 food products that are dispensed hot from a vending machine,  
2 regardless of the location of the vending machine. Beginning  
3 August 1, 2009, and notwithstanding any other provisions of  
4 this Act, "food for human consumption that is to be consumed  
5 off the premises where it is sold" includes all food sold  
6 through a vending machine, except soft drinks, candy, and food  
7 products that are dispensed hot from a vending machine,  
8 regardless of the location of the vending machine.

9 Notwithstanding any other provisions of this Act,  
10 beginning September 1, 2009, "food for human consumption that  
11 is to be consumed off the premises where it is sold" does not  
12 include candy. For purposes of this Section, "candy" means a  
13 preparation of sugar, honey, or other natural or artificial  
14 sweeteners in combination with chocolate, fruits, nuts or other  
15 ingredients or flavorings in the form of bars, drops, or  
16 pieces. "Candy" does not include any preparation that contains  
17 flour or requires refrigeration.

18 Notwithstanding any other provisions of this Act,  
19 beginning September 1, 2009, "nonprescription medicines and  
20 drugs" does not include grooming and hygiene products. For  
21 purposes of this Section, "grooming and hygiene products"  
22 includes, but is not limited to, soaps and cleaning solutions,  
23 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan  
24 lotions and screens, unless those products are available by  
25 prescription only, regardless of whether the products meet the  
26 definition of "over-the-counter-drugs". For the purposes of



1 this paragraph, "over-the-counter-drug" means a drug for human  
2 use that contains a label that identifies the product as a drug  
3 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"  
4 label includes:

5 (A) A "Drug Facts" panel; or

6 (B) A statement of the "active ingredient(s)" with a  
7 list of those ingredients contained in the compound,  
8 substance or preparation.

9 (Source: P.A. 96-34, eff. 7-13-09; 96-37, eff. 7-13-09; 96-38,  
10 eff. 7-13-09; 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

11 Section 40. The Retailers' Occupation Tax Act is amended by  
12 changing Section 2-5 as follows:

13 (35 ILCS 120/2-5)

14 Sec. 2-5. Exemptions. Gross receipts from proceeds from the  
15 sale of the following tangible personal property are exempt  
16 from the tax imposed by this Act:

17 (1) Farm chemicals.

18 (2) Farm machinery and equipment, both new and used,  
19 including that manufactured on special order, certified by the  
20 purchaser to be used primarily for production agriculture or  
21 State or federal agricultural programs, including individual  
22 replacement parts for the machinery and equipment, including  
23 machinery and equipment purchased for lease, and including  
24 implements of husbandry defined in Section 1-130 of the

1 Illinois Vehicle Code, farm machinery and agricultural  
2 chemical and fertilizer spreaders, and nurse wagons required to  
3 be registered under Section 3-809 of the Illinois Vehicle Code,  
4 but excluding other motor vehicles required to be registered  
5 under the Illinois Vehicle Code. Horticultural polyhouses or  
6 hoop houses used for propagating, growing, or overwintering  
7 plants shall be considered farm machinery and equipment under  
8 this item (2). Agricultural chemical tender tanks and dry boxes  
9 shall include units sold separately from a motor vehicle  
10 required to be licensed and units sold mounted on a motor  
11 vehicle required to be licensed, if the selling price of the  
12 tender is separately stated.

13 Farm machinery and equipment shall include precision  
14 farming equipment that is installed or purchased to be  
15 installed on farm machinery and equipment including, but not  
16 limited to, tractors, harvesters, sprayers, planters, seeders,  
17 or spreaders. Precision farming equipment includes, but is not  
18 limited to, soil testing sensors, computers, monitors,  
19 software, global positioning and mapping systems, and other  
20 such equipment.

21 Farm machinery and equipment also includes computers,  
22 sensors, software, and related equipment used primarily in the  
23 computer-assisted operation of production agriculture  
24 facilities, equipment, and activities such as, but not limited  
25 to, the collection, monitoring, and correlation of animal and  
26 crop data for the purpose of formulating animal diets and

1 agricultural chemicals. This item (7) is exempt from the  
2 provisions of Section 2-70.

3 (3) Until July 1, 2003, distillation machinery and  
4 equipment, sold as a unit or kit, assembled or installed by the  
5 retailer, certified by the user to be used only for the  
6 production of ethyl alcohol that will be used for consumption  
7 as motor fuel or as a component of motor fuel for the personal  
8 use of the user, and not subject to sale or resale.

9 (4) Until July 1, 2003 and beginning again September 1,  
10 2004 through August 30, 2014, graphic arts machinery and  
11 equipment, including repair and replacement parts, both new and  
12 used, and including that manufactured on special order or  
13 purchased for lease, certified by the purchaser to be used  
14 primarily for graphic arts production. Equipment includes  
15 chemicals or chemicals acting as catalysts but only if the  
16 chemicals or chemicals acting as catalysts effect a direct and  
17 immediate change upon a graphic arts product.

18 (5) A motor vehicle of the first division, a motor vehicle  
19 of the second division that is a self contained motor vehicle  
20 designed or permanently converted to provide living quarters  
21 for recreational, camping, or travel use, with direct walk  
22 through access to the living quarters from the driver's seat,  
23 or a motor vehicle of the second division that is of the van  
24 configuration designed for the transportation of not less than  
25 7 nor more than 16 passengers, as defined in Section 1-146 of  
26 the Illinois Vehicle Code, that is used for automobile renting,

1 as defined in the Automobile Renting Occupation and Use Tax  
2 Act. This paragraph is exempt from the provisions of Section  
3 2-70.

4 (6) Personal property sold by a teacher-sponsored student  
5 organization affiliated with an elementary or secondary school  
6 located in Illinois.

7 (7) Until July 1, 2003, proceeds of that portion of the  
8 selling price of a passenger car the sale of which is subject  
9 to the Replacement Vehicle Tax.

10 (8) Personal property sold to an Illinois county fair  
11 association for use in conducting, operating, or promoting the  
12 county fair.

13 (9) Personal property sold to a not-for-profit arts or  
14 cultural organization that establishes, by proof required by  
15 the Department by rule, that it has received an exemption under  
16 Section 501(c)(3) of the Internal Revenue Code and that is  
17 organized and operated primarily for the presentation or  
18 support of arts or cultural programming, activities, or  
19 services. These organizations include, but are not limited to,  
20 music and dramatic arts organizations such as symphony  
21 orchestras and theatrical groups, arts and cultural service  
22 organizations, local arts councils, visual arts organizations,  
23 and media arts organizations. On and after the effective date  
24 of this amendatory Act of the 92nd General Assembly, however,  
25 an entity otherwise eligible for this exemption shall not make  
26 tax-free purchases unless it has an active identification

1 number issued by the Department.

2 (10) Personal property sold by a corporation, society,  
3 association, foundation, institution, or organization, other  
4 than a limited liability company, that is organized and  
5 operated as a not-for-profit service enterprise for the benefit  
6 of persons 65 years of age or older if the personal property  
7 was not purchased by the enterprise for the purpose of resale  
8 by the enterprise.

9 (11) Personal property sold to a governmental body, to a  
10 corporation, society, association, foundation, or institution  
11 organized and operated exclusively for charitable, religious,  
12 or educational purposes, or to a not-for-profit corporation,  
13 society, association, foundation, institution, or organization  
14 that has no compensated officers or employees and that is  
15 organized and operated primarily for the recreation of persons  
16 55 years of age or older. A limited liability company may  
17 qualify for the exemption under this paragraph only if the  
18 limited liability company is organized and operated  
19 exclusively for educational purposes. On and after July 1,  
20 1987, however, no entity otherwise eligible for this exemption  
21 shall make tax-free purchases unless it has an active  
22 identification number issued by the Department.

23 (12) Tangible personal property sold to interstate  
24 carriers for hire for use as rolling stock moving in interstate  
25 commerce or to lessors under leases of one year or longer  
26 executed or in effect at the time of purchase by interstate

1 carriers for hire for use as rolling stock moving in interstate  
2 commerce and equipment operated by a telecommunications  
3 provider, licensed as a common carrier by the Federal  
4 Communications Commission, which is permanently installed in  
5 or affixed to aircraft moving in interstate commerce.

6 (12-5) On and after July 1, 2003 and through June 30, 2004,  
7 motor vehicles of the second division with a gross vehicle  
8 weight in excess of 8,000 pounds that are subject to the  
9 commercial distribution fee imposed under Section 3-815.1 of  
10 the Illinois Vehicle Code. Beginning on July 1, 2004 and  
11 through June 30, 2005, the use in this State of motor vehicles  
12 of the second division: (i) with a gross vehicle weight rating  
13 in excess of 8,000 pounds; (ii) that are subject to the  
14 commercial distribution fee imposed under Section 3-815.1 of  
15 the Illinois Vehicle Code; and (iii) that are primarily used  
16 for commercial purposes. Through June 30, 2005, this exemption  
17 applies to repair and replacement parts added after the initial  
18 purchase of such a motor vehicle if that motor vehicle is used  
19 in a manner that would qualify for the rolling stock exemption  
20 otherwise provided for in this Act. For purposes of this  
21 paragraph, "used for commercial purposes" means the  
22 transportation of persons or property in furtherance of any  
23 commercial or industrial enterprise whether for-hire or not.

24 (13) Proceeds from sales to owners, lessors, or shippers of  
25 tangible personal property that is utilized by interstate  
26 carriers for hire for use as rolling stock moving in interstate

1 commerce and equipment operated by a telecommunications  
2 provider, licensed as a common carrier by the Federal  
3 Communications Commission, which is permanently installed in  
4 or affixed to aircraft moving in interstate commerce.

5 (14) Machinery and equipment that will be used by the  
6 purchaser, or a lessee of the purchaser, primarily in the  
7 process of manufacturing or assembling tangible personal  
8 property for wholesale or retail sale or lease, whether the  
9 sale or lease is made directly by the manufacturer or by some  
10 other person, whether the materials used in the process are  
11 owned by the manufacturer or some other person, or whether the  
12 sale or lease is made apart from or as an incident to the  
13 seller's engaging in the service occupation of producing  
14 machines, tools, dies, jigs, patterns, gauges, or other similar  
15 items of no commercial value on special order for a particular  
16 purchaser.

17 (15) Proceeds of mandatory service charges separately  
18 stated on customers' bills for purchase and consumption of food  
19 and beverages, to the extent that the proceeds of the service  
20 charge are in fact turned over as tips or as a substitute for  
21 tips to the employees who participate directly in preparing,  
22 serving, hosting or cleaning up the food or beverage function  
23 with respect to which the service charge is imposed.

24 (16) Petroleum products sold to a purchaser if the seller  
25 is prohibited by federal law from charging tax to the  
26 purchaser.

1           (17) Tangible personal property sold to a common carrier by  
2 rail or motor that receives the physical possession of the  
3 property in Illinois and that transports the property, or  
4 shares with another common carrier in the transportation of the  
5 property, out of Illinois on a standard uniform bill of lading  
6 showing the seller of the property as the shipper or consignor  
7 of the property to a destination outside Illinois, for use  
8 outside Illinois.

9           (18) Legal tender, currency, medallions, or gold or silver  
10 coinage issued by the State of Illinois, the government of the  
11 United States of America, or the government of any foreign  
12 country, and bullion.

13           (19) Until July 1 2003, oil field exploration, drilling,  
14 and production equipment, including (i) rigs and parts of rigs,  
15 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and  
16 tubular goods, including casing and drill strings, (iii) pumps  
17 and pump-jack units, (iv) storage tanks and flow lines, (v) any  
18 individual replacement part for oil field exploration,  
19 drilling, and production equipment, and (vi) machinery and  
20 equipment purchased for lease; but excluding motor vehicles  
21 required to be registered under the Illinois Vehicle Code.

22           (20) Photoprocessing machinery and equipment, including  
23 repair and replacement parts, both new and used, including that  
24 manufactured on special order, certified by the purchaser to be  
25 used primarily for photoprocessing, and including  
26 photoprocessing machinery and equipment purchased for lease.



1           (21) Until July 1, 2003, coal exploration, mining,  
2 offhighway hauling, processing, maintenance, and reclamation  
3 equipment, including replacement parts and equipment, and  
4 including equipment purchased for lease, but excluding motor  
5 vehicles required to be registered under the Illinois Vehicle  
6 Code.

7           (22) Fuel and petroleum products sold to or used by an air  
8 carrier, certified by the carrier to be used for consumption,  
9 shipment, or storage in the conduct of its business as an air  
10 common carrier, for a flight destined for or returning from a  
11 location or locations outside the United States without regard  
12 to previous or subsequent domestic stopovers.

13           (23) A transaction in which the purchase order is received  
14 by a florist who is located outside Illinois, but who has a  
15 florist located in Illinois deliver the property to the  
16 purchaser or the purchaser's donee in Illinois.

17           (24) Fuel consumed or used in the operation of ships,  
18 barges, or vessels that are used primarily in or for the  
19 transportation of property or the conveyance of persons for  
20 hire on rivers bordering on this State if the fuel is delivered  
21 by the seller to the purchaser's barge, ship, or vessel while  
22 it is afloat upon that bordering river.

23           (25) Except as provided in item (25-5) of this Section, a  
24 motor vehicle sold in this State to a nonresident even though  
25 the motor vehicle is delivered to the nonresident in this  
26 State, if the motor vehicle is not to be titled in this State,

1 and if a drive-away permit is issued to the motor vehicle as  
2 provided in Section 3-603 of the Illinois Vehicle Code or if  
3 the nonresident purchaser has vehicle registration plates to  
4 transfer to the motor vehicle upon returning to his or her home  
5 state. The issuance of the drive-away permit or having the  
6 out-of-state registration plates to be transferred is prima  
7 facie evidence that the motor vehicle will not be titled in  
8 this State.

9 (25-5) The exemption under item (25) does not apply if the  
10 state in which the motor vehicle will be titled does not allow  
11 a reciprocal exemption for a motor vehicle sold and delivered  
12 in that state to an Illinois resident but titled in Illinois.  
13 The tax collected under this Act on the sale of a motor vehicle  
14 in this State to a resident of another state that does not  
15 allow a reciprocal exemption shall be imposed at a rate equal  
16 to the state's rate of tax on taxable property in the state in  
17 which the purchaser is a resident, except that the tax shall  
18 not exceed the tax that would otherwise be imposed under this  
19 Act. At the time of the sale, the purchaser shall execute a  
20 statement, signed under penalty of perjury, of his or her  
21 intent to title the vehicle in the state in which the purchaser  
22 is a resident within 30 days after the sale and of the fact of  
23 the payment to the State of Illinois of tax in an amount  
24 equivalent to the state's rate of tax on taxable property in  
25 his or her state of residence and shall submit the statement to  
26 the appropriate tax collection agency in his or her state of

1 residence. In addition, the retailer must retain a signed copy  
2 of the statement in his or her records. Nothing in this item  
3 shall be construed to require the removal of the vehicle from  
4 this state following the filing of an intent to title the  
5 vehicle in the purchaser's state of residence if the purchaser  
6 titles the vehicle in his or her state of residence within 30  
7 days after the date of sale. The tax collected under this Act  
8 in accordance with this item (25-5) shall be proportionately  
9 distributed as if the tax were collected at the 6.25% general  
10 rate imposed under this Act.

11 (25-7) Beginning on July 1, 2007, no tax is imposed under  
12 this Act on the sale of an aircraft, as defined in Section 3 of  
13 the Illinois Aeronautics Act, if all of the following  
14 conditions are met:

15 (1) the aircraft leaves this State within 15 days after  
16 the later of either the issuance of the final billing for  
17 the sale of the aircraft, or the authorized approval for  
18 return to service, completion of the maintenance record  
19 entry, and completion of the test flight and ground test  
20 for inspection, as required by 14 C.F.R. 91.407;

21 (2) the aircraft is not based or registered in this  
22 State after the sale of the aircraft; and

23 (3) the seller retains in his or her books and records  
24 and provides to the Department a signed and dated  
25 certification from the purchaser, on a form prescribed by  
26 the Department, certifying that the requirements of this

1 item (25-7) are met. The certificate must also include the  
2 name and address of the purchaser, the address of the  
3 location where the aircraft is to be titled or registered,  
4 the address of the primary physical location of the  
5 aircraft, and other information that the Department may  
6 reasonably require.

7 For purposes of this item (25-7):

8 "Based in this State" means hangared, stored, or otherwise  
9 used, excluding post-sale customizations as defined in this  
10 Section, for 10 or more days in each 12-month period  
11 immediately following the date of the sale of the aircraft.

12 "Registered in this State" means an aircraft registered  
13 with the Department of Transportation, Aeronautics Division,  
14 or titled or registered with the Federal Aviation  
15 Administration to an address located in this State.

16 This paragraph (25-7) is exempt from the provisions of  
17 Section 2-70.

18 (26) Semen used for artificial insemination of livestock  
19 for direct agricultural production.

20 (27) Horses, or interests in horses, registered with and  
21 meeting the requirements of any of the Arabian Horse Club  
22 Registry of America, Appaloosa Horse Club, American Quarter  
23 Horse Association, United States Trotting Association, or  
24 Jockey Club, as appropriate, used for purposes of breeding or  
25 racing for prizes. This item (27) is exempt from the provisions  
26 of Section 2-70, and the exemption provided for under this item

1 (27) applies for all periods beginning May 30, 1995, but no  
2 claim for credit or refund is allowed on or after January 1,  
3 2008 (the effective date of Public Act 95-88) for such taxes  
4 paid during the period beginning May 30, 2000 and ending on  
5 January 1, 2008 (the effective date of Public Act 95-88).

6 (28) Computers and communications equipment utilized for  
7 any hospital purpose and equipment used in the diagnosis,  
8 analysis, or treatment of hospital patients sold to a lessor  
9 who leases the equipment, under a lease of one year or longer  
10 executed or in effect at the time of the purchase, to a  
11 hospital that has been issued an active tax exemption  
12 identification number by the Department under Section 1g of  
13 this Act.

14 (29) Personal property sold to a lessor who leases the  
15 property, under a lease of one year or longer executed or in  
16 effect at the time of the purchase, to a governmental body that  
17 has been issued an active tax exemption identification number  
18 by the Department under Section 1g of this Act.

19 (30) Beginning with taxable years ending on or after  
20 December 31, 1995 and ending with taxable years ending on or  
21 before December 31, 2004, personal property that is donated for  
22 disaster relief to be used in a State or federally declared  
23 disaster area in Illinois or bordering Illinois by a  
24 manufacturer or retailer that is registered in this State to a  
25 corporation, society, association, foundation, or institution  
26 that has been issued a sales tax exemption identification

1 number by the Department that assists victims of the disaster  
2 who reside within the declared disaster area.

3 (31) Beginning with taxable years ending on or after  
4 December 31, 1995 and ending with taxable years ending on or  
5 before December 31, 2004, personal property that is used in the  
6 performance of infrastructure repairs in this State, including  
7 but not limited to municipal roads and streets, access roads,  
8 bridges, sidewalks, waste disposal systems, water and sewer  
9 line extensions, water distribution and purification  
10 facilities, storm water drainage and retention facilities, and  
11 sewage treatment facilities, resulting from a State or  
12 federally declared disaster in Illinois or bordering Illinois  
13 when such repairs are initiated on facilities located in the  
14 declared disaster area within 6 months after the disaster.

15 (32) Beginning July 1, 1999, game or game birds sold at a  
16 "game breeding and hunting preserve area" or an "exotic game  
17 hunting area" as those terms are used in the Wildlife Code or  
18 at a hunting enclosure approved through rules adopted by the  
19 Department of Natural Resources. This paragraph is exempt from  
20 the provisions of Section 2-70.

21 (33) A motor vehicle, as that term is defined in Section  
22 1-146 of the Illinois Vehicle Code, that is donated to a  
23 corporation, limited liability company, society, association,  
24 foundation, or institution that is determined by the Department  
25 to be organized and operated exclusively for educational  
26 purposes. For purposes of this exemption, "a corporation,

1 limited liability company, society, association, foundation,  
2 or institution organized and operated exclusively for  
3 educational purposes" means all tax-supported public schools,  
4 private schools that offer systematic instruction in useful  
5 branches of learning by methods common to public schools and  
6 that compare favorably in their scope and intensity with the  
7 course of study presented in tax-supported schools, and  
8 vocational or technical schools or institutes organized and  
9 operated exclusively to provide a course of study of not less  
10 than 6 weeks duration and designed to prepare individuals to  
11 follow a trade or to pursue a manual, technical, mechanical,  
12 industrial, business, or commercial occupation.

13 (34) Beginning January 1, 2000, personal property,  
14 including food, purchased through fundraising events for the  
15 benefit of a public or private elementary or secondary school,  
16 a group of those schools, or one or more school districts if  
17 the events are sponsored by an entity recognized by the school  
18 district that consists primarily of volunteers and includes  
19 parents and teachers of the school children. This paragraph  
20 does not apply to fundraising events (i) for the benefit of  
21 private home instruction or (ii) for which the fundraising  
22 entity purchases the personal property sold at the events from  
23 another individual or entity that sold the property for the  
24 purpose of resale by the fundraising entity and that profits  
25 from the sale to the fundraising entity. This paragraph is  
26 exempt from the provisions of Section 2-70.

1           (35) Beginning January 1, 2000 and through December 31,  
2           2001, new or used automatic vending machines that prepare and  
3           serve hot food and beverages, including coffee, soup, and other  
4           items, and replacement parts for these machines. Beginning  
5           January 1, 2002 and through June 30, 2003, machines and parts  
6           for machines used in commercial, coin-operated amusement and  
7           vending business if a use or occupation tax is paid on the  
8           gross receipts derived from the use of the commercial,  
9           coin-operated amusement and vending machines. This paragraph  
10          is exempt from the provisions of Section 2-70.

11          (35-5) Beginning August 23, 2001 and through June 30, 2011,  
12          food for human consumption that is to be consumed off the  
13          premises where it is sold (other than alcoholic beverages, soft  
14          drinks, and food that has been prepared for immediate  
15          consumption) and prescription and nonprescription medicines,  
16          drugs, medical appliances, and insulin, urine testing  
17          materials, syringes, and needles used by diabetics, for human  
18          use, when purchased for use by a person receiving medical  
19          assistance under Article V of the Illinois Public Aid Code who  
20          resides in a licensed long-term care facility, as defined in  
21          the Nursing Home Care Act, or a licensed facility as defined in  
22          the ID/DD ~~MR/DD~~ Community Care Act.

23          (36) Beginning August 2, 2001, computers and  
24          communications equipment utilized for any hospital purpose and  
25          equipment used in the diagnosis, analysis, or treatment of  
26          hospital patients sold to a lessor who leases the equipment,



1 under a lease of one year or longer executed or in effect at  
2 the time of the purchase, to a hospital that has been issued an  
3 active tax exemption identification number by the Department  
4 under Section 1g of this Act. This paragraph is exempt from the  
5 provisions of Section 2-70.

6 (37) Beginning August 2, 2001, personal property sold to a  
7 lessor who leases the property, under a lease of one year or  
8 longer executed or in effect at the time of the purchase, to a  
9 governmental body that has been issued an active tax exemption  
10 identification number by the Department under Section 1g of  
11 this Act. This paragraph is exempt from the provisions of  
12 Section 2-70.

13 (38) Beginning on January 1, 2002 and through June 30,  
14 2011, tangible personal property purchased from an Illinois  
15 retailer by a taxpayer engaged in centralized purchasing  
16 activities in Illinois who will, upon receipt of the property  
17 in Illinois, temporarily store the property in Illinois (i) for  
18 the purpose of subsequently transporting it outside this State  
19 for use or consumption thereafter solely outside this State or  
20 (ii) for the purpose of being processed, fabricated, or  
21 manufactured into, attached to, or incorporated into other  
22 tangible personal property to be transported outside this State  
23 and thereafter used or consumed solely outside this State. The  
24 Director of Revenue shall, pursuant to rules adopted in  
25 accordance with the Illinois Administrative Procedure Act,  
26 issue a permit to any taxpayer in good standing with the

1 Department who is eligible for the exemption under this  
2 paragraph (38). The permit issued under this paragraph (38)  
3 shall authorize the holder, to the extent and in the manner  
4 specified in the rules adopted under this Act, to purchase  
5 tangible personal property from a retailer exempt from the  
6 taxes imposed by this Act. Taxpayers shall maintain all  
7 necessary books and records to substantiate the use and  
8 consumption of all such tangible personal property outside of  
9 the State of Illinois.

10 (39) Beginning January 1, 2008, tangible personal property  
11 used in the construction or maintenance of a community water  
12 supply, as defined under Section 3.145 of the Environmental  
13 Protection Act, that is operated by a not-for-profit  
14 corporation that holds a valid water supply permit issued under  
15 Title IV of the Environmental Protection Act. This paragraph is  
16 exempt from the provisions of Section 2-70.

17 (40) Beginning January 1, 2010, materials, parts,  
18 equipment, components, and furnishings incorporated into or  
19 upon an aircraft as part of the modification, refurbishment,  
20 completion, replacement, repair, or maintenance of the  
21 aircraft. This exemption includes consumable supplies used in  
22 the modification, refurbishment, completion, replacement,  
23 repair, and maintenance of aircraft, but excludes any  
24 materials, parts, equipment, components, and consumable  
25 supplies used in the modification, replacement, repair, and  
26 maintenance of aircraft engines or power plants, whether such

1 engines or power plants are installed or uninstalled upon any  
2 such aircraft. "Consumable supplies" include, but are not  
3 limited to, adhesive, tape, sandpaper, general purpose  
4 lubricants, cleaning solution, latex gloves, and protective  
5 films. This exemption applies only to those organizations that  
6 (i) hold an Air Agency Certificate and are empowered to operate  
7 an approved repair station by the Federal Aviation  
8 Administration, (ii) have a Class IV Rating, and (iii) conduct  
9 operations in accordance with Part 145 of the Federal Aviation  
10 Regulations. The exemption does not include aircraft operated  
11 by a commercial air carrier providing scheduled passenger air  
12 service pursuant to authority issued under Part 121 or Part 129  
13 of the Federal Aviation Regulations.

14 (41) Tangible personal property sold to a  
15 public-facilities corporation, as described in Section  
16 11-65-10 of the Illinois Municipal Code, for purposes of  
17 constructing or furnishing a municipal convention hall, but  
18 only if the legal title to the municipal convention hall is  
19 transferred to the municipality without any further  
20 consideration by or on behalf of the municipality at the time  
21 of the completion of the municipal convention hall or upon the  
22 retirement or redemption of any bonds or other debt instruments  
23 issued by the public-facilities corporation in connection with  
24 the development of the municipal convention hall. This  
25 exemption includes existing public-facilities corporations as  
26 provided in Section 11-65-25 of the Illinois Municipal Code.

1 This paragraph is exempt from the provisions of Section 2-70.  
2 (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304,  
3 eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08;  
4 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.  
5 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000,  
6 eff. 7-2-10.)

7 Section 41. The Property Tax Code is amended by changing  
8 Sections 15-168, 15-170, and 15-172 as follows:

9 (35 ILCS 200/15-168)

10 Sec. 15-168. Disabled persons' homestead exemption.

11 (a) Beginning with taxable year 2007, an annual homestead  
12 exemption is granted to disabled persons in the amount of  
13 \$2,000, except as provided in subsection (c), to be deducted  
14 from the property's value as equalized or assessed by the  
15 Department of Revenue. The disabled person shall receive the  
16 homestead exemption upon meeting the following requirements:

17 (1) The property must be occupied as the primary  
18 residence by the disabled person.

19 (2) The disabled person must be liable for paying the  
20 real estate taxes on the property.

21 (3) The disabled person must be an owner of record of  
22 the property or have a legal or equitable interest in the  
23 property as evidenced by a written instrument. In the case  
24 of a leasehold interest in property, the lease must be for

1 a single family residence.

2 A person who is disabled during the taxable year is  
3 eligible to apply for this homestead exemption during that  
4 taxable year. Application must be made during the application  
5 period in effect for the county of residence. If a homestead  
6 exemption has been granted under this Section and the person  
7 awarded the exemption subsequently becomes a resident of a  
8 facility licensed under the Nursing Home Care Act or the ID/DD  
9 ~~MR/DD~~ Community Care Act, then the exemption shall continue (i)  
10 so long as the residence continues to be occupied by the  
11 qualifying person's spouse or (ii) if the residence remains  
12 unoccupied but is still owned by the person qualified for the  
13 homestead exemption.

14 (b) For the purposes of this Section, "disabled person"  
15 means a person unable to engage in any substantial gainful  
16 activity by reason of a medically determinable physical or  
17 mental impairment which can be expected to result in death or  
18 has lasted or can be expected to last for a continuous period  
19 of not less than 12 months. Disabled persons filing claims  
20 under this Act shall submit proof of disability in such form  
21 and manner as the Department shall by rule and regulation  
22 prescribe. Proof that a claimant is eligible to receive  
23 disability benefits under the Federal Social Security Act shall  
24 constitute proof of disability for purposes of this Act.  
25 Issuance of an Illinois Disabled Person Identification Card  
26 stating that the claimant is under a Class 2 disability, as

1 defined in Section 4A of The Illinois Identification Card Act,  
2 shall constitute proof that the person named thereon is a  
3 disabled person for purposes of this Act. A disabled person not  
4 covered under the Federal Social Security Act and not  
5 presenting a Disabled Person Identification Card stating that  
6 the claimant is under a Class 2 disability shall be examined by  
7 a physician designated by the Department, and his status as a  
8 disabled person determined using the same standards as used by  
9 the Social Security Administration. The costs of any required  
10 examination shall be borne by the claimant.

11 (c) For land improved with (i) an apartment building owned  
12 and operated as a cooperative or (ii) a life care facility as  
13 defined under Section 2 of the Life Care Facilities Act that is  
14 considered to be a cooperative, the maximum reduction from the  
15 value of the property, as equalized or assessed by the  
16 Department, shall be multiplied by the number of apartments or  
17 units occupied by a disabled person. The disabled person shall  
18 receive the homestead exemption upon meeting the following  
19 requirements:

20 (1) The property must be occupied as the primary  
21 residence by the disabled person.

22 (2) The disabled person must be liable by contract with  
23 the owner or owners of record for paying the apportioned  
24 property taxes on the property of the cooperative or life  
25 care facility. In the case of a life care facility, the  
26 disabled person must be liable for paying the apportioned

1 property taxes under a life care contract as defined in  
2 Section 2 of the Life Care Facilities Act.

3 (3) The disabled person must be an owner of record of a  
4 legal or equitable interest in the cooperative apartment  
5 building. A leasehold interest does not meet this  
6 requirement.

7 If a homestead exemption is granted under this subsection, the  
8 cooperative association or management firm shall credit the  
9 savings resulting from the exemption to the apportioned tax  
10 liability of the qualifying disabled person. The chief county  
11 assessment officer may request reasonable proof that the  
12 association or firm has properly credited the exemption. A  
13 person who willfully refuses to credit an exemption to the  
14 qualified disabled person is guilty of a Class B misdemeanor.

15 (d) The chief county assessment officer shall determine the  
16 eligibility of property to receive the homestead exemption  
17 according to guidelines established by the Department. After a  
18 person has received an exemption under this Section, an annual  
19 verification of eligibility for the exemption shall be mailed  
20 to the taxpayer.

21 In counties with fewer than 3,000,000 inhabitants, the  
22 chief county assessment officer shall provide to each person  
23 granted a homestead exemption under this Section a form to  
24 designate any other person to receive a duplicate of any notice  
25 of delinquency in the payment of taxes assessed and levied  
26 under this Code on the person's qualifying property. The

1 duplicate notice shall be in addition to the notice required to  
2 be provided to the person receiving the exemption and shall be  
3 given in the manner required by this Code. The person filing  
4 the request for the duplicate notice shall pay an  
5 administrative fee of \$5 to the chief county assessment  
6 officer. The assessment officer shall then file the executed  
7 designation with the county collector, who shall issue the  
8 duplicate notices as indicated by the designation. A  
9 designation may be rescinded by the disabled person in the  
10 manner required by the chief county assessment officer.

11 (e) A taxpayer who claims an exemption under Section 15-165  
12 or 15-169 may not claim an exemption under this Section.

13 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

14 (35 ILCS 200/15-170)

15 Sec. 15-170. Senior Citizens Homestead Exemption. An  
16 annual homestead exemption limited, except as described here  
17 with relation to cooperatives or life care facilities, to a  
18 maximum reduction set forth below from the property's value, as  
19 equalized or assessed by the Department, is granted for  
20 property that is occupied as a residence by a person 65 years  
21 of age or older who is liable for paying real estate taxes on  
22 the property and is an owner of record of the property or has a  
23 legal or equitable interest therein as evidenced by a written  
24 instrument, except for a leasehold interest, other than a  
25 leasehold interest of land on which a single family residence



1 is located, which is occupied as a residence by a person 65  
2 years or older who has an ownership interest therein, legal,  
3 equitable or as a lessee, and on which he or she is liable for  
4 the payment of property taxes. Before taxable year 2004, the  
5 maximum reduction shall be \$2,500 in counties with 3,000,000 or  
6 more inhabitants and \$2,000 in all other counties. For taxable  
7 years 2004 through 2005, the maximum reduction shall be \$3,000  
8 in all counties. For taxable years 2006 and 2007, the maximum  
9 reduction shall be \$3,500 and, for taxable years 2008 and  
10 thereafter, the maximum reduction is \$4,000 in all counties.

11 For land improved with an apartment building owned and  
12 operated as a cooperative, the maximum reduction from the value  
13 of the property, as equalized by the Department, shall be  
14 multiplied by the number of apartments or units occupied by a  
15 person 65 years of age or older who is liable, by contract with  
16 the owner or owners of record, for paying property taxes on the  
17 property and is an owner of record of a legal or equitable  
18 interest in the cooperative apartment building, other than a  
19 leasehold interest. For land improved with a life care  
20 facility, the maximum reduction from the value of the property,  
21 as equalized by the Department, shall be multiplied by the  
22 number of apartments or units occupied by persons 65 years of  
23 age or older, irrespective of any legal, equitable, or  
24 leasehold interest in the facility, who are liable, under a  
25 contract with the owner or owners of record of the facility,  
26 for paying property taxes on the property. In a cooperative or

1 a life care facility where a homestead exemption has been  
2 granted, the cooperative association or the management firm of  
3 the cooperative or facility shall credit the savings resulting  
4 from that exemption only to the apportioned tax liability of  
5 the owner or resident who qualified for the exemption. Any  
6 person who willfully refuses to so credit the savings shall be  
7 guilty of a Class B misdemeanor. Under this Section and  
8 Sections 15-175, 15-176, and 15-177, "life care facility" means  
9 a facility, as defined in Section 2 of the Life Care Facilities  
10 Act, with which the applicant for the homestead exemption has a  
11 life care contract as defined in that Act.

12 When a homestead exemption has been granted under this  
13 Section and the person qualifying subsequently becomes a  
14 resident of a facility licensed under the Assisted Living and  
15 Shared Housing Act, the Nursing Home Care Act, or the ID/DD  
16 ~~MR/DD~~ Community Care Act, the exemption shall continue so long  
17 as the residence continues to be occupied by the qualifying  
18 person's spouse if the spouse is 65 years of age or older, or  
19 if the residence remains unoccupied but is still owned by the  
20 person qualified for the homestead exemption.

21 A person who will be 65 years of age during the current  
22 assessment year shall be eligible to apply for the homestead  
23 exemption during that assessment year. Application shall be  
24 made during the application period in effect for the county of  
25 his residence.

26 Beginning with assessment year 2003, for taxes payable in

1 2004, property that is first occupied as a residence after  
2 January 1 of any assessment year by a person who is eligible  
3 for the senior citizens homestead exemption under this Section  
4 must be granted a pro-rata exemption for the assessment year.  
5 The amount of the pro-rata exemption is the exemption allowed  
6 in the county under this Section divided by 365 and multiplied  
7 by the number of days during the assessment year the property  
8 is occupied as a residence by a person eligible for the  
9 exemption under this Section. The chief county assessment  
10 officer must adopt reasonable procedures to establish  
11 eligibility for this pro-rata exemption.

12 The assessor or chief county assessment officer may  
13 determine the eligibility of a life care facility to receive  
14 the benefits provided by this Section, by affidavit,  
15 application, visual inspection, questionnaire or other  
16 reasonable methods in order to insure that the tax savings  
17 resulting from the exemption are credited by the management  
18 firm to the apportioned tax liability of each qualifying  
19 resident. The assessor may request reasonable proof that the  
20 management firm has so credited the exemption.

21 The chief county assessment officer of each county with  
22 less than 3,000,000 inhabitants shall provide to each person  
23 allowed a homestead exemption under this Section a form to  
24 designate any other person to receive a duplicate of any notice  
25 of delinquency in the payment of taxes assessed and levied  
26 under this Code on the property of the person receiving the

1 exemption. The duplicate notice shall be in addition to the  
2 notice required to be provided to the person receiving the  
3 exemption, and shall be given in the manner required by this  
4 Code. The person filing the request for the duplicate notice  
5 shall pay a fee of \$5 to cover administrative costs to the  
6 supervisor of assessments, who shall then file the executed  
7 designation with the county collector. Notwithstanding any  
8 other provision of this Code to the contrary, the filing of  
9 such an executed designation requires the county collector to  
10 provide duplicate notices as indicated by the designation. A  
11 designation may be rescinded by the person who executed such  
12 designation at any time, in the manner and form required by the  
13 chief county assessment officer.

14 The assessor or chief county assessment officer may  
15 determine the eligibility of residential property to receive  
16 the homestead exemption provided by this Section by  
17 application, visual inspection, questionnaire or other  
18 reasonable methods. The determination shall be made in  
19 accordance with guidelines established by the Department.

20 In counties with 3,000,000 or more inhabitants, beginning  
21 in taxable year 2010, each taxpayer who has been granted an  
22 exemption under this Section must reapply on an annual basis.  
23 The chief county assessment officer shall mail the application  
24 to the taxpayer. In counties with less than 3,000,000  
25 inhabitants, the county board may by resolution provide that if  
26 a person has been granted a homestead exemption under this

1 Section, the person qualifying need not reapply for the  
2 exemption.

3 In counties with less than 3,000,000 inhabitants, if the  
4 assessor or chief county assessment officer requires annual  
5 application for verification of eligibility for an exemption  
6 once granted under this Section, the application shall be  
7 mailed to the taxpayer.

8 The assessor or chief county assessment officer shall  
9 notify each person who qualifies for an exemption under this  
10 Section that the person may also qualify for deferral of real  
11 estate taxes under the Senior Citizens Real Estate Tax Deferral  
12 Act. The notice shall set forth the qualifications needed for  
13 deferral of real estate taxes, the address and telephone number  
14 of county collector, and a statement that applications for  
15 deferral of real estate taxes may be obtained from the county  
16 collector.

17 Notwithstanding Sections 6 and 8 of the State Mandates Act,  
18 no reimbursement by the State is required for the  
19 implementation of any mandate created by this Section.

20 (Source: P.A. 95-644, eff. 10-12-07; 95-876, eff. 8-21-08;  
21 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10;  
22 96-1418, eff. 8-2-10.)

23 (35 ILCS 200/15-172)

24 Sec. 15-172. Senior Citizens Assessment Freeze Homestead  
25 Exemption.

1           (a) This Section may be cited as the Senior Citizens  
2 Assessment Freeze Homestead Exemption.

3           (b) As used in this Section:

4           "Applicant" means an individual who has filed an  
5 application under this Section.

6           "Base amount" means the base year equalized assessed value  
7 of the residence plus the first year's equalized assessed value  
8 of any added improvements which increased the assessed value of  
9 the residence after the base year.

10          "Base year" means the taxable year prior to the taxable  
11 year for which the applicant first qualifies and applies for  
12 the exemption provided that in the prior taxable year the  
13 property was improved with a permanent structure that was  
14 occupied as a residence by the applicant who was liable for  
15 paying real property taxes on the property and who was either  
16 (i) an owner of record of the property or had legal or  
17 equitable interest in the property as evidenced by a written  
18 instrument or (ii) had a legal or equitable interest as a  
19 lessee in the parcel of property that was single family  
20 residence. If in any subsequent taxable year for which the  
21 applicant applies and qualifies for the exemption the equalized  
22 assessed value of the residence is less than the equalized  
23 assessed value in the existing base year (provided that such  
24 equalized assessed value is not based on an assessed value that  
25 results from a temporary irregularity in the property that  
26 reduces the assessed value for one or more taxable years), then

1 that subsequent taxable year shall become the base year until a  
2 new base year is established under the terms of this paragraph.  
3 For taxable year 1999 only, the Chief County Assessment Officer  
4 shall review (i) all taxable years for which the applicant  
5 applied and qualified for the exemption and (ii) the existing  
6 base year. The assessment officer shall select as the new base  
7 year the year with the lowest equalized assessed value. An  
8 equalized assessed value that is based on an assessed value  
9 that results from a temporary irregularity in the property that  
10 reduces the assessed value for one or more taxable years shall  
11 not be considered the lowest equalized assessed value. The  
12 selected year shall be the base year for taxable year 1999 and  
13 thereafter until a new base year is established under the terms  
14 of this paragraph.

15 "Chief County Assessment Officer" means the County  
16 Assessor or Supervisor of Assessments of the county in which  
17 the property is located.

18 "Equalized assessed value" means the assessed value as  
19 equalized by the Illinois Department of Revenue.

20 "Household" means the applicant, the spouse of the  
21 applicant, and all persons using the residence of the applicant  
22 as their principal place of residence.

23 "Household income" means the combined income of the members  
24 of a household for the calendar year preceding the taxable  
25 year.

26 "Income" has the same meaning as provided in Section 3.07

1 of the Senior Citizens and Disabled Persons Property Tax Relief  
2 and Pharmaceutical Assistance Act, except that, beginning in  
3 assessment year 2001, "income" does not include veteran's  
4 benefits.

5 "Internal Revenue Code of 1986" means the United States  
6 Internal Revenue Code of 1986 or any successor law or laws  
7 relating to federal income taxes in effect for the year  
8 preceding the taxable year.

9 "Life care facility that qualifies as a cooperative" means  
10 a facility as defined in Section 2 of the Life Care Facilities  
11 Act.

12 "Maximum income limitation" means:

- 13 (1) \$35,000 prior to taxable year 1999;
- 14 (2) \$40,000 in taxable years 1999 through 2003;
- 15 (3) \$45,000 in taxable years 2004 through 2005;
- 16 (4) \$50,000 in taxable years 2006 and 2007; and
- 17 (5) \$55,000 in taxable year 2008 and thereafter.

18 "Residence" means the principal dwelling place and  
19 appurtenant structures used for residential purposes in this  
20 State occupied on January 1 of the taxable year by a household  
21 and so much of the surrounding land, constituting the parcel  
22 upon which the dwelling place is situated, as is used for  
23 residential purposes. If the Chief County Assessment Officer  
24 has established a specific legal description for a portion of  
25 property constituting the residence, then that portion of  
26 property shall be deemed the residence for the purposes of this



1 Section.

2 "Taxable year" means the calendar year during which ad  
3 valorem property taxes payable in the next succeeding year are  
4 levied.

5 (c) Beginning in taxable year 1994, a senior citizens  
6 assessment freeze homestead exemption is granted for real  
7 property that is improved with a permanent structure that is  
8 occupied as a residence by an applicant who (i) is 65 years of  
9 age or older during the taxable year, (ii) has a household  
10 income that does not exceed the maximum income limitation,  
11 (iii) is liable for paying real property taxes on the property,  
12 and (iv) is an owner of record of the property or has a legal or  
13 equitable interest in the property as evidenced by a written  
14 instrument. This homestead exemption shall also apply to a  
15 leasehold interest in a parcel of property improved with a  
16 permanent structure that is a single family residence that is  
17 occupied as a residence by a person who (i) is 65 years of age  
18 or older during the taxable year, (ii) has a household income  
19 that does not exceed the maximum income limitation, (iii) has a  
20 legal or equitable ownership interest in the property as  
21 lessee, and (iv) is liable for the payment of real property  
22 taxes on that property.

23 In counties of 3,000,000 or more inhabitants, the amount of  
24 the exemption for all taxable years is the equalized assessed  
25 value of the residence in the taxable year for which  
26 application is made minus the base amount. In all other

1 counties, the amount of the exemption is as follows: (i)  
2 through taxable year 2005 and for taxable year 2007 and  
3 thereafter, the amount of this exemption shall be the equalized  
4 assessed value of the residence in the taxable year for which  
5 application is made minus the base amount; and (ii) for taxable  
6 year 2006, the amount of the exemption is as follows:

7 (1) For an applicant who has a household income of  
8 \$45,000 or less, the amount of the exemption is the  
9 equalized assessed value of the residence in the taxable  
10 year for which application is made minus the base amount.

11 (2) For an applicant who has a household income  
12 exceeding \$45,000 but not exceeding \$46,250, the amount of  
13 the exemption is (i) the equalized assessed value of the  
14 residence in the taxable year for which application is made  
15 minus the base amount (ii) multiplied by 0.8.

16 (3) For an applicant who has a household income  
17 exceeding \$46,250 but not exceeding \$47,500, the amount of  
18 the exemption is (i) the equalized assessed value of the  
19 residence in the taxable year for which application is made  
20 minus the base amount (ii) multiplied by 0.6.

21 (4) For an applicant who has a household income  
22 exceeding \$47,500 but not exceeding \$48,750, the amount of  
23 the exemption is (i) the equalized assessed value of the  
24 residence in the taxable year for which application is made  
25 minus the base amount (ii) multiplied by 0.4.

26 (5) For an applicant who has a household income

1           exceeding \$48,750 but not exceeding \$50,000, the amount of  
2           the exemption is (i) the equalized assessed value of the  
3           residence in the taxable year for which application is made  
4           minus the base amount (ii) multiplied by 0.2.

5           When the applicant is a surviving spouse of an applicant  
6           for a prior year for the same residence for which an exemption  
7           under this Section has been granted, the base year and base  
8           amount for that residence are the same as for the applicant for  
9           the prior year.

10          Each year at the time the assessment books are certified to  
11          the County Clerk, the Board of Review or Board of Appeals shall  
12          give to the County Clerk a list of the assessed values of  
13          improvements on each parcel qualifying for this exemption that  
14          were added after the base year for this parcel and that  
15          increased the assessed value of the property.

16          In the case of land improved with an apartment building  
17          owned and operated as a cooperative or a building that is a  
18          life care facility that qualifies as a cooperative, the maximum  
19          reduction from the equalized assessed value of the property is  
20          limited to the sum of the reductions calculated for each unit  
21          occupied as a residence by a person or persons (i) 65 years of  
22          age or older, (ii) with a household income that does not exceed  
23          the maximum income limitation, (iii) who is liable, by contract  
24          with the owner or owners of record, for paying real property  
25          taxes on the property, and (iv) who is an owner of record of a  
26          legal or equitable interest in the cooperative apartment

1 building, other than a leasehold interest. In the instance of a  
2 cooperative where a homestead exemption has been granted under  
3 this Section, the cooperative association or its management  
4 firm shall credit the savings resulting from that exemption  
5 only to the apportioned tax liability of the owner who  
6 qualified for the exemption. Any person who willfully refuses  
7 to credit that savings to an owner who qualifies for the  
8 exemption is guilty of a Class B misdemeanor.

9 When a homestead exemption has been granted under this  
10 Section and an applicant then becomes a resident of a facility  
11 licensed under the Assisted Living and Shared Housing Act, the  
12 Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act,  
13 the exemption shall be granted in subsequent years so long as  
14 the residence (i) continues to be occupied by the qualified  
15 applicant's spouse or (ii) if remaining unoccupied, is still  
16 owned by the qualified applicant for the homestead exemption.

17 Beginning January 1, 1997, when an individual dies who  
18 would have qualified for an exemption under this Section, and  
19 the surviving spouse does not independently qualify for this  
20 exemption because of age, the exemption under this Section  
21 shall be granted to the surviving spouse for the taxable year  
22 preceding and the taxable year of the death, provided that,  
23 except for age, the surviving spouse meets all other  
24 qualifications for the granting of this exemption for those  
25 years.

26 When married persons maintain separate residences, the

1 exemption provided for in this Section may be claimed by only  
2 one of such persons and for only one residence.

3 For taxable year 1994 only, in counties having less than  
4 3,000,000 inhabitants, to receive the exemption, a person shall  
5 submit an application by February 15, 1995 to the Chief County  
6 Assessment Officer of the county in which the property is  
7 located. In counties having 3,000,000 or more inhabitants, for  
8 taxable year 1994 and all subsequent taxable years, to receive  
9 the exemption, a person may submit an application to the Chief  
10 County Assessment Officer of the county in which the property  
11 is located during such period as may be specified by the Chief  
12 County Assessment Officer. The Chief County Assessment Officer  
13 in counties of 3,000,000 or more inhabitants shall annually  
14 give notice of the application period by mail or by  
15 publication. In counties having less than 3,000,000  
16 inhabitants, beginning with taxable year 1995 and thereafter,  
17 to receive the exemption, a person shall submit an application  
18 by July 1 of each taxable year to the Chief County Assessment  
19 Officer of the county in which the property is located. A  
20 county may, by ordinance, establish a date for submission of  
21 applications that is different than July 1. The applicant shall  
22 submit with the application an affidavit of the applicant's  
23 total household income, age, marital status (and if married the  
24 name and address of the applicant's spouse, if known), and  
25 principal dwelling place of members of the household on January  
26 1 of the taxable year. The Department shall establish, by rule,

1 a method for verifying the accuracy of affidavits filed by  
2 applicants under this Section, and the Chief County Assessment  
3 Officer may conduct audits of any taxpayer claiming an  
4 exemption under this Section to verify that the taxpayer is  
5 eligible to receive the exemption. Each application shall  
6 contain or be verified by a written declaration that it is made  
7 under the penalties of perjury. A taxpayer's signing a  
8 fraudulent application under this Act is perjury, as defined in  
9 Section 32-2 of the Criminal Code of 1961. The applications  
10 shall be clearly marked as applications for the Senior Citizens  
11 Assessment Freeze Homestead Exemption and must contain a notice  
12 that any taxpayer who receives the exemption is subject to an  
13 audit by the Chief County Assessment Officer.

14 Notwithstanding any other provision to the contrary, in  
15 counties having fewer than 3,000,000 inhabitants, if an  
16 applicant fails to file the application required by this  
17 Section in a timely manner and this failure to file is due to a  
18 mental or physical condition sufficiently severe so as to  
19 render the applicant incapable of filing the application in a  
20 timely manner, the Chief County Assessment Officer may extend  
21 the filing deadline for a period of 30 days after the applicant  
22 regains the capability to file the application, but in no case  
23 may the filing deadline be extended beyond 3 months of the  
24 original filing deadline. In order to receive the extension  
25 provided in this paragraph, the applicant shall provide the  
26 Chief County Assessment Officer with a signed statement from

1 the applicant's physician stating the nature and extent of the  
2 condition, that, in the physician's opinion, the condition was  
3 so severe that it rendered the applicant incapable of filing  
4 the application in a timely manner, and the date on which the  
5 applicant regained the capability to file the application.

6 Beginning January 1, 1998, notwithstanding any other  
7 provision to the contrary, in counties having fewer than  
8 3,000,000 inhabitants, if an applicant fails to file the  
9 application required by this Section in a timely manner and  
10 this failure to file is due to a mental or physical condition  
11 sufficiently severe so as to render the applicant incapable of  
12 filing the application in a timely manner, the Chief County  
13 Assessment Officer may extend the filing deadline for a period  
14 of 3 months. In order to receive the extension provided in this  
15 paragraph, the applicant shall provide the Chief County  
16 Assessment Officer with a signed statement from the applicant's  
17 physician stating the nature and extent of the condition, and  
18 that, in the physician's opinion, the condition was so severe  
19 that it rendered the applicant incapable of filing the  
20 application in a timely manner.

21 In counties having less than 3,000,000 inhabitants, if an  
22 applicant was denied an exemption in taxable year 1994 and the  
23 denial occurred due to an error on the part of an assessment  
24 official, or his or her agent or employee, then beginning in  
25 taxable year 1997 the applicant's base year, for purposes of  
26 determining the amount of the exemption, shall be 1993 rather

1 than 1994. In addition, in taxable year 1997, the applicant's  
2 exemption shall also include an amount equal to (i) the amount  
3 of any exemption denied to the applicant in taxable year 1995  
4 as a result of using 1994, rather than 1993, as the base year,  
5 (ii) the amount of any exemption denied to the applicant in  
6 taxable year 1996 as a result of using 1994, rather than 1993,  
7 as the base year, and (iii) the amount of the exemption  
8 erroneously denied for taxable year 1994.

9 For purposes of this Section, a person who will be 65 years  
10 of age during the current taxable year shall be eligible to  
11 apply for the homestead exemption during that taxable year.  
12 Application shall be made during the application period in  
13 effect for the county of his or her residence.

14 The Chief County Assessment Officer may determine the  
15 eligibility of a life care facility that qualifies as a  
16 cooperative to receive the benefits provided by this Section by  
17 use of an affidavit, application, visual inspection,  
18 questionnaire, or other reasonable method in order to insure  
19 that the tax savings resulting from the exemption are credited  
20 by the management firm to the apportioned tax liability of each  
21 qualifying resident. The Chief County Assessment Officer may  
22 request reasonable proof that the management firm has so  
23 credited that exemption.

24 Except as provided in this Section, all information  
25 received by the chief county assessment officer or the  
26 Department from applications filed under this Section, or from



1 any investigation conducted under the provisions of this  
2 Section, shall be confidential, except for official purposes or  
3 pursuant to official procedures for collection of any State or  
4 local tax or enforcement of any civil or criminal penalty or  
5 sanction imposed by this Act or by any statute or ordinance  
6 imposing a State or local tax. Any person who divulges any such  
7 information in any manner, except in accordance with a proper  
8 judicial order, is guilty of a Class A misdemeanor.

9 Nothing contained in this Section shall prevent the  
10 Director or chief county assessment officer from publishing or  
11 making available reasonable statistics concerning the  
12 operation of the exemption contained in this Section in which  
13 the contents of claims are grouped into aggregates in such a  
14 way that information contained in any individual claim shall  
15 not be disclosed.

16 (d) Each Chief County Assessment Officer shall annually  
17 publish a notice of availability of the exemption provided  
18 under this Section. The notice shall be published at least 60  
19 days but no more than 75 days prior to the date on which the  
20 application must be submitted to the Chief County Assessment  
21 Officer of the county in which the property is located. The  
22 notice shall appear in a newspaper of general circulation in  
23 the county.

24 Notwithstanding Sections 6 and 8 of the State Mandates Act,  
25 no reimbursement by the State is required for the  
26 implementation of any mandate created by this Section.

1 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;  
2 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

3 Section 42. The Counties Code is amended by changing  
4 Section 5-25013 as follows:

5 (55 ILCS 5/5-25013) (from Ch. 34, par. 5-25013)

6 Sec. 5-25013. Organization of board; powers and duties.

7 (A) The board of health of each county or multiple-county  
8 health department shall, immediately after appointment, meet  
9 and organize, by the election of one of its number as president  
10 and one as secretary, and either from its number or otherwise,  
11 a treasurer and such other officers as it may deem necessary. A  
12 board of health may make and adopt such rules for its own  
13 guidance and for the government of the health department as may  
14 be deemed necessary to protect and improve public health not  
15 inconsistent with this Division. It shall:

16 1. Hold a meeting prior to the end of each operating  
17 fiscal year, at which meeting officers shall be elected for  
18 the ensuing operating fiscal year;

19 2. Hold meetings at least quarterly;

20 3. Hold special meetings upon a written request signed  
21 by two members and filed with the Secretary or on request  
22 of the medical health officer or public health  
23 administrator;

24 4. Provide, equip and maintain suitable offices,

1 facilities and appliances for the health department;

2 5. Publish annually, within 90 days after the end of  
3 the county's operating fiscal year, in pamphlet form, for  
4 free distribution, an annual report showing the condition  
5 of its trust on the last day of the most recently completed  
6 operating fiscal year, the sums of money received from all  
7 sources, giving the name of any donor, how all moneys have  
8 been expended and for what purpose, and such other  
9 statistics and information in regard to the work of the  
10 health department as it may deem of general interest;

11 6. Within its jurisdiction, and professional and  
12 technical competence, enforce and observe all State laws  
13 pertaining to the preservation of health, and all county  
14 and municipal ordinances except as otherwise provided in  
15 this Division;

16 7. Within its jurisdiction, and professional and  
17 technical competence, investigate the existence of any  
18 contagious or infectious disease and adopt measures, not  
19 inconsistent with the regulations of the State Department  
20 of Public Health, to arrest the progress of the same;

21 8. Within its jurisdiction, and professional and  
22 technical competence, make all necessary sanitary and  
23 health investigations and inspections;

24 9. Upon request, give professional advice and  
25 information to all city, village, incorporated town and  
26 school authorities, within its jurisdiction, in all

1 matters pertaining to sanitation and public health;

2 10. Appoint a medical health officer as the executive  
3 officer for the department, who shall be a citizen of the  
4 United States and shall possess such qualifications as may  
5 be prescribed by the State Department of Public Health; or  
6 appoint a public health administrator who shall possess  
7 such qualifications as may be prescribed by the State  
8 Department of Public Health as the executive officer for  
9 the department, provided that the board of health shall  
10 make available medical supervision which is considered  
11 adequate by the Director of Public Health;

12 10 1/2. Appoint such professional employees as may be  
13 approved by the executive officer who meet the  
14 qualification requirements of the State Department of  
15 Public Health for their respective positions provided,  
16 that in those health departments temporarily without a  
17 medical health officer or public health administrator  
18 approval by the State Department of Public Health shall  
19 suffice;

20 11. Appoint such other officers and employees as may be  
21 necessary;

22 12. Prescribe the powers and duties of all officers and  
23 employees, fix their compensation, and authorize payment  
24 of the same and all other department expenses from the  
25 County Health Fund of the county or counties concerned;

26 13. Submit an annual budget to the county board or

1 boards;

2 14. Submit an annual report to the county board or  
3 boards, explaining all of its activities and expenditures;

4 15. Establish and carry out programs and services in  
5 mental health, including intellectual disabilities ~~mental~~  
6 ~~retardation~~ and alcoholism and substance abuse, not  
7 inconsistent with the regulations of the Department of  
8 Human Services;

9 16. Consult with all other private and public health  
10 agencies in the county in the development of local plans  
11 for the most efficient delivery of health services.

12 (B) The board of health of each county or multiple-county  
13 health department may:

14 1. Initiate and carry out programs and activities of  
15 all kinds, not inconsistent with law, that may be deemed  
16 necessary or desirable in the promotion and protection of  
17 health and in the control of disease including  
18 tuberculosis;

19 2. Receive contributions of real and personal  
20 property;

21 3. Recommend to the county board or boards the adoption  
22 of such ordinances and of such rules and regulations as may  
23 be deemed necessary or desirable for the promotion and  
24 protection of health and control of disease;

25 4. Appoint a medical and dental advisory committee and  
26 a non-medical advisory committee to the health department;

1           5. Enter into contracts with the State,  
2 municipalities, other political subdivisions and  
3 non-official agencies for the purchase, sale or exchange of  
4 health services;

5           6. Set fees it deems reasonable and necessary (i) to  
6 provide services or perform regulatory activities, (ii)  
7 when required by State or federal grant award conditions,  
8 (iii) to support activities delegated to the board of  
9 health by the Illinois Department of Public Health, or (iv)  
10 when required by an agreement between the board of health  
11 and other private or governmental organizations, unless  
12 the fee has been established as a part of a regulatory  
13 ordinance adopted by the county board, in which case the  
14 board of health shall make recommendations to the county  
15 board concerning those fees. Revenue generated under this  
16 Section shall be deposited into the County Health Fund or  
17 to the account of the multiple-county health department.

18           7. Enter into multiple year employment contracts with  
19 the medical health officer or public health administrator  
20 as may be necessary for the recruitment and retention of  
21 personnel and the proper functioning of the health  
22 department.

23           (C) The board of health of a multiple-county health  
24 department may hire attorneys to represent and advise the  
25 department concerning matters that are not within the exclusive  
26 jurisdiction of the State's Attorney of one of the counties

1 that created the department.

2 (Source: P.A. 89-272, eff. 8-10-95; 89-507, eff. 7-1-97.)

3 Section 45. The County Care for Persons with Developmental  
4 Disabilities Act is amended by changing the title of the Act  
5 and by changing Sections 1, 1.1, and 1.2 as follows:

6 (55 ILCS 105/Act title)

7 An Act concerning the care and treatment of persons who are  
8 intellectually disabled ~~mentally retarded~~ or under  
9 developmental disability.

10 (55 ILCS 105/1) (from Ch. 91 1/2, par. 201)

11 Sec. 1. Facilities or services; tax levy. Any county may  
12 provide facilities or services for the benefit of its residents  
13 who are intellectually disabled ~~mentally retarded~~ or under a  
14 developmental disability and who are not eligible to  
15 participate in any such program conducted under Article 14 of  
16 the School Code, or may contract therefor with any privately or  
17 publicly operated entity which provides facilities or services  
18 either in or out of such county.

19 For such purpose, the county board may levy an annual tax  
20 of not to exceed .1% upon all of the taxable property in the  
21 county at the value thereof, as equalized or assessed by the  
22 Department of Revenue. Taxes first levied under this Section on  
23 or after the effective date of this amendatory Act of the 96th

1 General Assembly are subject to referendum approval under  
2 Section 1.1 or 1.2 of this Act. Such tax shall be levied and  
3 collected in the same manner as other county taxes, but shall  
4 not be included in any limitation otherwise prescribed as to  
5 the rate or amount of county taxes but shall be in addition  
6 thereto and in excess thereof. When collected, such tax shall  
7 be paid into a special fund in the county treasury, to be  
8 designated as the "Fund for Persons With a Developmental  
9 Disability", and shall be used only for the purpose specified  
10 in this Section. The levying of this annual tax shall not  
11 preclude the county from the use of other federal, State, or  
12 local funds for the purpose of providing facilities or services  
13 for the care and treatment of its residents who are mentally  
14 retarded or under a developmental disability.

15 (Source: P.A. 96-1350, eff. 7-28-10.)

16 (55 ILCS 105/1.1)

17 Sec. 1.1. Petition for submission to referendum by county.

18 (a) If, on and after the effective date of this amendatory  
19 Act of the 96th General Assembly, the county board passes an  
20 ordinance or resolution as provided in Section 1 of this Act  
21 asking that an annual tax may be levied for the purpose of  
22 providing facilities or services set forth in that Section and  
23 so instructs the county clerk, the clerk shall certify the  
24 proposition to the proper election officials for submission at  
25 the next general county election. The proposition shall be in



1 substantially the following form:

2           Shall ..... County levy an annual tax not to exceed  
3           0.1% upon the equalized assessed value of all taxable  
4           property in the county for the purposes of providing  
5           facilities or services for the benefit of its residents who  
6           are intellectually disabled ~~mentally retarded~~ or under a  
7           developmental disability and who are not eligible to  
8           participate in any program provided under Article 14 of the  
9           School Code, 105 ILCS 5/14.1-1.01 et seq., including  
10          contracting for those facilities or services with any  
11          privately or publicly operated entity that provides those  
12          facilities or services either in or out of the county?

13           (b) If a majority of the votes cast upon the proposition  
14          are in favor thereof, such tax levy shall be authorized and the  
15          county shall levy a tax not to exceed the rate set forth in  
16          Section 1 of this Act.

17          (Source: P.A. 96-1350, eff. 7-28-10.)

18           (55 ILCS 105/1.2)

19           Sec. 1.2. Petition for submission to referendum by  
20          electors.

21           (a) Whenever a petition for submission to referendum by the  
22          electors which requests the establishment and maintenance of  
23          facilities or services for the benefit of its residents with a  
24          developmental disability and the levy of an annual tax not to  
25          exceed 0.1% upon all the taxable property in the county at the

1 value thereof, as equalized or assessed by the Department of  
2 Revenue, is signed by electors of the county equal in number to  
3 at least 10% of the total votes cast for the office that  
4 received the greatest total number of votes at the last  
5 preceding general county election and is presented to the  
6 county clerk, the clerk shall certify the proposition to the  
7 proper election authorities for submission at the next general  
8 county election. The proposition shall be in substantially the  
9 following form:

10           Shall ..... County levy an annual tax not to exceed  
11           0.1% upon the equalized assessed value of all taxable  
12           property in the county for the purposes of establishing and  
13           maintaining facilities or services for the benefit of its  
14           residents who are intellectually disabled ~~mentally~~  
15           ~~retarded~~ or under a developmental disability and who are  
16           not eligible to participate in any program provided under  
17           Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et  
18           seq., including contracting for those facilities or  
19           services with any privately or publicly operated entity  
20           that provides those facilities or services either in or out  
21           of the county?

22           (b) If a majority of the votes cast upon the proposition  
23           are in favor thereof, such tax levy shall be authorized and the  
24           county shall levy a tax not to exceed the rate set forth in  
25           Section 1 of this Act.

26           (Source: P.A. 96-1350, eff. 7-28-10.)

1           Section 50. The Township Code is amended by changing  
2 Sections 30-145, 190-10, and 260-5 as follows:

3           (60 ILCS 1/30-145)

4           Sec. 30-145. Mental health services. If a township is not  
5 included in a mental health district organized under the  
6 Community Mental Health Act, the electors may authorize the  
7 board of trustees to provide mental health services, including  
8 services for the alcoholic, the drug addicted, and the  
9 intellectually disabled ~~mentally retarded~~, for residents of  
10 the township by disbursing existing funds if available by  
11 contracting with mental health agencies approved by the  
12 Department of Human Services, alcoholism treatment programs  
13 licensed by the Department of Public Health, and drug abuse  
14 facilities and other alcohol and drug abuse services approved  
15 by the Department of Human Services. To be eligible to receive  
16 township funds, an agency, program, facility, or other service  
17 provider must have been in existence for more than one year and  
18 must serve the township area.

19           (Source: P.A. 89-507, eff. 7-1-97; 90-210, eff. 7-25-97.)

20           (60 ILCS 1/190-10)

21           Sec. 190-10. Mental health services. If a township is not  
22 included in a mental health district organized under the  
23 Community Mental Health Act, the township board may provide

1 mental health services (including services for the alcoholic,  
2 the drug addicted, and the intellectually disabled ~~mentally~~  
3 ~~retarded~~) for residents of the township by disbursing funds,  
4 pursuant to an appropriation, to mental health agencies  
5 approved by the Department of Human Services, alcoholism  
6 treatment programs licensed by the Department of Public Health,  
7 drug abuse facilities approved by the Department of Human  
8 Services, and other alcoholism and drug abuse services approved  
9 by the Department of Human Services. To be eligible for  
10 township funds disbursed under this Section, an agency,  
11 program, facility, or other service provider must have been in  
12 existence for more than one year and serve the township area.

13 (Source: P.A. 88-62; 89-507, eff. 7-1-97.)

14 (60 ILCS 1/260-5)

15 Sec. 260-5. Distributions from general fund, generally. To  
16 the extent that moneys in the township general fund have not  
17 been appropriated for other purposes, the township board may  
18 direct that distributions be made from that fund as follows:

19 (1) To (i) school districts maintaining grades 1  
20 through 8 that are wholly or partly located within the  
21 township or (ii) governmental units as defined in Section 1  
22 of the Community Mental Health Act that provide mental  
23 health facilities and services (including facilities and  
24 services for the intellectually disabled ~~mentally~~  
25 ~~retarded~~) under that Act within the township, or (iii)

1 both.

2 (2) To community action agencies that serve township  
3 residents. "Community action agencies" are defined as in  
4 Part A of Title II of the federal Economic Opportunity Act  
5 of 1964.

6 (Source: P.A. 82-783; 88-62.)

7 Section 55. The Public Health District Act is amended by  
8 changing Section 17 as follows:

9 (70 ILCS 905/17) (from Ch. 111 1/2, par. 17)

10 Sec. 17. The medical health officer or administrator shall  
11 have power, and it shall be his or her duty:

12 (1) To be the executive officer of the board of health.

13 (2) To enforce and observe the rules, regulations and  
14 orders of the State Department of Public Health and all  
15 State laws pertaining to the preservation of the health of  
16 the people within the public health district, including  
17 regulations in which the State Department of Public Health  
18 shall require provision of home visitation and other  
19 services for pregnant women, new mothers and infants who  
20 are at risk as defined by that Department that encompass  
21 but are not limited to consultation for parental and child  
22 development, comprehensive health education, nutritional  
23 assessment, dental health, and periodic health screening,  
24 referral and follow-up; the services shall be provided

1 through programs funded by grants from the Department of  
2 Public Health from appropriations to the Department for  
3 that purpose.

4 (3) To exercise the rights, powers and duties of all  
5 township boards of health and county boards of health  
6 within the public health district.

7 (4) To execute and enforce, within the public health  
8 district, all city, village and incorporated town  
9 ordinances relating to public health and sanitation.

10 (5) To investigate the existence of any contagious or  
11 infectious disease within the public health district and to  
12 adopt measures, with the approval of the State Department  
13 of Public Health, to arrest the progress of the same.

14 (6) To make all necessary sanitary and health  
15 investigations and inspections within the public health  
16 district.

17 (7) To establish a dental clinic for the benefit of the  
18 school children of the district.

19 (8) To give professional advice and information to all  
20 city, village, incorporated town and school authorities  
21 within the public health district in all matters pertaining  
22 to sanitation and public health.

23 (9) To devote his or her entire time to his or her  
24 official duties.

25 (10) To establish and execute programs and services in  
26 the field of mental health, including intellectual

1        disabilities ~~mental retardation~~, not inconsistent with the  
2        regulations of the Department of Human Services.

3            (11) If approved by the board of health, to enter into  
4        contracts with municipalities, other political  
5        subdivisions and private agencies for the purchase, sale,  
6        delivery or exchange of health services.

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

8            Section 56. The Regional Transportation Authority Act is  
9        amended by changing Section 4.03 as follows:

10            (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

11            Sec. 4.03. Taxes.

12            (a) In order to carry out any of the powers or purposes of  
13        the Authority, the Board may by ordinance adopted with the  
14        concurrence of 12 of the then Directors, impose throughout the  
15        metropolitan region any or all of the taxes provided in this  
16        Section. Except as otherwise provided in this Act, taxes  
17        imposed under this Section and civil penalties imposed incident  
18        thereto shall be collected and enforced by the State Department  
19        of Revenue. The Department shall have the power to administer  
20        and enforce the taxes and to determine all rights for refunds  
21        for erroneous payments of the taxes. Nothing in this amendatory  
22        Act of the 95th General Assembly is intended to invalidate any  
23        taxes currently imposed by the Authority. The increased vote  
24        requirements to impose a tax shall only apply to actions taken

1 after the effective date of this amendatory Act of the 95th  
2 General Assembly.

3 (b) The Board may impose a public transportation tax upon  
4 all persons engaged in the metropolitan region in the business  
5 of selling at retail motor fuel for operation of motor vehicles  
6 upon public highways. The tax shall be at a rate not to exceed  
7 5% of the gross receipts from the sales of motor fuel in the  
8 course of the business. As used in this Act, the term "motor  
9 fuel" shall have the same meaning as in the Motor Fuel Tax Law.  
10 The Board may provide for details of the tax. The provisions of  
11 any tax shall conform, as closely as may be practicable, to the  
12 provisions of the Municipal Retailers Occupation Tax Act,  
13 including without limitation, conformity to penalties with  
14 respect to the tax imposed and as to the powers of the State  
15 Department of Revenue to promulgate and enforce rules and  
16 regulations relating to the administration and enforcement of  
17 the provisions of the tax imposed, except that reference in the  
18 Act to any municipality shall refer to the Authority and the  
19 tax shall be imposed only with regard to receipts from sales of  
20 motor fuel in the metropolitan region, at rates as limited by  
21 this Section.

22 (c) In connection with the tax imposed under paragraph (b)  
23 of this Section the Board may impose a tax upon the privilege  
24 of using in the metropolitan region motor fuel for the  
25 operation of a motor vehicle upon public highways, the tax to  
26 be at a rate not in excess of the rate of tax imposed under



1 paragraph (b) of this Section. The Board may provide for  
2 details of the tax.

3 (d) The Board may impose a motor vehicle parking tax upon  
4 the privilege of parking motor vehicles at off-street parking  
5 facilities in the metropolitan region at which a fee is  
6 charged, and may provide for reasonable classifications in and  
7 exemptions to the tax, for administration and enforcement  
8 thereof and for civil penalties and refunds thereunder and may  
9 provide criminal penalties thereunder, the maximum penalties  
10 not to exceed the maximum criminal penalties provided in the  
11 Retailers' Occupation Tax Act. The Authority may collect and  
12 enforce the tax itself or by contract with any unit of local  
13 government. The State Department of Revenue shall have no  
14 responsibility for the collection and enforcement unless the  
15 Department agrees with the Authority to undertake the  
16 collection and enforcement. As used in this paragraph, the term  
17 "parking facility" means a parking area or structure having  
18 parking spaces for more than 2 vehicles at which motor vehicles  
19 are permitted to park in return for an hourly, daily, or other  
20 periodic fee, whether publicly or privately owned, but does not  
21 include parking spaces on a public street, the use of which is  
22 regulated by parking meters.

23 (e) The Board may impose a Regional Transportation  
24 Authority Retailers' Occupation Tax upon all persons engaged in  
25 the business of selling tangible personal property at retail in  
26 the metropolitan region. In Cook County the tax rate shall be

1 1.25% of the gross receipts from sales of food for human  
2 consumption that is to be consumed off the premises where it is  
3 sold (other than alcoholic beverages, soft drinks and food that  
4 has been prepared for immediate consumption) and prescription  
5 and nonprescription medicines, drugs, medical appliances and  
6 insulin, urine testing materials, syringes and needles used by  
7 diabetics, and 1% of the gross receipts from other taxable  
8 sales made in the course of that business. In DuPage, Kane,  
9 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%  
10 of the gross receipts from all taxable sales made in the course  
11 of that business. The tax imposed under this Section and all  
12 civil penalties that may be assessed as an incident thereof  
13 shall be collected and enforced by the State Department of  
14 Revenue. The Department shall have full power to administer and  
15 enforce this Section; to collect all taxes and penalties so  
16 collected in the manner hereinafter provided; and to determine  
17 all rights to credit memoranda arising on account of the  
18 erroneous payment of tax or penalty hereunder. In the  
19 administration of, and compliance with this Section, the  
20 Department and persons who are subject to this Section shall  
21 have the same rights, remedies, privileges, immunities, powers  
22 and duties, and be subject to the same conditions,  
23 restrictions, limitations, penalties, exclusions, exemptions  
24 and definitions of terms, and employ the same modes of  
25 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,  
26 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions

1 therein other than the State rate of tax), 2c, 3 (except as to  
2 the disposition of taxes and penalties collected), 4, 5, 5a,  
3 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,  
4 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and  
5 Section 3-7 of the Uniform Penalty and Interest Act, as fully  
6 as if those provisions were set forth herein.

7       Persons subject to any tax imposed under the authority  
8 granted in this Section may reimburse themselves for their  
9 seller's tax liability hereunder by separately stating the tax  
10 as an additional charge, which charge may be stated in  
11 combination in a single amount with State taxes that sellers  
12 are required to collect under the Use Tax Act, under any  
13 bracket schedules the Department may prescribe.

14       Whenever the Department determines that a refund should be  
15 made under this Section to a claimant instead of issuing a  
16 credit memorandum, the Department shall notify the State  
17 Comptroller, who shall cause the warrant to be drawn for the  
18 amount specified, and to the person named, in the notification  
19 from the Department. The refund shall be paid by the State  
20 Treasurer out of the Regional Transportation Authority tax fund  
21 established under paragraph (n) of this Section.

22       If a tax is imposed under this subsection (e), a tax shall  
23 also be imposed under subsections (f) and (g) of this Section.

24       For the purpose of determining whether a tax authorized  
25 under this Section is applicable, a retail sale by a producer  
26 of coal or other mineral mined in Illinois, is a sale at retail

1 at the place where the coal or other mineral mined in Illinois  
2 is extracted from the earth. This paragraph does not apply to  
3 coal or other mineral when it is delivered or shipped by the  
4 seller to the purchaser at a point outside Illinois so that the  
5 sale is exempt under the Federal Constitution as a sale in  
6 interstate or foreign commerce.

7 No tax shall be imposed or collected under this subsection  
8 on the sale of a motor vehicle in this State to a resident of  
9 another state if that motor vehicle will not be titled in this  
10 State.

11 Nothing in this Section shall be construed to authorize the  
12 Regional Transportation Authority to impose a tax upon the  
13 privilege of engaging in any business that under the  
14 Constitution of the United States may not be made the subject  
15 of taxation by this State.

16 (f) If a tax has been imposed under paragraph (e), a  
17 Regional Transportation Authority Service Occupation Tax shall  
18 also be imposed upon all persons engaged, in the metropolitan  
19 region in the business of making sales of service, who as an  
20 incident to making the sales of service, transfer tangible  
21 personal property within the metropolitan region, either in the  
22 form of tangible personal property or in the form of real  
23 estate as an incident to a sale of service. In Cook County, the  
24 tax rate shall be: (1) 1.25% of the serviceman's cost price of  
25 food prepared for immediate consumption and transferred  
26 incident to a sale of service subject to the service occupation

1 tax by an entity licensed under the Hospital Licensing Act, the  
2 Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act  
3 that is located in the metropolitan region; (2) 1.25% of the  
4 selling price of food for human consumption that is to be  
5 consumed off the premises where it is sold (other than  
6 alcoholic beverages, soft drinks and food that has been  
7 prepared for immediate consumption) and prescription and  
8 nonprescription medicines, drugs, medical appliances and  
9 insulin, urine testing materials, syringes and needles used by  
10 diabetics; and (3) 1% of the selling price from other taxable  
11 sales of tangible personal property transferred. In DuPage,  
12 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%  
13 of the selling price of all tangible personal property  
14 transferred.

15 The tax imposed under this paragraph and all civil  
16 penalties that may be assessed as an incident thereof shall be  
17 collected and enforced by the State Department of Revenue. The  
18 Department shall have full power to administer and enforce this  
19 paragraph; to collect all taxes and penalties due hereunder; to  
20 dispose of taxes and penalties collected in the manner  
21 hereinafter provided; and to determine all rights to credit  
22 memoranda arising on account of the erroneous payment of tax or  
23 penalty hereunder. In the administration of and compliance with  
24 this paragraph, the Department and persons who are subject to  
25 this paragraph shall have the same rights, remedies,  
26 privileges, immunities, powers and duties, and be subject to

1 the same conditions, restrictions, limitations, penalties,  
2 exclusions, exemptions and definitions of terms, and employ the  
3 same modes of procedure, as are prescribed in Sections 1a-1, 2,  
4 2a, 3 through 3-50 (in respect to all provisions therein other  
5 than the State rate of tax), 4 (except that the reference to  
6 the State shall be to the Authority), 5, 7, 8 (except that the  
7 jurisdiction to which the tax shall be a debt to the extent  
8 indicated in that Section 8 shall be the Authority), 9 (except  
9 as to the disposition of taxes and penalties collected, and  
10 except that the returned merchandise credit for this tax may  
11 not be taken against any State tax), 10, 11, 12 (except the  
12 reference therein to Section 2b of the Retailers' Occupation  
13 Tax Act), 13 (except that any reference to the State shall mean  
14 the Authority), the first paragraph of Section 15, 16, 17, 18,  
15 19 and 20 of the Service Occupation Tax Act and Section 3-7 of  
16 the Uniform Penalty and Interest Act, as fully as if those  
17 provisions were set forth herein.

18 Persons subject to any tax imposed under the authority  
19 granted in this paragraph may reimburse themselves for their  
20 serviceman's tax liability hereunder by separately stating the  
21 tax as an additional charge, that charge may be stated in  
22 combination in a single amount with State tax that servicemen  
23 are authorized to collect under the Service Use Tax Act, under  
24 any bracket schedules the Department may prescribe.

25 Whenever the Department determines that a refund should be  
26 made under this paragraph to a claimant instead of issuing a

1 credit memorandum, the Department shall notify the State  
2 Comptroller, who shall cause the warrant to be drawn for the  
3 amount specified, and to the person named in the notification  
4 from the Department. The refund shall be paid by the State  
5 Treasurer out of the Regional Transportation Authority tax fund  
6 established under paragraph (n) of this Section.

7 Nothing in this paragraph shall be construed to authorize  
8 the Authority to impose a tax upon the privilege of engaging in  
9 any business that under the Constitution of the United States  
10 may not be made the subject of taxation by the State.

11 (g) If a tax has been imposed under paragraph (e), a tax  
12 shall also be imposed upon the privilege of using in the  
13 metropolitan region, any item of tangible personal property  
14 that is purchased outside the metropolitan region at retail  
15 from a retailer, and that is titled or registered with an  
16 agency of this State's government. In Cook County the tax rate  
17 shall be 1% of the selling price of the tangible personal  
18 property, as "selling price" is defined in the Use Tax Act. In  
19 DuPage, Kane, Lake, McHenry and Will counties the tax rate  
20 shall be 0.75% of the selling price of the tangible personal  
21 property, as "selling price" is defined in the Use Tax Act. The  
22 tax shall be collected from persons whose Illinois address for  
23 titling or registration purposes is given as being in the  
24 metropolitan region. The tax shall be collected by the  
25 Department of Revenue for the Regional Transportation  
26 Authority. The tax must be paid to the State, or an exemption

1 determination must be obtained from the Department of Revenue,  
2 before the title or certificate of registration for the  
3 property may be issued. The tax or proof of exemption may be  
4 transmitted to the Department by way of the State agency with  
5 which, or the State officer with whom, the tangible personal  
6 property must be titled or registered if the Department and the  
7 State agency or State officer determine that this procedure  
8 will expedite the processing of applications for title or  
9 registration.

10 The Department shall have full power to administer and  
11 enforce this paragraph; to collect all taxes, penalties and  
12 interest due hereunder; to dispose of taxes, penalties and  
13 interest collected in the manner hereinafter provided; and to  
14 determine all rights to credit memoranda or refunds arising on  
15 account of the erroneous payment of tax, penalty or interest  
16 hereunder. In the administration of and compliance with this  
17 paragraph, the Department and persons who are subject to this  
18 paragraph shall have the same rights, remedies, privileges,  
19 immunities, powers and duties, and be subject to the same  
20 conditions, restrictions, limitations, penalties, exclusions,  
21 exemptions and definitions of terms and employ the same modes  
22 of procedure, as are prescribed in Sections 2 (except the  
23 definition of "retailer maintaining a place of business in this  
24 State"), 3 through 3-80 (except provisions pertaining to the  
25 State rate of tax, and except provisions concerning collection  
26 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,



1 19 (except the portions pertaining to claims by retailers and  
2 except the last paragraph concerning refunds), 20, 21 and 22 of  
3 the Use Tax Act, and are not inconsistent with this paragraph,  
4 as fully as if those provisions were set forth herein.

5 Whenever the Department determines that a refund should be  
6 made under this paragraph to a claimant instead of issuing a  
7 credit memorandum, the Department shall notify the State  
8 Comptroller, who shall cause the order to be drawn for the  
9 amount specified, and to the person named in the notification  
10 from the Department. The refund shall be paid by the State  
11 Treasurer out of the Regional Transportation Authority tax fund  
12 established under paragraph (n) of this Section.

13 (h) The Authority may impose a replacement vehicle tax of  
14 \$50 on any passenger car as defined in Section 1-157 of the  
15 Illinois Vehicle Code purchased within the metropolitan region  
16 by or on behalf of an insurance company to replace a passenger  
17 car of an insured person in settlement of a total loss claim.  
18 The tax imposed may not become effective before the first day  
19 of the month following the passage of the ordinance imposing  
20 the tax and receipt of a certified copy of the ordinance by the  
21 Department of Revenue. The Department of Revenue shall collect  
22 the tax for the Authority in accordance with Sections 3-2002  
23 and 3-2003 of the Illinois Vehicle Code.

24 The Department shall immediately pay over to the State  
25 Treasurer, ex officio, as trustee, all taxes collected  
26 hereunder.

1           As soon as possible after the first day of each month,  
2 beginning January 1, 2011, upon certification of the Department  
3 of Revenue, the Comptroller shall order transferred, and the  
4 Treasurer shall transfer, to the STAR Bonds Revenue Fund the  
5 local sales tax increment, as defined in the Innovation  
6 Development and Economy Act, collected under this Section  
7 during the second preceding calendar month for sales within a  
8 STAR bond district.

9           After the monthly transfer to the STAR Bonds Revenue Fund,  
10 on or before the 25th day of each calendar month, the  
11 Department shall prepare and certify to the Comptroller the  
12 disbursement of stated sums of money to the Authority. The  
13 amount to be paid to the Authority shall be the amount  
14 collected hereunder during the second preceding calendar month  
15 by the Department, less any amount determined by the Department  
16 to be necessary for the payment of refunds, and less any  
17 amounts that are transferred to the STAR Bonds Revenue Fund.  
18 Within 10 days after receipt by the Comptroller of the  
19 disbursement certification to the Authority provided for in  
20 this Section to be given to the Comptroller by the Department,  
21 the Comptroller shall cause the orders to be drawn for that  
22 amount in accordance with the directions contained in the  
23 certification.

24           (i) The Board may not impose any other taxes except as it  
25 may from time to time be authorized by law to impose.

26           (j) A certificate of registration issued by the State

1 Department of Revenue to a retailer under the Retailers'  
2 Occupation Tax Act or under the Service Occupation Tax Act  
3 shall permit the registrant to engage in a business that is  
4 taxed under the tax imposed under paragraphs (b), (e), (f) or  
5 (g) of this Section and no additional registration shall be  
6 required under the tax. A certificate issued under the Use Tax  
7 Act or the Service Use Tax Act shall be applicable with regard  
8 to any tax imposed under paragraph (c) of this Section.

9 (k) The provisions of any tax imposed under paragraph (c)  
10 of this Section shall conform as closely as may be practicable  
11 to the provisions of the Use Tax Act, including without  
12 limitation conformity as to penalties with respect to the tax  
13 imposed and as to the powers of the State Department of Revenue  
14 to promulgate and enforce rules and regulations relating to the  
15 administration and enforcement of the provisions of the tax  
16 imposed. The taxes shall be imposed only on use within the  
17 metropolitan region and at rates as provided in the paragraph.

18 (l) The Board in imposing any tax as provided in paragraphs  
19 (b) and (c) of this Section, shall, after seeking the advice of  
20 the State Department of Revenue, provide means for retailers,  
21 users or purchasers of motor fuel for purposes other than those  
22 with regard to which the taxes may be imposed as provided in  
23 those paragraphs to receive refunds of taxes improperly paid,  
24 which provisions may be at variance with the refund provisions  
25 as applicable under the Municipal Retailers Occupation Tax Act.  
26 The State Department of Revenue may provide for certificates of

1 registration for users or purchasers of motor fuel for purposes  
2 other than those with regard to which taxes may be imposed as  
3 provided in paragraphs (b) and (c) of this Section to  
4 facilitate the reporting and nontaxability of the exempt sales  
5 or uses.

6 (m) Any ordinance imposing or discontinuing any tax under  
7 this Section shall be adopted and a certified copy thereof  
8 filed with the Department on or before June 1, whereupon the  
9 Department of Revenue shall proceed to administer and enforce  
10 this Section on behalf of the Regional Transportation Authority  
11 as of September 1 next following such adoption and filing.  
12 Beginning January 1, 1992, an ordinance or resolution imposing  
13 or discontinuing the tax hereunder shall be adopted and a  
14 certified copy thereof filed with the Department on or before  
15 the first day of July, whereupon the Department shall proceed  
16 to administer and enforce this Section as of the first day of  
17 October next following such adoption and filing. Beginning  
18 January 1, 1993, an ordinance or resolution imposing,  
19 increasing, decreasing, or discontinuing the tax hereunder  
20 shall be adopted and a certified copy thereof filed with the  
21 Department, whereupon the Department shall proceed to  
22 administer and enforce this Section as of the first day of the  
23 first month to occur not less than 60 days following such  
24 adoption and filing. Any ordinance or resolution of the  
25 Authority imposing a tax under this Section and in effect on  
26 August 1, 2007 shall remain in full force and effect and shall

1 be administered by the Department of Revenue under the terms  
2 and conditions and rates of tax established by such ordinance  
3 or resolution until the Department begins administering and  
4 enforcing an increased tax under this Section as authorized by  
5 this amendatory Act of the 95th General Assembly. The tax rates  
6 authorized by this amendatory Act of the 95th General Assembly  
7 are effective only if imposed by ordinance of the Authority.

8 (n) The State Department of Revenue shall, upon collecting  
9 any taxes as provided in this Section, pay the taxes over to  
10 the State Treasurer as trustee for the Authority. The taxes  
11 shall be held in a trust fund outside the State Treasury. On or  
12 before the 25th day of each calendar month, the State  
13 Department of Revenue shall prepare and certify to the  
14 Comptroller of the State of Illinois and to the Authority (i)  
15 the amount of taxes collected in each County other than Cook  
16 County in the metropolitan region, (ii) the amount of taxes  
17 collected within the City of Chicago, and (iii) the amount  
18 collected in that portion of Cook County outside of Chicago,  
19 each amount less the amount necessary for the payment of  
20 refunds to taxpayers located in those areas described in items  
21 (i), (ii), and (iii). Within 10 days after receipt by the  
22 Comptroller of the certification of the amounts, the  
23 Comptroller shall cause an order to be drawn for the payment of  
24 two-thirds of the amounts certified in item (i) of this  
25 subsection to the Authority and one-third of the amounts  
26 certified in item (i) of this subsection to the respective

1 counties other than Cook County and the amount certified in  
2 items (ii) and (iii) of this subsection to the Authority.

3 In addition to the disbursement required by the preceding  
4 paragraph, an allocation shall be made in July 1991 and each  
5 year thereafter to the Regional Transportation Authority. The  
6 allocation shall be made in an amount equal to the average  
7 monthly distribution during the preceding calendar year  
8 (excluding the 2 months of lowest receipts) and the allocation  
9 shall include the amount of average monthly distribution from  
10 the Regional Transportation Authority Occupation and Use Tax  
11 Replacement Fund. The distribution made in July 1992 and each  
12 year thereafter under this paragraph and the preceding  
13 paragraph shall be reduced by the amount allocated and  
14 disbursed under this paragraph in the preceding calendar year.  
15 The Department of Revenue shall prepare and certify to the  
16 Comptroller for disbursement the allocations made in  
17 accordance with this paragraph.

18 (o) Failure to adopt a budget ordinance or otherwise to  
19 comply with Section 4.01 of this Act or to adopt a Five-year  
20 Capital Program or otherwise to comply with paragraph (b) of  
21 Section 2.01 of this Act shall not affect the validity of any  
22 tax imposed by the Authority otherwise in conformity with law.

23 (p) At no time shall a public transportation tax or motor  
24 vehicle parking tax authorized under paragraphs (b), (c) and  
25 (d) of this Section be in effect at the same time as any  
26 retailers' occupation, use or service occupation tax

1 authorized under paragraphs (e), (f) and (g) of this Section is  
2 in effect.

3 Any taxes imposed under the authority provided in  
4 paragraphs (b), (c) and (d) shall remain in effect only until  
5 the time as any tax authorized by paragraphs (e), (f) or (g) of  
6 this Section are imposed and becomes effective. Once any tax  
7 authorized by paragraphs (e), (f) or (g) is imposed the Board  
8 may not reimpose taxes as authorized in paragraphs (b), (c) and  
9 (d) of the Section unless any tax authorized by paragraphs (e),  
10 (f) or (g) of this Section becomes ineffective by means other  
11 than an ordinance of the Board.

12 (q) Any existing rights, remedies and obligations  
13 (including enforcement by the Regional Transportation  
14 Authority) arising under any tax imposed under paragraphs (b),  
15 (c) or (d) of this Section shall not be affected by the  
16 imposition of a tax under paragraphs (e), (f) or (g) of this  
17 Section.

18 (Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10;  
19 96-939, eff. 6-24-10.)

20 Section 60. The School Code is amended by changing Sections  
21 2-3.83, 14-1.03a, 21-28, and 34-18 as follows:

22 (105 ILCS 5/2-3.83) (from Ch. 122, par. 2-3.83)

23 Sec. 2-3.83. Individual transition plan model pilot  
24 program.

1           (a) The General Assembly finds that transition services for  
2 special education students in secondary schools are needed for  
3 the increasing numbers of students exiting school programs.  
4 Therefore, to ensure coordinated and timely delivery of  
5 services, the State shall establish a model pilot program to  
6 provide such services. Local school districts, using joint  
7 agreements and regional service delivery systems for special  
8 and vocational education selected by the Governor's Planning  
9 Council on Developmental Disabilities, shall have the primary  
10 responsibility to convene transition planning meetings for  
11 these students who will require post-school adult services.

12           (b) For purposes of this Section:

13           (1) "Post-secondary Service Provider" means a provider  
14 of services for adults who have any developmental  
15 disability as defined in Section 1-106 of the Mental Health  
16 and Developmental Disabilities Code or who are disabled as  
17 defined in the Disabled Persons Rehabilitation Act.

18           (2) "Individual Education Plan" means a written  
19 statement for an exceptional child that provides at least a  
20 statement of: the child's present levels of educational  
21 performance, annual goals and short-term instructional  
22 objectives; specific special education and related  
23 services; the extent of participation in the regular  
24 education program; the projected dates for initiation of  
25 services; anticipated duration of services; appropriate  
26 objective criteria and evaluation procedures; and a



1 schedule for annual determination of short-term  
2 objectives.

3 (3) "Individual Transition Plan" (ITP) means a  
4 multi-agency informal assessment of a student's needs for  
5 post-secondary adult services including but not limited to  
6 employment, post-secondary education or training and  
7 residential independent living.

8 (4) "Developmental Disability" means a disability  
9 which is attributable to: (a) an intellectual disability  
10 ~~mental retardation~~, cerebral palsy, epilepsy or autism; or  
11 to (b) any other condition which results in impairment  
12 similar to that caused by an intellectual disability ~~mental~~  
13 ~~retardation~~ and which requires services similar to those  
14 required by intellectually disabled ~~mentally-retarded~~  
15 persons. Such disability must originate before the age of  
16 18 years, be expected to continue indefinitely, and  
17 constitute a substantial handicap.

18 (5) "Exceptional Characteristic" means any disabling  
19 or exceptional characteristic which interferes with a  
20 student's education including, but not limited to, a  
21 determination that the student is severely or profoundly  
22 mentally disabled, trainable mentally disabled,  
23 deaf-blind, or has some other health impairment.

24 (c) The model pilot program required by this Section shall  
25 be established and administered by the Governor's Planning  
26 Council on Developmental Disabilities in conjunction with the

1 case coordination pilot projects established by the Department  
2 of Human Services pursuant to Section 4.1 of the Community  
3 Services Act, as amended.

4 (d) The model pilot program shall include the following  
5 features:

6 (1) Written notice shall be sent to the student and,  
7 when appropriate, his or her parent or guardian giving the  
8 opportunity to consent to having the student's name and  
9 relevant information shared with the local case  
10 coordination unit and other appropriate State or local  
11 agencies for purposes of inviting participants to the  
12 individual transition plan meeting.

13 (2) Meetings to develop and modify, as needed, an  
14 Individual Transition Plan shall be conducted annually for  
15 all students with a developmental disability in the pilot  
16 program area who are age 16 or older and who are receiving  
17 special education services for 50% or more of their public  
18 school program. These meetings shall be convened by the  
19 local school district and conducted in conjunction with any  
20 other regularly scheduled meetings such as the student's  
21 annual individual educational plan meeting. The Governor's  
22 Planning Council on Developmental Disabilities shall  
23 cooperate with and may enter into any necessary written  
24 agreements with the Department of Human Services and the  
25 State Board of Education to identify the target group of  
26 students for transition planning and the appropriate case

1 coordination unit to serve these individuals.

2 (3) The ITP meetings shall be co-chaired by the  
3 individual education plan coordinator and the case  
4 coordinator. The ITP meeting shall include but not be  
5 limited to discussion of the following: the student's  
6 projected date of exit from the public schools; his  
7 projected post-school goals in the areas of employment,  
8 residential living arrangement and post-secondary  
9 education or training; specific school or post-school  
10 services needed during the following year to achieve the  
11 student's goals, including but not limited to vocational  
12 evaluation, vocational education, work experience or  
13 vocational training, placement assistance, independent  
14 living skills training, recreational or leisure training,  
15 income support, medical needs and transportation; and  
16 referrals and linkage to needed services, including a  
17 proposed time frame for services and the responsible agency  
18 or provider. The individual transition plan shall be signed  
19 by participants in the ITP discussion, including but not  
20 limited to the student's parents or guardian, the student  
21 (where appropriate), multi-disciplinary team  
22 representatives from the public schools, the case  
23 coordinator and any other individuals who have  
24 participated in the ITP meeting at the discretion of the  
25 individual education plan coordinator, the developmental  
26 disability case coordinator or the parents or guardian.

1           (4) At least 10 days prior to the ITP meeting, the  
2 parents or guardian of the student shall be notified in  
3 writing of the time and place of the meeting by the local  
4 school district. The ITP discussion shall be documented by  
5 the assigned case coordinator, and an individual student  
6 file shall be maintained by each case coordination unit.  
7 One year following a student's exit from public school the  
8 case coordinator shall conduct a follow up interview with  
9 the student.

10           (5) Determinations with respect to individual  
11 transition plans made under this Section shall not be  
12 subject to any due process requirements prescribed in  
13 Section 14-8.02 of this Code.

14           (e) (Blank).

15           (Source: P.A. 91-96; eff. 7-9-99.)

16           (105 ILCS 5/14-1.03a) (from Ch. 122, par. 14-1.03a)

17           Sec. 14-1.03a. Children with Specific Learning  
18 Disabilities.

19           "Children with Specific Learning Disabilities" means  
20 children between the ages of 3 and 21 years who have a disorder  
21 in one or more of the basic psychological processes involved in  
22 understanding or in using language, spoken or written, which  
23 disorder may manifest itself in imperfect ability to listen,  
24 think, speak, read, write, spell or do mathematical  
25 calculations. Such disorders include such conditions as

1 perceptual disabilities, brain injury, minimal brain  
2 dysfunction, dyslexia, and developmental aphasia. Such term  
3 does not include children who have learning problems which are  
4 primarily the result of visual, hearing or motor disabilities,  
5 of an intellectual disability ~~mental retardation~~, emotional  
6 disturbance or environmental disadvantage.

7 (Source: P.A. 89-397, eff. 8-20-95.)

8 (105 ILCS 5/21-28)

9 Sec. 21-28. Special education teachers; categorical  
10 certification. The State Teacher Certification Board shall  
11 categorically certify a special education teacher in one or  
12 more of the following specialized categories of disability if  
13 the special education teacher applies and qualifies for such  
14 certification:

15 (1) Serious emotional disturbance.

16 (2) Learning disabilities.

17 (3) Autism.

18 (4) Intellectual disabilities ~~Mental retardation~~.

19 (5) Orthopedic (physical) impairment.

20 (6) Traumatic brain injury.

21 (7) Other health impairment.

22 (Source: P.A. 92-709, eff. 7-19-02.)

23 (105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

24 Sec. 34-18. Powers of the board. The board shall exercise

1 general supervision and jurisdiction over the public education  
2 and the public school system of the city, and, except as  
3 otherwise provided by this Article, shall have power:

4 1. To make suitable provision for the establishment and  
5 maintenance throughout the year or for such portion thereof  
6 as it may direct, not less than 9 months, of schools of all  
7 grades and kinds, including normal schools, high schools,  
8 night schools, schools for defectives and delinquents,  
9 parental and truant schools, schools for the blind, the  
10 deaf and the physically disabled ~~crippled~~, schools or  
11 classes in manual training, constructural and vocational  
12 teaching, domestic arts and physical culture, vocation and  
13 extension schools and lecture courses, and all other  
14 educational courses and facilities, including  
15 establishing, equipping, maintaining and operating  
16 playgrounds and recreational programs, when such programs  
17 are conducted in, adjacent to, or connected with any public  
18 school under the general supervision and jurisdiction of  
19 the board; provided that the calendar for the school term  
20 and any changes must be submitted to and approved by the  
21 State Board of Education before the calendar or changes may  
22 take effect, and provided that in allocating funds from  
23 year to year for the operation of all attendance centers  
24 within the district, the board shall ensure that  
25 supplemental general State aid funds are allocated and  
26 applied in accordance with Section 18-8 or 18-8.05. To

1 admit to such schools without charge foreign exchange  
2 students who are participants in an organized exchange  
3 student program which is authorized by the board. The board  
4 shall permit all students to enroll in apprenticeship  
5 programs in trade schools operated by the board, whether  
6 those programs are union-sponsored or not. No student shall  
7 be refused admission into or be excluded from any course of  
8 instruction offered in the common schools by reason of that  
9 student's sex. No student shall be denied equal access to  
10 physical education and interscholastic athletic programs  
11 supported from school district funds or denied  
12 participation in comparable physical education and  
13 athletic programs solely by reason of the student's sex.  
14 Equal access to programs supported from school district  
15 funds and comparable programs will be defined in rules  
16 promulgated by the State Board of Education in consultation  
17 with the Illinois High School Association. Notwithstanding  
18 any other provision of this Article, neither the board of  
19 education nor any local school council or other school  
20 official shall recommend that children with disabilities  
21 be placed into regular education classrooms unless those  
22 children with disabilities are provided with supplementary  
23 services to assist them so that they benefit from the  
24 regular classroom instruction and are included on the  
25 teacher's regular education class register;

26 2. To furnish lunches to pupils, to make a reasonable

1 charge therefor, and to use school funds for the payment of  
2 such expenses as the board may determine are necessary in  
3 conducting the school lunch program;

4 3. To co-operate with the circuit court;

5 4. To make arrangements with the public or quasi-public  
6 libraries and museums for the use of their facilities by  
7 teachers and pupils of the public schools;

8 5. To employ dentists and prescribe their duties for  
9 the purpose of treating the pupils in the schools, but  
10 accepting such treatment shall be optional with parents or  
11 guardians;

12 6. To grant the use of assembly halls and classrooms  
13 when not otherwise needed, including light, heat, and  
14 attendants, for free public lectures, concerts, and other  
15 educational and social interests, free of charge, under  
16 such provisions and control as the principal of the  
17 affected attendance center may prescribe;

18 7. To apportion the pupils to the several schools;  
19 provided that no pupil shall be excluded from or segregated  
20 in any such school on account of his color, race, sex, or  
21 nationality. The board shall take into consideration the  
22 prevention of segregation and the elimination of  
23 separation of children in public schools because of color,  
24 race, sex, or nationality. Except that children may be  
25 committed to or attend parental and social adjustment  
26 schools established and maintained either for boys or girls



1           only. All records pertaining to the creation, alteration or  
2           revision of attendance areas shall be open to the public.  
3           Nothing herein shall limit the board's authority to  
4           establish multi-area attendance centers or other student  
5           assignment systems for desegregation purposes or  
6           otherwise, and to apportion the pupils to the several  
7           schools. Furthermore, beginning in school year 1994-95,  
8           pursuant to a board plan adopted by October 1, 1993, the  
9           board shall offer, commencing on a phased-in basis, the  
10          opportunity for families within the school district to  
11          apply for enrollment of their children in any attendance  
12          center within the school district which does not have  
13          selective admission requirements approved by the board.  
14          The appropriate geographical area in which such open  
15          enrollment may be exercised shall be determined by the  
16          board of education. Such children may be admitted to any  
17          such attendance center on a space available basis after all  
18          children residing within such attendance center's area  
19          have been accommodated. If the number of applicants from  
20          outside the attendance area exceed the space available,  
21          then successful applicants shall be selected by lottery.  
22          The board of education's open enrollment plan must include  
23          provisions that allow low income students to have access to  
24          transportation needed to exercise school choice. Open  
25          enrollment shall be in compliance with the provisions of  
26          the Consent Decree and Desegregation Plan cited in Section

1 34-1.01;

2 8. To approve programs and policies for providing  
3 transportation services to students. Nothing herein shall  
4 be construed to permit or empower the State Board of  
5 Education to order, mandate, or require busing or other  
6 transportation of pupils for the purpose of achieving  
7 racial balance in any school;

8 9. Subject to the limitations in this Article, to  
9 establish and approve system-wide curriculum objectives  
10 and standards, including graduation standards, which  
11 reflect the multi-cultural diversity in the city and are  
12 consistent with State law, provided that for all purposes  
13 of this Article courses or proficiency in American Sign  
14 Language shall be deemed to constitute courses or  
15 proficiency in a foreign language; and to employ principals  
16 and teachers, appointed as provided in this Article, and  
17 fix their compensation. The board shall prepare such  
18 reports related to minimal competency testing as may be  
19 requested by the State Board of Education, and in addition  
20 shall monitor and approve special education and bilingual  
21 education programs and policies within the district to  
22 assure that appropriate services are provided in  
23 accordance with applicable State and federal laws to  
24 children requiring services and education in those areas;

25 10. To employ non-teaching personnel or utilize  
26 volunteer personnel for: (i) non-teaching duties not

1 requiring instructional judgment or evaluation of pupils,  
2 including library duties; and (ii) supervising study  
3 halls, long distance teaching reception areas used  
4 incident to instructional programs transmitted by  
5 electronic media such as computers, video, and audio,  
6 detention and discipline areas, and school-sponsored  
7 extracurricular activities. The board may further utilize  
8 volunteer non-certificated personnel or employ  
9 non-certificated personnel to assist in the instruction of  
10 pupils under the immediate supervision of a teacher holding  
11 a valid certificate, directly engaged in teaching subject  
12 matter or conducting activities; provided that the teacher  
13 shall be continuously aware of the non-certificated  
14 persons' activities and shall be able to control or modify  
15 them. The general superintendent shall determine  
16 qualifications of such personnel and shall prescribe rules  
17 for determining the duties and activities to be assigned to  
18 such personnel;

19 10.5. To utilize volunteer personnel from a regional  
20 School Crisis Assistance Team (S.C.A.T.), created as part  
21 of the Safe to Learn Program established pursuant to  
22 Section 25 of the Illinois Violence Prevention Act of 1995,  
23 to provide assistance to schools in times of violence or  
24 other traumatic incidents within a school community by  
25 providing crisis intervention services to lessen the  
26 effects of emotional trauma on individuals and the

1 community; the School Crisis Assistance Team Steering  
2 Committee shall determine the qualifications for  
3 volunteers;

4 11. To provide television studio facilities in not to  
5 exceed one school building and to provide programs for  
6 educational purposes, provided, however, that the board  
7 shall not construct, acquire, operate, or maintain a  
8 television transmitter; to grant the use of its studio  
9 facilities to a licensed television station located in the  
10 school district; and to maintain and operate not to exceed  
11 one school radio transmitting station and provide programs  
12 for educational purposes;

13 12. To offer, if deemed appropriate, outdoor education  
14 courses, including field trips within the State of  
15 Illinois, or adjacent states, and to use school educational  
16 funds for the expense of the said outdoor educational  
17 programs, whether within the school district or not;

18 13. During that period of the calendar year not  
19 embraced within the regular school term, to provide and  
20 conduct courses in subject matters normally embraced in the  
21 program of the schools during the regular school term and  
22 to give regular school credit for satisfactory completion  
23 by the student of such courses as may be approved for  
24 credit by the State Board of Education;

25 14. To insure against any loss or liability of the  
26 board, the former School Board Nominating Commission,

1 Local School Councils, the Chicago Schools Academic  
2 Accountability Council, or the former Subdistrict Councils  
3 or of any member, officer, agent or employee thereof,  
4 resulting from alleged violations of civil rights arising  
5 from incidents occurring on or after September 5, 1967 or  
6 from the wrongful or negligent act or omission of any such  
7 person whether occurring within or without the school  
8 premises, provided the officer, agent or employee was, at  
9 the time of the alleged violation of civil rights or  
10 wrongful act or omission, acting within the scope of his  
11 employment or under direction of the board, the former  
12 School Board Nominating Commission, the Chicago Schools  
13 Academic Accountability Council, Local School Councils, or  
14 the former Subdistrict Councils; and to provide for or  
15 participate in insurance plans for its officers and  
16 employees, including but not limited to retirement  
17 annuities, medical, surgical and hospitalization benefits  
18 in such types and amounts as may be determined by the  
19 board; provided, however, that the board shall contract for  
20 such insurance only with an insurance company authorized to  
21 do business in this State. Such insurance may include  
22 provision for employees who rely on treatment by prayer or  
23 spiritual means alone for healing, in accordance with the  
24 tenets and practice of a recognized religious  
25 denomination;

26 15. To contract with the corporate authorities of any

1 municipality or the county board of any county, as the case  
2 may be, to provide for the regulation of traffic in parking  
3 areas of property used for school purposes, in such manner  
4 as is provided by Section 11-209 of The Illinois Vehicle  
5 Code, approved September 29, 1969, as amended;

6 16. (a) To provide, on an equal basis, access to a high  
7 school campus and student directory information to the  
8 official recruiting representatives of the armed forces of  
9 Illinois and the United States for the purposes of  
10 informing students of the educational and career  
11 opportunities available in the military if the board has  
12 provided such access to persons or groups whose purpose is  
13 to acquaint students with educational or occupational  
14 opportunities available to them. The board is not required  
15 to give greater notice regarding the right of access to  
16 recruiting representatives than is given to other persons  
17 and groups. In this paragraph 16, "directory information"  
18 means a high school student's name, address, and telephone  
19 number.

20 (b) If a student or his or her parent or guardian  
21 submits a signed, written request to the high school before  
22 the end of the student's sophomore year (or if the student  
23 is a transfer student, by another time set by the high  
24 school) that indicates that the student or his or her  
25 parent or guardian does not want the student's directory  
26 information to be provided to official recruiting

1 representatives under subsection (a) of this Section, the  
2 high school may not provide access to the student's  
3 directory information to these recruiting representatives.  
4 The high school shall notify its students and their parents  
5 or guardians of the provisions of this subsection (b).

6 (c) A high school may require official recruiting  
7 representatives of the armed forces of Illinois and the  
8 United States to pay a fee for copying and mailing a  
9 student's directory information in an amount that is not  
10 more than the actual costs incurred by the high school.

11 (d) Information received by an official recruiting  
12 representative under this Section may be used only to  
13 provide information to students concerning educational and  
14 career opportunities available in the military and may not  
15 be released to a person who is not involved in recruiting  
16 students for the armed forces of Illinois or the United  
17 States;

18 17. (a) To sell or market any computer program  
19 developed by an employee of the school district, provided  
20 that such employee developed the computer program as a  
21 direct result of his or her duties with the school district  
22 or through the utilization of the school district resources  
23 or facilities. The employee who developed the computer  
24 program shall be entitled to share in the proceeds of such  
25 sale or marketing of the computer program. The distribution  
26 of such proceeds between the employee and the school

1 district shall be as agreed upon by the employee and the  
2 school district, except that neither the employee nor the  
3 school district may receive more than 90% of such proceeds.  
4 The negotiation for an employee who is represented by an  
5 exclusive bargaining representative may be conducted by  
6 such bargaining representative at the employee's request.

7 (b) For the purpose of this paragraph 17:

8 (1) "Computer" means an internally programmed,  
9 general purpose digital device capable of  
10 automatically accepting data, processing data and  
11 supplying the results of the operation.

12 (2) "Computer program" means a series of coded  
13 instructions or statements in a form acceptable to a  
14 computer, which causes the computer to process data in  
15 order to achieve a certain result.

16 (3) "Proceeds" means profits derived from  
17 marketing or sale of a product after deducting the  
18 expenses of developing and marketing such product;

19 18. To delegate to the general superintendent of  
20 schools, by resolution, the authority to approve contracts  
21 and expenditures in amounts of \$10,000 or less;

22 19. Upon the written request of an employee, to  
23 withhold from the compensation of that employee any dues,  
24 payments or contributions payable by such employee to any  
25 labor organization as defined in the Illinois Educational  
26 Labor Relations Act. Under such arrangement, an amount



1 shall be withheld from each regular payroll period which is  
2 equal to the pro rata share of the annual dues plus any  
3 payments or contributions, and the board shall transmit  
4 such withholdings to the specified labor organization  
5 within 10 working days from the time of the withholding;

6 19a. Upon receipt of notice from the comptroller of a  
7 municipality with a population of 500,000 or more, a county  
8 with a population of 3,000,000 or more, the Cook County  
9 Forest Preserve District, the Chicago Park District, the  
10 Metropolitan Water Reclamation District, the Chicago  
11 Transit Authority, or a housing authority of a municipality  
12 with a population of 500,000 or more that a debt is due and  
13 owing the municipality, the county, the Cook County Forest  
14 Preserve District, the Chicago Park District, the  
15 Metropolitan Water Reclamation District, the Chicago  
16 Transit Authority, or the housing authority by an employee  
17 of the Chicago Board of Education, to withhold, from the  
18 compensation of that employee, the amount of the debt that  
19 is due and owing and pay the amount withheld to the  
20 municipality, the county, the Cook County Forest Preserve  
21 District, the Chicago Park District, the Metropolitan  
22 Water Reclamation District, the Chicago Transit Authority,  
23 or the housing authority; provided, however, that the  
24 amount deducted from any one salary or wage payment shall  
25 not exceed 25% of the net amount of the payment. Before the  
26 Board deducts any amount from any salary or wage of an

1 employee under this paragraph, the municipality, the  
2 county, the Cook County Forest Preserve District, the  
3 Chicago Park District, the Metropolitan Water Reclamation  
4 District, the Chicago Transit Authority, or the housing  
5 authority shall certify that (i) the employee has been  
6 afforded an opportunity for a hearing to dispute the debt  
7 that is due and owing the municipality, the county, the  
8 Cook County Forest Preserve District, the Chicago Park  
9 District, the Metropolitan Water Reclamation District, the  
10 Chicago Transit Authority, or the housing authority and  
11 (ii) the employee has received notice of a wage deduction  
12 order and has been afforded an opportunity for a hearing to  
13 object to the order. For purposes of this paragraph, "net  
14 amount" means that part of the salary or wage payment  
15 remaining after the deduction of any amounts required by  
16 law to be deducted and "debt due and owing" means (i) a  
17 specified sum of money owed to the municipality, the  
18 county, the Cook County Forest Preserve District, the  
19 Chicago Park District, the Metropolitan Water Reclamation  
20 District, the Chicago Transit Authority, or the housing  
21 authority for services, work, or goods, after the period  
22 granted for payment has expired, or (ii) a specified sum of  
23 money owed to the municipality, the county, the Cook County  
24 Forest Preserve District, the Chicago Park District, the  
25 Metropolitan Water Reclamation District, the Chicago  
26 Transit Authority, or the housing authority pursuant to a

1 court order or order of an administrative hearing officer  
2 after the exhaustion of, or the failure to exhaust,  
3 judicial review;

4 20. The board is encouraged to employ a sufficient  
5 number of certified school counselors to maintain a  
6 student/counselor ratio of 250 to 1 by July 1, 1990. Each  
7 counselor shall spend at least 75% of his work time in  
8 direct contact with students and shall maintain a record of  
9 such time;

10 21. To make available to students vocational and career  
11 counseling and to establish 5 special career counseling  
12 days for students and parents. On these days  
13 representatives of local businesses and industries shall  
14 be invited to the school campus and shall inform students  
15 of career opportunities available to them in the various  
16 businesses and industries. Special consideration shall be  
17 given to counseling minority students as to career  
18 opportunities available to them in various fields. For the  
19 purposes of this paragraph, minority student means a person  
20 who is:

21 (a) Black (a person having origins in any of the  
22 black racial groups in Africa);

23 (b) Hispanic (a person of Spanish or Portuguese  
24 culture with origins in Mexico, South or Central  
25 America, or the Caribbean islands, regardless of  
26 race);

1 (c) Asian American (a person having origins in any  
2 of the original peoples of the Far East, Southeast  
3 Asia, the Indian Subcontinent or the Pacific Islands);  
4 or

5 (d) American Indian or Alaskan Native (a person  
6 having origins in any of the original peoples of North  
7 America).

8 Counseling days shall not be in lieu of regular school  
9 days;

10 22. To report to the State Board of Education the  
11 annual student dropout rate and number of students who  
12 graduate from, transfer from or otherwise leave bilingual  
13 programs;

14 23. Except as otherwise provided in the Abused and  
15 Neglected Child Reporting Act or other applicable State or  
16 federal law, to permit school officials to withhold, from  
17 any person, information on the whereabouts of any child  
18 removed from school premises when the child has been taken  
19 into protective custody as a victim of suspected child  
20 abuse. School officials shall direct such person to the  
21 Department of Children and Family Services, or to the local  
22 law enforcement agency if appropriate;

23 24. To develop a policy, based on the current state of  
24 existing school facilities, projected enrollment and  
25 efficient utilization of available resources, for capital  
26 improvement of schools and school buildings within the

1 district, addressing in that policy both the relative  
2 priority for major repairs, renovations and additions to  
3 school facilities, and the advisability or necessity of  
4 building new school facilities or closing existing schools  
5 to meet current or projected demographic patterns within  
6 the district;

7 25. To make available to the students in every high  
8 school attendance center the ability to take all courses  
9 necessary to comply with the Board of Higher Education's  
10 college entrance criteria effective in 1993;

11 26. To encourage mid-career changes into the teaching  
12 profession, whereby qualified professionals become  
13 certified teachers, by allowing credit for professional  
14 employment in related fields when determining point of  
15 entry on teacher pay scale;

16 27. To provide or contract out training programs for  
17 administrative personnel and principals with revised or  
18 expanded duties pursuant to this Act in order to assure  
19 they have the knowledge and skills to perform their duties;

20 28. To establish a fund for the prioritized special  
21 needs programs, and to allocate such funds and other lump  
22 sum amounts to each attendance center in a manner  
23 consistent with the provisions of part 4 of Section 34-2.3.  
24 Nothing in this paragraph shall be construed to require any  
25 additional appropriations of State funds for this purpose;

26 29. (Blank);

1           30. Notwithstanding any other provision of this Act or  
2 any other law to the contrary, to contract with third  
3 parties for services otherwise performed by employees,  
4 including those in a bargaining unit, and to layoff those  
5 employees upon 14 days written notice to the affected  
6 employees. Those contracts may be for a period not to  
7 exceed 5 years and may be awarded on a system-wide basis.  
8 The board may not operate more than 30 contract schools,  
9 provided that the board may operate an additional 5  
10 contract turnaround schools pursuant to item (5.5) of  
11 subsection (d) of Section 34-8.3 of this Code;

12           31. To promulgate rules establishing procedures  
13 governing the layoff or reduction in force of employees and  
14 the recall of such employees, including, but not limited  
15 to, criteria for such layoffs, reductions in force or  
16 recall rights of such employees and the weight to be given  
17 to any particular criterion. Such criteria shall take into  
18 account factors including, but not be limited to,  
19 qualifications, certifications, experience, performance  
20 ratings or evaluations, and any other factors relating to  
21 an employee's job performance;

22           32. To develop a policy to prevent nepotism in the  
23 hiring of personnel or the selection of contractors;

24           33. To enter into a partnership agreement, as required  
25 by Section 34-3.5 of this Code, and, notwithstanding any  
26 other provision of law to the contrary, to promulgate

1 policies, enter into contracts, and take any other action  
2 necessary to accomplish the objectives and implement the  
3 requirements of that agreement; and

4 34. To establish a Labor Management Council to the  
5 board comprised of representatives of the board, the chief  
6 executive officer, and those labor organizations that are  
7 the exclusive representatives of employees of the board and  
8 to promulgate policies and procedures for the operation of  
9 the Council.

10 The specifications of the powers herein granted are not to  
11 be construed as exclusive but the board shall also exercise all  
12 other powers that they may be requisite or proper for the  
13 maintenance and the development of a public school system, not  
14 inconsistent with the other provisions of this Article or  
15 provisions of this Code which apply to all school districts.

16 In addition to the powers herein granted and authorized to  
17 be exercised by the board, it shall be the duty of the board to  
18 review or to direct independent reviews of special education  
19 expenditures and services. The board shall file a report of  
20 such review with the General Assembly on or before May 1, 1990.

21 (Source: P.A. 96-105, eff. 7-30-09.)

22 Section 65. The State Universities Civil Service Act is  
23 amended by changing Section 36s as follows:

24 (110 ILCS 70/36s) (from Ch. 24 1/2, par. 38b18)

1           Sec. 36s. Supported employees.

2           (a) The Merit Board shall develop and implement a supported  
3 employment program. It shall be the goal of the program to  
4 appoint a minimum of 10 supported employees to State University  
5 civil service positions before June 30, 1992.

6           (b) The Merit Board shall designate a liaison to work with  
7 State agencies and departments, any funder or provider or both,  
8 and State universities in the implementation of a supported  
9 employment program.

10          (c) As used in this Section:

11           (1) "Supported employee" means any individual who:

12           (A) has a severe physical or mental disability  
13 which seriously limits functional capacities,  
14 including but not limited to, mobility, communication,  
15 self-care, self-direction, work tolerance or work  
16 skills, in terms of employability as defined,  
17 determined and certified by the Department of Human  
18 Services; and

19           (B) has one or more physical or mental disabilities  
20 resulting from amputation; arthritis; blindness;  
21 cancer; cerebral palsy; cystic fibrosis; deafness;  
22 heart disease; hemiplegia; respiratory or pulmonary  
23 dysfunction; an intellectual disability ~~mental~~  
24 ~~retardation~~; mental illness; multiple sclerosis;  
25 muscular dystrophy; musculoskeletal disorders;  
26 neurological disorders, including stroke and epilepsy;



1 paraplegia; quadriplegia and other spinal cord  
2 conditions; sickle cell anemia; and end-stage renal  
3 disease; or another disability or combination of  
4 disabilities determined on the basis of an evaluation  
5 of rehabilitation potential to cause comparable  
6 substantial functional limitation.

7 (2) "Supported employment" means competitive work in  
8 integrated work settings:

9 (A) for individuals with severe handicaps for whom  
10 competitive employment has not traditionally occurred,  
11 or

12 (B) for individuals for whom competitive  
13 employment has been interrupted or intermittent as a  
14 result of a severe disability, and who because of their  
15 handicap, need on-going support services to perform  
16 such work. The term includes transitional employment  
17 for individuals with chronic mental illness.

18 (3) "Participation in a supported employee program"  
19 means participation as a supported employee that is not  
20 based on the expectation that an individual will have the  
21 skills to perform all the duties in a job class, but on the  
22 assumption that with support and adaptation, or both, a job  
23 can be designed to take advantage of the supported  
24 employee's special strengths.

25 (4) "Funder" means any entity either State, local or  
26 federal, or private not-for-profit or for-profit that

1 provides monies to programs that provide services related  
2 to supported employment.

3 (5) "Provider" means any entity either public or  
4 private that provides technical support and services to any  
5 department or agency subject to the control of the  
6 Governor, the Secretary of State or the University Civil  
7 Service System.

8 (d) The Merit Board shall establish job classifications for  
9 supported employees who may be appointed into the  
10 classifications without open competitive testing requirements.  
11 Supported employees shall serve in a trial employment capacity  
12 for not less than 3 or more than 12 months.

13 (e) The Merit Board shall maintain a record of all  
14 individuals hired as supported employees. The record shall  
15 include:

16 (1) the number of supported employees initially  
17 appointed;

18 (2) the number of supported employees who successfully  
19 complete the trial employment periods; and

20 (3) the number of permanent targeted positions by  
21 titles.

22 (f) The Merit Board shall submit an annual report to the  
23 General Assembly regarding the employment progress of  
24 supported employees, with recommendations for legislative  
25 action.

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

1           Section 66. The Specialized Care for Children Act is  
2 amended by changing Section 1 as follows:

3           (110 ILCS 345/1) (from Ch. 144, par. 67.1)

4           Sec. 1. The University of Illinois is hereby designated as  
5 the agency to receive, administer, and to hold in its own  
6 treasury federal funds and aid in relation to the  
7 administration of its Division of Specialized Care for  
8 Children. The Board of Trustees of the University of Illinois  
9 shall have a charge upon all claims, demands and causes of  
10 action for injuries to an applicant for or recipient of  
11 financial aid for the total amount of medical assistance  
12 provided the recipient by the Division from the time of injury  
13 to the date of recovery upon such claim, demand or cause of  
14 action. The Board of Trustees of the University of Illinois may  
15 cooperate with the United States Children's Bureau of the  
16 Department of Health, Education and Welfare, or with any  
17 successor or other federal agency, in the administration of the  
18 Division of Specialized Care for Children, and shall have full  
19 responsibility for the expenditure of federal and state funds,  
20 or monies recovered as the result of a judgment or settlement  
21 of a lawsuit or from an insurance or personal settlement  
22 arising from a claim relating to a recipient child's medical  
23 condition, as well as any aid which may be made available to  
24 the Board of Trustees for administering, through the Division

1 of Specialized Care for Children, a program of services for  
2 children who are physically disabled ~~crippled~~ or suffering from  
3 conditions which may lead to a physical disability ~~crippling~~,  
4 including medical, surgical, corrective and other services and  
5 care, and facilities for diagnosis, hospitalization and  
6 aftercare of such children.

7 (Source: P.A. 87-203.)

8 Section 67. The Alternative Health Care Delivery Act is  
9 amended by changing Section 15 as follows:

10 (210 ILCS 3/15)

11 Sec. 15. License required. No health care facility or  
12 program that meets the definition and scope of an alternative  
13 health care model shall operate as such unless it is a  
14 participant in a demonstration program under this Act and  
15 licensed by the Department as an alternative health care model.  
16 The provisions of this Section as they relate to subacute care  
17 hospitals shall not apply to hospitals licensed under the  
18 Illinois Hospital Licensing Act or skilled nursing facilities  
19 licensed under the Illinois Nursing Home Care Act or the ID/DD  
20 ~~MR/DD~~ Community Care Act; provided, however, that the  
21 facilities shall not hold themselves out to the public as  
22 subacute care hospitals. The provisions of this Act concerning  
23 children's respite care centers shall not apply to any facility  
24 licensed under the Hospital Licensing Act, the Nursing Home

1 Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the University  
2 of Illinois Hospital Act that provides respite care services to  
3 children.

4 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

5 Section 68. The Ambulatory Surgical Treatment Center Act is  
6 amended by changing Section 3 as follows:

7 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

8 Sec. 3. As used in this Act, unless the context otherwise  
9 requires, the following words and phrases shall have the  
10 meanings ascribed to them:

11 (A) "Ambulatory surgical treatment center" means any  
12 institution, place or building devoted primarily to the  
13 maintenance and operation of facilities for the performance of  
14 surgical procedures or any facility in which a medical or  
15 surgical procedure is utilized to terminate a pregnancy,  
16 irrespective of whether the facility is devoted primarily to  
17 this purpose. Such facility shall not provide beds or other  
18 accommodations for the overnight stay of patients; however,  
19 facilities devoted exclusively to the treatment of children may  
20 provide accommodations and beds for their patients for up to 23  
21 hours following admission. Individual patients shall be  
22 discharged in an ambulatory condition without danger to the  
23 continued well being of the patients or shall be transferred to  
24 a hospital.

1           The term "ambulatory surgical treatment center" does not  
2 include any of the following:

3           (1) Any institution, place, building or agency  
4 required to be licensed pursuant to the "Hospital Licensing  
5 Act", approved July 1, 1953, as amended.

6           (2) Any person or institution required to be licensed  
7 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
8 Community Care Act.

9           (3) Hospitals or ambulatory surgical treatment centers  
10 maintained by the State or any department or agency  
11 thereof, where such department or agency has authority  
12 under law to establish and enforce standards for the  
13 hospitals or ambulatory surgical treatment centers under  
14 its management and control.

15           (4) Hospitals or ambulatory surgical treatment centers  
16 maintained by the Federal Government or agencies thereof.

17           (5) Any place, agency, clinic, or practice, public or  
18 private, whether organized for profit or not, devoted  
19 exclusively to the performance of dental or oral surgical  
20 procedures.

21           (B) "Person" means any individual, firm, partnership,  
22 corporation, company, association, or joint stock association,  
23 or the legal successor thereof.

24           (C) "Department" means the Department of Public Health of  
25 the State of Illinois.

26           (D) "Director" means the Director of the Department of

1 Public Health of the State of Illinois.

2 (E) "Physician" means a person licensed to practice  
3 medicine in all of its branches in the State of Illinois.

4 (F) "Dentist" means a person licensed to practice dentistry  
5 under the Illinois Dental Practice Act.

6 (G) "Podiatrist" means a person licensed to practice  
7 podiatry under the Podiatric Medical Practice Act of 1987.

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

9 Section 69. The Assisted Living and Shared Housing Act is  
10 amended by changing Sections 10, 35, 55, and 145 as follows:

11 (210 ILCS 9/10)

12 Sec. 10. Definitions. For purposes of this Act:

13 "Activities of daily living" means eating, dressing,  
14 bathing, toileting, transferring, or personal hygiene.

15 "Assisted living establishment" or "establishment" means a  
16 home, building, residence, or any other place where sleeping  
17 accommodations are provided for at least 3 unrelated adults, at  
18 least 80% of whom are 55 years of age or older and where the  
19 following are provided consistent with the purposes of this  
20 Act:

21 (1) services consistent with a social model that is  
22 based on the premise that the resident's unit in assisted  
23 living and shared housing is his or her own home;

24 (2) community-based residential care for persons who

1 need assistance with activities of daily living, including  
2 personal, supportive, and intermittent health-related  
3 services available 24 hours per day, if needed, to meet the  
4 scheduled and unscheduled needs of a resident;

5 (3) mandatory services, whether provided directly by  
6 the establishment or by another entity arranged for by the  
7 establishment, with the consent of the resident or  
8 resident's representative; and

9 (4) a physical environment that is a homelike setting  
10 that includes the following and such other elements as  
11 established by the Department: individual living units  
12 each of which shall accommodate small kitchen appliances  
13 and contain private bathing, washing, and toilet  
14 facilities, or private washing and toilet facilities with a  
15 common bathing room readily accessible to each resident.  
16 Units shall be maintained for single occupancy except in  
17 cases in which 2 residents choose to share a unit.  
18 Sufficient common space shall exist to permit individual  
19 and group activities.

20 "Assisted living establishment" or "establishment" does  
21 not mean any of the following:

22 (1) A home, institution, or similar place operated by  
23 the federal government or the State of Illinois.

24 (2) A long term care facility licensed under the  
25 Nursing Home Care Act or a facility licensed under the  
26 ID/DD ~~MR/DD~~ Community Care Act. However, a facility



1 licensed under either of those Acts may convert distinct  
2 parts of the facility to assisted living. If the facility  
3 elects to do so, the facility shall retain the Certificate  
4 of Need for its nursing and sheltered care beds that were  
5 converted.

6 (3) A hospital, sanitarium, or other institution, the  
7 principal activity or business of which is the diagnosis,  
8 care, and treatment of human illness and that is required  
9 to be licensed under the Hospital Licensing Act.

10 (4) A facility for child care as defined in the Child  
11 Care Act of 1969.

12 (5) A community living facility as defined in the  
13 Community Living Facilities Licensing Act.

14 (6) A nursing home or sanitarium operated solely by and  
15 for persons who rely exclusively upon treatment by  
16 spiritual means through prayer in accordance with the creed  
17 or tenants of a well-recognized church or religious  
18 denomination.

19 (7) A facility licensed by the Department of Human  
20 Services as a community-integrated living arrangement as  
21 defined in the Community-Integrated Living Arrangements  
22 Licensure and Certification Act.

23 (8) A supportive residence licensed under the  
24 Supportive Residences Licensing Act.

25 (9) The portion of a life care facility as defined in  
26 the Life Care Facilities Act not licensed as an assisted

1 living establishment under this Act; a life care facility  
2 may apply under this Act to convert sections of the  
3 community to assisted living.

4 (10) A free-standing hospice facility licensed under  
5 the Hospice Program Licensing Act.

6 (11) A shared housing establishment.

7 (12) A supportive living facility as described in  
8 Section 5-5.01a of the Illinois Public Aid Code.

9 "Department" means the Department of Public Health.

10 "Director" means the Director of Public Health.

11 "Emergency situation" means imminent danger of death or  
12 serious physical harm to a resident of an establishment.

13 "License" means any of the following types of licenses  
14 issued to an applicant or licensee by the Department:

15 (1) "Probationary license" means a license issued to an  
16 applicant or licensee that has not held a license under  
17 this Act prior to its application or pursuant to a license  
18 transfer in accordance with Section 50 of this Act.

19 (2) "Regular license" means a license issued by the  
20 Department to an applicant or licensee that is in  
21 substantial compliance with this Act and any rules  
22 promulgated under this Act.

23 "Licensee" means a person, agency, association,  
24 corporation, partnership, or organization that has been issued  
25 a license to operate an assisted living or shared housing  
26 establishment.

1 "Licensed health care professional" means a registered  
2 professional nurse, an advanced practice nurse, a physician  
3 assistant, and a licensed practical nurse.

4 "Mandatory services" include the following:

5 (1) 3 meals per day available to the residents prepared  
6 by the establishment or an outside contractor;

7 (2) housekeeping services including, but not limited  
8 to, vacuuming, dusting, and cleaning the resident's unit;

9 (3) personal laundry and linen services available to  
10 the residents provided or arranged for by the  
11 establishment;

12 (4) security provided 24 hours each day including, but  
13 not limited to, locked entrances or building or contract  
14 security personnel;

15 (5) an emergency communication response system, which  
16 is a procedure in place 24 hours each day by which a  
17 resident can notify building management, an emergency  
18 response vendor, or others able to respond to his or her  
19 need for assistance; and

20 (6) assistance with activities of daily living as  
21 required by each resident.

22 "Negotiated risk" is the process by which a resident, or  
23 his or her representative, may formally negotiate with  
24 providers what risks each are willing and unwilling to assume  
25 in service provision and the resident's living environment. The  
26 provider assures that the resident and the resident's

1 representative, if any, are informed of the risks of these  
2 decisions and of the potential consequences of assuming these  
3 risks.

4 "Owner" means the individual, partnership, corporation,  
5 association, or other person who owns an assisted living or  
6 shared housing establishment. In the event an assisted living  
7 or shared housing establishment is operated by a person who  
8 leases or manages the physical plant, which is owned by another  
9 person, "owner" means the person who operates the assisted  
10 living or shared housing establishment, except that if the  
11 person who owns the physical plant is an affiliate of the  
12 person who operates the assisted living or shared housing  
13 establishment and has significant control over the day to day  
14 operations of the assisted living or shared housing  
15 establishment, the person who owns the physical plant shall  
16 incur jointly and severally with the owner all liabilities  
17 imposed on an owner under this Act.

18 "Physician" means a person licensed under the Medical  
19 Practice Act of 1987 to practice medicine in all of its  
20 branches.

21 "Resident" means a person residing in an assisted living or  
22 shared housing establishment.

23 "Resident's representative" means a person, other than the  
24 owner, agent, or employee of an establishment or of the health  
25 care provider unless related to the resident, designated in  
26 writing by a resident to be his or her representative. This

1 designation may be accomplished through the Illinois Power of  
2 Attorney Act, pursuant to the guardianship process under the  
3 Probate Act of 1975, or pursuant to an executed designation of  
4 representative form specified by the Department.

5 "Self" means the individual or the individual's designated  
6 representative.

7 "Shared housing establishment" or "establishment" means a  
8 publicly or privately operated free-standing residence for 16  
9 or fewer persons, at least 80% of whom are 55 years of age or  
10 older and who are unrelated to the owners and one manager of  
11 the residence, where the following are provided:

12 (1) services consistent with a social model that is  
13 based on the premise that the resident's unit is his or her  
14 own home;

15 (2) community-based residential care for persons who  
16 need assistance with activities of daily living, including  
17 housing and personal, supportive, and intermittent  
18 health-related services available 24 hours per day, if  
19 needed, to meet the scheduled and unscheduled needs of a  
20 resident; and

21 (3) mandatory services, whether provided directly by  
22 the establishment or by another entity arranged for by the  
23 establishment, with the consent of the resident or the  
24 resident's representative.

25 "Shared housing establishment" or "establishment" does not  
26 mean any of the following:

1           (1) A home, institution, or similar place operated by  
2 the federal government or the State of Illinois.

3           (2) A long term care facility licensed under the  
4 Nursing Home Care Act or a facility licensed under the  
5 ID/DD ~~MR/DD~~ Community Care Act. A facility licensed under  
6 either of those Acts may, however, convert sections of the  
7 facility to assisted living. If the facility elects to do  
8 so, the facility shall retain the Certificate of Need for  
9 its nursing beds that were converted.

10          (3) A hospital, sanitarium, or other institution, the  
11 principal activity or business of which is the diagnosis,  
12 care, and treatment of human illness and that is required  
13 to be licensed under the Hospital Licensing Act.

14          (4) A facility for child care as defined in the Child  
15 Care Act of 1969.

16          (5) A community living facility as defined in the  
17 Community Living Facilities Licensing Act.

18          (6) A nursing home or sanitarium operated solely by and  
19 for persons who rely exclusively upon treatment by  
20 spiritual means through prayer in accordance with the creed  
21 or tenants of a well-recognized church or religious  
22 denomination.

23          (7) A facility licensed by the Department of Human  
24 Services as a community-integrated living arrangement as  
25 defined in the Community-Integrated Living Arrangements  
26 Licensure and Certification Act.

1           (8) A supportive residence licensed under the  
2 Supportive Residences Licensing Act.

3           (9) A life care facility as defined in the Life Care  
4 Facilities Act; a life care facility may apply under this  
5 Act to convert sections of the community to assisted  
6 living.

7           (10) A free-standing hospice facility licensed under  
8 the Hospice Program Licensing Act.

9           (11) An assisted living establishment.

10           (12) A supportive living facility as described in  
11 Section 5-5.01a of the Illinois Public Aid Code.

12           "Total assistance" means that staff or another individual  
13 performs the entire activity of daily living without  
14 participation by the resident.

15           (Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;  
16 96-975, eff. 7-2-10.)

17           (210 ILCS 9/35)

18           Sec. 35. Issuance of license.

19           (a) Upon receipt and review of an application for a license  
20 and review of the applicant establishment, the Director may  
21 issue a license if he or she finds:

22           (1) that the individual applicant, or the corporation,  
23 partnership, or other entity if the applicant is not an  
24 individual, is a person responsible and suitable to operate  
25 or to direct or participate in the operation of an

1 establishment by virtue of financial capacity, appropriate  
2 business or professional experience, a record of lawful  
3 compliance with lawful orders of the Department and lack of  
4 revocation of a license issued under this Act, the Nursing  
5 Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act during  
6 the previous 5 years;

7 (2) that the establishment is under the supervision of  
8 a full-time director who is at least 21 years of age and  
9 has a high school diploma or equivalent plus either:

10 (A) 2 years of management experience or 2 years of  
11 experience in positions of progressive responsibility  
12 in health care, housing with services, or adult day  
13 care or providing similar services to the elderly; or

14 (B) 2 years of management experience or 2 years of  
15 experience in positions of progressive responsibility  
16 in hospitality and training in health care and housing  
17 with services management as defined by rule;

18 (3) that the establishment has staff sufficient in  
19 number with qualifications, adequate skills, education,  
20 and experience to meet the 24 hour scheduled and  
21 unscheduled needs of residents and who participate in  
22 ongoing training to serve the resident population;

23 (4) that all employees who are subject to the Health  
24 Care Worker Background Check Act meet the requirements of  
25 that Act;

26 (5) that the applicant is in substantial compliance



1 with this Act and such other requirements for a license as  
2 the Department by rule may establish under this Act;

3 (6) that the applicant pays all required fees;

4 (7) that the applicant has provided to the Department  
5 an accurate disclosure document in accordance with the  
6 Alzheimer's Disease and Related Dementias Special Care  
7 Disclosure Act and in substantial compliance with Section  
8 150 of this Act.

9 In addition to any other requirements set forth in this  
10 Act, as a condition of licensure under this Act, the director  
11 of an establishment must participate in at least 20 hours of  
12 training every 2 years to assist him or her in better meeting  
13 the needs of the residents of the establishment and managing  
14 the operation of the establishment.

15 Any license issued by the Director shall state the physical  
16 location of the establishment, the date the license was issued,  
17 and the expiration date. All licenses shall be valid for one  
18 year, except as provided in Sections 40 and 45. Each license  
19 shall be issued only for the premises and persons named in the  
20 application, and shall not be transferable or assignable.

21 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;  
22 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.  
23 7-1-10; 96-990, eff. 7-2-10.)

24 (210 ILCS 9/55)

25 Sec. 55. Grounds for denial of a license. An application

1 for a license may be denied for any of the following reasons:

2 (1) failure to meet any of the standards set forth in  
3 this Act or by rules adopted by the Department under this  
4 Act;

5 (2) conviction of the applicant, or if the applicant is  
6 a firm, partnership, or association, of any of its members,  
7 or if a corporation, the conviction of the corporation or  
8 any of its officers or stockholders, or of the person  
9 designated to manage or supervise the establishment, of a  
10 felony or of 2 or more misdemeanors involving moral  
11 turpitude during the previous 5 years as shown by a  
12 certified copy of the record of the court of conviction;

13 (3) personnel insufficient in number or unqualified by  
14 training or experience to properly care for the residents;

15 (4) insufficient financial or other resources to  
16 operate and conduct the establishment in accordance with  
17 standards adopted by the Department under this Act;

18 (5) revocation of a license during the previous 5  
19 years, if such prior license was issued to the individual  
20 applicant, a controlling owner or controlling combination  
21 of owners of the applicant; or any affiliate of the  
22 individual applicant or controlling owner of the applicant  
23 and such individual applicant, controlling owner of the  
24 applicant or affiliate of the applicant was a controlling  
25 owner of the prior license; provided, however, that the  
26 denial of an application for a license pursuant to this

1 Section must be supported by evidence that the prior  
2 revocation renders the applicant unqualified or incapable  
3 of meeting or maintaining an establishment in accordance  
4 with the standards and rules adopted by the Department  
5 under this Act; or

6 (6) the establishment is not under the direct  
7 supervision of a full-time director, as defined by rule.

8 The Department shall deny an application for a license if 6  
9 months after submitting its initial application the applicant  
10 has not provided the Department with all of the information  
11 required for review and approval or the applicant is not  
12 actively pursuing the processing of its application. In  
13 addition, the Department shall determine whether the applicant  
14 has violated any provision of the Nursing Home Care Act or the  
15 ID/DD ~~MR/DD~~ Community Care Act.

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

17 (210 ILCS 9/145)

18 Sec. 145. Conversion of facilities. Entities licensed as  
19 facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
20 Community Care Act may elect to convert to a license under this  
21 Act. Any facility that chooses to convert, in whole or in part,  
22 shall follow the requirements in the Nursing Home Care Act or  
23 the ID/DD ~~MR/DD~~ Community Care Act, as applicable, and rules  
24 promulgated under those Acts regarding voluntary closure and  
25 notice to residents. Any conversion of existing beds licensed

1 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
2 Care Act to licensure under this Act is exempt from review by  
3 the Health Facilities and Services Review Board.

4 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;  
5 96-1000, eff. 7-2-10.)

6 Section 70. The Abuse Prevention Review Team Act is amended  
7 by changing Sections 10 and 50 as follows:

8 (210 ILCS 28/10)

9 Sec. 10. Definitions. As used in this Act, unless the  
10 context requires otherwise:

11 "Department" means the Department of Public Health.

12 "Director" means the Director of Public Health.

13 "Executive Council" means the Illinois Residential Health  
14 Care Facility Resident Sexual Assault and Death Review Teams  
15 Executive Council.

16 "Resident" means a person residing in and receiving  
17 personal care from a facility licensed under the Nursing Home  
18 Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

19 "Review team" means a residential health care facility  
20 resident sexual assault and death review team appointed under  
21 this Act.

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

23 (210 ILCS 28/50)

1           Sec. 50. Funding. Notwithstanding any other provision of  
2 law, to the extent permitted by federal law, the Department  
3 shall use moneys from fines paid by facilities licensed under  
4 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act  
5 for violating requirements for certification under Titles  
6 XVIII and XIX of the Social Security Act to implement the  
7 provisions of this Act. The Department shall use moneys  
8 deposited in the Long Term Care Monitor/Receiver Fund to pay  
9 the costs of implementing this Act that cannot be met by the  
10 use of federal civil monetary penalties.

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

12           Section 71. The Abused and Neglected Long Term Care  
13 Facility Residents Reporting Act is amended by changing  
14 Sections 3, 4, and 6 as follows:

15           (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

16           Sec. 3. As used in this Act unless the context otherwise  
17 requires:

18           a. "Department" means the Department of Public Health of  
19 the State of Illinois.

20           b. "Resident" means a person residing in and receiving  
21 personal care from a long term care facility, or residing in a  
22 mental health facility or developmental disability facility as  
23 defined in the Mental Health and Developmental Disabilities  
24 Code.

1           c. "Long term care facility" has the same meaning ascribed  
2 to such term in the Nursing Home Care Act, except that the term  
3 as used in this Act shall include any mental health facility or  
4 developmental disability facility as defined in the Mental  
5 Health and Developmental Disabilities Code. The term also  
6 includes any facility licensed under the ID/DD ~~MR/DD~~ Community  
7 Care Act.

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. 96-339, eff. 7-1-10.)

6 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

7 Sec. 4. Any long term care facility administrator, agent or  
8 employee or any physician, hospital, surgeon, dentist,  
9 osteopath, chiropractor, podiatrist, accredited religious  
10 practitioner who provides treatment by spiritual means alone  
11 through prayer in accordance with the tenets and practices of  
12 the accrediting church, coroner, social worker, social  
13 services administrator, registered nurse, law enforcement  
14 officer, field personnel of the Department of Healthcare and  
15 Family Services, field personnel of the Illinois Department of  
16 Public Health and County or Municipal Health Departments,  
17 personnel of the Department of Human Services (acting as the  
18 successor to the Department of Mental Health and Developmental  
19 Disabilities or the Department of Public Aid), personnel of the  
20 Guardianship and Advocacy Commission, personnel of the State  
21 Fire Marshal, local fire department inspectors or other  
22 personnel, or personnel of the Illinois Department on Aging, or  
23 its subsidiary Agencies on Aging, or employee of a facility  
24 licensed under the Assisted Living and Shared Housing Act,  
25 having reasonable cause to believe any resident with whom they

1 have direct contact has been subjected to abuse or neglect  
2 shall immediately report or cause a report to be made to the  
3 Department. Persons required to make reports or cause reports  
4 to be made under this Section include all employees of the  
5 State of Illinois who are involved in providing services to  
6 residents, including professionals providing medical or  
7 rehabilitation services and all other persons having direct  
8 contact with residents; and further include all employees of  
9 community service agencies who provide services to a resident  
10 of a public or private long term care facility outside of that  
11 facility. Any long term care surveyor of the Illinois  
12 Department of Public Health who has reasonable cause to believe  
13 in the course of a survey that a resident has been abused or  
14 neglected and initiates an investigation while on site at the  
15 facility shall be exempt from making a report under this  
16 Section but the results of any such investigation shall be  
17 forwarded to the central register in a manner and form  
18 described by the Department.

19 The requirement of this Act shall not relieve any long term  
20 care facility administrator, agent or employee of  
21 responsibility to report the abuse or neglect of a resident  
22 under Section 3-610 of the Nursing Home Care Act or under  
23 Section 3-610 of the ID/DD ~~MR/DD~~ Community Care Act.

24 In addition to the above persons required to report  
25 suspected resident abuse and neglect, any other person may make  
26 a report to the Department, or to any law enforcement officer,



1 if such person has reasonable cause to suspect a resident has  
2 been abused or neglected.

3 This Section also applies to residents whose death occurs  
4 from suspected abuse or neglect before being found or brought  
5 to a hospital.

6 A person required to make reports or cause reports to be  
7 made under this Section who fails to comply with the  
8 requirements of this Section is guilty of a Class A  
9 misdemeanor.

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

11 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

12 Sec. 6. All reports of suspected abuse or neglect made  
13 under this Act shall be made immediately by telephone to the  
14 Department's central register established under Section 14 on  
15 the single, State-wide, toll-free telephone number established  
16 under Section 13, or in person or by telephone through the  
17 nearest Department office. No long term care facility  
18 administrator, agent or employee, or any other person, shall  
19 screen reports or otherwise withhold any reports from the  
20 Department, and no long term care facility, department of State  
21 government, or other agency shall establish any rules,  
22 criteria, standards or guidelines to the contrary. Every long  
23 term care facility, department of State government and other  
24 agency whose employees are required to make or cause to be made  
25 reports under Section 4 shall notify its employees of the

1 provisions of that Section and of this Section, and provide to  
2 the Department documentation that such notification has been  
3 given. The Department of Human Services shall train all of its  
4 mental health and developmental disabilities employees in the  
5 detection and reporting of suspected abuse and neglect of  
6 residents. Reports made to the central register through the  
7 State-wide, toll-free telephone number shall be transmitted to  
8 appropriate Department offices and municipal health  
9 departments that have responsibility for licensing long term  
10 care facilities under the Nursing Home Care Act or the ID/DD  
11 ~~MR/DD~~ Community Care Act. All reports received through offices  
12 of the Department shall be forwarded to the central register,  
13 in a manner and form described by the Department. The  
14 Department shall be capable of receiving reports of suspected  
15 abuse and neglect 24 hours a day, 7 days a week. Reports shall  
16 also be made in writing deposited in the U.S. mail, postage  
17 prepaid, within 24 hours after having reasonable cause to  
18 believe that the condition of the resident resulted from abuse  
19 or neglect. Such reports may in addition be made to the local  
20 law enforcement agency in the same manner. However, in the  
21 event a report is made to the local law enforcement agency, the  
22 reporter also shall immediately so inform the Department. The  
23 Department shall initiate an investigation of each report of  
24 resident abuse and neglect under this Act, whether oral or  
25 written, as provided for in Section 3-702 of the Nursing Home  
26 Care Act or Section 3-702 of the ID/DD ~~MR/DD~~ Community Care

1 Act, except that reports of abuse which indicate that a  
2 resident's life or safety is in imminent danger shall be  
3 investigated within 24 hours of such report. The Department may  
4 delegate to law enforcement officials or other public agencies  
5 the duty to perform such investigation.

6 With respect to investigations of reports of suspected  
7 abuse or neglect of residents of mental health and  
8 developmental disabilities institutions under the jurisdiction  
9 of the Department of Human Services, the Department shall  
10 transmit copies of such reports to the Department of State  
11 Police, the Department of Human Services, and the Inspector  
12 General appointed under Section 1-17 of the Department of Human  
13 Services Act. If the Department receives a report of suspected  
14 abuse or neglect of a recipient of services as defined in  
15 Section 1-123 of the Mental Health and Developmental  
16 Disabilities Code, the Department shall transmit copies of such  
17 report to the Inspector General and the Directors of the  
18 Guardianship and Advocacy Commission and the agency designated  
19 by the Governor pursuant to the Protection and Advocacy for  
20 Developmentally Disabled Persons Act. When requested by the  
21 Director of the Guardianship and Advocacy Commission, the  
22 agency designated by the Governor pursuant to the Protection  
23 and Advocacy for Developmentally Disabled Persons Act, or the  
24 Department of Financial and Professional Regulation, the  
25 Department, the Department of Human Services and the Department  
26 of State Police shall make available a copy of the final

1 investigative report regarding investigations conducted by  
2 their respective agencies on incidents of suspected abuse or  
3 neglect of residents of mental health and developmental  
4 disabilities institutions or individuals receiving services at  
5 community agencies under the jurisdiction of the Department of  
6 Human Services. Such final investigative report shall not  
7 contain witness statements, investigation notes, draft  
8 summaries, results of lie detector tests, investigative files  
9 or other raw data which was used to compile the final  
10 investigative report. Specifically, the final investigative  
11 report of the Department of State Police shall mean the  
12 Director's final transmittal letter. The Department of Human  
13 Services shall also make available a copy of the results of  
14 disciplinary proceedings of employees involved in incidents of  
15 abuse or neglect to the Directors. All identifiable information  
16 in reports provided shall not be further disclosed except as  
17 provided by the Mental Health and Developmental Disabilities  
18 Confidentiality Act. Nothing in this Section is intended to  
19 limit or construe the power or authority granted to the agency  
20 designated by the Governor pursuant to the Protection and  
21 Advocacy for Developmentally Disabled Persons Act, pursuant to  
22 any other State or federal statute.

23 With respect to investigations of reported resident abuse  
24 or neglect, the Department shall effect with appropriate law  
25 enforcement agencies formal agreements concerning methods and  
26 procedures for the conduct of investigations into the criminal

1 histories of any administrator, staff assistant or employee of  
2 the nursing home or other person responsible for the residents  
3 care, as well as for other residents in the nursing home who  
4 may be in a position to abuse, neglect or exploit the patient.  
5 Pursuant to the formal agreements entered into with appropriate  
6 law enforcement agencies, the Department may request  
7 information with respect to whether the person or persons set  
8 forth in this paragraph have ever been charged with a crime and  
9 if so, the disposition of those charges. Unless the criminal  
10 histories of the subjects involved crimes of violence or  
11 resident abuse or neglect, the Department shall be entitled  
12 only to information limited in scope to charges and their  
13 dispositions. In cases where prior crimes of violence or  
14 resident abuse or neglect are involved, a more detailed report  
15 can be made available to authorized representatives of the  
16 Department, pursuant to the agreements entered into with  
17 appropriate law enforcement agencies. Any criminal charges and  
18 their disposition information obtained by the Department shall  
19 be confidential and may not be transmitted outside the  
20 Department, except as required herein, to authorized  
21 representatives or delegates of the Department, and may not be  
22 transmitted to anyone within the Department who is not duly  
23 authorized to handle resident abuse or neglect investigations.

24 The Department shall effect formal agreements with  
25 appropriate law enforcement agencies in the various counties  
26 and communities to encourage cooperation and coordination in

1 the handling of resident abuse or neglect cases pursuant to  
2 this Act. The Department shall adopt and implement methods and  
3 procedures to promote statewide uniformity in the handling of  
4 reports of abuse and neglect under this Act, and those methods  
5 and procedures shall be adhered to by personnel of the  
6 Department involved in such investigations and reporting. The  
7 Department shall also make information required by this Act  
8 available to authorized personnel within the Department, as  
9 well as its authorized representatives.

10 The Department shall keep a continuing record of all  
11 reports made pursuant to this Act, including indications of the  
12 final determination of any investigation and the final  
13 disposition of all reports.

14 The Department shall report annually to the General  
15 Assembly on the incidence of abuse and neglect of long term  
16 care facility residents, with special attention to residents  
17 who are mentally disabled. The report shall include but not be  
18 limited to data on the number and source of reports of  
19 suspected abuse or neglect filed under this Act, the nature of  
20 any injuries to residents, the final determination of  
21 investigations, the type and number of cases where abuse or  
22 neglect is determined to exist, and the final disposition of  
23 cases.

24 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

25 Section 72. The Nursing Home Care Act is amended by

1 changing Sections 1-113 and 3-202.5 as follows:

2 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

3 Sec. 1-113. "Facility" or "long-term care facility" means a  
4 private home, institution, building, residence, or any other  
5 place, whether operated for profit or not, or a county home for  
6 the infirm and chronically ill operated pursuant to Division  
7 5-21 or 5-22 of the Counties Code, or any similar institution  
8 operated by a political subdivision of the State of Illinois,  
9 which provides, through its ownership or management, personal  
10 care, sheltered care or nursing for 3 or more persons, not  
11 related to the applicant or owner by blood or marriage. It  
12 includes skilled nursing facilities and intermediate care  
13 facilities as those terms are defined in Title XVIII and Title  
14 XIX of the Federal Social Security Act. It also includes homes,  
15 institutions, or other places operated by or under the  
16 authority of the Illinois Department of Veterans' Affairs.

17 "Facility" does not include the following:

18 (1) A home, institution, or other place operated by the  
19 federal government or agency thereof, or by the State of  
20 Illinois, other than homes, institutions, or other places  
21 operated by or under the authority of the Illinois  
22 Department of Veterans' Affairs;

23 (2) A hospital, sanitarium, or other institution whose  
24 principal activity or business is the diagnosis, care, and  
25 treatment of human illness through the maintenance and

1 operation as organized facilities therefor, which is  
2 required to be licensed under the Hospital Licensing Act;

3 (3) Any "facility for child care" as defined in the  
4 Child Care Act of 1969;

5 (4) Any "Community Living Facility" as defined in the  
6 Community Living Facilities Licensing Act;

7 (5) Any "community residential alternative" as defined  
8 in the Community Residential Alternatives Licensing Act;

9 (6) Any nursing home or sanatorium operated solely by  
10 and for persons who rely exclusively upon treatment by  
11 spiritual means through prayer, in accordance with the  
12 creed or tenets of any well-recognized church or religious  
13 denomination. However, such nursing home or sanatorium  
14 shall comply with all local laws and rules relating to  
15 sanitation and safety;

16 (7) Any facility licensed by the Department of Human  
17 Services as a community-integrated living arrangement as  
18 defined in the Community-Integrated Living Arrangements  
19 Licensure and Certification Act;

20 (8) Any "Supportive Residence" licensed under the  
21 Supportive Residences Licensing Act;

22 (9) Any "supportive living facility" in good standing  
23 with the program established under Section 5-5.01a of the  
24 Illinois Public Aid Code, except only for purposes of the  
25 employment of persons in accordance with Section 3-206.01;

26 (10) Any assisted living or shared housing



1 establishment licensed under the Assisted Living and  
2 Shared Housing Act, except only for purposes of the  
3 employment of persons in accordance with Section 3-206.01;

4 (11) An Alzheimer's disease management center  
5 alternative health care model licensed under the  
6 Alternative Health Care Delivery Act; or

7 (12) A facility licensed under the ID/DD ~~MR/DD~~  
8 Community Care Act.

9 (Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

10 (210 ILCS 45/3-202.5)

11 Sec. 3-202.5. Facility plan review; fees.

12 (a) Before commencing construction of a new facility or  
13 specified types of alteration or additions to an existing long  
14 term care facility involving major construction, as defined by  
15 rule by the Department, with an estimated cost greater than  
16 \$100,000, architectural drawings and specifications for the  
17 facility shall be submitted to the Department for review and  
18 approval. A facility may submit architectural drawings and  
19 specifications for other construction projects for Department  
20 review according to subsection (b) that shall not be subject to  
21 fees under subsection (d). Review of drawings and  
22 specifications shall be conducted by an employee of the  
23 Department meeting the qualifications established by the  
24 Department of Central Management Services class specifications  
25 for such an individual's position or by a person contracting

1 with the Department who meets those class specifications. Final  
2 approval of the drawings and specifications for compliance with  
3 design and construction standards shall be obtained from the  
4 Department before the alteration, addition, or new  
5 construction is begun.

6 (b) The Department shall inform an applicant in writing  
7 within 10 working days after receiving drawings and  
8 specifications and the required fee, if any, from the applicant  
9 whether the applicant's submission is complete or incomplete.  
10 Failure to provide the applicant with this notice within 10  
11 working days shall result in the submission being deemed  
12 complete for purposes of initiating the 60-day review period  
13 under this Section. If the submission is incomplete, the  
14 Department shall inform the applicant of the deficiencies with  
15 the submission in writing. If the submission is complete the  
16 required fee, if any, has been paid, the Department shall  
17 approve or disapprove drawings and specifications submitted to  
18 the Department no later than 60 days following receipt by the  
19 Department. The drawings and specifications shall be of  
20 sufficient detail, as provided by Department rule, to enable  
21 the Department to render a determination of compliance with  
22 design and construction standards under this Act. If the  
23 Department finds that the drawings are not of sufficient detail  
24 for it to render a determination of compliance, the plans shall  
25 be determined to be incomplete and shall not be considered for  
26 purposes of initiating the 60 day review period. If a

1 submission of drawings and specifications is incomplete, the  
2 applicant may submit additional information. The 60-day review  
3 period shall not commence until the Department determines that  
4 a submission of drawings and specifications is complete or the  
5 submission is deemed complete. If the Department has not  
6 approved or disapproved the drawings and specifications within  
7 60 days, the construction, major alteration, or addition shall  
8 be deemed approved. If the drawings and specifications are  
9 disapproved, the Department shall state in writing, with  
10 specificity, the reasons for the disapproval. The entity  
11 submitting the drawings and specifications may submit  
12 additional information in response to the written comments from  
13 the Department or request a reconsideration of the disapproval.  
14 A final decision of approval or disapproval shall be made  
15 within 45 days of the receipt of the additional information or  
16 reconsideration request. If denied, the Department shall state  
17 the specific reasons for the denial.

18 (c) The Department shall provide written approval for  
19 occupancy pursuant to subsection (g) and shall not issue a  
20 violation to a facility as a result of a licensure or complaint  
21 survey based upon the facility's physical structure if:

22 (1) the Department reviewed and approved or deemed  
23 approved the drawings and specifications for compliance  
24 with design and construction standards;

25 (2) the construction, major alteration, or addition  
26 was built as submitted;

1           (3) the law or rules have not been amended since the  
2 original approval; and

3           (4) the conditions at the facility indicate that there  
4 is a reasonable degree of safety provided for the  
5 residents.

6           (d) The Department shall charge the following fees in  
7 connection with its reviews conducted before June 30, 2004  
8 under this Section:

9           (1) (Blank).

10          (2) (Blank).

11          (3) If the estimated dollar value of the alteration,  
12 addition, or new construction is \$100,000 or more but less  
13 than \$500,000, the fee shall be the greater of \$2,400 or  
14 1.2% of that value.

15          (4) If the estimated dollar value of the alteration,  
16 addition, or new construction is \$500,000 or more but less  
17 than \$1,000,000, the fee shall be the greater of \$6,000 or  
18 0.96% of that value.

19          (5) If the estimated dollar value of the alteration,  
20 addition, or new construction is \$1,000,000 or more but  
21 less than \$5,000,000, the fee shall be the greater of  
22 \$9,600 or 0.22% of that value.

23          (6) If the estimated dollar value of the alteration,  
24 addition, or new construction is \$5,000,000 or more, the  
25 fee shall be the greater of \$11,000 or 0.11% of that value,  
26 but shall not exceed \$40,000.

1           The fees provided in this subsection (d) shall not apply to  
2 major construction projects involving facility changes that  
3 are required by Department rule amendments.

4           The fees provided in this subsection (d) shall also not  
5 apply to major construction projects if 51% or more of the  
6 estimated cost of the project is attributed to capital  
7 equipment. For major construction projects where 51% or more of  
8 the estimated cost of the project is attributed to capital  
9 equipment, the Department shall by rule establish a fee that is  
10 reasonably related to the cost of reviewing the project.

11           The Department shall not commence the facility plan review  
12 process under this Section until the applicable fee has been  
13 paid.

14           (e) All fees received by the Department under this Section  
15 shall be deposited into the Health Facility Plan Review Fund, a  
16 special fund created in the State Treasury. All fees paid by  
17 long-term care facilities under subsection (d) shall be used  
18 only to cover the costs relating to the Department's review of  
19 long-term care facility projects under this Section. Moneys  
20 shall be appropriated from that Fund to the Department only to  
21 pay the costs of conducting reviews under this Section or under  
22 Section 3-202.5 of the ID/DD ~~MR/DD~~ Community Care Act. None of  
23 the moneys in the Health Facility Plan Review Fund shall be  
24 used to reduce the amount of General Revenue Fund moneys  
25 appropriated to the Department for facility plan reviews  
26 conducted pursuant to this Section.

1 (f) (1) The provisions of this amendatory Act of 1997  
2 concerning drawings and specifications shall apply only to  
3 drawings and specifications submitted to the Department on  
4 or after October 1, 1997.

5 (2) On and after the effective date of this amendatory  
6 Act of 1997 and before October 1, 1997, an applicant may  
7 submit or resubmit drawings and specifications to the  
8 Department and pay the fees provided in subsection (d). If  
9 an applicant pays the fees provided in subsection (d) under  
10 this paragraph (2), the provisions of subsection (b) shall  
11 apply with regard to those drawings and specifications.

12 (g) The Department shall conduct an on-site inspection of  
13 the completed project no later than 30 days after notification  
14 from the applicant that the project has been completed and all  
15 certifications required by the Department have been received  
16 and accepted by the Department. The Department shall provide  
17 written approval for occupancy to the applicant within 5  
18 working days of the Department's final inspection, provided the  
19 applicant has demonstrated substantial compliance as defined  
20 by Department rule. Occupancy of new major construction is  
21 prohibited until Department approval is received, unless the  
22 Department has not acted within the time frames provided in  
23 this subsection (g), in which case the construction shall be  
24 deemed approved. Occupancy shall be authorized after any  
25 required health inspection by the Department has been  
26 conducted.

1 (h) The Department shall establish, by rule, a procedure to  
2 conduct interim on-site review of large or complex construction  
3 projects.

4 (i) The Department shall establish, by rule, an expedited  
5 process for emergency repairs or replacement of like equipment.

6 (j) Nothing in this Section shall be construed to apply to  
7 maintenance, upkeep, or renovation that does not affect the  
8 structural integrity of the building, does not add beds or  
9 services over the number for which the long-term care facility  
10 is licensed, and provides a reasonable degree of safety for the  
11 residents.

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

13 Section 73. The MR/DD Community Care Act is amended by  
14 changing Sections 1-101 and 1-113 as follows:

15 (210 ILCS 47/1-101)

16 Sec. 1-101. Short title. This Act may be cited as the ID/DD  
17 ~~MR/DD~~ Community Care Act.

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

19 (210 ILCS 47/1-113)

20 Sec. 1-113. Facility. "ID/DD~~MR/DD~~ facility" or "facility"  
21 means an intermediate care facility for the developmentally  
22 disabled or a long-term care for under age 22 facility, whether  
23 operated for profit or not, which provides, through its

1 ownership or management, personal care or nursing for 3 or more  
2 persons not related to the applicant or owner by blood or  
3 marriage. It includes intermediate care facilities for the  
4 intellectually disabled ~~mentally retarded~~ as the term is  
5 defined in Title XVIII and Title XIX of the federal Social  
6 Security Act.

7 "Facility" does not include the following:

8 (1) A home, institution, or other place operated by the  
9 federal government or agency thereof, or by the State of  
10 Illinois, other than homes, institutions, or other places  
11 operated by or under the authority of the Illinois  
12 Department of Veterans' Affairs;

13 (2) A hospital, sanitarium, or other institution whose  
14 principal activity or business is the diagnosis, care, and  
15 treatment of human illness through the maintenance and  
16 operation as organized facilities therefore, which is  
17 required to be licensed under the Hospital Licensing Act;

18 (3) Any "facility for child care" as defined in the  
19 Child Care Act of 1969;

20 (4) Any "community living facility" as defined in the  
21 Community Living Facilities Licensing Act;

22 (5) Any "community residential alternative" as defined  
23 in the Community Residential Alternatives Licensing Act;

24 (6) Any nursing home or sanatorium operated solely by  
25 and for persons who rely exclusively upon treatment by  
26 spiritual means through prayer, in accordance with the



1           creed or tenets of any well recognized church or religious  
2           denomination. However, such nursing home or sanatorium  
3           shall comply with all local laws and rules relating to  
4           sanitation and safety;

5           (7) Any facility licensed by the Department of Human  
6           Services as a community-integrated living arrangement as  
7           defined in the Community-Integrated Living Arrangements  
8           Licensure and Certification Act;

9           (8) Any "supportive residence" licensed under the  
10          Supportive Residences Licensing Act;

11          (9) Any "supportive living facility" in good standing  
12          with the program established under Section 5-5.01a of the  
13          Illinois Public Aid Code, except only for purposes of the  
14          employment of persons in accordance with Section 3-206.01;

15          (10) Any assisted living or shared housing  
16          establishment licensed under the Assisted Living and  
17          Shared Housing Act, except only for purposes of the  
18          employment of persons in accordance with Section 3-206.01;

19          (11) An Alzheimer's disease management center  
20          alternative health care model licensed under the  
21          Alternative Health Care Delivery Act; or

22          (12) A home, institution, or other place operated by or  
23          under the authority of the Illinois Department of Veterans'  
24          Affairs.

25          (Source: P.A. 96-339, eff. 7-1-10; 96-1000, eff. 7-2-10.)

1           Section 74. The Home Health, Home Services, and Home  
2           Nursing Agency Licensing Act is amended by changing Section  
3           2.08 as follows:

4           (210 ILCS 55/2.08)

5           Sec. 2.08. "Home services agency" means an agency that  
6           provides services directly, or acts as a placement agency, for  
7           the purpose of placing individuals as workers providing home  
8           services for consumers in their personal residences. "Home  
9           services agency" does not include agencies licensed under the  
10          Nurse Agency Licensing Act, the Hospital Licensing Act, the  
11          Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or  
12          the Assisted Living and Shared Housing Act and does not include  
13          an agency that limits its business exclusively to providing  
14          housecleaning services. Programs providing services  
15          exclusively through the Community Care Program of the Illinois  
16          Department on Aging, the Department of Human Services Office of  
17          Rehabilitation Services, or the United States Department of  
18          Veterans Affairs are not considered to be a home services  
19          agency under this Act.

20          (Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09;  
21          96-1000, eff. 7-2-10.)

22          Section 75. The Hospice Program Licensing Act is amended by  
23          changing Sections 3 and 4 as follows:

1 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

2 Sec. 3. Definitions. As used in this Act, unless the  
3 context otherwise requires:

4 (a) "Bereavement" means the period of time during which the  
5 hospice patient's family experiences and adjusts to the death  
6 of the hospice patient.

7 (a-5) "Bereavement services" means counseling services  
8 provided to an individual's family after the individual's  
9 death.

10 (a-10) "Attending physician" means a physician who:

11 (1) is a doctor of medicine or osteopathy; and

12 (2) is identified by an individual, at the time the  
13 individual elects to receive hospice care, as having the  
14 most significant role in the determination and delivery of  
15 the individual's medical care.

16 (b) "Department" means the Illinois Department of Public  
17 Health.

18 (c) "Director" means the Director of the Illinois  
19 Department of Public Health.

20 (d) "Hospice care" means a program of palliative care that  
21 provides for the physical, emotional, and spiritual care needs  
22 of a terminally ill patient and his or her family. The goal of  
23 such care is to achieve the highest quality of life as defined  
24 by the patient and his or her family through the relief of  
25 suffering and control of symptoms.

26 (e) "Hospice care team" means an interdisciplinary group or

1 groups composed of individuals who provide or supervise the  
2 care and services offered by the hospice.

3 (f) "Hospice patient" means a terminally ill person  
4 receiving hospice services.

5 (g) "Hospice patient's family" means a hospice patient's  
6 immediate family consisting of a spouse, sibling, child, parent  
7 and those individuals designated as such by the patient for the  
8 purposes of this Act.

9 (g-1) "Hospice residence" means a separately licensed  
10 home, apartment building, or similar building providing living  
11 quarters:

12 (1) that is owned or operated by a person licensed to  
13 operate as a comprehensive hospice; and

14 (2) at which hospice services are provided to facility  
15 residents.

16 A building that is licensed under the Hospital Licensing  
17 Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community  
18 Care Act is not a hospice residence.

19 (h) "Hospice services" means a range of professional and  
20 other supportive services provided to a hospice patient and his  
21 or her family. These services may include, but are not limited  
22 to, physician services, nursing services, medical social work  
23 services, spiritual counseling services, bereavement services,  
24 and volunteer services.

25 (h-5) "Hospice program" means a licensed public agency or  
26 private organization, or a subdivision of either of those, that

1 is primarily engaged in providing care to terminally ill  
2 individuals through a program of home care or inpatient care,  
3 or both home care and inpatient care, utilizing a medically  
4 directed interdisciplinary hospice care team of professionals  
5 or volunteers, or both professionals and volunteers. A hospice  
6 program may be licensed as a comprehensive hospice program or a  
7 volunteer hospice program.

8 (h-10) "Comprehensive hospice" means a program that  
9 provides hospice services and meets the minimum standards for  
10 certification under the Medicare program set forth in the  
11 Conditions of Participation in 42 CFR Part 418 but is not  
12 required to be Medicare-certified.

13 (i) "Palliative care" means the management of pain and  
14 other distressing symptoms that incorporates medical, nursing,  
15 psychosocial, and spiritual care according to the needs,  
16 values, beliefs, and culture or cultures of the patient and his  
17 or her family. The evaluation and treatment is  
18 patient-centered, with a focus on the central role of the  
19 family unit in decision-making.

20 (j) "Hospice service plan" means a plan detailing the  
21 specific hospice services offered by a comprehensive or  
22 volunteer hospice program, and the administrative and direct  
23 care personnel responsible for those services. The plan shall  
24 include but not be limited to:

25 (1) Identification of the person or persons  
26 administratively responsible for the program.

- 1           (2) The estimated average monthly patient census.
- 2           (3) The proposed geographic area the hospice will  
3           serve.
- 4           (4) A listing of those hospice services provided  
5           directly by the hospice, and those hospice services  
6           provided indirectly through a contractual agreement.
- 7           (5) The name and qualifications of those persons or  
8           entities under contract to provide indirect hospice  
9           services.
- 10          (6) The name and qualifications of those persons  
11          providing direct hospice services, with the exception of  
12          volunteers.
- 13          (7) A description of how the hospice plans to utilize  
14          volunteers in the provision of hospice services.
- 15          (8) A description of the program's record keeping  
16          system.
- 17          (k) "Terminally ill" means a medical prognosis by a  
18          physician licensed to practice medicine in all of its branches  
19          that a patient has an anticipated life expectancy of one year  
20          or less.
- 21          (l) "Volunteer" means a person who offers his or her  
22          services to a hospice without compensation. Reimbursement for a  
23          volunteer's expenses in providing hospice service shall not be  
24          considered compensation.
- 25          (1-5) "Employee" means a paid or unpaid member of the staff  
26          of a hospice program, or, if the hospice program is a

1 subdivision of an agency or organization, of the agency or  
2 organization, who is appropriately trained and assigned to the  
3 hospice program. "Employee" also means a volunteer whose duties  
4 are prescribed by the hospice program and whose performance of  
5 those duties is supervised by the hospice program.

6 (l-10) "Representative" means an individual who has been  
7 authorized under State law to terminate an individual's medical  
8 care or to elect or revoke the election of hospice care on  
9 behalf of a terminally ill individual who is mentally or  
10 physically incapacitated.

11 (m) "Volunteer hospice" means a program which provides  
12 hospice services to patients regardless of their ability to  
13 pay, with emphasis on the utilization of volunteers to provide  
14 services, under the administration of a not-for-profit agency.  
15 This definition does not prohibit the employment of staff.

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

17 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

18 Sec. 4. License.

19 (a) No person shall establish, conduct or maintain a  
20 comprehensive or volunteer hospice program without first  
21 obtaining a license from the Department. A hospice residence  
22 may be operated only at the locations listed on the license. A  
23 comprehensive hospice program owning or operating a hospice  
24 residence is not subject to the provisions of the Nursing Home  
25 Care Act or the ID/DD ~~MR/DD~~ Community Care Act in owning or

1 operating a hospice residence.

2 (b) No public or private agency shall advertise or present  
3 itself to the public as a comprehensive or volunteer hospice  
4 program which provides hospice services without meeting the  
5 provisions of subsection (a).

6 (c) The license shall be valid only in the possession of  
7 the hospice to which it was originally issued and shall not be  
8 transferred or assigned to any other person, agency, or  
9 corporation.

10 (d) The license shall be renewed annually.

11 (e) The license shall be displayed in a conspicuous place  
12 inside the hospice program office.

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

14 Section 76. The Hospital Licensing Act is amended by  
15 changing Sections 3, 6.09, and 6.11 as follows:

16 (210 ILCS 85/3)

17 Sec. 3. As used in this Act:

18 (A) "Hospital" means any institution, place, building,  
19 buildings on a campus, or agency, public or private, whether  
20 organized for profit or not, devoted primarily to the  
21 maintenance and operation of facilities for the diagnosis and  
22 treatment or care of 2 or more unrelated persons admitted for  
23 overnight stay or longer in order to obtain medical, including  
24 obstetric, psychiatric and nursing, care of illness, disease,



1 injury, infirmity, or deformity.

2 The term "hospital", without regard to length of stay,  
3 shall also include:

4 (a) any facility which is devoted primarily to  
5 providing psychiatric and related services and programs  
6 for the diagnosis and treatment or care of 2 or more  
7 unrelated persons suffering from emotional or nervous  
8 diseases;

9 (b) all places where pregnant females are received,  
10 cared for, or treated during delivery irrespective of the  
11 number of patients received.

12 The term "hospital" includes general and specialized  
13 hospitals, tuberculosis sanitarium, mental or psychiatric  
14 hospitals and sanitarium, and includes maternity homes,  
15 lying-in homes, and homes for unwed mothers in which care is  
16 given during delivery.

17 The term "hospital" does not include:

18 (1) any person or institution required to be licensed  
19 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
20 Community Care Act;

21 (2) hospitalization or care facilities maintained by  
22 the State or any department or agency thereof, where such  
23 department or agency has authority under law to establish  
24 and enforce standards for the hospitalization or care  
25 facilities under its management and control;

26 (3) hospitalization or care facilities maintained by

1 the federal government or agencies thereof;

2 (4) hospitalization or care facilities maintained by  
3 any university or college established under the laws of  
4 this State and supported principally by public funds raised  
5 by taxation;

6 (5) any person or facility required to be licensed  
7 pursuant to the Alcoholism and Other Drug Abuse and  
8 Dependency Act;

9 (6) any facility operated solely by and for persons who  
10 rely exclusively upon treatment by spiritual means through  
11 prayer, in accordance with the creed or tenets of any  
12 well-recognized church or religious denomination;

13 (7) an Alzheimer's disease management center  
14 alternative health care model licensed under the  
15 Alternative Health Care Delivery Act; or

16 (8) any veterinary hospital or clinic operated by a  
17 veterinarian or veterinarians licensed under the  
18 Veterinary Medicine and Surgery Practice Act of 2004 or  
19 maintained by a State-supported or publicly funded  
20 university or college.

21 (B) "Person" means the State, and any political subdivision  
22 or municipal corporation, individual, firm, partnership,  
23 corporation, company, association, or joint stock association,  
24 or the legal successor thereof.

25 (C) "Department" means the Department of Public Health of  
26 the State of Illinois.

1 (D) "Director" means the Director of Public Health of the  
2 State of Illinois.

3 (E) "Perinatal" means the period of time between the  
4 conception of an infant and the end of the first month after  
5 birth.

6 (F) "Federally designated organ procurement agency" means  
7 the organ procurement agency designated by the Secretary of the  
8 U.S. Department of Health and Human Services for the service  
9 area in which a hospital is located; except that in the case of  
10 a hospital located in a county adjacent to Wisconsin which  
11 currently contracts with an organ procurement agency located in  
12 Wisconsin that is not the organ procurement agency designated  
13 by the U.S. Secretary of Health and Human Services for the  
14 service area in which the hospital is located, if the hospital  
15 applies for a waiver pursuant to 42 USC 1320b-8(a), it may  
16 designate an organ procurement agency located in Wisconsin to  
17 be thereafter deemed its federally designated organ  
18 procurement agency for the purposes of this Act.

19 (G) "Tissue bank" means any facility or program operating  
20 in Illinois that is certified by the American Association of  
21 Tissue Banks or the Eye Bank Association of America and is  
22 involved in procuring, furnishing, donating, or distributing  
23 corneas, bones, or other human tissue for the purpose of  
24 injecting, transfusing, or transplanting any of them into the  
25 human body. "Tissue bank" does not include a licensed blood  
26 bank. For the purposes of this Act, "tissue" does not include

1 organs.

2 (H) "Campus", as this terms applies to operations, has the  
3 same meaning as the term "campus" as set forth in federal  
4 Medicare regulations, 42 CFR 413.65.

5 (Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10;  
6 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

7 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

8 Sec. 6.09. (a) In order to facilitate the orderly  
9 transition of aged and disabled patients from hospitals to  
10 post-hospital care, whenever a patient who qualifies for the  
11 federal Medicare program is hospitalized, the patient shall be  
12 notified of discharge at least 24 hours prior to discharge from  
13 the hospital. With regard to pending discharges to a skilled  
14 nursing facility, the hospital must notify the case  
15 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at  
16 least 24 hours prior to discharge or, if home health services  
17 are ordered, the hospital must inform its designated case  
18 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of  
19 the pending discharge and must provide the patient with the  
20 case coordination unit's telephone number and other contact  
21 information.

22 (b) Every hospital shall develop procedures for a physician  
23 with medical staff privileges at the hospital or any  
24 appropriate medical staff member to provide the discharge  
25 notice prescribed in subsection (a) of this Section. The

1 procedures must include prohibitions against discharging or  
2 referring a patient to any of the following if unlicensed,  
3 uncertified, or unregistered: (i) a board and care facility, as  
4 defined in the Board and Care Home Act; (ii) an assisted living  
5 and shared housing establishment, as defined in the Assisted  
6 Living and Shared Housing Act; (iii) a facility licensed under  
7 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
8 Act; (iv) a supportive living facility, as defined in Section  
9 5-5.01a of the Illinois Public Aid Code; or (v) a free-standing  
10 hospice facility licensed under the Hospice Program Licensing  
11 Act if licensure, certification, or registration is required.  
12 The Department of Public Health shall annually provide  
13 hospitals with a list of licensed, certified, or registered  
14 board and care facilities, assisted living and shared housing  
15 establishments, nursing homes, supportive living facilities,  
16 facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act,  
17 and hospice facilities. Reliance upon this list by a hospital  
18 shall satisfy compliance with this requirement. The procedure  
19 may also include a waiver for any case in which a discharge  
20 notice is not feasible due to a short length of stay in the  
21 hospital by the patient, or for any case in which the patient  
22 voluntarily desires to leave the hospital before the expiration  
23 of the 24 hour period.

24 (c) At least 24 hours prior to discharge from the hospital,  
25 the patient shall receive written information on the patient's  
26 right to appeal the discharge pursuant to the federal Medicare

1 program, including the steps to follow to appeal the discharge  
2 and the appropriate telephone number to call in case the  
3 patient intends to appeal the discharge.

4 (d) Before transfer of a patient to a long term care  
5 facility licensed under the Nursing Home Care Act where elderly  
6 persons reside, a hospital shall as soon as practicable  
7 initiate a name-based criminal history background check by  
8 electronic submission to the Department of State Police for all  
9 persons between the ages of 18 and 70 years; provided, however,  
10 that a hospital shall be required to initiate such a background  
11 check only with respect to patients who:

12 (1) are transferring to a long term care facility for  
13 the first time;

14 (2) have been in the hospital more than 5 days;

15 (3) are reasonably expected to remain at the long term  
16 care facility for more than 30 days;

17 (4) have a known history of serious mental illness or  
18 substance abuse; and

19 (5) are independently ambulatory or mobile for more  
20 than a temporary period of time.

21 A hospital may also request a criminal history background  
22 check for a patient who does not meet any of the criteria set  
23 forth in items (1) through (5).

24 A hospital shall notify a long term care facility if the  
25 hospital has initiated a criminal history background check on a  
26 patient being discharged to that facility. In all circumstances

1 in which the hospital is required by this subsection to  
2 initiate the criminal history background check, the transfer to  
3 the long term care facility may proceed regardless of the  
4 availability of criminal history results. Upon receipt of the  
5 results, the hospital shall promptly forward the results to the  
6 appropriate long term care facility. If the results of the  
7 background check are inconclusive, the hospital shall have no  
8 additional duty or obligation to seek additional information  
9 from, or about, the patient.

10 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;  
11 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff.  
12 7-29-10.)

13 (210 ILCS 85/6.11) (from Ch. 111 1/2, par. 147.11)

14 Sec. 6.11. In licensing any hospital which provides for the  
15 diagnosis, care or treatment for persons suffering from mental  
16 or emotional disorders or for intellectually disabled ~~mentally~~  
17 ~~retarded~~ persons, the Department shall consult with the  
18 Department of Human Services in developing standards for and  
19 evaluating the psychiatric programs of such hospitals.

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

21 Section 77. The Language Assistance Services Act is amended  
22 by changing Section 10 as follows:

23 (210 ILCS 87/10)

1           Sec. 10. Definitions. As used in this Act:

2           "Department" means the Department of Public Health.

3           "Interpreter" means a person fluent in English and in the  
4 necessary language of the patient who can accurately speak,  
5 read, and readily interpret the necessary second language, or a  
6 person who can accurately sign and read sign language.  
7 Interpreters shall have the ability to translate the names of  
8 body parts and to describe completely symptoms and injuries in  
9 both languages. Interpreters may include members of the medical  
10 or professional staff.

11           "Language or communication barriers" means either of the  
12 following:

13           (1) With respect to spoken language, barriers that are  
14 experienced by limited-English-speaking or  
15 non-English-speaking individuals who speak the same  
16 primary language, if those individuals constitute at least  
17 5% of the patients served by the health facility annually.

18           (2) With respect to sign language, barriers that are  
19 experienced by individuals who are deaf and whose primary  
20 language is sign language.

21           "Health facility" means a hospital licensed under the  
22 Hospital Licensing Act, a long-term care facility licensed  
23 under the Nursing Home Care Act, or a facility licensed under  
24 the ID/DD ~~MR/DD~~ Community Care Act.

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



1           Section 78. Community-Integrated Living Arrangements  
2           Licensure and Certification Act is amended by changing Section  
3           4 as follows:

4           (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

5           Sec. 4. (a) Any community mental health or developmental  
6           services agency who wishes to develop and support a variety of  
7           community-integrated living arrangements may do so pursuant to  
8           a license issued by the Department under this Act. However,  
9           programs established under or otherwise subject to the Child  
10          Care Act of 1969, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~  
11          Community Care Act, as now or hereafter amended, shall remain  
12          subject thereto, and this Act shall not be construed to limit  
13          the application of those Acts.

14          (b) The system of licensure established under this Act  
15          shall be for the purposes of:

16               (1) Insuring that all recipients residing in  
17               community-integrated living arrangements are receiving  
18               appropriate community-based services, including treatment,  
19               training and habilitation or rehabilitation;

20               (2) Insuring that recipients' rights are protected and  
21               that all programs provided to and placements arranged for  
22               recipients comply with this Act, the Mental Health and  
23               Developmental Disabilities Code, and applicable Department  
24               rules and regulations;

25               (3) Maintaining the integrity of communities by

1 requiring regular monitoring and inspection of placements  
2 and other services provided in community-integrated living  
3 arrangements.

4 The licensure system shall be administered by a quality  
5 assurance unit within the Department which shall be  
6 administratively independent of units responsible for funding  
7 of agencies or community services.

8 (c) As a condition of being licensed by the Department as a  
9 community mental health or developmental services agency under  
10 this Act, the agency shall certify to the Department that:

11 (1) All recipients residing in community-integrated  
12 living arrangements are receiving appropriate  
13 community-based services, including treatment, training  
14 and habilitation or rehabilitation;

15 (2) All programs provided to and placements arranged  
16 for recipients are supervised by the agency; and

17 (3) All programs provided to and placements arranged  
18 for recipients comply with this Act, the Mental Health and  
19 Developmental Disabilities Code, and applicable Department  
20 rules and regulations.

21 (d) An applicant for licensure as a community mental health  
22 or developmental services agency under this Act shall submit an  
23 application pursuant to the application process established by  
24 the Department by rule and shall pay an application fee in an  
25 amount established by the Department, which amount shall not be  
26 more than \$200.

1           (e) If an applicant meets the requirements established by  
2 the Department to be licensed as a community mental health or  
3 developmental services agency under this Act, after payment of  
4 the licensing fee, the Department shall issue a license valid  
5 for 3 years from the date thereof unless suspended or revoked  
6 by the Department or voluntarily surrendered by the agency.

7           (f) Upon application to the Department, the Department may  
8 issue a temporary permit to an applicant for a 6-month period  
9 to allow the holder of such permit reasonable time to become  
10 eligible for a license under this Act.

11           (g) (1) The Department may conduct site visits to an agency  
12 licensed under this Act, or to any program or placement  
13 certified by the agency, and inspect the records or premises,  
14 or both, of such agency, program or placement as it deems  
15 appropriate, for the purpose of determining compliance with  
16 this Act, the Mental Health and Developmental Disabilities  
17 Code, and applicable Department rules and regulations.

18           (2) If the Department determines that an agency licensed  
19 under this Act is not in compliance with this Act or the rules  
20 and regulations promulgated under this Act, the Department  
21 shall serve a notice of violation upon the licensee. Each  
22 notice of violation shall be prepared in writing and shall  
23 specify the nature of the violation, the statutory provision or  
24 rule alleged to have been violated, and that the licensee  
25 submit a plan of correction to the Department if required. The  
26 notice shall also inform the licensee of any other action which

1 the Department might take pursuant to this Act and of the right  
2 to a hearing.

3 (h) Upon the expiration of any license issued under this  
4 Act, a license renewal application shall be required of and a  
5 license renewal fee in an amount established by the Department  
6 shall be charged to a community mental health or developmental  
7 services agency, provided that such fee shall not be more than  
8 \$200.

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

10 Section 79. The Child Care Act of 1969 is amended by  
11 changing Sections 2.06 and 7 as follows:

12 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

13 Sec. 2.06. "Child care institution" means a child care  
14 facility where more than 7 children are received and maintained  
15 for the purpose of providing them with care or training or  
16 both. The term "child care institution" includes residential  
17 schools, primarily serving ambulatory handicapped children,  
18 and those operating a full calendar year, but does not include:

19 (a) Any State-operated institution for child care  
20 established by legislative action;

21 (b) Any juvenile detention or shelter care home established  
22 and operated by any county or child protection district  
23 established under the "Child Protection Act";

24 (c) Any institution, home, place or facility operating

1 under a license pursuant to the Nursing Home Care Act or the  
2 ID/DD ~~MR/DD~~ Community Care Act;

3 (d) Any bona fide boarding school in which children are  
4 primarily taught branches of education corresponding to those  
5 taught in public schools, grades one through 12, or taught in  
6 public elementary schools, high schools, or both elementary and  
7 high schools, and which operates on a regular academic school  
8 year basis; or

9 (e) Any facility licensed as a "group home" as defined in  
10 this Act.

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

12 (225 ILCS 10/7) (from Ch. 23, par. 2217)

13 Sec. 7. (a) The Department must prescribe and publish  
14 minimum standards for licensing that apply to the various types  
15 of facilities for child care defined in this Act and that are  
16 equally applicable to like institutions under the control of  
17 the Department and to foster family homes used by and under the  
18 direct supervision of the Department. The Department shall seek  
19 the advice and assistance of persons representative of the  
20 various types of child care facilities in establishing such  
21 standards. The standards prescribed and published under this  
22 Act take effect as provided in the Illinois Administrative  
23 Procedure Act, and are restricted to regulations pertaining to  
24 the following matters and to any rules and regulations required  
25 or permitted by any other Section of this Act:

1           (1) The operation and conduct of the facility and  
2           responsibility it assumes for child care;

3           (2) The character, suitability and qualifications of  
4           the applicant and other persons directly responsible for  
5           the care and welfare of children served. All child day care  
6           center licensees and employees who are required to report  
7           child abuse or neglect under the Abused and Neglected Child  
8           Reporting Act shall be required to attend training on  
9           recognizing child abuse and neglect, as prescribed by  
10          Department rules;

11          (3) The general financial ability and competence of the  
12          applicant to provide necessary care for children and to  
13          maintain prescribed standards;

14          (4) The number of individuals or staff required to  
15          insure adequate supervision and care of the children  
16          received. The standards shall provide that each child care  
17          institution, maternity center, day care center, group  
18          home, day care home, and group day care home shall have on  
19          its premises during its hours of operation at least one  
20          staff member certified in first aid, in the Heimlich  
21          maneuver and in cardiopulmonary resuscitation by the  
22          American Red Cross or other organization approved by rule  
23          of the Department. Child welfare agencies shall not be  
24          subject to such a staffing requirement. The Department may  
25          offer, or arrange for the offering, on a periodic basis in  
26          each community in this State in cooperation with the

1 American Red Cross, the American Heart Association or other  
2 appropriate organization, voluntary programs to train  
3 operators of foster family homes and day care homes in  
4 first aid and cardiopulmonary resuscitation;

5 (5) The appropriateness, safety, cleanliness and  
6 general adequacy of the premises, including maintenance of  
7 adequate fire prevention and health standards conforming  
8 to State laws and municipal codes to provide for the  
9 physical comfort, care and well-being of children  
10 received;

11 (6) Provisions for food, clothing, educational  
12 opportunities, program, equipment and individual supplies  
13 to assure the healthy physical, mental and spiritual  
14 development of children served;

15 (7) Provisions to safeguard the legal rights of  
16 children served;

17 (8) Maintenance of records pertaining to the  
18 admission, progress, health and discharge of children,  
19 including, for day care centers and day care homes, records  
20 indicating each child has been immunized as required by  
21 State regulations. The Department shall require proof that  
22 children enrolled in a facility have been immunized against  
23 Haemophilus Influenzae B (HIB);

24 (9) Filing of reports with the Department;

25 (10) Discipline of children;

26 (11) Protection and fostering of the particular

1 religious faith of the children served;

2 (12) Provisions prohibiting firearms on day care  
3 center premises except in the possession of peace officers;

4 (13) Provisions prohibiting handguns on day care home  
5 premises except in the possession of peace officers or  
6 other adults who must possess a handgun as a condition of  
7 employment and who reside on the premises of a day care  
8 home;

9 (14) Provisions requiring that any firearm permitted  
10 on day care home premises, except handguns in the  
11 possession of peace officers, shall be kept in a  
12 disassembled state, without ammunition, in locked storage,  
13 inaccessible to children and that ammunition permitted on  
14 day care home premises shall be kept in locked storage  
15 separate from that of disassembled firearms, inaccessible  
16 to children;

17 (15) Provisions requiring notification of parents or  
18 guardians enrolling children at a day care home of the  
19 presence in the day care home of any firearms and  
20 ammunition and of the arrangements for the separate, locked  
21 storage of such firearms and ammunition.

22 (b) If, in a facility for general child care, there are  
23 children diagnosed as mentally ill, intellectually disabled  
24 ~~mentally retarded~~ or physically handicapped, who are  
25 determined to be in need of special mental treatment or of  
26 nursing care, or both mental treatment and nursing care, the



1 Department shall seek the advice and recommendation of the  
2 Department of Human Services, the Department of Public Health,  
3 or both Departments regarding the residential treatment and  
4 nursing care provided by the institution.

5 (c) The Department shall investigate any person applying to  
6 be licensed as a foster parent to determine whether there is  
7 any evidence of current drug or alcohol abuse in the  
8 prospective foster family. The Department shall not license a  
9 person as a foster parent if drug or alcohol abuse has been  
10 identified in the foster family or if a reasonable suspicion of  
11 such abuse exists, except that the Department may grant a  
12 foster parent license to an applicant identified with an  
13 alcohol or drug problem if the applicant has successfully  
14 participated in an alcohol or drug treatment program, self-help  
15 group, or other suitable activities.

16 (d) The Department, in applying standards prescribed and  
17 published, as herein provided, shall offer consultation  
18 through employed staff or other qualified persons to assist  
19 applicants and licensees in meeting and maintaining minimum  
20 requirements for a license and to help them otherwise to  
21 achieve programs of excellence related to the care of children  
22 served. Such consultation shall include providing information  
23 concerning education and training in early childhood  
24 development to providers of day care home services. The  
25 Department may provide or arrange for such education and  
26 training for those providers who request such assistance.

1           (e) The Department shall distribute copies of licensing  
2 standards to all licensees and applicants for a license. Each  
3 licensee or holder of a permit shall distribute copies of the  
4 appropriate licensing standards and any other information  
5 required by the Department to child care facilities under its  
6 supervision. Each licensee or holder of a permit shall maintain  
7 appropriate documentation of the distribution of the  
8 standards. Such documentation shall be part of the records of  
9 the facility and subject to inspection by authorized  
10 representatives of the Department.

11           (f) The Department shall prepare summaries of day care  
12 licensing standards. Each licensee or holder of a permit for a  
13 day care facility shall distribute a copy of the appropriate  
14 summary and any other information required by the Department,  
15 to the legal guardian of each child cared for in that facility  
16 at the time when the child is enrolled or initially placed in  
17 the facility. The licensee or holder of a permit for a day care  
18 facility shall secure appropriate documentation of the  
19 distribution of the summary and brochure. Such documentation  
20 shall be a part of the records of the facility and subject to  
21 inspection by an authorized representative of the Department.

22           (g) The Department shall distribute to each licensee and  
23 holder of a permit copies of the licensing or permit standards  
24 applicable to such person's facility. Each licensee or holder  
25 of a permit shall make available by posting at all times in a  
26 common or otherwise accessible area a complete and current set

1 of licensing standards in order that all employees of the  
2 facility may have unrestricted access to such standards. All  
3 employees of the facility shall have reviewed the standards and  
4 any subsequent changes. Each licensee or holder of a permit  
5 shall maintain appropriate documentation of the current review  
6 of licensing standards by all employees. Such records shall be  
7 part of the records of the facility and subject to inspection  
8 by authorized representatives of the Department.

9 (h) Any standards involving physical examinations,  
10 immunization, or medical treatment shall include appropriate  
11 exemptions for children whose parents object thereto on the  
12 grounds that they conflict with the tenets and practices of a  
13 recognized church or religious organization, of which the  
14 parent is an adherent or member, and for children who should  
15 not be subjected to immunization for clinical reasons.

16 (i) The Department, in cooperation with the Department of  
17 Public Health, shall work to increase immunization awareness  
18 and participation among parents of children enrolled in day  
19 care centers and day care homes by publishing on the  
20 Department's website information about the benefits of annual  
21 immunization against influenza for children 6 months of age to  
22 5 years of age. The Department shall work with day care centers  
23 and day care homes licensed under this Act to ensure that the  
24 information is annually distributed to parents in August or  
25 September.

26 (Source: P.A. 96-391, eff. 8-13-09.)

1           Section 80. The Health Care Worker Background Check Act is  
2 amended by changing Section 15 as follows:

3           (225 ILCS 46/15)

4           Sec. 15. Definitions. In this Act:

5           "Applicant" means an individual seeking employment with a  
6 health care employer who has received a bona fide conditional  
7 offer of employment.

8           "Conditional offer of employment" means a bona fide offer  
9 of employment by a health care employer to an applicant, which  
10 is contingent upon the receipt of a report from the Department  
11 of Public Health indicating that the applicant does not have a  
12 record of conviction of any of the criminal offenses enumerated  
13 in Section 25.

14           "Direct care" means the provision of nursing care or  
15 assistance with feeding, dressing, movement, bathing,  
16 toileting, or other personal needs, including home services as  
17 defined in the Home Health, Home Services, and Home Nursing  
18 Agency Licensing Act. The entity responsible for inspecting and  
19 licensing, certifying, or registering the health care employer  
20 may, by administrative rule, prescribe guidelines for  
21 interpreting this definition with regard to the health care  
22 employers that it licenses.

23           "Disqualifying offenses" means those offenses set forth in  
24 Section 25 of this Act.

1 "Employee" means any individual hired, employed, or  
2 retained to which this Act applies.

3 "Fingerprint-based criminal history records check" means a  
4 livescan fingerprint-based criminal history records check  
5 submitted as a fee applicant inquiry in the form and manner  
6 prescribed by the Department of State Police.

7 "Health care employer" means:

8 (1) the owner or licensee of any of the following:

9 (i) a community living facility, as defined in the  
10 Community Living Facilities Act;

11 (ii) a life care facility, as defined in the Life  
12 Care Facilities Act;

13 (iii) a long-term care facility;

14 (iv) a home health agency, home services agency, or  
15 home nursing agency as defined in the Home Health, Home  
16 Services, and Home Nursing Agency Licensing Act;

17 (v) a hospice care program or volunteer hospice  
18 program, as defined in the Hospice Program Licensing  
19 Act;

20 (vi) a hospital, as defined in the Hospital  
21 Licensing Act;

22 (vii) (blank);

23 (viii) a nurse agency, as defined in the Nurse  
24 Agency Licensing Act;

25 (ix) a respite care provider, as defined in the  
26 Respite Program Act;

1           (ix-a) an establishment licensed under the  
2 Assisted Living and Shared Housing Act;

3           (x) a supportive living program, as defined in the  
4 Illinois Public Aid Code;

5           (xi) early childhood intervention programs as  
6 described in 59 Ill. Adm. Code 121;

7           (xii) the University of Illinois Hospital,  
8 Chicago;

9           (xiii) programs funded by the Department on Aging  
10 through the Community Care Program;

11           (xiv) programs certified to participate in the  
12 Supportive Living Program authorized pursuant to  
13 Section 5-5.01a of the Illinois Public Aid Code;

14           (xv) programs listed by the Emergency Medical  
15 Services (EMS) Systems Act as Freestanding Emergency  
16 Centers;

17           (xvi) locations licensed under the Alternative  
18 Health Care Delivery Act;

19           (2) a day training program certified by the Department  
20 of Human Services;

21           (3) a community integrated living arrangement operated  
22 by a community mental health and developmental service  
23 agency, as defined in the Community-Integrated Living  
24 Arrangements Licensing and Certification Act; or

25           (4) the State Long Term Care Ombudsman Program,  
26 including any regional long term care ombudsman programs

1 under Section 4.04 of the Illinois Act on the Aging, only  
2 for the purpose of securing background checks.

3 "Initiate" means obtaining from a student, applicant, or  
4 employee his or her social security number, demographics, a  
5 disclosure statement, and an authorization for the Department  
6 of Public Health or its designee to request a fingerprint-based  
7 criminal history records check; transmitting this information  
8 electronically to the Department of Public Health; conducting  
9 Internet searches on certain web sites, including without  
10 limitation the Illinois Sex Offender Registry, the Department  
11 of Corrections' Sex Offender Search Engine, the Department of  
12 Corrections' Inmate Search Engine, the Department of  
13 Corrections Wanted Fugitives Search Engine, the National Sex  
14 Offender Public Registry, and the website of the Health and  
15 Human Services Office of Inspector General to determine if the  
16 applicant has been adjudicated a sex offender, has been a  
17 prison inmate, or has committed Medicare or Medicaid fraud, or  
18 conducting similar searches as defined by rule; and having the  
19 student, applicant, or employee's fingerprints collected and  
20 transmitted electronically to the Department of State Police.

21 "Livescan vendor" means an entity whose equipment has been  
22 certified by the Department of State Police to collect an  
23 individual's demographics and inkless fingerprints and, in a  
24 manner prescribed by the Department of State Police and the  
25 Department of Public Health, electronically transmit the  
26 fingerprints and required data to the Department of State

1 Police and a daily file of required data to the Department of  
2 Public Health. The Department of Public Health shall negotiate  
3 a contract with one or more vendors that effectively  
4 demonstrate that the vendor has 2 or more years of experience  
5 transmitting fingerprints electronically to the Department of  
6 State Police and that the vendor can successfully transmit the  
7 required data in a manner prescribed by the Department of  
8 Public Health. Vendor authorization may be further defined by  
9 administrative rule.

10 "Long-term care facility" means a facility licensed by the  
11 State or certified under federal law as a long-term care  
12 facility, including without limitation facilities licensed  
13 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
14 Care Act, a supportive living facility, an assisted living  
15 establishment, or a shared housing establishment or registered  
16 as a board and care home.

17 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;  
18 96-339, eff. 7-1-10.)

19 Section 81. The Nursing Home Administrators Licensing and  
20 Disciplinary Act is amended by changing Sections 4 and 17 as  
21 follows:

22 (225 ILCS 70/4) (from Ch. 111, par. 3654)

23 (Section scheduled to be repealed on January 1, 2018)

24 Sec. 4. Definitions. For purposes of this Act, the



1 following definitions shall have the following meanings,  
2 except where the context requires otherwise:

3 (1) "Act" means the Nursing Home Administrators  
4 Licensing and Disciplinary Act.

5 (2) "Department" means the Department of Financial and  
6 Professional Regulation.

7 (3) "Secretary" means the Secretary of Financial and  
8 Professional Regulation.

9 (4) "Board" means the Nursing Home Administrators  
10 Licensing and Disciplinary Board appointed by the  
11 Governor.

12 (5) "Nursing home administrator" means the individual  
13 licensed under this Act and directly responsible for  
14 planning, organizing, directing and supervising the  
15 operation of a nursing home, or who in fact performs such  
16 functions, whether or not such functions are delegated to  
17 one or more other persons.

18 (6) "Nursing home" or "facility" means any entity that  
19 is required to be licensed by the Department of Public  
20 Health under the Nursing Home Care Act, as amended, other  
21 than a sheltered care home as defined thereunder, and  
22 includes private homes, institutions, buildings,  
23 residences, or other places, whether operated for profit or  
24 not, irrespective of the names attributed to them, county  
25 homes for the infirm and chronically ill operated pursuant  
26 to the County Nursing Home Act, as amended, and any similar

1 institutions operated by a political subdivision of the  
2 State of Illinois that provide, though their ownership or  
3 management, maintenance, personal care, and nursing for 3  
4 or more persons, not related to the owner by blood or  
5 marriage, or any similar facilities in which maintenance is  
6 provided to 3 or more persons who by reason of illness of  
7 physical infirmity require personal care and nursing. The  
8 term also means any facility licensed under the ID/DD ~~MR/DD~~  
9 Community Care Act.

10 (7) "Maintenance" means food, shelter and laundry.

11 (8) "Personal care" means assistance with meals,  
12 dressing, movement, bathing, or other personal needs, or  
13 general supervision of the physical and mental well-being  
14 of an individual who because of age, physical, or mental  
15 disability, emotion or behavior disorder, or an  
16 intellectual disability ~~mental retardation~~ is incapable of  
17 managing his or her person, whether or not a guardian has  
18 been appointed for such individual. For the purposes of  
19 this Act, this definition does not include the professional  
20 services of a nurse.

21 (9) "Nursing" means professional nursing or practical  
22 nursing, as those terms are defined in the Nurse Practice  
23 Act, for sick or infirm persons who are under the care and  
24 supervision of licensed physicians or dentists.

25 (10) "Disciplinary action" means revocation,  
26 suspension, probation, supervision, reprimand, required

1 education, fines or any other action taken by the  
2 Department against a person holding a license.

3 (11) "Impaired" means the inability to practice with  
4 reasonable skill and safety due to physical or mental  
5 disabilities as evidenced by a written determination or  
6 written consent based on clinical evidence including  
7 deterioration through the aging process or loss of motor  
8 skill, or abuse of drugs or alcohol, of sufficient degree  
9 to diminish a person's ability to administer a nursing  
10 home.

11 (12) "Address of record" means the designated address  
12 recorded by the Department in the applicant's or licensee's  
13 application file or license file maintained by the  
14 Department's licensure maintenance unit. It is the duty of  
15 the applicant or licensee to inform the Department of any  
16 change of address, and such changes must be made either  
17 through the Department's website or by contacting the  
18 Department's licensure maintenance unit.

19 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;  
20 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

21 (225 ILCS 70/17) (from Ch. 111, par. 3667)

22 (Section scheduled to be repealed on January 1, 2018)

23 Sec. 17. Grounds for disciplinary action.

24 (a) The Department may impose fines not to exceed \$10,000  
25 or may refuse to issue or to renew, or may revoke, suspend,

1 place on probation, censure, reprimand or take other  
2 disciplinary or non-disciplinary action with regard to the  
3 license of any person, for any one or combination of the  
4 following causes:

5 (1) Intentional material misstatement in furnishing  
6 information to the Department.

7 (2) Conviction of or entry of a plea of guilty or nolo  
8 contendere to any crime that is a felony under the laws of  
9 the United States or any state or territory thereof or a  
10 misdemeanor of which an essential element is dishonesty or  
11 that is directly related to the practice of the profession  
12 of nursing home administration.

13 (3) Making any misrepresentation for the purpose of  
14 obtaining a license, or violating any provision of this  
15 Act.

16 (4) Immoral conduct in the commission of any act, such  
17 as sexual abuse or sexual misconduct, related to the  
18 licensee's practice.

19 (5) Failing to respond within 30 days, to a written  
20 request made by the Department for information.

21 (6) Engaging in dishonorable, unethical or  
22 unprofessional conduct of a character likely to deceive,  
23 defraud or harm the public.

24 (7) Habitual use or addiction to alcohol, narcotics,  
25 stimulants, or any other chemical agent or drug which  
26 results in the inability to practice with reasonable

1 judgment, skill or safety.

2 (8) Discipline by another U.S. jurisdiction if at least  
3 one of the grounds for the discipline is the same or  
4 substantially equivalent to those set forth herein.

5 (9) A finding by the Department that the licensee,  
6 after having his or her license placed on probationary  
7 status has violated the terms of probation.

8 (10) Willfully making or filing false records or  
9 reports in his or her practice, including but not limited  
10 to false records filed with State agencies or departments.

11 (11) Physical illness, mental illness, or other  
12 impairment or disability, including, but not limited to,  
13 deterioration through the aging process, or loss of motor  
14 skill that results in the inability to practice the  
15 profession with reasonable judgment, skill or safety.

16 (12) Disregard or violation of this Act or of any rule  
17 issued pursuant to this Act.

18 (13) Aiding or abetting another in the violation of  
19 this Act or any rule or regulation issued pursuant to this  
20 Act.

21 (14) Allowing one's license to be used by an unlicensed  
22 person.

23 (15) (Blank).

24 (16) Professional incompetence in the practice of  
25 nursing home administration.

26 (17) Conviction of a violation of Section 12-19 of the

1 Criminal Code of 1961 for the abuse and gross neglect of a  
2 long term care facility resident.

3 (18) Violation of the Nursing Home Care Act or the  
4 ID/DD ~~MR/DD~~ Community Care Act or of any rule issued under  
5 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care  
6 Act. A final adjudication of a Type "AA" violation of the  
7 Nursing Home Care Act made by the Illinois Department of  
8 Public Health, as identified by rule, relating to the  
9 hiring, training, planning, organizing, directing, or  
10 supervising the operation of a nursing home and a  
11 licensee's failure to comply with this Act or the rules  
12 adopted under this Act, shall create a rebuttable  
13 presumption of a violation of this subsection.

14 (19) Failure to report to the Department any adverse  
15 final action taken against the licensee by a licensing  
16 authority of another state, territory of the United States,  
17 or foreign country; or by any governmental or law  
18 enforcement agency; or by any court for acts or conduct  
19 similar to acts or conduct that would constitute grounds  
20 for disciplinary action under this Section.

21 (20) Failure to report to the Department the surrender  
22 of a license or authorization to practice as a nursing home  
23 administrator in another state or jurisdiction for acts or  
24 conduct similar to acts or conduct that would constitute  
25 grounds for disciplinary action under this Section.

26 (21) Failure to report to the Department any adverse

1 judgment, settlement, or award arising from a liability  
2 claim related to acts or conduct similar to acts or conduct  
3 that would constitute grounds for disciplinary action  
4 under this Section.

5 All proceedings to suspend, revoke, place on probationary  
6 status, or take any other disciplinary action as the Department  
7 may deem proper, with regard to a license on any of the  
8 foregoing grounds, must be commenced within 5 years next after  
9 receipt by the Department of (i) a complaint alleging the  
10 commission of or notice of the conviction order for any of the  
11 acts described herein or (ii) a referral for investigation  
12 under Section 3-108 of the Nursing Home Care Act.

13 The entry of an order or judgment by any circuit court  
14 establishing that any person holding a license under this Act  
15 is a person in need of mental treatment operates as a  
16 suspension of that license. That person may resume their  
17 practice only upon the entry of a Department order based upon a  
18 finding by the Board that they have been determined to be  
19 recovered from mental illness by the court and upon the Board's  
20 recommendation that they be permitted to resume their practice.

21 The Department, upon the recommendation of the Board, may  
22 adopt rules which set forth standards to be used in determining  
23 what constitutes:

24 (i) when a person will be deemed sufficiently  
25 rehabilitated to warrant the public trust;

26 (ii) dishonorable, unethical or unprofessional conduct

1 of a character likely to deceive, defraud, or harm the  
2 public;

3 (iii) immoral conduct in the commission of any act  
4 related to the licensee's practice; and

5 (iv) professional incompetence in the practice of  
6 nursing home administration.

7 However, no such rule shall be admissible into evidence in  
8 any civil action except for review of a licensing or other  
9 disciplinary action under this Act.

10 In enforcing this Section, the Department or Board, upon a  
11 showing of a possible violation, may compel any individual  
12 licensed to practice under this Act, or who has applied for  
13 licensure pursuant to this Act, to submit to a mental or  
14 physical examination, or both, as required by and at the  
15 expense of the Department. The examining physician or  
16 physicians shall be those specifically designated by the  
17 Department or Board. The Department or Board may order the  
18 examining physician to present testimony concerning this  
19 mental or physical examination of the licensee or applicant. No  
20 information shall be excluded by reason of any common law or  
21 statutory privilege relating to communications between the  
22 licensee or applicant and the examining physician. The  
23 individual to be examined may have, at his or her own expense,  
24 another physician of his or her choice present during all  
25 aspects of the examination. Failure of any individual to submit  
26 to mental or physical examination, when directed, shall be



1 grounds for suspension of his or her license until such time as  
2 the individual submits to the examination if the Department  
3 finds, after notice and hearing, that the refusal to submit to  
4 the examination was without reasonable cause.

5       If the Department or Board finds an individual unable to  
6 practice because of the reasons set forth in this Section, the  
7 Department or Board shall require such individual to submit to  
8 care, counseling, or treatment by physicians approved or  
9 designated by the Department or Board, as a condition, term, or  
10 restriction for continued, reinstated, or renewed licensure to  
11 practice; or in lieu of care, counseling, or treatment, the  
12 Department may file, or the Board may recommend to the  
13 Department to file, a complaint to immediately suspend, revoke,  
14 or otherwise discipline the license of the individual. Any  
15 individual whose license was granted pursuant to this Act or  
16 continued, reinstated, renewed, disciplined or supervised,  
17 subject to such terms, conditions or restrictions who shall  
18 fail to comply with such terms, conditions or restrictions  
19 shall be referred to the Secretary for a determination as to  
20 whether the licensee shall have his or her license suspended  
21 immediately, pending a hearing by the Department. In instances  
22 in which the Secretary immediately suspends a license under  
23 this Section, a hearing upon such person's license must be  
24 convened by the Board within 30 days after such suspension and  
25 completed without appreciable delay. The Department and Board  
26 shall have the authority to review the subject administrator's

1 record of treatment and counseling regarding the impairment, to  
2 the extent permitted by applicable federal statutes and  
3 regulations safeguarding the confidentiality of medical  
4 records.

5 An individual licensed under this Act, affected under this  
6 Section, shall be afforded an opportunity to demonstrate to the  
7 Department or Board that he or she can resume practice in  
8 compliance with acceptable and prevailing standards under the  
9 provisions of his or her license.

10 (b) Any individual or organization acting in good faith,  
11 and not in a wilful and wanton manner, in complying with this  
12 Act by providing any report or other information to the  
13 Department, or assisting in the investigation or preparation of  
14 such information, or by participating in proceedings of the  
15 Department, or by serving as a member of the Board, shall not,  
16 as a result of such actions, be subject to criminal prosecution  
17 or civil damages.

18 (c) Members of the Board, and persons retained under  
19 contract to assist and advise in an investigation, shall be  
20 indemnified by the State for any actions occurring within the  
21 scope of services on or for the Board, done in good faith and  
22 not wilful and wanton in nature. The Attorney General shall  
23 defend all such actions unless he or she determines either that  
24 there would be a conflict of interest in such representation or  
25 that the actions complained of were not in good faith or were  
26 wilful and wanton.

1           Should the Attorney General decline representation, a  
2 person entitled to indemnification under this Section shall  
3 have the right to employ counsel of his or her choice, whose  
4 fees shall be provided by the State, after approval by the  
5 Attorney General, unless there is a determination by a court  
6 that the member's actions were not in good faith or were wilful  
7 and wanton.

8           A person entitled to indemnification under this Section  
9 must notify the Attorney General within 7 days of receipt of  
10 notice of the initiation of any action involving services of  
11 the Board. Failure to so notify the Attorney General shall  
12 constitute an absolute waiver of the right to a defense and  
13 indemnification.

14           The Attorney General shall determine within 7 days after  
15 receiving such notice, whether he or she will undertake to  
16 represent a person entitled to indemnification under this  
17 Section.

18           (d) The determination by a circuit court that a licensee is  
19 subject to involuntary admission or judicial admission as  
20 provided in the Mental Health and Developmental Disabilities  
21 Code, as amended, operates as an automatic suspension. Such  
22 suspension will end only upon a finding by a court that the  
23 patient is no longer subject to involuntary admission or  
24 judicial admission and issues an order so finding and  
25 discharging the patient; and upon the recommendation of the  
26 Board to the Secretary that the licensee be allowed to resume

1 his or her practice.

2 (e) The Department may refuse to issue or may suspend the  
3 license of any person who fails to file a return, or to pay the  
4 tax, penalty or interest shown in a filed return, or to pay any  
5 final assessment of tax, penalty or interest, as required by  
6 any tax Act administered by the Department of Revenue, until  
7 such time as the requirements of any such tax Act are  
8 satisfied.

9 (f) The Department of Public Health shall transmit to the  
10 Department a list of those facilities which receive an "A"  
11 violation as defined in Section 1-129 of the Nursing Home Care  
12 Act.

13 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;  
14 96-1372, eff. 7-29-10.)

15 Section 82. The Pharmacy Practice Act is amended by  
16 changing Section 3 as follows:

17 (225 ILCS 85/3)

18 (Section scheduled to be repealed on January 1, 2018)

19 Sec. 3. Definitions. For the purpose of this Act, except  
20 where otherwise limited therein:

21 (a) "Pharmacy" or "drugstore" means and includes every  
22 store, shop, pharmacy department, or other place where  
23 pharmacist care is provided by a pharmacist (1) where drugs,  
24 medicines, or poisons are dispensed, sold or offered for sale

1 at retail, or displayed for sale at retail; or (2) where  
2 prescriptions of physicians, dentists, advanced practice  
3 nurses, physician assistants, veterinarians, podiatrists, or  
4 optometrists, within the limits of their licenses, are  
5 compounded, filled, or dispensed; or (3) which has upon it or  
6 displayed within it, or affixed to or used in connection with  
7 it, a sign bearing the word or words "Pharmacist", "Druggist",  
8 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",  
9 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",  
10 "Medicines", or any word or words of similar or like import,  
11 either in the English language or any other language; or (4)  
12 where the characteristic prescription sign (Rx) or similar  
13 design is exhibited; or (5) any store, or shop, or other place  
14 with respect to which any of the above words, objects, signs or  
15 designs are used in any advertisement.

16 (b) "Drugs" means and includes (1) articles recognized in  
17 the official United States Pharmacopoeia/National Formulary  
18 (USP/NF), or any supplement thereto and being intended for and  
19 having for their main use the diagnosis, cure, mitigation,  
20 treatment or prevention of disease in man or other animals, as  
21 approved by the United States Food and Drug Administration, but  
22 does not include devices or their components, parts, or  
23 accessories; and (2) all other articles intended for and having  
24 for their main use the diagnosis, cure, mitigation, treatment  
25 or prevention of disease in man or other animals, as approved  
26 by the United States Food and Drug Administration, but does not

1 include devices or their components, parts, or accessories; and  
2 (3) articles (other than food) having for their main use and  
3 intended to affect the structure or any function of the body of  
4 man or other animals; and (4) articles having for their main  
5 use and intended for use as a component or any articles  
6 specified in clause (1), (2) or (3); but does not include  
7 devices or their components, parts or accessories.

8 (c) "Medicines" means and includes all drugs intended for  
9 human or veterinary use approved by the United States Food and  
10 Drug Administration.

11 (d) "Practice of pharmacy" means (1) the interpretation and  
12 the provision of assistance in the monitoring, evaluation, and  
13 implementation of prescription drug orders; (2) the dispensing  
14 of prescription drug orders; (3) participation in drug and  
15 device selection; (4) drug administration limited to the  
16 administration of oral, topical, injectable, and inhalation as  
17 follows: in the context of patient education on the proper use  
18 or delivery of medications; vaccination of patients 14 years of  
19 age and older pursuant to a valid prescription or standing  
20 order, by a physician licensed to practice medicine in all its  
21 branches, upon completion of appropriate training, including  
22 how to address contraindications and adverse reactions set  
23 forth by rule, with notification to the patient's physician and  
24 appropriate record retention, or pursuant to hospital pharmacy  
25 and therapeutics committee policies and procedures; (5) drug  
26 regimen review; (6) drug or drug-related research; (7) the

1 provision of patient counseling; (8) the practice of  
2 telepharmacy; (9) the provision of those acts or services  
3 necessary to provide pharmacist care; (10) medication therapy  
4 management; and (11) the responsibility for compounding and  
5 labeling of drugs and devices (except labeling by a  
6 manufacturer, repackager, or distributor of non-prescription  
7 drugs and commercially packaged legend drugs and devices),  
8 proper and safe storage of drugs and devices, and maintenance  
9 of required records. A pharmacist who performs any of the acts  
10 defined as the practice of pharmacy in this State must be  
11 actively licensed as a pharmacist under this Act.

12 (e) "Prescription" means and includes any written, oral,  
13 facsimile, or electronically transmitted order for drugs or  
14 medical devices, issued by a physician licensed to practice  
15 medicine in all its branches, dentist, veterinarian, or  
16 podiatrist, or optometrist, within the limits of their  
17 licenses, by a physician assistant in accordance with  
18 subsection (f) of Section 4, or by an advanced practice nurse  
19 in accordance with subsection (g) of Section 4, containing the  
20 following: (1) name of the patient; (2) date when prescription  
21 was issued; (3) name and strength of drug or description of the  
22 medical device prescribed; and (4) quantity; (5) directions for  
23 use; (6) prescriber's name, address, and signature; and (7) DEA  
24 number where required, for controlled substances. The  
25 prescription may, but is not required to, list the illness,  
26 disease, or condition for which the drug or device is being

1 prescribed. DEA numbers shall not be required on inpatient drug  
2 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, the ID/DD ~~MR/DD~~  
20 Community Care Act, or the Hospital Licensing Act, or "An Act  
21 in relation to the founding and operation of the University of  
22 Illinois Hospital and the conduct of University of Illinois  
23 health care programs", approved July 3, 1931, as amended, or a  
24 facility which is operated by the Department of Human Services  
25 (as successor to the Department of Mental Health and  
26 Developmental 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; 96-339, eff. 7-1-10;  
7 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff.  
8 7-28-10.)

9 Section 83. The Nurse Agency Licensing Act is amended by  
10 changing Section 3 as follows:

11 (225 ILCS 510/3) (from Ch. 111, par. 953)

12 Sec. 3. Definitions. As used in this Act:

13 (a) "Certified nurse aide" means an individual certified as  
14 defined in Section 3-206 of the Nursing Home Care Act or  
15 Section 3-206 of the ID/DD ~~MR/DD~~ Community Care Act, as now or  
16 hereafter amended.

17 (b) "Department" means the Department of Labor.

18 (c) "Director" means the Director of Labor.

19 (d) "Health care facility" is defined as in Section 3 of  
20 the Illinois Health Facilities Planning Act, as now or  
21 hereafter amended.

22 (e) "Licensee" means any nursing agency which is properly  
23 licensed under this Act.

24 (f) "Nurse" means a registered nurse or a licensed



1 practical nurse as defined in the Nurse Practice Act.

2 (g) "Nurse agency" means any individual, firm,  
3 corporation, partnership or other legal entity that employs,  
4 assigns or refers nurses or certified nurse aides to a health  
5 care facility for a fee. The term "nurse agency" includes  
6 nurses registries. The term "nurse agency" does not include  
7 services provided by home health agencies licensed and operated  
8 under the Home Health, Home Services, and Home Nursing Agency  
9 Licensing Act or a licensed or certified individual who  
10 provides his or her own services as a regular employee of a  
11 health care facility, nor does it apply to a health care  
12 facility's organizing nonsalaried employees to provide  
13 services only in that facility.

14 (Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

15 Section 85. The Illinois Public Aid Code is amended by  
16 changing Sections 5-1.1, 5-5.4, 5-5.7, 5-5.17, 5-6, 5-13, 5B-1,  
17 5C-1, 5E-5, 8A-11, and 11-4.1 and by changing and renumbering  
18 Section 12-4.40 as added by Public Act 96-1405 as follows:

19 (305 ILCS 5/5-1.1) (from Ch. 23, par. 5-1.1)

20 Sec. 5-1.1. Definitions. The terms defined in this Section  
21 shall have the meanings ascribed to them, except when the  
22 context otherwise requires.

23 (a) "Nursing facility" means a facility, licensed by the  
24 Department of Public Health under the Nursing Home Care Act,

1 that provides nursing facility services within the meaning of  
2 Title XIX of the federal Social Security Act.

3 (b) "Intermediate care facility for the developmentally  
4 disabled" or "ICF/DD" means a facility, licensed by the  
5 Department of Public Health under the ID/DD ~~MR/DD~~ Community  
6 Care Act, that is an intermediate care facility for the  
7 mentally retarded within the meaning of Title XIX of the  
8 federal Social Security Act.

9 (c) "Standard services" means those services required for  
10 the care of all patients in the facility and shall, as a  
11 minimum, include the following: (1) administration; (2)  
12 dietary (standard); (3) housekeeping; (4) laundry and linen;  
13 (5) maintenance of property and equipment, including  
14 utilities; (6) medical records; (7) training of employees; (8)  
15 utilization review; (9) activities services; (10) social  
16 services; (11) disability services; and all other similar  
17 services required by either the laws of the State of Illinois  
18 or one of its political subdivisions or municipalities or by  
19 Title XIX of the Social Security Act.

20 (d) "Patient services" means those which vary with the  
21 number of personnel; professional and para-professional skills  
22 of the personnel; specialized equipment, and reflect the  
23 intensity of the medical and psycho-social needs of the  
24 patients. Patient services shall as a minimum include: (1)  
25 physical services; (2) nursing services, including restorative  
26 nursing; (3) medical direction and patient care planning; (4)

1 health related supportive and habilitative services and all  
2 similar services required by either the laws of the State of  
3 Illinois or one of its political subdivisions or municipalities  
4 or by Title XIX of the Social Security Act.

5 (e) "Ancillary services" means those services which  
6 require a specific physician's order and defined as under the  
7 medical assistance program as not being routine in nature for  
8 skilled nursing facilities and ICF/DDs. Such services  
9 generally must be authorized prior to delivery and payment as  
10 provided for under the rules of the Department of Healthcare  
11 and Family Services.

12 (f) "Capital" means the investment in a facility's assets  
13 for both debt and non-debt funds. Non-debt capital is the  
14 difference between an adjusted replacement value of the assets  
15 and the actual amount of debt capital.

16 (g) "Profit" means the amount which shall accrue to a  
17 facility as a result of its revenues exceeding its expenses as  
18 determined in accordance with generally accepted accounting  
19 principles.

20 (h) "Non-institutional services" means those services  
21 provided under paragraph (f) of Section 3 of the Disabled  
22 Persons Rehabilitation Act and those services provided under  
23 Section 4.02 of the Illinois Act on the Aging.

24 (i) "Exceptional medical care" means the level of medical  
25 care required by persons who are medically stable for discharge  
26 from a hospital but who require acute intensity hospital level

1 care for physician, nurse and ancillary specialist services,  
2 including persons with acquired immunodeficiency syndrome  
3 (AIDS) or a related condition. Such care shall consist of those  
4 services which the Department shall determine by rule.

5 (j) "Institutionalized person" means an individual who is  
6 an inpatient in an ICF/DD or nursing facility, or who is an  
7 inpatient in a medical institution receiving a level of care  
8 equivalent to that of an ICF/DD or nursing facility, or who is  
9 receiving services under Section 1915(c) of the Social Security  
10 Act.

11 (k) "Institutionalized spouse" means an institutionalized  
12 person who is expected to receive services at the same level of  
13 care for at least 30 days and is married to a spouse who is not  
14 an institutionalized person.

15 (l) "Community spouse" is the spouse of an  
16 institutionalized spouse.

17 (Source: P.A. 95-331, eff. 8-21-07; 96-1530, eff. 2-16-11.)

18 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

19 Sec. 5-5.4. Standards of Payment - Department of Healthcare  
20 and Family Services. The Department of Healthcare and Family  
21 Services shall develop standards of payment of nursing facility  
22 and ICF/DD services in facilities providing such services under  
23 this Article which:

24 (1) Provide for the determination of a facility's payment  
25 for nursing facility or ICF/DD services on a prospective basis.

1 The amount of the payment rate for all nursing facilities  
2 certified by the Department of Public Health under the ID/DD  
3 ~~MR/DD~~ Community Care Act or the Nursing Home Care Act as  
4 Intermediate Care for the Developmentally Disabled facilities,  
5 Long Term Care for Under Age 22 facilities, Skilled Nursing  
6 facilities, or Intermediate Care facilities under the medical  
7 assistance program shall be prospectively established annually  
8 on the basis of historical, financial, and statistical data  
9 reflecting actual costs from prior years, which shall be  
10 applied to the current rate year and updated for inflation,  
11 except that the capital cost element for newly constructed  
12 facilities shall be based upon projected budgets. The annually  
13 established payment rate shall take effect on July 1 in 1984  
14 and subsequent years. No rate increase and no update for  
15 inflation shall be provided on or after July 1, 1994 and before  
16 July 1, 2012, unless specifically provided for in this Section.  
17 The changes made by Public Act 93-841 extending the duration of  
18 the prohibition against a rate increase or update for inflation  
19 are effective retroactive to July 1, 2004.

20 For facilities licensed by the Department of Public Health  
21 under the Nursing Home Care Act as Intermediate Care for the  
22 Developmentally Disabled facilities or Long Term Care for Under  
23 Age 22 facilities, the rates taking effect on July 1, 1998  
24 shall include an increase of 3%. For facilities licensed by the  
25 Department of Public Health under the Nursing Home Care Act as  
26 Skilled Nursing facilities or Intermediate Care facilities,

1 the rates taking effect on July 1, 1998 shall include an  
2 increase of 3% plus \$1.10 per resident-day, as defined by the  
3 Department. For facilities licensed by the Department of Public  
4 Health under the Nursing Home Care Act as Intermediate Care  
5 Facilities for the Developmentally Disabled or Long Term Care  
6 for Under Age 22 facilities, the rates taking effect on January  
7 1, 2006 shall include an increase of 3%. For facilities  
8 licensed by the Department of Public Health under the Nursing  
9 Home Care Act as Intermediate Care Facilities for the  
10 Developmentally Disabled or Long Term Care for Under Age 22  
11 facilities, the rates taking effect on January 1, 2009 shall  
12 include an increase sufficient to provide a \$0.50 per hour wage  
13 increase for non-executive staff.

14 For facilities licensed by the Department of Public Health  
15 under the Nursing Home Care Act as Intermediate Care for the  
16 Developmentally Disabled facilities or Long Term Care for Under  
17 Age 22 facilities, the rates taking effect on July 1, 1999  
18 shall include an increase of 1.6% plus \$3.00 per resident-day,  
19 as defined by the Department. For facilities licensed by the  
20 Department of Public Health under the Nursing Home Care Act as  
21 Skilled Nursing facilities or Intermediate Care facilities,  
22 the rates taking effect on July 1, 1999 shall include an  
23 increase of 1.6% and, for services provided on or after October  
24 1, 1999, shall be increased by \$4.00 per resident-day, as  
25 defined by the Department.

26 For facilities licensed by the Department of Public Health

1 under the Nursing Home Care Act as Intermediate Care for the  
2 Developmentally Disabled facilities or Long Term Care for Under  
3 Age 22 facilities, the rates taking effect on July 1, 2000  
4 shall include an increase of 2.5% per resident-day, as defined  
5 by the Department. For facilities licensed by the Department of  
6 Public Health under the Nursing Home Care Act as Skilled  
7 Nursing facilities or Intermediate Care facilities, the rates  
8 taking effect on July 1, 2000 shall include an increase of 2.5%  
9 per resident-day, as defined by the Department.

10 For facilities licensed by the Department of Public Health  
11 under the Nursing Home Care Act as skilled nursing facilities  
12 or intermediate care facilities, a new payment methodology must  
13 be implemented for the nursing component of the rate effective  
14 July 1, 2003. The Department of Public Aid (now Healthcare and  
15 Family Services) shall develop the new payment methodology  
16 using the Minimum Data Set (MDS) as the instrument to collect  
17 information concerning nursing home resident condition  
18 necessary to compute the rate. The Department shall develop the  
19 new payment methodology to meet the unique needs of Illinois  
20 nursing home residents while remaining subject to the  
21 appropriations provided by the General Assembly. A transition  
22 period from the payment methodology in effect on June 30, 2003  
23 to the payment methodology in effect on July 1, 2003 shall be  
24 provided for a period not exceeding 3 years and 184 days after  
25 implementation of the new payment methodology as follows:

26 (A) For a facility that would receive a lower nursing

1 component rate per patient day under the new system than  
2 the facility received effective on the date immediately  
3 preceding the date that the Department implements the new  
4 payment methodology, the nursing component rate per  
5 patient day for the facility shall be held at the level in  
6 effect on the date immediately preceding the date that the  
7 Department implements the new payment methodology until a  
8 higher nursing component rate of reimbursement is achieved  
9 by that facility.

10 (B) For a facility that would receive a higher nursing  
11 component rate per patient day under the payment  
12 methodology in effect on July 1, 2003 than the facility  
13 received effective on the date immediately preceding the  
14 date that the Department implements the new payment  
15 methodology, the nursing component rate per patient day for  
16 the facility shall be adjusted.

17 (C) Notwithstanding paragraphs (A) and (B), the  
18 nursing component rate per patient day for the facility  
19 shall be adjusted subject to appropriations provided by the  
20 General Assembly.

21 For facilities licensed by the Department of Public Health  
22 under the Nursing Home Care Act as Intermediate Care for the  
23 Developmentally Disabled facilities or Long Term Care for Under  
24 Age 22 facilities, the rates taking effect on March 1, 2001  
25 shall include a statewide increase of 7.85%, as defined by the  
26 Department.



1           Notwithstanding any other provision of this Section, for  
2 facilities licensed by the Department of Public Health under  
3 the Nursing Home Care Act as skilled nursing facilities or  
4 intermediate care facilities, except facilities participating  
5 in the Department's demonstration program pursuant to the  
6 provisions of Title 77, Part 300, Subpart T of the Illinois  
7 Administrative Code, the numerator of the ratio used by the  
8 Department of Healthcare and Family Services to compute the  
9 rate payable under this Section using the Minimum Data Set  
10 (MDS) methodology shall incorporate the following annual  
11 amounts as the additional funds appropriated to the Department  
12 specifically to pay for rates based on the MDS nursing  
13 component methodology in excess of the funding in effect on  
14 December 31, 2006:

15           (i) For rates taking effect January 1, 2007,  
16           \$60,000,000.

17           (ii) For rates taking effect January 1, 2008,  
18           \$110,000,000.

19           (iii) For rates taking effect January 1, 2009,  
20           \$194,000,000.

21           (iv) For rates taking effect April 1, 2011, or the  
22 first day of the month that begins at least 45 days after  
23 the effective date of this amendatory Act of the 96th  
24 General Assembly, \$416,500,000 or an amount as may be  
25 necessary to complete the transition to the MDS methodology  
26 for the nursing component of the rate.

1           Notwithstanding any other provision of this Section, for  
2 facilities licensed by the Department of Public Health under  
3 the Nursing Home Care Act as skilled nursing facilities or  
4 intermediate care facilities, the support component of the  
5 rates taking effect on January 1, 2008 shall be computed using  
6 the most recent cost reports on file with the Department of  
7 Healthcare and Family Services no later than April 1, 2005,  
8 updated for inflation to January 1, 2006.

9           For facilities licensed by the Department of Public Health  
10 under the Nursing Home Care Act as Intermediate Care for the  
11 Developmentally Disabled facilities or Long Term Care for Under  
12 Age 22 facilities, the rates taking effect on April 1, 2002  
13 shall include a statewide increase of 2.0%, as defined by the  
14 Department. This increase terminates on July 1, 2002; beginning  
15 July 1, 2002 these rates are reduced to the level of the rates  
16 in effect on March 31, 2002, as defined by the Department.

17           For facilities licensed by the Department of Public Health  
18 under the Nursing Home Care Act as skilled nursing facilities  
19 or intermediate care facilities, the rates taking effect on  
20 July 1, 2001 shall be computed using the most recent cost  
21 reports on file with the Department of Public Aid no later than  
22 April 1, 2000, updated for inflation to January 1, 2001. For  
23 rates effective July 1, 2001 only, rates shall be the greater  
24 of the rate computed for July 1, 2001 or the rate effective on  
25 June 30, 2001.

26           Notwithstanding any other provision of this Section, for

1 facilities licensed by the Department of Public Health under  
2 the Nursing Home Care Act as skilled nursing facilities or  
3 intermediate care facilities, the Illinois Department shall  
4 determine by rule the rates taking effect on July 1, 2002,  
5 which shall be 5.9% less than the rates in effect on June 30,  
6 2002.

7 Notwithstanding any other provision of this Section, for  
8 facilities licensed by the Department of Public Health under  
9 the Nursing Home Care Act as skilled nursing facilities or  
10 intermediate care facilities, if the payment methodologies  
11 required under Section 5A-12 and the waiver granted under 42  
12 CFR 433.68 are approved by the United States Centers for  
13 Medicare and Medicaid Services, the rates taking effect on July  
14 1, 2004 shall be 3.0% greater than the rates in effect on June  
15 30, 2004. These rates shall take effect only upon approval and  
16 implementation of the payment methodologies required under  
17 Section 5A-12.

18 Notwithstanding any other provisions of this Section, for  
19 facilities licensed by the Department of Public Health under  
20 the Nursing Home Care Act as skilled nursing facilities or  
21 intermediate care facilities, the rates taking effect on  
22 January 1, 2005 shall be 3% more than the rates in effect on  
23 December 31, 2004.

24 Notwithstanding any other provision of this Section, for  
25 facilities licensed by the Department of Public Health under  
26 the Nursing Home Care Act as skilled nursing facilities or

1 intermediate care facilities, effective January 1, 2009, the  
2 per diem support component of the rates effective on January 1,  
3 2008, computed using the most recent cost reports on file with  
4 the Department of Healthcare and Family Services no later than  
5 April 1, 2005, updated for inflation to January 1, 2006, shall  
6 be increased to the amount that would have been derived using  
7 standard Department of Healthcare and Family Services methods,  
8 procedures, and inflators.

9 Notwithstanding any other provisions of this Section, for  
10 facilities licensed by the Department of Public Health under  
11 the Nursing Home Care Act as intermediate care facilities that  
12 are federally defined as Institutions for Mental Disease, a  
13 socio-development component rate equal to 6.6% of the  
14 facility's nursing component rate as of January 1, 2006 shall  
15 be established and paid effective July 1, 2006. The  
16 socio-development component of the rate shall be increased by a  
17 factor of 2.53 on the first day of the month that begins at  
18 least 45 days after January 11, 2008 (the effective date of  
19 Public Act 95-707). As of August 1, 2008, the socio-development  
20 component rate shall be equal to 6.6% of the facility's nursing  
21 component rate as of January 1, 2006, multiplied by a factor of  
22 3.53. For services provided on or after April 1, 2011, or the  
23 first day of the month that begins at least 45 days after the  
24 effective date of this amendatory Act of the 96th General  
25 Assembly, whichever is later, the Illinois Department may by  
26 rule adjust these socio-development component rates, and may

1 use different adjustment methodologies for those facilities  
2 participating, and those not participating, in the Illinois  
3 Department's demonstration program pursuant to the provisions  
4 of Title 77, Part 300, Subpart T of the Illinois Administrative  
5 Code, but in no case may such rates be diminished below those  
6 in effect on August 1, 2008.

7 For facilities licensed by the Department of Public Health  
8 under the Nursing Home Care Act as Intermediate Care for the  
9 Developmentally Disabled facilities or as long-term care  
10 facilities for residents under 22 years of age, the rates  
11 taking effect on July 1, 2003 shall include a statewide  
12 increase of 4%, as defined by the Department.

13 For facilities licensed by the Department of Public Health  
14 under the Nursing Home Care Act as Intermediate Care for the  
15 Developmentally Disabled facilities or Long Term Care for Under  
16 Age 22 facilities, the rates taking effect on the first day of  
17 the month that begins at least 45 days after the effective date  
18 of this amendatory Act of the 95th General Assembly shall  
19 include a statewide increase of 2.5%, as defined by the  
20 Department.

21 Notwithstanding any other provision of this Section, for  
22 facilities licensed by the Department of Public Health under  
23 the Nursing Home Care Act as skilled nursing facilities or  
24 intermediate care facilities, effective January 1, 2005,  
25 facility rates shall be increased by the difference between (i)  
26 a facility's per diem property, liability, and malpractice

1 insurance costs as reported in the cost report filed with the  
2 Department of Public Aid and used to establish rates effective  
3 July 1, 2001 and (ii) those same costs as reported in the  
4 facility's 2002 cost report. These costs shall be passed  
5 through to the facility without caps or limitations, except for  
6 adjustments required under normal auditing procedures.

7 Rates established effective each July 1 shall govern  
8 payment for services rendered throughout that fiscal year,  
9 except that rates established on July 1, 1996 shall be  
10 increased by 6.8% for services provided on or after January 1,  
11 1997. Such rates will be based upon the rates calculated for  
12 the year beginning July 1, 1990, and for subsequent years  
13 thereafter until June 30, 2001 shall be based on the facility  
14 cost reports for the facility fiscal year ending at any point  
15 in time during the previous calendar year, updated to the  
16 midpoint of the rate year. The cost report shall be on file  
17 with the Department no later than April 1 of the current rate  
18 year. Should the cost report not be on file by April 1, the  
19 Department shall base the rate on the latest cost report filed  
20 by each skilled care facility and intermediate care facility,  
21 updated to the midpoint of the current rate year. In  
22 determining rates for services rendered on and after July 1,  
23 1985, fixed time shall not be computed at less than zero. The  
24 Department shall not make any alterations of regulations which  
25 would reduce any component of the Medicaid rate to a level  
26 below what that component would have been utilizing in the rate

1 effective on July 1, 1984.

2 (2) Shall take into account the actual costs incurred by  
3 facilities in providing services for recipients of skilled  
4 nursing and intermediate care services under the medical  
5 assistance program.

6 (3) Shall take into account the medical and psycho-social  
7 characteristics and needs of the patients.

8 (4) Shall take into account the actual costs incurred by  
9 facilities in meeting licensing and certification standards  
10 imposed and prescribed by the State of Illinois, any of its  
11 political subdivisions or municipalities and by the U.S.  
12 Department of Health and Human Services pursuant to Title XIX  
13 of the Social Security Act.

14 The Department of Healthcare and Family Services shall  
15 develop precise standards for payments to reimburse nursing  
16 facilities for any utilization of appropriate rehabilitative  
17 personnel for the provision of rehabilitative services which is  
18 authorized by federal regulations, including reimbursement for  
19 services provided by qualified therapists or qualified  
20 assistants, and which is in accordance with accepted  
21 professional practices. Reimbursement also may be made for  
22 utilization of other supportive personnel under appropriate  
23 supervision.

24 The Department shall develop enhanced payments to offset  
25 the additional costs incurred by a facility serving exceptional  
26 need residents and shall allocate at least \$8,000,000 of the

1 funds collected from the assessment established by Section 5B-2  
2 of this Code for such payments. For the purpose of this  
3 Section, "exceptional needs" means, but need not be limited to,  
4 ventilator care, tracheotomy care, bariatric care, complex  
5 wound care, and traumatic brain injury care.

6 (5) Beginning July 1, 2012 the methodologies for  
7 reimbursement of nursing facility services as provided under  
8 this Section 5-5.4 shall no longer be applicable for bills  
9 payable for State fiscal years 2012 and thereafter.

10 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,  
11 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;  
12 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;  
13 96-1530, eff. 2-16-11.)

14 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

15 Sec. 5-5.7. Cost Reports - Audits. The Department of  
16 Healthcare and Family Services shall work with the Department  
17 of Public Health to use cost report information currently being  
18 collected under provisions of the Nursing Home Care Act and the  
19 ID/DD ~~MR/DD~~ Community Care Act. The Department of Healthcare  
20 and Family Services may, in conjunction with the Department of  
21 Public Health, develop in accordance with generally accepted  
22 accounting principles a uniform chart of accounts which each  
23 facility providing services under the medical assistance  
24 program shall adopt, after a reasonable period.

25 Nursing homes licensed under the Nursing Home Care Act or



1 the ID/DD ~~MR/DD~~ Community Care Act and providers of adult  
2 developmental training services certified by the Department of  
3 Human Services pursuant to Section 15.2 of the Mental Health  
4 and Developmental Disabilities Administrative Act which  
5 provide services to clients eligible for medical assistance  
6 under this Article are responsible for submitting the required  
7 annual cost report to the Department of Healthcare and Family  
8 Services.

9 The Department of Healthcare and Family Services shall  
10 audit the financial and statistical records of each provider  
11 participating in the medical assistance program as a nursing  
12 facility or ICF/DD over a 3 year period, beginning with the  
13 close of the first cost reporting year. Following the end of  
14 this 3-year term, audits of the financial and statistical  
15 records will be performed each year in at least 20% of the  
16 facilities participating in the medical assistance program  
17 with at least 10% being selected on a random sample basis, and  
18 the remainder selected on the basis of exceptional profiles.  
19 All audits shall be conducted in accordance with generally  
20 accepted auditing standards.

21 The Department of Healthcare and Family Services shall  
22 establish prospective payment rates for categories of service  
23 needed within the nursing facility or ICF/DD levels of  
24 services, in order to more appropriately recognize the  
25 individual needs of patients in nursing facilities.

26 The Department of Healthcare and Family Services shall

1 provide, during the process of establishing the payment rate  
2 for nursing facility or ICF/DD services, or when a substantial  
3 change in rates is proposed, an opportunity for public review  
4 and comment on the proposed rates prior to their becoming  
5 effective.

6 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10;  
7 96-1530, eff. 2-16-11.)

8 (305 ILCS 5/5-5.17) (from Ch. 23, par. 5-5.17)

9 Sec. 5-5.17. Separate reimbursement rate. The Illinois  
10 Department may by rule establish a separate reimbursement rate  
11 to be paid to long term care facilities for adult developmental  
12 training services as defined in Section 15.2 of the Mental  
13 Health and Developmental Disabilities Administrative Act which  
14 are provided to intellectually disabled ~~mentally-retarded~~  
15 residents of such facilities who receive aid under this  
16 Article. Any such reimbursement shall be based upon cost  
17 reports submitted by the providers of such services and shall  
18 be paid by the long term care facility to the provider within  
19 such time as the Illinois Department shall prescribe by rule,  
20 but in no case less than 3 business days after receipt of the  
21 reimbursement by such facility from the Illinois Department.  
22 The Illinois Department may impose a penalty upon a facility  
23 which does not make payment to the provider of adult  
24 developmental training services within the time so prescribed,  
25 up to the amount of payment not made to the provider.

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

2 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

3 Sec. 5-6. Obligations incurred prior to death of a  
4 recipient. Obligations incurred but not paid for at the time of  
5 a recipient's death for services authorized under Section 5-5,  
6 including medical and other care in group care facilities as  
7 defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
8 Community Care Act, or in like facilities not required to be  
9 licensed under that Act, may be paid, subject to the rules and  
10 regulations of the Illinois Department, after the death of the  
11 recipient.

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

13 (305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

14 Sec. 5-13. Claim against estate of recipients. To the  
15 extent permitted under the federal Social Security Act, the  
16 amount expended under this Article (1) for a person of any age  
17 who is an inpatient in a nursing facility, an intermediate care  
18 facility for the intellectually disabled ~~mentally retarded~~, or  
19 other medical institution, or (2) for a person aged 55 or more,  
20 shall be a claim against the person's estate or a claim against  
21 the estate of the person's spouse, regardless of the order of  
22 death, but no recovery may be had thereon until after the death  
23 of the surviving spouse, if any, and then only at such time  
24 when there is no surviving child who is under age 21, or blind,

1 or permanently and totally disabled. This Section, however,  
2 shall not bar recovery at the death of the person of amounts of  
3 medical assistance paid to or in his behalf to which he was not  
4 entitled; provided that such recovery shall not be enforced  
5 against any real estate while it is occupied as a homestead by  
6 the surviving spouse or other dependent, if no claims by other  
7 creditors have been filed against the estate, or if such claims  
8 have been filed, they remain dormant for failure of prosecution  
9 or failure of the claimant to compel administration of the  
10 estate for the purpose of payment. The term "estate", as used  
11 in this Section, with respect to a deceased person, means all  
12 real and personal property and other assets included within the  
13 person's estate, as that term is used in the Probate Act of  
14 1975; however, in the case of a deceased person who has  
15 received (or is entitled to receive) benefits under a long-term  
16 care insurance policy in connection with which assets or  
17 resources are disregarded to the extent that payments are made  
18 or because the deceased person received (or was entitled to  
19 receive) benefits under a long-term care insurance policy,  
20 "estate" also includes any other real and personal property and  
21 other assets in which the deceased person had any legal title  
22 or interest at the time of his or her death (to the extent of  
23 that interest), including assets conveyed to a survivor, heir,  
24 or assignee of the deceased person through joint tenancy,  
25 tenancy in common, survivorship, life estate, living trust, or  
26 other arrangement. The term "homestead", as used in this

1 Section, means the dwelling house and contiguous real estate  
2 occupied by a surviving spouse or relative, as defined by the  
3 rules and regulations of the Illinois Department, regardless of  
4 the value of the property.

5 A claim arising under this Section against assets conveyed  
6 to a survivor, heir, or assignee of the deceased person through  
7 joint tenancy, tenancy in common, survivorship, life estate,  
8 living trust, or other arrangement is not effective until the  
9 claim is recorded or filed in the manner provided for a notice  
10 of lien in Section 3-10.2. The claim is subject to the same  
11 requirements and conditions to which liens on real property  
12 interests are subject under Sections 3-10.1 through 3-10.10. A  
13 claim arising under this Section attaches to interests owned or  
14 subsequently acquired by the estate of a recipient or the  
15 estate of a recipient's surviving spouse. The transfer or  
16 conveyance of any real or personal property of the estate as  
17 defined in this Section shall be subject to the fraudulent  
18 transfer conditions that apply to real property in Section 3-11  
19 of this Code.

20 The provisions of this Section shall not affect the  
21 validity of claims against estates for medical assistance  
22 provided prior to January 1, 1966 to aged, blind, or disabled  
23 persons receiving aid under Articles V, VII and VII-A of the  
24 1949 Code.

25 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;  
26 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

1 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

2 Sec. 5B-1. Definitions. As used in this Article, unless the  
3 context requires otherwise:

4 "Fund" means the Long-Term Care Provider Fund.

5 "Long-term care facility" means (i) a nursing facility,  
6 whether public or private and whether organized for profit or  
7 not-for-profit, that is subject to licensure by the Illinois  
8 Department of Public Health under the Nursing Home Care Act or  
9 the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing  
10 home directed and maintained under Section 5-1005 of the  
11 Counties Code, and (ii) a part of a hospital in which skilled  
12 or intermediate long-term care services within the meaning of  
13 Title XVIII or XIX of the Social Security Act are provided;  
14 except that the term "long-term care facility" does not include  
15 a facility operated by a State agency, a facility participating  
16 in the Illinois Department's demonstration program pursuant to  
17 the provisions of Title 77, Part 300, Subpart T of the Illinois  
18 Administrative Code, or operated solely as an intermediate care  
19 facility for the mentally retarded within the meaning of Title  
20 XIX of the Social Security Act.

21 "Long-term care provider" means (i) a person licensed by  
22 the Department of Public Health to operate and maintain a  
23 skilled nursing or intermediate long-term care facility or (ii)  
24 a hospital provider that provides skilled or intermediate  
25 long-term care services within the meaning of Title XVIII or

1 XIX of the Social Security Act. For purposes of this paragraph,  
2 "person" means any political subdivision of the State,  
3 municipal corporation, individual, firm, partnership,  
4 corporation, company, limited liability company, association,  
5 joint stock association, or trust, or a receiver, executor,  
6 trustee, guardian, or other representative appointed by order  
7 of any court. "Hospital provider" means a person licensed by  
8 the Department of Public Health to conduct, operate, or  
9 maintain a hospital.

10 "Occupied bed days" shall be computed separately for each  
11 long-term care facility operated or maintained by a long-term  
12 care provider, and means the sum for all beds of the number of  
13 days during the month on which each bed was occupied by a  
14 resident, other than a resident for whom Medicare Part A is the  
15 primary payer.

16 (Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

17 (305 ILCS 5/5C-1) (from Ch. 23, par. 5C-1)

18 Sec. 5C-1. Definitions. As used in this Article, unless the  
19 context requires otherwise:

20 "Fund" means the Developmentally Disabled Care Provider  
21 Fund.

22 "Developmentally disabled care facility" means an  
23 intermediate care facility for the intellectually disabled  
24 ~~mentally retarded~~ within the meaning of Title XIX of the Social  
25 Security Act, whether public or private and whether organized

1 for profit or not-for-profit, but shall not include any  
2 facility operated by the State.

3 "Developmentally disabled care provider" means a person  
4 conducting, operating, or maintaining a developmentally  
5 disabled care facility. For this purpose, "person" means any  
6 political subdivision of the State, municipal corporation,  
7 individual, firm, partnership, corporation, company, limited  
8 liability company, association, joint stock association, or  
9 trust, or a receiver, executor, trustee, guardian or other  
10 representative appointed by order of any court.

11 "Adjusted gross developmentally disabled care revenue"  
12 shall be computed separately for each developmentally disabled  
13 care facility conducted, operated, or maintained by a  
14 developmentally disabled care provider, and means the  
15 developmentally disabled care provider's total revenue for  
16 inpatient residential services less contractual allowances and  
17 discounts on patients' accounts, but does not include  
18 non-patient revenue from sources such as contributions,  
19 donations or bequests, investments, day training services,  
20 television and telephone service, and rental of facility space.  
21 (Source: P.A. 87-861.)

22 (305 ILCS 5/5E-5)

23 Sec. 5E-5. Definitions. As used in this Article, unless the  
24 context requires otherwise:

25 "Nursing home" means (i) a skilled nursing or intermediate



1 long-term care facility, whether public or private and whether  
2 organized for profit or not-for-profit, that is subject to  
3 licensure by the Illinois Department of Public Health under the  
4 Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act,  
5 including a county nursing home directed and maintained under  
6 Section 5-1005 of the Counties Code, and (ii) a part of a  
7 hospital in which skilled or intermediate long-term care  
8 services within the meaning of Title XVIII or XIX of the Social  
9 Security Act are provided; except that the term "nursing home"  
10 does not include a facility operated solely as an intermediate  
11 care facility for the intellectually disabled ~~mentally~~  
12 ~~retarded~~ within the meaning of Title XIX of the Social Security  
13 Act.

14 "Nursing home provider" means (i) a person licensed by the  
15 Department of Public Health to operate and maintain a skilled  
16 nursing or intermediate long-term care facility which charges  
17 its residents, a third party payor, Medicaid, or Medicare for  
18 skilled nursing or intermediate long-term care services, or  
19 (ii) a hospital provider that provides skilled or intermediate  
20 long-term care services within the meaning of Title XVIII or  
21 XIX of the Social Security Act. For purposes of this paragraph,  
22 "person" means any political subdivision of the State,  
23 municipal corporation, individual, firm, partnership,  
24 corporation, company, limited liability company, association,  
25 joint stock association, or trust, or a receiver, executor,  
26 trustee, guardian, or other representative appointed by order

1 of any court. "Hospital provider" means a person licensed by  
2 the Department of Public Health to conduct, operate, or  
3 maintain a hospital.

4 "Licensed bed days" shall be computed separately for each  
5 nursing home operated or maintained by a nursing home provider  
6 and means, with respect to a nursing home provider, the sum for  
7 all nursing home beds of the number of days during a calendar  
8 quarter on which each bed is covered by a license issued to  
9 that provider under the Nursing Home Care Act or the Hospital  
10 Licensing Act.

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

12 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

13 Sec. 8A-11. (a) No person shall:

14 (1) Knowingly charge a resident of a nursing home for  
15 any services provided pursuant to Article V of the Illinois  
16 Public Aid Code, money or other consideration at a rate in  
17 excess of the rates established for covered services by the  
18 Illinois Department pursuant to Article V of The Illinois  
19 Public Aid Code; or

20 (2) Knowingly charge, solicit, accept or receive, in  
21 addition to any amount otherwise authorized or required to  
22 be paid pursuant to Article V of The Illinois Public Aid  
23 Code, any gift, money, donation or other consideration:

24 (i) As a precondition to admitting or expediting  
25 the admission of a recipient or applicant, pursuant to

1 Article V of The Illinois Public Aid Code, to a  
2 long-term care facility as defined in Section 1-113 of  
3 the Nursing Home Care Act or a facility as defined in  
4 Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act;  
5 and

6 (ii) As a requirement for the recipient's or  
7 applicant's continued stay in such facility when the  
8 cost of the services provided therein to the recipient  
9 is paid for, in whole or in part, pursuant to Article V  
10 of The Illinois Public Aid Code.

11 (b) Nothing herein shall prohibit a person from making a  
12 voluntary contribution, gift or donation to a long-term care  
13 facility.

14 (c) This paragraph shall not apply to agreements to provide  
15 continuing care or life care between a life care facility as  
16 defined by the Life Care Facilities Act, and a person  
17 financially eligible for benefits pursuant to Article V of The  
18 Illinois Public Aid Code.

19 (d) Any person who violates this Section shall be guilty of  
20 a business offense and fined not less than \$5,000 nor more than  
21 \$25,000.

22 (e) "Person", as used in this Section, means an individual,  
23 corporation, partnership, or unincorporated association.

24 (f) The State's Attorney of the county in which the  
25 facility is located and the Attorney General shall be notified  
26 by the Illinois Department of any alleged violations of this

1 Section known to the Department.

2 (g) The Illinois Department shall adopt rules and  
3 regulations to carry out the provisions of this Section.

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

5 (305 ILCS 5/11-4.1)

6 Sec. 11-4.1. Medical providers assisting with applications  
7 for medical assistance. A provider enrolled to provide medical  
8 assistance services may, upon the request of an individual,  
9 accompany, represent, and assist the individual in applying for  
10 medical assistance under Article V of this Code. If an  
11 individual is unable to request such assistance due to  
12 incapacity or mental incompetence and has no other  
13 representative willing or able to assist in the application  
14 process, a facility licensed under the Nursing Home Care Act or  
15 the ID/DD ~~MR/DD~~ Community Care Act or certified under this Code  
16 is authorized to assist the individual in applying for  
17 long-term care services. Subject to the provisions of the Free  
18 Healthcare Benefits Application Assistance Act, nothing in  
19 this Section shall be construed as prohibiting any individual  
20 or entity from assisting another individual in applying for  
21 medical assistance under Article V of this Code.

22 (Source: P.A. 96-1439, eff. 8-20-10.)

23 (305 ILCS 5/12-4.42)

24 Sec. 12-4.42 ~~12-4.40~~. Medicaid Revenue Maximization.

1 (a) Purpose. The General Assembly finds that there is a  
2 need to make changes to the administration of services provided  
3 by State and local governments in order to maximize federal  
4 financial participation.

5 (b) Definitions. As used in this Section:

6 "Community Medicaid mental health services" means all  
7 mental health services outlined in Section 132 of Title 59 of  
8 the Illinois Administrative Code that are funded through DHS,  
9 eligible for federal financial participation, and provided by a  
10 community-based provider.

11 "Community-based provider" means an entity enrolled as a  
12 provider pursuant to Sections 140.11 and 140.12 of Title 89 of  
13 the Illinois Administrative Code and certified to provide  
14 community Medicaid mental health services in accordance with  
15 Section 132 of Title 59 of the Illinois Administrative Code.

16 "DCFS" means the Department of Children and Family  
17 Services.

18 "Department" means the Illinois Department of Healthcare  
19 and Family Services.

20 "Developmentally disabled care facility" means an  
21 intermediate care facility for the intellectually disabled  
22 ~~mentally retarded~~ within the meaning of Title XIX of the Social  
23 Security Act, whether public or private and whether organized  
24 for profit or not-for-profit, but shall not include any  
25 facility operated by the State.

26 "Developmentally disabled care provider" means a person

1 conducting, operating, or maintaining a developmentally  
2 disabled care facility. For purposes of this definition,  
3 "person" means any political subdivision of the State,  
4 municipal corporation, individual, firm, partnership,  
5 corporation, company, limited liability company, association,  
6 joint stock association, or trust, or a receiver, executor,  
7 trustee, guardian, or other representative appointed by order  
8 of any court.

9 "DHS" means the Illinois Department of Human Services.

10 "Hospital" means an institution, place, building, or  
11 agency located in this State that is licensed as a general  
12 acute hospital by the Illinois Department of Public Health  
13 under the Hospital Licensing Act, whether public or private and  
14 whether organized for profit or not-for-profit.

15 "Long term care facility" means (i) a skilled nursing or  
16 intermediate long term care facility, whether public or private  
17 and whether organized for profit or not-for-profit, that is  
18 subject to licensure by the Illinois Department of Public  
19 Health under the Nursing Home Care Act, including a county  
20 nursing home directed and maintained under Section 5-1005 of  
21 the Counties Code, and (ii) a part of a hospital in which  
22 skilled or intermediate long term care services within the  
23 meaning of Title XVIII or XIX of the Social Security Act are  
24 provided; except that the term "long term care facility" does  
25 not include a facility operated solely as an intermediate care  
26 facility for the intellectually disabled ~~mentally retarded~~

1 within the meaning of Title XIX of the Social Security Act.

2 "Long term care provider" means (i) a person licensed by  
3 the Department of Public Health to operate and maintain a  
4 skilled nursing or intermediate long term care facility or (ii)  
5 a hospital provider that provides skilled or intermediate long  
6 term care services within the meaning of Title XVIII or XIX of  
7 the Social Security Act. For purposes of this definition,  
8 "person" means any political subdivision of the State,  
9 municipal corporation, individual, firm, partnership,  
10 corporation, company, limited liability company, association,  
11 joint stock association, or trust, or a receiver, executor,  
12 trustee, guardian, or other representative appointed by order  
13 of any court.

14 "State-operated developmentally disabled care facility"  
15 means an intermediate care facility for the intellectually  
16 disabled ~~mentally-retarded~~ within the meaning of Title XIX of  
17 the Social Security Act operated by the State.

18 (c) Administration and deposit of Revenues. The Department  
19 shall coordinate the implementation of changes required by this  
20 amendatory Act of the 96th General Assembly amongst the various  
21 State and local government bodies that administer programs  
22 referred to in this Section.

23 Revenues generated by program changes mandated by any  
24 provision in this Section, less reasonable administrative  
25 costs associated with the implementation of these program  
26 changes, shall be deposited into the Healthcare Provider Relief

1 Fund.

2 The Department shall issue a report to the General Assembly  
3 detailing the implementation progress of this amendatory Act of  
4 the 96th General Assembly as a part of the Department's Medical  
5 Programs annual report for fiscal years 2010 and 2011.

6 (d) Acceleration of payment vouchers. To the extent  
7 practicable and permissible under federal law, the Department  
8 shall create all vouchers for long term care facilities and  
9 developmentally disabled care facilities for dates of service  
10 in the month in which the enhanced federal medical assistance  
11 percentage (FMAP) originally set forth in the American Recovery  
12 and Reinvestment Act (ARRA) expires and for dates of service in  
13 the month prior to that month and shall, no later than the 15th  
14 of the month in which the enhanced FMAP expires, submit these  
15 vouchers to the Comptroller for payment.

16 The Department of Human Services shall create the necessary  
17 documentation for State-operated developmentally disabled care  
18 facilities so that the necessary data for all dates of service  
19 before the expiration of the enhanced FMAP originally set forth  
20 in the ARRA can be adjudicated by the Department no later than  
21 the 15th of the month in which the enhanced FMAP expires.

22 (e) Billing of DHS community Medicaid mental health  
23 services. No later than July 1, 2011, community Medicaid mental  
24 health services provided by a community-based provider must be  
25 billed directly to the Department.

26 (f) DCFS Medicaid services. The Department shall work with



1 DCFS to identify existing programs, pending qualifying  
2 services, that can be converted in an economically feasible  
3 manner to Medicaid in order to secure federal financial  
4 revenue.

5 (g) Third Party Liability recoveries. The Department shall  
6 contract with a vendor to support the Department in  
7 coordinating benefits for Medicaid enrollees. The scope of work  
8 shall include, at a minimum, the identification of other  
9 insurance for Medicaid enrollees and the recovery of funds paid  
10 by the Department when another payer was liable. The vendor may  
11 be paid a percentage of actual cash recovered when practical  
12 and subject to federal law.

13 (h) Public health departments. The Department shall  
14 identify unreimbursed costs for persons covered by Medicaid who  
15 are served by the Chicago Department of Public Health.

16 The Department shall assist the Chicago Department of  
17 Public Health in determining total unreimbursed costs  
18 associated with the provision of healthcare services to  
19 Medicaid enrollees.

20 The Department shall determine and draw the maximum  
21 allowable federal matching dollars associated with the cost of  
22 Chicago Department of Public Health services provided to  
23 Medicaid enrollees.

24 (i) Acceleration of hospital-based payments. The  
25 Department shall, by the 10th day of the month in which the  
26 enhanced FMAP originally set forth in the ARRA expires, create

1 vouchers for all State fiscal year 2011 hospital payments  
2 exempt from the prompt payment requirements of the ARRA. The  
3 Department shall submit these vouchers to the Comptroller for  
4 payment.

5 (Source: P.A. 96-1405, eff. 7-29-10; revised 9-9-10.)

6 Section 90. The Medicaid Revenue Act is amended by changing  
7 Section 1-2 as follows:

8 (305 ILCS 35/1-2) (from Ch. 23, par. 7051-2)

9 Sec. 1-2. Legislative finding and declaration. The General  
10 Assembly hereby finds, determines, and declares:

11 (1) It is in the public interest and it is the public  
12 policy of this State to provide for and improve the basic  
13 medical care and long-term health care services of its  
14 indigent, most vulnerable citizens.

15 (2) Preservation of health, alleviation of sickness,  
16 and correction of handicapping conditions for persons  
17 requiring maintenance support are essential if those  
18 persons are to have an opportunity to become  
19 self-supporting or to attain a greater capacity for  
20 self-care.

21 (3) For persons who are medically indigent but  
22 otherwise able to provide themselves a livelihood, it is of  
23 special importance to maintain their incentives for  
24 continued independence and preserve their limited

1 resources for ordinary maintenance needed to prevent their  
2 total or substantial dependence on public support.

3 (4) The State has historically provided for care and  
4 services, in conjunction with the federal government,  
5 through the establishment and funding of a medical  
6 assistance program administered by the Department of  
7 Healthcare and Family Services (formerly Department of  
8 Public Aid) and approved by the Secretary of Health and  
9 Human Services under Title XIX of the federal Social  
10 Security Act, that program being commonly referred to as  
11 "Medicaid".

12 (5) The Medicaid program is a funding partnership  
13 between the State of Illinois and the federal government,  
14 with the Department of Healthcare and Family Services being  
15 designated as the single State agency responsible for the  
16 administration of the program, but with the State  
17 historically receiving 50% of the amounts expended as  
18 medical assistance under the Medicaid program from the  
19 federal government.

20 (6) To raise a portion of Illinois' share of the  
21 Medicaid funds after July 1, 1991, the General Assembly  
22 enacted Public Act 87-13 to provide for the collection of  
23 provider participation fees from designated health care  
24 providers receiving Medicaid payments.

25 (7) On September 12, 1991, the Secretary of Health and  
26 Human Services proposed regulations that could have

1 reduced the federal matching of Medicaid expenditures  
2 incurred on or after January 1, 1992 by the portion of the  
3 expenditures paid from funds raised through the provider  
4 participation fees.

5 (8) To prevent the Secretary from enacting those  
6 regulations but at the same time to impose certain  
7 statutory limitations on the means by which states may  
8 raise Medicaid funds eligible for federal matching,  
9 Congress enacted the Medicaid Voluntary Contribution and  
10 Provider-Specific Tax Amendments of 1991, Public Law  
11 102-234.

12 (9) Public Law 102-234 provides for a state's share of  
13 Medicaid funding eligible for federal matching to be raised  
14 through "broad-based health care related taxes", meaning,  
15 generally, a tax imposed with respect to a class of health  
16 care items or services (or providers thereof) specified  
17 therein, which (i) is imposed on all items or services or  
18 providers in the class in the state, except federal or  
19 public providers, and (ii) is imposed uniformly on all  
20 providers in the class at the same rate with respect to the  
21 same base.

22 (10) The separate classes of health care items and  
23 services established by P.L. 102-234 include inpatient and  
24 outpatient hospital services, nursing facility services,  
25 and services of intermediate care facilities for the  
26 intellectually disabled ~~mentally retarded~~.

1           (11) The provider participation fees imposed under  
2 P.A. 87-13 may not meet the standards under P.L. 102-234.

3           (12) The resulting hospital Medicaid reimbursement  
4 reductions may force the closure of some hospitals now  
5 serving a disproportionately high number of the needy, who  
6 would then have to be cared for by remaining hospitals at  
7 substantial cost to those remaining hospitals.

8           (13) The hospitals in the State are all part of and  
9 benefit from a hospital system linked together in a number  
10 of ways, including common licensing and regulation, health  
11 care standards, education, research and disease control  
12 reporting, patient transfers for specialist care, and  
13 organ donor networks.

14           (14) Each hospital's patient population demographics,  
15 including the proportion of patients whose care is paid by  
16 Medicaid, is subject to change over time.

17           (15) Hospitals in the State have a special interest in  
18 the payment of adequate reimbursement levels for hospital  
19 care by Medicaid.

20           (16) Most hospitals are exempt from payment of most  
21 federal, State, and local income, sales, property, and  
22 other taxes.

23           (17) The hospital assessment enacted by this Act under  
24 the guidelines of P.L. 102-234 is the most efficient means  
25 of raising the federally matchable funds needed for  
26 hospital care reimbursement.

1           (18) Cook County Hospital and Oak Forest Hospital are  
2 public hospitals owned and operated by Cook County with  
3 unique fiscal problems, including a patient population  
4 that is primarily Medicaid or altogether nonpaying, that  
5 make an intergovernmental transfer payment arrangement a  
6 more appropriate means of financing than the regular  
7 hospital assessment and reimbursement provisions.

8           (19) Sole community hospitals provide access to  
9 essential care that would otherwise not be reasonably  
10 available in the community they serve, such that imposition  
11 of assessments on them in their precarious financial  
12 circumstances may force their closure and have the effect  
13 of reducing access to health care.

14           (20) Each nursing home's resident population  
15 demographics, including the proportion of residents whose  
16 care is paid by Medicaid, is subject to change over time in  
17 that, among other things, residents currently able to pay  
18 the cost of nursing home care may become dependent on  
19 Medicaid support for continued care and services as  
20 resources are depleted.

21           (21) As the citizens of the State age, increased  
22 pressures will be placed on limited facilities to provide  
23 reasonable levels of care for a greater number of geriatric  
24 residents, and all involved in the nursing home industry,  
25 providers and residents, have a special interest in the  
26 maintenance of adequate Medicaid support for all nursing

1 facilities.

2 (22) The assessments on nursing homes enacted by this  
3 Act under the guidelines of P.L. 102-234 are the most  
4 efficient means of raising the federally matchable funds  
5 needed for nursing home care reimbursement.

6 (23) All intermediate care facilities for persons with  
7 developmental disabilities receive a high degree of  
8 Medicaid support and benefits and therefore have a special  
9 interest in the maintenance of adequate Medicaid support.

10 (24) The assessments on intermediate care facilities  
11 for persons with developmental disabilities enacted by  
12 this Act under the guidelines of P.L. 102-234 are the most  
13 efficient means of raising the federally matchable funds  
14 needed for reimbursement of providers of intermediate care  
15 for persons with developmental disabilities.

16 (Source: P.A. 95-331, eff. 8-21-07.)

17 Section 91. The Nursing Home Grant Assistance Act is  
18 amended by changing Section 5 as follows:

19 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

20 Sec. 5. Definitions. As used in this Act, unless the  
21 context requires otherwise:

22 "Applicant" means an eligible individual who makes a  
23 payment of at least \$1 in a quarter to a nursing home.

24 "Application" means the receipt by a nursing home of at

1 least \$1 from an eligible individual that is a resident of the  
2 home.

3 "Department" means the Department of Revenue.

4 "Director" means the Director of the Department of Revenue.

5 "Distribution agent" means a nursing home that is residence  
6 to one or more eligible individuals, which receives an  
7 application from one or more applicants for participation in  
8 the Nursing Home Grant Assistance Program provided for by this  
9 Act, and is thereby designated as distributing agent by such  
10 applicant or applicants, and which is thereby authorized by  
11 virtue of its license to receive from the Department and  
12 distribute to eligible individuals residing in the nursing home  
13 Nursing Home Grant Assistance payments under this Act.

14 "Qualified distribution agent" means a distribution agent  
15 that the Department of Public Health has certified to the  
16 Department of Revenue to be a licensed nursing home in good  
17 standing.

18 "Eligible individual" means an individual eligible for a  
19 nursing home grant assistance payment because he or she meets  
20 each of the following requirements:

21 (1) The individual resides, after June 30, 1992, in a  
22 nursing home as defined in this Act.

23 (2) For each day for which nursing home grant  
24 assistance is sought, the individual's nursing home care  
25 was not paid for, in whole or in part, by a federal, State,  
26 or combined federal-State medical care program; the



1 receipt of Medicare Part B benefits does not make a person  
2 ineligible for nursing home grant assistance.

3 (3) The individual's annual adjusted gross income,  
4 after payment of any expenses for nursing home care, does  
5 not exceed 250% of the federal poverty guidelines for an  
6 individual as published annually by the U.S. Department of  
7 Health and Human Services for purposes of determining  
8 Medicaid eligibility.

9 "Fund" means the Nursing Home Grant Assistance Fund.

10 "Nursing home" means a skilled nursing or intermediate long  
11 term care facility that is subject to licensure by the Illinois  
12 Department of Public Health under the Nursing Home Care Act or  
13 the ID/DD ~~MR/DD~~ Community Care Act.

14 "Occupied bed days" means the sum for all beds of the  
15 number of days during a quarter for which grant assistance is  
16 sought under this Act on which a bed is occupied by an  
17 individual.

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

19 Section 92. The Elder Abuse and Neglect Act is amended by  
20 changing Section 2 as follows:

21 (320 ILCS 20/2) (from Ch. 23, par. 6602)

22 Sec. 2. Definitions. As used in this Act, unless the  
23 context requires otherwise:

24 (a) "Abuse" means causing any physical, mental or sexual

1 injury to an eligible adult, including exploitation of such  
2 adult's financial resources.

3 Nothing in this Act shall be construed to mean that an  
4 eligible adult is a victim of abuse, neglect, or self-neglect  
5 for the sole reason that he or she is being furnished with or  
6 relies upon treatment by spiritual means through prayer alone,  
7 in accordance with the tenets and practices of a recognized  
8 church or religious denomination.

9 Nothing in this Act shall be construed to mean that an  
10 eligible adult is a victim of abuse because of health care  
11 services provided or not provided by licensed health care  
12 professionals.

13 (a-5) "Abuser" means a person who abuses, neglects, or  
14 financially exploits an eligible adult.

15 (a-7) "Caregiver" means a person who either as a result of  
16 a family relationship, voluntarily, or in exchange for  
17 compensation has assumed responsibility for all or a portion of  
18 the care of an eligible adult who needs assistance with  
19 activities of daily living.

20 (b) "Department" means the Department on Aging of the State  
21 of Illinois.

22 (c) "Director" means the Director of the Department.

23 (d) "Domestic living situation" means a residence where the  
24 eligible adult lives alone or with his or her family or a  
25 caregiver, or others, or a board and care home or other  
26 community-based unlicensed facility, but is not:

1 (1) A licensed facility as defined in Section 1-113 of  
2 the Nursing Home Care Act;

3 (1.5) A facility licensed under the ID/DD ~~MR/DD~~  
4 Community Care Act;

5 (2) A "life care facility" as defined in the Life Care  
6 Facilities Act;

7 (3) A home, institution, or other place operated by the  
8 federal government or agency thereof or by the State of  
9 Illinois;

10 (4) A hospital, sanitarium, or other institution, the  
11 principal activity or business of which is the diagnosis,  
12 care, and treatment of human illness through the  
13 maintenance and operation of organized facilities  
14 therefor, which is required to be licensed under the  
15 Hospital Licensing Act;

16 (5) A "community living facility" as defined in the  
17 Community Living Facilities Licensing Act;

18 (6) (Blank);

19 (7) A "community-integrated living arrangement" as  
20 defined in the Community-Integrated Living Arrangements  
21 Licensure and Certification Act;

22 (8) An assisted living or shared housing establishment  
23 as defined in the Assisted Living and Shared Housing Act;  
24 or

25 (9) A supportive living facility as described in  
26 Section 5-5.01a of the Illinois Public Aid Code.

1 (e) "Eligible adult" means a person 60 years of age or  
2 older who resides in a domestic living situation and is, or is  
3 alleged to be, abused, neglected, or financially exploited by  
4 another individual or who neglects himself or herself.

5 (f) "Emergency" means a situation in which an eligible  
6 adult is living in conditions presenting a risk of death or  
7 physical, mental or sexual injury and the provider agency has  
8 reason to believe the eligible adult is unable to consent to  
9 services which would alleviate that risk.

10 (f-5) "Mandated reporter" means any of the following  
11 persons while engaged in carrying out their professional  
12 duties:

13 (1) a professional or professional's delegate while  
14 engaged in: (i) social services, (ii) law enforcement,  
15 (iii) education, (iv) the care of an eligible adult or  
16 eligible adults, or (v) any of the occupations required to  
17 be licensed under the Clinical Psychologist Licensing Act,  
18 the Clinical Social Work and Social Work Practice Act, the  
19 Illinois Dental Practice Act, the Dietetic and Nutrition  
20 Services Practice Act, the Marriage and Family Therapy  
21 Licensing Act, the Medical Practice Act of 1987, the  
22 Naprapathic Practice Act, the Nurse Practice Act, the  
23 Nursing Home Administrators Licensing and Disciplinary  
24 Act, the Illinois Occupational Therapy Practice Act, the  
25 Illinois Optometric Practice Act of 1987, the Pharmacy  
26 Practice Act, the Illinois Physical Therapy Act, the

1 Physician Assistant Practice Act of 1987, the Podiatric  
2 Medical Practice Act of 1987, the Respiratory Care Practice  
3 Act, the Professional Counselor and Clinical Professional  
4 Counselor Licensing Act, the Illinois Speech-Language  
5 Pathology and Audiology Practice Act, the Veterinary  
6 Medicine and Surgery Practice Act of 2004, and the Illinois  
7 Public Accounting Act;

8 (2) an employee of a vocational rehabilitation  
9 facility prescribed or supervised by the Department of  
10 Human Services;

11 (3) an administrator, employee, or person providing  
12 services in or through an unlicensed community based  
13 facility;

14 (4) any religious practitioner who provides treatment  
15 by prayer or spiritual means alone in accordance with the  
16 tenets and practices of a recognized church or religious  
17 denomination, except as to information received in any  
18 confession or sacred communication enjoined by the  
19 discipline of the religious denomination to be held  
20 confidential;

21 (5) field personnel of the Department of Healthcare and  
22 Family Services, Department of Public Health, and  
23 Department of Human Services, and any county or municipal  
24 health department;

25 (6) personnel of the Department of Human Services, the  
26 Guardianship and Advocacy Commission, the State Fire

1 Marshal, local fire departments, the Department on Aging  
2 and its subsidiary Area Agencies on Aging and provider  
3 agencies, and the Office of State Long Term Care Ombudsman;

4 (7) any employee of the State of Illinois not otherwise  
5 specified herein who is involved in providing services to  
6 eligible adults, including professionals providing medical  
7 or rehabilitation services and all other persons having  
8 direct contact with eligible adults;

9 (8) a person who performs the duties of a coroner or  
10 medical examiner; or

11 (9) a person who performs the duties of a paramedic or  
12 an emergency medical technician.

13 (g) "Neglect" means another individual's failure to  
14 provide an eligible adult with or willful withholding from an  
15 eligible adult the necessities of life including, but not  
16 limited to, food, clothing, shelter or health care. This  
17 subsection does not create any new affirmative duty to provide  
18 support to eligible adults. Nothing in this Act shall be  
19 construed to mean that an eligible adult is a victim of neglect  
20 because of health care services provided or not provided by  
21 licensed health care professionals.

22 (h) "Provider agency" means any public or nonprofit agency  
23 in a planning and service area appointed by the regional  
24 administrative agency with prior approval by the Department on  
25 Aging to receive and assess reports of alleged or suspected  
26 abuse, neglect, or financial exploitation.

1           (i) "Regional administrative agency" means any public or  
2 nonprofit agency in a planning and service area so designated  
3 by the Department, provided that the designated Area Agency on  
4 Aging shall be designated the regional administrative agency if  
5 it so requests. The Department shall assume the functions of  
6 the regional administrative agency for any planning and service  
7 area where another agency is not so designated.

8           (i-5) "Self-neglect" means a condition that is the result  
9 of an eligible adult's inability, due to physical or mental  
10 impairments, or both, or a diminished capacity, to perform  
11 essential self-care tasks that substantially threaten his or  
12 her own health, including: providing essential food, clothing,  
13 shelter, and health care; and obtaining goods and services  
14 necessary to maintain physical health, mental health,  
15 emotional well-being, and general safety. The term includes  
16 compulsive hoarding, which is characterized by the acquisition  
17 and retention of large quantities of items and materials that  
18 produce an extensively cluttered living space, which  
19 significantly impairs the performance of essential self-care  
20 tasks or otherwise substantially threatens life or safety.

21           (j) "Substantiated case" means a reported case of alleged  
22 or suspected abuse, neglect, financial exploitation, or  
23 self-neglect in which a provider agency, after assessment,  
24 determines that there is reason to believe abuse, neglect, or  
25 financial exploitation has occurred.

26           (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;

1 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;  
2 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

3 Section 93. The Older Adult Services Act is amended by  
4 changing Section 10 as follows:

5 (320 ILCS 42/10)

6 Sec. 10. Definitions. In this Act:

7 "Advisory Committee" means the Older Adult Services  
8 Advisory Committee.

9 "Certified nursing home" means any nursing home licensed  
10 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
11 Care Act and certified under Title XIX of the Social Security  
12 Act to participate as a vendor in the medical assistance  
13 program under Article V of the Illinois Public Aid Code.

14 "Comprehensive case management" means the assessment of  
15 needs and preferences of an older adult at the direction of the  
16 older adult or the older adult's designated representative and  
17 the arrangement, coordination, and monitoring of an optimum  
18 package of services to meet the needs of the older adult.

19 "Consumer-directed" means decisions made by an informed  
20 older adult from available services and care options, which may  
21 range from independently making all decisions and managing  
22 services directly to limited participation in decision-making,  
23 based upon the functional and cognitive level of the older  
24 adult.



1 "Coordinated point of entry" means an integrated access  
2 point where consumers receive information and assistance,  
3 assessment of needs, care planning, referral, assistance in  
4 completing applications, authorization of services where  
5 permitted, and follow-up to ensure that referrals and services  
6 are accessed.

7 "Department" means the Department on Aging, in  
8 collaboration with the departments of Public Health and  
9 Healthcare and Family Services and other relevant agencies and  
10 in consultation with the Advisory Committee, except as  
11 otherwise provided.

12 "Departments" means the Department on Aging, the  
13 departments of Public Health and Healthcare and Family  
14 Services, and other relevant agencies in collaboration with  
15 each other and in consultation with the Advisory Committee,  
16 except as otherwise provided.

17 "Family caregiver" means an adult family member or another  
18 individual who is an uncompensated provider of home-based or  
19 community-based care to an older adult.

20 "Health services" means activities that promote, maintain,  
21 improve, or restore mental or physical health or that are  
22 palliative in nature.

23 "Older adult" means a person age 60 or older and, if  
24 appropriate, the person's family caregiver.

25 "Person-centered" means a process that builds upon an older  
26 adult's strengths and capacities to engage in activities that

1 promote community life and that reflect the older adult's  
2 preferences, choices, and abilities, to the extent  
3 practicable.

4 "Priority service area" means an area identified by the  
5 Departments as being less-served with respect to the  
6 availability of and access to older adult services in Illinois.  
7 The Departments shall determine by rule the criteria and  
8 standards used to designate such areas.

9 "Priority service plan" means the plan developed pursuant  
10 to Section 25 of this Act.

11 "Provider" means any supplier of services under this Act.

12 "Residential setting" means the place where an older adult  
13 lives.

14 "Restructuring" means the transformation of Illinois'  
15 comprehensive system of older adult services from funding  
16 primarily a facility-based service delivery system to  
17 primarily a home-based and community-based system, taking into  
18 account the continuing need for 24-hour skilled nursing care  
19 and congregate housing with services.

20 "Services" means the range of housing, health, financial,  
21 and supportive services, other than acute health care services,  
22 that are delivered to an older adult with functional or  
23 cognitive limitations, or socialization needs, who requires  
24 assistance to perform activities of daily living, regardless of  
25 the residential setting in which the services are delivered.

26 "Supportive services" means non-medical assistance given

1 over a period of time to an older adult that is needed to  
2 compensate for the older adult's functional or cognitive  
3 limitations, or socialization needs, or those services  
4 designed to restore, improve, or maintain the older adult's  
5 functional or cognitive abilities.

6 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

7 Section 94. The Mental Health and Developmental  
8 Disabilities Code is amended by changing Sections 1-106, 1-116,  
9 1-122.4, 2-107, 3-200, 4-201, 4-201.1, 4-203, 4-209, 4-400,  
10 4-500, and 4-701 and by changing the headings of Article IV of  
11 Chapter IV and Article IV of Chapter V as follows:

12 (405 ILCS 5/1-106) (from Ch. 91 1/2, par. 1-106)

13 Sec. 1-106. "Developmental disability" means a disability  
14 which is attributable to: (a) an intellectual disability ~~mental~~  
15 ~~retardation~~, cerebral palsy, epilepsy or autism; or to (b) any  
16 other condition which results in impairment similar to that  
17 caused by an intellectual disability ~~mental-retardation~~ and  
18 which requires services similar to those required by  
19 intellectually disabled ~~mentally-retarded~~ persons. Such  
20 disability must originate before the age of 18 years, be  
21 expected to continue indefinitely, and constitute a  
22 substantial handicap.

23 (Source: P.A. 80-1414.)

1 (405 ILCS 5/1-116) (from Ch. 91 1/2, par. 1-116)

2 Sec. 1-116. "Intellectual disability" ~~"Mental retardation"~~

3 means significantly subaverage general intellectual  
4 functioning which exists concurrently with impairment in  
5 adaptive behavior and which originates before the age of 18  
6 years.

7 (Source: P.A. 80-1414.)

8 (405 ILCS 5/1-122.4) (from Ch. 91 1/2, par. 1-122.4)

9 Sec. 1-122.4. "Qualified intellectual disabilities ~~mental~~  
10 ~~retardation~~ professional" as used in this Act means those  
11 persons who meet this definition under Section 483.430 of  
12 Chapter 42 of the Code of Federal Regulations, subpart G.

13 (Source: P.A. 86-1416.)

14 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

15 Sec. 2-107. Refusal of services; informing of risks.

16 (a) An adult recipient of services or the recipient's  
17 guardian, if the recipient is under guardianship, and the  
18 recipient's substitute decision maker, if any, must be informed  
19 of the recipient's right to refuse medication or  
20 electroconvulsive therapy. The recipient and the recipient's  
21 guardian or substitute decision maker shall be given the  
22 opportunity to refuse generally accepted mental health or  
23 developmental disability services, including but not limited  
24 to medication or electroconvulsive therapy. If such services

1 are refused, they shall not be given unless such services are  
2 necessary to prevent the recipient from causing serious and  
3 imminent physical harm to the recipient or others and no less  
4 restrictive alternative is available. The facility director  
5 shall inform a recipient, guardian, or substitute decision  
6 maker, if any, who refuses such services of alternate services  
7 available and the risks of such alternate services, as well as  
8 the possible consequences to the recipient of refusal of such  
9 services.

10 (b) Psychotropic medication or electroconvulsive therapy  
11 may be administered under this Section for up to 24 hours only  
12 if the circumstances leading up to the need for emergency  
13 treatment are set forth in writing in the recipient's record.

14 (c) Administration of medication or electroconvulsive  
15 therapy may not be continued unless the need for such treatment  
16 is redetermined at least every 24 hours based upon a personal  
17 examination of the recipient by a physician or a nurse under  
18 the supervision of a physician and the circumstances  
19 demonstrating that need are set forth in writing in the  
20 recipient's record.

21 (d) Neither psychotropic medication nor electroconvulsive  
22 therapy may be administered under this Section for a period in  
23 excess of 72 hours, excluding Saturdays, Sundays, and holidays,  
24 unless a petition is filed under Section 2-107.1 and the  
25 treatment continues to be necessary under subsection (a) of  
26 this Section. Once the petition has been filed, treatment may

1 continue in compliance with subsections (a), (b), and (c) of  
2 this Section until the final outcome of the hearing on the  
3 petition.

4 (e) The Department shall issue rules designed to insure  
5 that in State-operated mental health facilities psychotropic  
6 medication and electroconvulsive therapy are administered in  
7 accordance with this Section and only when appropriately  
8 authorized and monitored by a physician or a nurse under the  
9 supervision of a physician in accordance with accepted medical  
10 practice. The facility director of each mental health facility  
11 not operated by the State shall issue rules designed to insure  
12 that in that facility psychotropic medication and  
13 electroconvulsive therapy are administered in accordance with  
14 this Section and only when appropriately authorized and  
15 monitored by a physician or a nurse under the supervision of a  
16 physician in accordance with accepted medical practice. Such  
17 rules shall be available for public inspection and copying  
18 during normal business hours.

19 (f) The provisions of this Section with respect to the  
20 emergency administration of psychotropic medication and  
21 electroconvulsive therapy do not apply to facilities licensed  
22 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community  
23 Care Act.

24 (g) Under no circumstances may long-acting psychotropic  
25 medications be administered under this Section.

26 (h) Whenever psychotropic medication or electroconvulsive

1 therapy is refused pursuant to subsection (a) of this Section  
2 at least once that day, the physician shall determine and state  
3 in writing the reasons why the recipient did not meet the  
4 criteria for administration of medication or electroconvulsive  
5 therapy under subsection (a) and whether the recipient meets  
6 the standard for administration of psychotropic medication or  
7 electroconvulsive therapy under Section 2-107.1 of this Code.  
8 If the physician determines that the recipient meets the  
9 standard for administration of psychotropic medication or  
10 electroconvulsive therapy under Section 2-107.1, the facility  
11 director or his or her designee shall petition the court for  
12 administration of psychotropic medication or electroconvulsive  
13 therapy pursuant to that Section unless the facility director  
14 or his or her designee states in writing in the recipient's  
15 record why the filing of such a petition is not warranted. This  
16 subsection (h) applies only to State-operated mental health  
17 facilities.

18 (i) The Department shall conduct annual trainings for all  
19 physicians and registered nurses working in State-operated  
20 mental health facilities on the appropriate use of emergency  
21 administration of psychotropic medication and  
22 electroconvulsive therapy, standards for their use, and the  
23 methods of authorization under this Section.

24 (Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

1           Sec. 3-200. (a) A person may be admitted as an inpatient to  
2 a mental health facility for treatment of mental illness only  
3 as provided in this Chapter, except that a person may be  
4 transferred by the Department of Corrections pursuant to the  
5 Unified Code of Corrections. A person transferred by the  
6 Department of Corrections in this manner may be released only  
7 as provided in the Unified Code of Corrections.

8           (b) No person who is diagnosed as intellectually disabled  
9 ~~mentally retarded~~ or a person with a developmental disability  
10 may be admitted or transferred to a Department mental health  
11 facility or, any portion thereof, except as provided in this  
12 Chapter. However, the evaluation and placement of such persons  
13 shall be governed by Article II of Chapter 4 of this Code.

14         (Source: P.A. 88-380.)

15           (405 ILCS 5/4-201) (from Ch. 91 1/2, par. 4-201)

16           Sec. 4-201. (a) An intellectually disabled ~~A mentally~~  
17 ~~retarded~~ person shall not reside in a Department mental health  
18 facility unless the person is evaluated and is determined to be  
19 a person with mental illness and the facility director  
20 determines that appropriate treatment and habilitation are  
21 available and will be provided to such person on the unit. In  
22 all such cases the Department mental health facility director  
23 shall certify in writing within 30 days of the completion of  
24 the evaluation and every 30 days thereafter, that the person  
25 has been appropriately evaluated, that services specified in



1 the treatment and habilitation plan are being provided, that  
2 the setting in which services are being provided is appropriate  
3 to the person's needs, and that provision of such services  
4 fully complies with all applicable federal statutes and  
5 regulations concerning the provision of services to persons  
6 with a developmental disability. Those regulations shall  
7 include, but not be limited to the regulations which govern the  
8 provision of services to persons with a developmental  
9 disability in facilities certified under the Social Security  
10 Act for federal financial participation, whether or not the  
11 facility or portion thereof in which the recipient has been  
12 placed is presently certified under the Social Security Act or  
13 would be eligible for such certification under applicable  
14 federal regulations. The certifications shall be filed in the  
15 recipient's record and with the office of the Secretary of the  
16 Department. A copy of the certification shall be given to the  
17 person, an attorney or advocate who is representing the person  
18 and the person's guardian.

19 (b) Any person admitted to a Department mental health  
20 facility who is reasonably suspected of being mildly or  
21 moderately intellectually disabled ~~mentally retarded~~,  
22 including those who also have a mental illness, shall be  
23 evaluated by a multidisciplinary team which includes a  
24 qualified intellectual disabilities ~~mental retardation~~  
25 professional designated by the Department facility director.  
26 The evaluation shall be consistent with Section 4-300 of

1 Article III in this Chapter, and shall include: (1) a written  
2 assessment of whether the person needs a habilitation plan and,  
3 if so, (2) a written habilitation plan consistent with Section  
4 4-309, and (3) a written determination whether the admitting  
5 facility is capable of providing the specified habilitation  
6 services. This evaluation shall occur within a reasonable  
7 period of time, but in no case shall that period exceed 14 days  
8 after admission. In all events, a treatment plan shall be  
9 prepared for the person within 3 days of admission, and  
10 reviewed and updated every 30 days, consistent with Section  
11 3-209 of this Code.

12 (c) Any person admitted to a Department mental health  
13 facility with an admitting diagnosis of a severe or profound  
14 intellectual disability ~~mental—retardation~~ shall be  
15 transferred to an appropriate facility or unit for persons with  
16 a developmental disability within 72 hours of admission unless  
17 transfer is contraindicated by the person's medical condition  
18 documented by appropriate medical personnel. Any person  
19 diagnosed as severely or profoundly intellectually disabled  
20 ~~mentally-retarded~~ while in a Department mental health facility  
21 shall be transferred to an appropriate facility or unit for  
22 persons with a developmental disability within 72 hours of such  
23 diagnosis unless transfer is contraindicated by the person's  
24 medical condition documented by appropriate medical personnel.

25 (d) The Secretary of the Department shall designate a  
26 qualified intellectual disabilities ~~mental—retardation~~

1 professional in each of its mental health facilities who has  
2 responsibility for insuring compliance with the provisions of  
3 Sections 4-201 and 4-201.1.

4 (Source: P.A. 88-380; 89-439, eff. 6-1-96; 89-507, eff.  
5 7-1-97.)

6 (405 ILCS 5/4-201.1) (from Ch. 91 1/2, par. 4-201.1)

7 Sec. 4-201.1. (a) A person residing in a Department mental  
8 health facility who is evaluated as being mildly or moderately  
9 intellectually disabled ~~mentally retarded~~, an attorney or  
10 advocate representing the person, or a guardian of such person  
11 may object to the Department facility director's certification  
12 required in Section 4-201, the treatment and habilitation plan,  
13 or appropriateness of setting, and obtain an administrative  
14 decision requiring revision of a treatment or habilitation plan  
15 or change of setting, by utilization review as provided in  
16 Sections 3-207 and 4-209 of this Code. As part of this  
17 utilization review, the Committee shall include as one of its  
18 members a qualified intellectual disabilities ~~mental~~  
19 ~~retardation~~ professional.

20 (b) The mental health facility director shall give written  
21 notice to each person evaluated as being mildly or moderately  
22 intellectually disabled ~~mentally retarded~~, the person's  
23 attorney and guardian, if any, or in the case of a minor, to  
24 his or her attorney, to the parent, guardian or person in loco  
25 parentis and to the minor if 12 years of age or older, of the

1 person's right to request a review of the facility director's  
2 initial or subsequent determination that such person is  
3 appropriately placed or is receiving appropriate services. The  
4 notice shall also provide the address and phone number of the  
5 Legal Advocacy Service of the Guardianship and Advocacy  
6 Commission, which the person or guardian can contact for legal  
7 assistance. If requested, the facility director shall assist  
8 the person or guardian in contacting the Legal Advocacy  
9 Service. This notice shall be given within 24 hours of  
10 Department's evaluation that the person is mildly or moderately  
11 intellectually disabled ~~mentally retarded~~.

12 (c) Any recipient of services who successfully challenges a  
13 final decision of the Secretary of the Department (or his or  
14 her designee) reviewing an objection to the certification  
15 required under Section 4-201, the treatment and habilitation  
16 plan, or the appropriateness of the setting shall be entitled  
17 to recover reasonable attorney's fees incurred in that  
18 challenge, unless the Department's position was substantially  
19 justified.

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

21 (405 ILCS 5/4-203) (from Ch. 91 1/2, par. 4-203)

22 Sec. 4-203. (a) Every developmental disabilities facility  
23 shall maintain adequate records which shall include the Section  
24 of this Act under which the client was admitted, any subsequent  
25 change in the client's status, and requisite documentation for

1 such admission and status.

2 (b) The Department shall ensure that a monthly report is  
3 maintained for each Department mental health facility, and each  
4 unit of a Department developmental disability facility for  
5 dually diagnosed persons, which lists (1) initials of persons  
6 admitted to, residing at, or discharged from a Department  
7 mental health facility or unit for dually diagnosed persons of  
8 Department developmental disability facility during that month  
9 with a primary or secondary diagnosis of intellectual  
10 disability ~~mental retardation~~, (2) the date and facility and  
11 unit of admission or continuing, care, (3) the legal admission  
12 status, (4) the recipient's diagnosis, (5) the date and  
13 facility and unit of transfer or discharge, (6) whether or not  
14 there is a public or private guardian, (7) whether the facility  
15 director has certified that appropriate treatment and  
16 habilitation are available for and being provided to such  
17 person pursuant to Section 4-203 of this Chapter, and (8)  
18 whether the person or a guardian has requested review as  
19 provided in Section 4-209 of this Chapter and, if so, the  
20 outcome of the review. The Secretary of the Department shall  
21 furnish a copy of each monthly report upon request to the  
22 Guardianship and Advocacy Commission and the agency designated  
23 by the Governor under Section 1 of "An Act in relation to the  
24 protection and advocacy of the rights of persons with  
25 developmental disabilities, and amending certain Acts therein  
26 named", approved September 20, 1985, and under Section 1 of "An

1 Act for the protection and advocacy of mentally ill persons",  
2 approved September 20, 1987.

3 (c) Nothing contained in this Chapter shall be construed to  
4 limit or otherwise affect the power of any developmental  
5 disabilities facility to determine the qualifications of  
6 persons permitted to admit clients to such facility. This  
7 subsection shall not affect or limit the powers of any court to  
8 order admission to a developmental disabilities facility as set  
9 forth in this Chapter.

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

11 (405 ILCS 5/4-209) (from Ch. 91 1/2, par. 4-209)

12 Sec. 4-209. (a) Hearings under Sections 4-201.1, 4-312,  
13 4-704 and 4-709 of this Chapter shall be conducted by a  
14 utilization review committee. The Secretary shall appoint a  
15 utilization review committee at each Department facility. Each  
16 such committee shall consist of multi-disciplinary  
17 professional staff members who are trained and equipped to deal  
18 with the habilitation needs of clients. At least one member of  
19 the committee shall be a qualified intellectual disabilities  
20 ~~mental-retardation~~ professional. The client and the objector  
21 may be represented by persons of their choice.

22 (b) The utilization review committee shall not be bound by  
23 rules of evidence or procedure but shall conduct the  
24 proceedings in a manner intended to ensure a fair hearing. The  
25 committee may make such investigation as it deems necessary. It

1 may administer oaths and compel by subpoena testimony and the  
2 production of records. A stenographic or audio recording of the  
3 proceedings shall be made and shall be kept in the client's  
4 record. Within 3 days of conclusion of the hearing, the  
5 committee shall submit to the facility director its written  
6 recommendations which include its factual findings and  
7 conclusions. A copy of the recommendations shall be given to  
8 the client and the objector.

9 (c) Within 7 days of receipt of the recommendations, the  
10 facility director shall give written notice to the client and  
11 objector of his acceptance or rejection of the recommendations  
12 and his reason therefor. If the facility director rejects the  
13 recommendations or if the client or objector requests review of  
14 the facility director's decision, the facility director shall  
15 promptly forward a copy of his decision, the recommendations,  
16 and the record of the hearing to the Secretary of the  
17 Department for final review. The review of the facility  
18 director's decision shall be decided by the Secretary or his or  
19 her designee within 30 days of the receipt of a request for  
20 final review. The decision of the facility director, or the  
21 decision of the Secretary (or his or her designee) if review  
22 was requested, shall be considered a final administrative  
23 decision, and shall be subject to review under and in  
24 accordance with Article III of the Code of Civil Procedure. The  
25 decision of the facility director, or the decision of the  
26 Secretary (or his or her designee) if review was requested,

1 shall be considered a final administrative decision.

2 (Source: P.A. 91-357, eff. 7-29-99.)

3 (405 ILCS 5/Ch. IV Art. IV heading)

4 ARTICLE IV. EMERGENCY ADMISSION

5 OF THE INTELLECTUALLY DISABLED ~~MENTALLY RETARDED~~

6 (405 ILCS 5/4-400) (from Ch. 91 1/2, par. 4-400)

7 Sec. 4-400. (a) A person 18 years of age or older may be  
8 admitted on an emergency basis to a facility under this Article  
9 if the facility director of the facility determines: (1) that  
10 he is intellectually disabled ~~mentally retarded~~; (2) that he is  
11 reasonably expected to inflict serious physical harm upon  
12 himself or another in the near future; and (3) that immediate  
13 admission is necessary to prevent such harm.

14 (b) Persons with a developmental disability under 18 years  
15 of age and persons with a developmental disability 18 years of  
16 age or over who are under guardianship or who are seeking  
17 admission on their own behalf may be admitted for emergency  
18 care under Section 4-311.

19 (Source: P.A. 88-380.)

20 (405 ILCS 5/Ch. IV Art. V heading)

21 ARTICLE V. JUDICIAL ADMISSION FOR THE INTELLECTUALLY DISABLED

22 ~~MENTALLY RETARDED~~



1 (405 ILCS 5/4-500) (from Ch. 91 1/2, par. 4-500)

2 Sec. 4-500. A person 18 years of age or older may be  
3 admitted to a facility upon court order under this Article if  
4 the court determines: (1) that he is intellectually disabled  
5 ~~mentally retarded~~; and (2) that he is reasonably expected to  
6 inflict serious physical harm upon himself or another in the  
7 near future.

8 (Source: P.A. 80-1414.)

9 (405 ILCS 5/4-701) (from Ch. 91 1/2, par. 4-701)

10 Sec. 4-701. (a) Any client admitted to a developmental  
11 disabilities facility under this Chapter may be discharged  
12 whenever the facility director determines that he is suitable  
13 for discharge.

14 (b) Any client admitted to a facility or program of  
15 nonresidential services upon court order under Article V of  
16 this Chapter or admitted upon court order as intellectually  
17 disabled ~~mentally retarded~~ or mentally deficient under any  
18 prior statute shall be discharged whenever the facility  
19 director determines that he no longer meets the standard for  
20 judicial admission. When the facility director believes that  
21 continued residence is advisable for such a client, he shall  
22 inform the client and his guardian, if any, that the client may  
23 remain at the facility on administrative admission status. When  
24 a facility director discharges or changes the status of such  
25 client, he shall promptly notify the clerk of the court who

1 shall note the action in the court record.

2 (c) When the facility director discharges a client pursuant  
3 to subsection (b) of this Section, he shall promptly notify the  
4 State's Attorney of the county in which the client resided  
5 immediately prior to his admission to a development  
6 disabilities facility. Upon receipt of such notice, the State's  
7 Attorney may notify such peace officers that he deems  
8 appropriate.

9 (d) The facility director may grant a temporary release to  
10 any client when such release is appropriate and consistent with  
11 the habilitation needs of the client.

12 (Source: P.A. 80-1414.)

13 Section 95. The Community Mental Health Act is amended by  
14 changing Section 3e as follows:

15 (405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

16 Sec. 3e. Board's powers and duties.

17 (1) Every community mental health board shall, immediately  
18 after appointment, meet and organize, by the election of one of  
19 its number as president and one as secretary and such other  
20 officers as it may deem necessary. It shall make rules and  
21 regulations concerning the rendition or operation of services  
22 and facilities which it directs, supervises or funds, not  
23 inconsistent with the provisions of this Act. It shall:

24 (a) Hold a meeting prior to July 1 of each year at

1           which officers shall be elected for the ensuing year  
2           beginning July 1;

3           (b) Hold meetings at least quarterly;

4           (c) Hold special meetings upon a written request signed  
5           by at least 2 members and filed with the secretary;

6           (d) Review and evaluate community mental health  
7           services and facilities, including services and facilities  
8           for the treatment of alcoholism, drug addiction,  
9           developmental disabilities, and intellectual disabilities  
10          ~~mental retardation~~;

11          (e) Authorize the disbursement of money from the  
12          community mental health fund for payment for the ordinary  
13          and contingent expenses of the board;

14          (f) Submit to the appointing officer and the members of  
15          the governing body a written plan for a program of  
16          community mental health services and facilities for  
17          persons with a mental illness, a developmental disability,  
18          or a substance use disorder. Such plan shall be for the  
19          ensuing 12 month period. In addition, a plan shall be  
20          developed for the ensuing 3 year period and such plan shall  
21          be reviewed at the end of every 12 month period and shall  
22          be modified as deemed advisable.

23          (g) Within amounts appropriated therefor, execute such  
24          programs and maintain such services and facilities as may  
25          be authorized under such appropriations, including amounts  
26          appropriated under bond issues, if any;

1           (h) Publish the annual budget and report within 120  
2 days after the end of the fiscal year in a newspaper  
3 distributed within the jurisdiction of the board, or, if no  
4 newspaper is published within the jurisdiction of the  
5 board, then one published in the county, or, if no  
6 newspaper is published in the county, then in a newspaper  
7 having general circulation within the jurisdiction of the  
8 board. The report shall show the condition of its trust of  
9 that year, the sums of money received from all sources,  
10 giving the name of any donor, how all monies have been  
11 expended and for what purpose, and such other statistics  
12 and program information in regard to the work of the board  
13 as it may deem of general interest. A copy of the budget  
14 and the annual report shall be made available to the  
15 Department of Human Services and to members of the General  
16 Assembly whose districts include any part of the  
17 jurisdiction of such board. The names of all employees,  
18 consultants, and other personnel shall be set forth along  
19 with the amounts of money received;

20           (i) Consult with other appropriate private and public  
21 agencies in the development of local plans for the most  
22 efficient delivery of mental health, developmental  
23 disabilities, and substance use disorder services. The  
24 Board is authorized to join and to participate in the  
25 activities of associations organized for the purpose of  
26 promoting more efficient and effective services and

1 programs;

2 (j) Have the authority to review and comment on all  
3 applications for grants by any person, corporation, or  
4 governmental unit providing services within the  
5 geographical area of the board which provides mental health  
6 facilities and services, including services for the person  
7 with a mental illness, a developmental disability, or a  
8 substance use disorder. The board may require funding  
9 applicants to send a copy of their funding application to  
10 the board at the time such application is submitted to the  
11 Department of Human Services or to any other local, State  
12 or federal funding source or governmental agency. Within 60  
13 days of the receipt of any application, the board shall  
14 submit its review and comments to the Department of Human  
15 Services or to any other appropriate local, State or  
16 federal funding source or governmental agency. A copy of  
17 the review and comments shall be submitted to the funding  
18 applicant. Within 60 days thereafter, the Department of  
19 Human Services or any other appropriate local or State  
20 governmental agency shall issue a written response to the  
21 board and the funding applicant. The Department of Human  
22 Services shall supply any community mental health board  
23 such information about purchase-of-care funds, State  
24 facility utilization, and costs in its geographical area as  
25 the board may request provided that the information  
26 requested is for the purpose of the Community Mental Health

1 Board complying with the requirements of Section 3f,  
2 subsection (f) of this Act;

3 (k) Perform such other acts as may be necessary or  
4 proper to carry out the purposes of this Act.

5 (2) The community mental health board has the following  
6 powers:

7 (a) The board may enter into multiple-year contracts  
8 for rendition or operation of services, facilities and  
9 educational programs.

10 (b) The board may arrange through intergovernmental  
11 agreements or intragovernmental agreements or both for the  
12 rendition of services and operation of facilities by other  
13 agencies or departments of the governmental unit or county  
14 in which the governmental unit is located with the approval  
15 of the governing body.

16 (c) To employ, establish compensation for, and set  
17 policies for its personnel, including legal counsel, as may  
18 be necessary to carry out the purposes of this Act and  
19 prescribe the duties thereof. The board may enter into  
20 multiple-year employment contracts as may be necessary for  
21 the recruitment and retention of personnel and the proper  
22 functioning of the board.

23 (d) The board may enter into multiple-year joint  
24 agreements, which shall be written, with other mental  
25 health boards and boards of health to provide jointly  
26 agreed upon community mental health facilities and

1 services and to pool such funds as may be deemed necessary  
2 and available for this purpose.

3 (e) The board may organize a not-for-profit  
4 corporation for the purpose of providing direct recipient  
5 services. Such corporations shall have, in addition to all  
6 other lawful powers, the power to contract with persons to  
7 furnish services for recipients of the corporation's  
8 facilities, including psychiatrists and other physicians  
9 licensed in this State to practice medicine in all of its  
10 branches. Such physicians shall be considered independent  
11 contractors, and liability for any malpractice shall not  
12 extend to such corporation, nor to the community mental  
13 health board, except for gross negligence in entering into  
14 such a contract.

15 (f) The board shall not operate any direct recipient  
16 services for more than a 2-year period when such services  
17 are being provided in the governmental unit, but shall  
18 encourage, by financial support, the development of  
19 private agencies to deliver such needed services, pursuant  
20 to regulations of the board.

21 (g) Where there are multiple boards within the same  
22 planning area, as established by the Department of Human  
23 Services, services may be purchased through a single  
24 delivery system. In such areas, a coordinating body with  
25 representation from each board shall be established to  
26 carry out the service functions of this Act. In the event

1           any such coordinating body purchases or improves real  
2           property, such body shall first obtain the approval of the  
3           governing bodies of the governmental units in which the  
4           coordinating body is located.

5           (h) The board may enter into multiple-year joint  
6           agreements with other governmental units located within  
7           the geographical area of the board. Such agreements shall  
8           be written and shall provide for the rendition of services  
9           by the board to the residents of such governmental units.

10          (i) The board may enter into multiple-year joint  
11          agreements with federal, State, and local governments,  
12          including the Department of Human Services, whereby the  
13          board will provide certain services. All such joint  
14          agreements must provide for the exchange of relevant data.  
15          However, nothing in this Act shall be construed to permit  
16          the abridgement of the confidentiality of patient records.

17          (j) The board may receive gifts from private sources  
18          for purposes not inconsistent with the provisions of this  
19          Act.

20          (k) The board may receive Federal, State and local  
21          funds for purposes not inconsistent with the provisions of  
22          this Act.

23          (l) The board may establish scholarship programs. Such  
24          programs shall require equivalent service or reimbursement  
25          pursuant to regulations of the board.

26          (m) The board may sell, rent, or lease real property



1 for purposes consistent with this Act.

2 (n) The board may: (i) own real property, lease real  
3 property as lessee, or acquire real property by purchase,  
4 construction, lease-purchase agreement, or otherwise; (ii)  
5 take title to the property in the board's name; (iii)  
6 borrow money and issue debt instruments, mortgages,  
7 purchase-money mortgages, and other security instruments  
8 with respect to the property; and (iv) maintain, repair,  
9 remodel, or improve the property. All of these activities  
10 must be for purposes consistent with this Act as may be  
11 reasonably necessary for the housing and proper  
12 functioning of the board. The board may use moneys in the  
13 Community Mental Health Fund for these purposes.

14 (o) The board may organize a not-for-profit  
15 corporation (i) for the purpose of raising money to be  
16 distributed by the board for providing community mental  
17 health services and facilities for the treatment of  
18 alcoholism, drug addiction, developmental disabilities,  
19 and intellectual disabilities ~~mental retardation~~ or (ii)  
20 for other purposes not inconsistent with this Act.

21 (Source: P.A. 95-336, eff. 8-21-07.)

22 Section 100. The Specialized Living Centers Act is amended  
23 by changing Section 2.03 as follows:

24 (405 ILCS 25/2.03) (from Ch. 91 1/2, par. 602.03)

1           Sec. 2.03. "Person with a developmental disability" means  
2 individuals whose disability is attributable to an  
3 intellectual disability ~~mental retardation~~, cerebral palsy,  
4 epilepsy or other neurological condition which generally  
5 originates before such individuals attain age 18 which had  
6 continued or can be expected to continue indefinitely and which  
7 constitutes a substantial handicap to such individuals.

8 (Source: P.A. 88-380.)

9           Section 101. The Protection and Advocacy for  
10 Developmentally Disabled Persons Act is amended by changing  
11 Section 1 as follows:

12           (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

13           Sec. 1. The Governor may designate a private not-for-profit  
14 corporation as the agency to administer a State plan to protect  
15 and advocate the rights of persons with developmental  
16 disabilities pursuant to the requirements of the federal  
17 Developmental Disabilities Assistance and Bill of Rights Act,  
18 42 U.S.C. 6001 to 6081, as now or hereafter amended. The  
19 designated agency may pursue legal, administrative, and other  
20 appropriate remedies to ensure the protection of the rights of  
21 such persons who are receiving treatment, services or  
22 habilitation within this State. The agency designated by the  
23 Governor shall be independent of any agency which provides  
24 treatment, services, guardianship, or habilitation to persons

1 with developmental disabilities, and such agency shall not be  
2 administered by the Governor's Planning Council on  
3 Developmental Disabilities or any successor State Planning  
4 Council organized pursuant to federal law.

5 The designated agency may receive and expend funds to  
6 protect and advocate the rights of persons with developmental  
7 disabilities. In order to properly exercise its powers and  
8 duties, such agency shall have access to developmental  
9 disability facilities and mental health facilities, as defined  
10 under Sections 1-107 and 1-114 of the Mental Health and  
11 Developmental Disabilities Code, and facilities as defined in  
12 Section 1-113 of the Nursing Home Care Act or Section 1-113 of  
13 the ID/DD ~~MR/DD~~ Community Care Act. Such access shall be  
14 granted for the purposes of meeting with residents and staff,  
15 informing them of services available from the agency,  
16 distributing written information about the agency and the  
17 rights of persons with developmental disabilities, conducting  
18 scheduled and unscheduled visits, and performing other  
19 activities designed to protect the rights of persons with  
20 developmental disabilities. The agency also shall have access,  
21 for the purpose of inspection and copying, to the records of a  
22 person with developmental disabilities who resides in any such  
23 facility subject to the limitations of this Act, the Mental  
24 Health and Developmental Disabilities Confidentiality Act, the  
25 Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.  
26 The agency also shall have access, for the purpose of

1 inspection and copying, to the records of a person with  
2 developmental disabilities who resides in any such facility if  
3 (1) a complaint is received by the agency from or on behalf of  
4 the person with a developmental disability, and (2) such person  
5 does not have a legal guardian or the State or the designee of  
6 the State is the legal guardian of such person. The designated  
7 agency shall provide written notice to the person with  
8 developmental disabilities and the State guardian of the nature  
9 of the complaint based upon which the designated agency has  
10 gained access to the records. No record or the contents of any  
11 record shall be redisclosed by the designated agency unless the  
12 person with developmental disabilities and the State guardian  
13 are provided 7 days advance written notice, except in emergency  
14 situations, of the designated agency's intent to redisclose  
15 such record, during which time the person with developmental  
16 disabilities or the State guardian may seek to judicially  
17 enjoin the designated agency's redisclosure of such record on  
18 the grounds that such redisclosure is contrary to the interests  
19 of the person with developmental disabilities. Any person who  
20 in good faith complains to the designated agency on behalf of a  
21 person with developmental disabilities, or provides  
22 information or participates in the investigation of any such  
23 complaint shall have immunity from any liability, civil,  
24 criminal or otherwise, and shall not be subject to any  
25 penalties, sanctions, restrictions or retaliation as a  
26 consequence of making such complaint, providing such

1 information or participating in such investigation.

2 Upon request, the designated agency shall be entitled to  
3 inspect and copy any records or other materials which may  
4 further the agency's investigation of problems affecting  
5 numbers of persons with developmental disabilities. When  
6 required by law any personally identifiable information of  
7 persons with developmental disabilities shall be removed from  
8 the records. However, the designated agency may not inspect or  
9 copy any records or other materials when the removal of  
10 personally identifiable information imposes an unreasonable  
11 burden on mental health and developmental disabilities  
12 facilities pursuant to the Mental Health and Developmental  
13 Disabilities Code or facilities as defined in the Nursing Home  
14 Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

15 The Governor shall not redesignate the agency to administer  
16 the State plan to protect and advocate the rights of persons  
17 with developmental disabilities unless there is good cause for  
18 the redesignation and unless notice of the intent to make such  
19 redesignation is given to persons with developmental  
20 disabilities or their representatives, the federal Secretary  
21 of Health and Human Services, and the General Assembly at least  
22 60 days prior thereto.

23 As used in this Act, the term "developmental disability"  
24 means a severe, chronic disability of a person which:

25 (A) is attributable to a mental or physical impairment  
26 or combination of mental and physical impairments;

1 (B) is manifested before the person attains age 22;

2 (C) is likely to continue indefinitely;

3 (D) results in substantial functional limitations in 3  
4 or more of the following areas of major life activity: (i)  
5 self-care, (ii) receptive and expressive language, (iii)  
6 learning, (iv) mobility, (v) self-direction, (vi) capacity  
7 for independent living, and (vii) economic  
8 self-sufficiency; and

9 (E) reflects the person's need for combination and  
10 sequence of special, interdisciplinary or generic care,  
11 treatment or other services which are of lifelong or  
12 extended duration and are individually planned and  
13 coordinated.

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

15 Section 102. The Protection and Advocacy for Mentally Ill  
16 Persons Act is amended by changing Section 3 as follows:

17 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

18 Sec. 3. Powers and Duties.

19 (A) In order to properly exercise its powers and duties,  
20 the agency shall have the authority to:

21 (1) Investigate incidents of abuse and neglect of  
22 mentally ill persons if the incidents are reported to the  
23 agency or if there is probable cause to believe that the  
24 incidents occurred. In case of conflict with provisions of

1 the Abused and Neglected Child Reporting Act or the Nursing  
2 Home Care Act, the provisions of those Acts shall apply.

3 (2) Pursue administrative, legal and other appropriate  
4 remedies to ensure the protection of the rights of mentally  
5 ill persons who are receiving care and treatment in this  
6 State.

7 (3) Pursue administrative, legal and other remedies on  
8 behalf of an individual who:

9 (a) was a mentally ill individual; and

10 (b) is a resident of this State, but only with  
11 respect to matters which occur within 90 days after the  
12 date of the discharge of such individual from a  
13 facility providing care and treatment.

14 (4) Establish a board which shall:

15 (a) advise the protection and advocacy system on  
16 policies and priorities to be carried out in protecting  
17 and advocating the rights of mentally ill individuals;  
18 and

19 (b) include attorneys, mental health  
20 professionals, individuals from the public who are  
21 knowledgeable about mental illness, a provider of  
22 mental health services, individuals who have received  
23 or are receiving mental health services and family  
24 members of such individuals. At least one-half the  
25 members of the board shall be individuals who have  
26 received or are receiving mental health services or who

1           are family members of such individuals.

2           (5) On January 1, 1988, and on January 1 of each  
3           succeeding year, prepare and transmit to the Secretary of  
4           the United States Department of Health and Human Services  
5           and to the Illinois Secretary of Human Services a report  
6           describing the activities, accomplishments and  
7           expenditures of the protection and advocacy system during  
8           the most recently completed fiscal year.

9           (B) The agency shall have access to all mental health  
10          facilities as defined in Sections 1-107 and 1-114 of the Mental  
11          Health and Developmental Disabilities Code, all facilities as  
12          defined in Section 1-113 of the Nursing Home Care Act, all  
13          facilities as defined in Section 1-113 of the ID/DD ~~MR/DD~~  
14          Community Care Act, all facilities as defined in Section 2.06  
15          of the Child Care Act of 1969, as now or hereafter amended, and  
16          all other facilities providing care or treatment to mentally  
17          ill persons. Such access shall be granted for the purposes of  
18          meeting with residents and staff, informing them of services  
19          available from the agency, distributing written information  
20          about the agency and the rights of persons who are mentally  
21          ill, conducting scheduled and unscheduled visits, and  
22          performing other activities designed to protect the rights of  
23          mentally ill persons.

24          (C) The agency shall have access to all records of mentally  
25          ill persons who are receiving care or treatment from a  
26          facility, subject to the limitations of this Act, the Mental



1 Health and Developmental Disabilities Confidentiality Act, the  
2 Nursing Home Care Act and the Child Care Act of 1969, as now or  
3 hereafter amended. If the mentally ill person has a legal  
4 guardian other than the State or a designee of the State, the  
5 facility director shall disclose the guardian's name, address  
6 and telephone number to the agency upon its request. In cases  
7 of conflict with provisions of the Abused and Neglected Child  
8 Reporting Act and the Nursing Home Care Act, the provisions of  
9 the Abused and Neglected Child Reporting Act and the Nursing  
10 Home Care Act shall apply. The agency shall also have access,  
11 for the purpose of inspection and copying, to the records of a  
12 mentally ill person (i) who by reason of his or her mental or  
13 physical condition is unable to authorize the agency to have  
14 such access; (ii) who does not have a legal guardian or for  
15 whom the State or a designee of the State is the legal  
16 guardian; and (iii) with respect to whom a complaint has been  
17 received by the agency or with respect to whom there is  
18 probable cause to believe that such person has been subjected  
19 to abuse or neglect.

20 The agency shall provide written notice to the mentally ill  
21 person and the State guardian of the nature of the complaint  
22 based upon which the agency has gained access to the records.  
23 No record or the contents of the record shall be redisclosed by  
24 the agency unless the person who is mentally ill and the State  
25 guardian are provided 7 days advance written notice, except in  
26 emergency situations, of the agency's intent to redisclose such

1 record. Within such 7-day period, the mentally ill person or  
2 the State guardian may seek an injunction prohibiting the  
3 agency's redisclosure of such record on the grounds that such  
4 redisclosure is contrary to the interests of the mentally ill  
5 person.

6       Upon request, the authorized agency shall be entitled to  
7 inspect and copy any clinical or trust fund records of mentally  
8 ill persons which may further the agency's investigation of  
9 alleged problems affecting numbers of mentally ill persons.  
10 When required by law, any personally identifiable information  
11 of mentally ill persons shall be removed from the records.  
12 However, the agency may not inspect or copy any records or  
13 other materials when the removal of personally identifiable  
14 information imposes an unreasonable burden on any facility as  
15 defined by the Mental Health and Developmental Disabilities  
16 Code, the Nursing Home Care Act or the Child Care Act of 1969,  
17 or any other facility providing care or treatment to mentally  
18 ill persons.

19       (D) Prior to instituting any legal action in a federal or  
20 State court on behalf of a mentally ill individual, an eligible  
21 protection and advocacy system, or a State agency or nonprofit  
22 organization which entered into a contract with such an  
23 eligible system under Section 104(a) of the federal Protection  
24 and Advocacy for Mentally Ill Individuals Act of 1986, shall  
25 exhaust in a timely manner all administrative remedies where  
26 appropriate. If, in pursuing administrative remedies, the

1 system, State agency or organization determines that any matter  
2 with respect to such individual will not be resolved within a  
3 reasonable time, the system, State agency or organization may  
4 pursue alternative remedies, including the initiation of  
5 appropriate legal action.

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

7 Section 105. The Developmental Disability and Mental  
8 Disability Services Act is amended by changing Sections 2-3,  
9 2-5, 2-17, 3-3, 3-5, 5-1, 5-4, and 6-1 as follows:

10 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

11 Sec. 2-3. As used in this Article, unless the context  
12 requires otherwise:

13 (a) "Agency" means an agency or entity licensed by the  
14 Department pursuant to this Article or pursuant to the  
15 Community Residential Alternatives Licensing Act.

16 (b) "Department" means the Department of Human Services, as  
17 successor to the Department of Mental Health and Developmental  
18 Disabilities.

19 (c) "Home-based services" means services provided to a  
20 mentally disabled adult who lives in his or her own home. These  
21 services include but are not limited to:

22 (1) home health services;

23 (2) case management;

24 (3) crisis management;

- 1 (4) training and assistance in self-care;
- 2 (5) personal care services;
- 3 (6) habilitation and rehabilitation services;
- 4 (7) employment-related services;
- 5 (8) respite care; and
- 6 (9) other skill training that enables a person to
- 7 become self-supporting.

8 (d) "Legal guardian" means a person appointed by a court of  
9 competent jurisdiction to exercise certain powers on behalf of  
10 a mentally disabled adult.

11 (e) "Mentally disabled adult" means a person over the age  
12 of 18 years who lives in his or her own home; who needs  
13 home-based services, but does not require 24-hour-a-day  
14 supervision; and who has one of the following conditions:  
15 severe autism, severe mental illness, a severe or profound  
16 intellectual disability ~~mental retardation~~, or severe and  
17 multiple impairments.

18 (f) In one's "own home" means that a mentally disabled  
19 adult lives alone; or that a mentally disabled adult is in  
20 full-time residence with his or her parents, legal guardian, or  
21 other relatives; or that a mentally disabled adult is in  
22 full-time residence in a setting not subject to licensure under  
23 the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act,  
24 or the Child Care Act of 1969, as now or hereafter amended,  
25 with 3 or fewer other adults unrelated to the mentally disabled  
26 adult who do not provide home-based services to the mentally

1 disabled adult.

2 (g) "Parent" means the biological or adoptive parent of a  
3 mentally disabled adult, or a person licensed as a foster  
4 parent under the laws of this State who acts as a mentally  
5 disabled adult's foster parent.

6 (h) "Relative" means any of the following relationships by  
7 blood, marriage or adoption: parent, son, daughter, brother,  
8 sister, grandparent, uncle, aunt, nephew, niece, great  
9 grandparent, great uncle, great aunt, stepbrother, stepsister,  
10 stepson, stepdaughter, stepparent or first cousin.

11 (i) "Severe autism" means a lifelong developmental  
12 disability which is typically manifested before 30 months of  
13 age and is characterized by severe disturbances in reciprocal  
14 social interactions; verbal and nonverbal communication and  
15 imaginative activity; and repertoire of activities and  
16 interests. A person shall be determined severely autistic, for  
17 purposes of this Article, if both of the following are present:

18 (1) Diagnosis consistent with the criteria for  
19 autistic disorder in the current edition of the Diagnostic  
20 and Statistical Manual of Mental Disorders.

21 (2) Severe disturbances in reciprocal social  
22 interactions; verbal and nonverbal communication and  
23 imaginative activity; repertoire of activities and  
24 interests. A determination of severe autism shall be based  
25 upon a comprehensive, documented assessment with an  
26 evaluation by a licensed clinical psychologist or

1           psychiatrist. A determination of severe autism shall not be  
2           based solely on behaviors relating to environmental,  
3           cultural or economic differences.

4           (j) "Severe mental illness" means the manifestation of all  
5           of the following characteristics:

6                   (1) A primary diagnosis of one of the major mental  
7                   disorders in the current edition of the Diagnostic and  
8                   Statistical Manual of Mental Disorders listed below:

9                           (A) Schizophrenia disorder.

10                           (B) Delusional disorder.

11                           (C) Schizo-affective disorder.

12                           (D) Bipolar affective disorder.

13                           (E) Atypical psychosis.

14                           (F) Major depression, recurrent.

15                   (2) The individual's mental illness must substantially  
16                   impair his or her functioning in at least 2 of the  
17                   following areas:

18                           (A) Self-maintenance.

19                           (B) Social functioning.

20                           (C) Activities of community living.

21                           (D) Work skills.

22                   (3) Disability must be present or expected to be  
23                   present for at least one year.

24           A determination of severe mental illness shall be based  
25           upon a comprehensive, documented assessment with an evaluation  
26           by a licensed clinical psychologist or psychiatrist, and shall

1 not be based solely on behaviors relating to environmental,  
2 cultural or economic differences.

3 (k) "Severe or profound intellectual disability ~~mental~~  
4 ~~retardation~~" means a manifestation of all of the following  
5 characteristics:

6 (1) A diagnosis which meets Classification in Mental  
7 Retardation or criteria in the current edition of the  
8 Diagnostic and Statistical Manual of Mental Disorders for  
9 severe or profound mental retardation (an IQ of 40 or  
10 below). This must be measured by a standardized instrument  
11 for general intellectual functioning.

12 (2) A severe or profound level of disturbed adaptive  
13 behavior. This must be measured by a standardized adaptive  
14 behavior scale or informal appraisal by the professional in  
15 keeping with illustrations in Classification in Mental  
16 Retardation, 1983.

17 (3) Disability diagnosed before age of 18.

18 A determination of a severe or profound intellectual  
19 disability ~~mental—retardation~~ shall be based upon a  
20 comprehensive, documented assessment with an evaluation by a  
21 licensed clinical psychologist or certified school  
22 psychologist or a psychiatrist, and shall not be based solely  
23 on behaviors relating to environmental, cultural or economic  
24 differences.

25 (1) "Severe and multiple impairments" means the  
26 manifestation of all of the following characteristics:

1           (1) The evaluation determines the presence of a  
2 developmental disability which is expected to continue  
3 indefinitely, constitutes a substantial handicap and is  
4 attributable to any of the following:

5           (A) Intellectual disability ~~Mental retardation~~,  
6 which is defined as general intellectual functioning  
7 that is 2 or more standard deviations below the mean  
8 concurrent with impairment of adaptive behavior which  
9 is 2 or more standard deviations below the mean.  
10 Assessment of the individual's intellectual  
11 functioning must be measured by a standardized  
12 instrument for general intellectual functioning.

13           (B) Cerebral palsy.

14           (C) Epilepsy.

15           (D) Autism.

16           (E) Any other condition which results in  
17 impairment similar to that caused by an intellectual  
18 disability ~~mental retardation~~ and which requires  
19 services similar to those required by intellectually  
20 disabled ~~mentally retarded~~ persons.

21           (2) The evaluation determines multiple handicaps in  
22 physical, sensory, behavioral or cognitive functioning  
23 which constitute a severe or profound impairment  
24 attributable to one or more of the following:

25           (A) Physical functioning, which severely impairs  
26 the individual's motor performance that may be due to:



1 (i) Neurological, psychological or physical  
2 involvement resulting in a variety of disabling  
3 conditions such as hemiplegia, quadriplegia or  
4 ataxia,

5 (ii) Severe organ systems involvement such as  
6 congenital heart defect,

7 (iii) Physical abnormalities resulting in the  
8 individual being non-mobile and non-ambulatory or  
9 confined to bed and receiving assistance in  
10 transferring, or

11 (iv) The need for regular medical or nursing  
12 supervision such as gastrostomy care and feeding.

13 Assessment of physical functioning must be based  
14 on clinical medical assessment by a physician licensed  
15 to practice medicine in all its branches, using the  
16 appropriate instruments, techniques and standards of  
17 measurement required by the professional.

18 (B) Sensory, which involves severe restriction due  
19 to hearing or visual impairment limiting the  
20 individual's movement and creating dependence in  
21 completing most daily activities. Hearing impairment  
22 is defined as a loss of 70 decibels aided or speech  
23 discrimination of less than 50% aided. Visual  
24 impairment is defined as 20/200 corrected in the better  
25 eye or a visual field of 20 degrees or less. Sensory  
26 functioning must be based on clinical medical

1           assessment by a physician licensed to practice  
2           medicine in all its branches using the appropriate  
3           instruments, techniques and standards of measurement  
4           required by the professional.

5           (C) Behavioral, which involves behavior that is  
6           maladaptive and presents a danger to self or others, is  
7           destructive to property by deliberately breaking,  
8           destroying or defacing objects, is disruptive by  
9           fighting, or has other socially offensive behaviors in  
10          sufficient frequency or severity to seriously limit  
11          social integration. Assessment of behavioral  
12          functioning may be measured by a standardized scale or  
13          informal appraisal by a clinical psychologist or  
14          psychiatrist.

15          (D) Cognitive, which involves intellectual  
16          functioning at a measured IQ of 70 or below. Assessment  
17          of cognitive functioning must be measured by a  
18          standardized instrument for general intelligence.

19          (3) The evaluation determines that development is  
20          substantially less than expected for the age in cognitive,  
21          affective or psychomotor behavior as follows:

22          (A) Cognitive, which involves intellectual  
23          functioning at a measured IQ of 70 or below. Assessment  
24          of cognitive functioning must be measured by a  
25          standardized instrument for general intelligence.

26          (B) Affective behavior, which involves over and

1 under responding to stimuli in the environment and may  
2 be observed in mood, attention to awareness, or in  
3 behaviors such as euphoria, anger or sadness that  
4 seriously limit integration into society. Affective  
5 behavior must be based on clinical assessment using the  
6 appropriate instruments, techniques and standards of  
7 measurement required by the professional.

8 (C) Psychomotor, which includes a severe  
9 developmental delay in fine or gross motor skills so  
10 that development in self-care, social interaction,  
11 communication or physical activity will be greatly  
12 delayed or restricted.

13 (4) A determination that the disability originated  
14 before the age of 18 years.

15 A determination of severe and multiple impairments shall be  
16 based upon a comprehensive, documented assessment with an  
17 evaluation by a licensed clinical psychologist or  
18 psychiatrist.

19 If the examiner is a licensed clinical psychologist,  
20 ancillary evaluation of physical impairment, cerebral palsy or  
21 epilepsy must be made by a physician licensed to practice  
22 medicine in all its branches.

23 Regardless of the discipline of the examiner, ancillary  
24 evaluation of visual impairment must be made by an  
25 ophthalmologist or a licensed optometrist.

26 Regardless of the discipline of the examiner, ancillary

1 evaluation of hearing impairment must be made by an  
2 otolaryngologist or an audiologist with a certificate of  
3 clinical competency.

4 The only exception to the above is in the case of a person  
5 with cerebral palsy or epilepsy who, according to the  
6 eligibility criteria listed below, has multiple impairments  
7 which are only physical and sensory. In such a case, a  
8 physician licensed to practice medicine in all its branches may  
9 serve as the examiner.

10 (m) "Twenty-four-hour-a-day supervision" means  
11 24-hour-a-day care by a trained mental health or developmental  
12 disability professional on an ongoing basis.

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

14 (405 ILCS 80/2-5) (from Ch. 91 1/2, par. 1802-5)

15 Sec. 2-5. The Department shall establish eligibility  
16 standards for the Program, taking into consideration the  
17 disability levels and service needs of the target population.  
18 The Department shall create application forms which shall be  
19 used to determine the eligibility of mentally disabled adults  
20 to participate in the Program. The forms shall be made  
21 available by the Department and shall require at least the  
22 following items of information which constitute eligibility  
23 criteria for participation in the Program:

24 (a) A statement that the mentally disabled adult  
25 resides in the State of Illinois and is over the age of 18

1 years.

2 (b) Verification that the mentally disabled adult has  
3 one of the following conditions: severe autism, severe  
4 mental illness, a severe or profound intellectual  
5 disability ~~mental retardation~~, or severe and multiple  
6 impairments.

7 (c) Verification that the mentally disabled adult has  
8 applied and is eligible for federal Supplemental Security  
9 Income or federal Social Security Disability Income  
10 benefits.

11 (d) Verification that the mentally disabled adult  
12 resides full-time in his or her own home or that, within 2  
13 months of receipt of services under this Article, he or she  
14 will reside full-time in his or her own home.

15 The Department may by rule adopt provisions establishing  
16 liability of responsible relatives of a recipient of services  
17 under this Article for the payment of sums representing charges  
18 for services to such recipient. Such rules shall be  
19 substantially similar to the provisions for such liability  
20 contained in Chapter 5 of the Mental Health and Developmental  
21 Disabilities Code, as now or hereafter amended, and rules  
22 adopted pursuant thereto.

23 (Source: P.A. 86-921; 87-447.)

24 (405 ILCS 80/2-17)

25 Sec. 2-17. Transition from special education.

1 (a) If a person receiving special educational services  
2 under Article 14 of the School Code at a school in this State  
3 has severe autism, severe mental illness, a severe or profound  
4 intellectual disability ~~mental retardation~~, or severe and  
5 multiple impairments and is not over 18 years of age but is  
6 otherwise eligible to participate in the Program, the person  
7 shall be determined eligible to participate in the Program,  
8 subject to the availability of funds appropriated for this  
9 purpose, when he or she becomes an adult and no longer receives  
10 special educational services.

11 (b) The Department shall implement this Section for fiscal  
12 years beginning July 1, 1996 and thereafter.

13 (Source: P.A. 89-425, eff. 6-1-96.)

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, as  
21 successor to the Department of Mental Health and Developmental  
22 Disabilities.

23 (c) "Department-funded out-of-home placement services"  
24 means those services for which the Department pays the partial  
25 or full cost of care of the residential placement.

1 (d) "Family" or "families" means a family member or members  
2 and his, her or their parents or legal guardians.

3 (e) "Family member" means a child 17 years old or younger  
4 who has one of the following conditions: severe autism, severe  
5 emotional disturbance, a severe or profound intellectual  
6 disability ~~mental retardation~~, or severe and multiple  
7 impairments.

8 (f) "Legal guardian" means a person appointed by a court of  
9 competent jurisdiction to exercise certain powers on behalf of  
10 a family member and with whom the family member resides.

11 (g) "Parent" means a biological or adoptive parent with  
12 whom the family member resides, or a person licensed as a  
13 foster parent under the laws of this State, acting as a family  
14 member's foster parent, and with whom the family member  
15 resides.

16 (h) "Severe autism" means a lifelong developmental  
17 disability which is typically manifested before 30 months of  
18 age and is characterized by severe disturbances in reciprocal  
19 social interactions; verbal and nonverbal communication and  
20 imaginative activity; and repertoire of activities and  
21 interests. A person shall be determined severely autistic, for  
22 purposes of this Article, if both of the following are present:

23 (1) Diagnosis consistent with the criteria for  
24 autistic disorder in the current edition of the Diagnostic  
25 and Statistical Manual of Mental Disorders;

26 (2) Severe disturbances in reciprocal social

1 interactions; verbal and nonverbal communication and  
2 imaginative activity; and repertoire of activities and  
3 interests. A determination of severe autism shall be based  
4 upon a comprehensive, documented assessment with an  
5 evaluation by a licensed clinical psychologist or  
6 psychiatrist. A determination of severe autism shall not be  
7 based solely on behaviors relating to environmental,  
8 cultural or economic differences.

9 (i) "Severe mental illness" means the manifestation of all  
10 of the following characteristics:

11 (1) a severe mental illness characterized by the  
12 presence of a mental disorder in children or adolescents,  
13 classified in the Diagnostic and Statistical Manual of  
14 Mental Disorders (Third Edition - Revised), as now or  
15 hereafter revised, excluding V-codes (as that term is used  
16 in the current edition of the Diagnostic and Statistical  
17 Manual of Mental Disorders), adjustment disorders, the  
18 presence of an intellectual disability ~~mental retardation~~  
19 when no other mental disorder is present, alcohol or  
20 substance abuse, or other forms of dementia based upon  
21 organic or physical disorders; and

22 (2) a functional disability of an extended duration  
23 which results in substantial limitations in major life  
24 activities.

25 A determination of severe mental illness shall be based  
26 upon a comprehensive, documented assessment with an evaluation



1 by a licensed clinical psychologist or a psychiatrist.

2 (j) "Severe or profound intellectual disability ~~mental~~  
3 ~~retardation~~" means a manifestation of all of the following  
4 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 a severe or profound intellectual  
18 disability ~~mental—retardation~~ shall be based upon a  
19 comprehensive, documented assessment with an evaluation by a  
20 licensed clinical psychologist, certified school psychologist,  
21 a psychiatrist or other physician licensed to practice medicine  
22 in all its branches, and shall not be based solely on behaviors  
23 relating to environmental, 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) Intellectual disability ~~Mental retardation~~,  
5 which is defined as general intellectual functioning  
6 that is 2 or more standard deviations below the mean  
7 concurrent with impairment of adaptive behavior which  
8 is 2 or more standard deviations below the mean.  
9 Assessment of the individual's intellectual  
10 functioning must be measured by a standardized  
11 instrument for general intellectual 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 an intellectual  
17 disability ~~mental retardation~~ and which requires  
18 services similar to those required by intellectually  
19 disabled ~~mentally retarded~~ persons.

20 (2) The evaluation determines multiple handicaps in  
21 physical, sensory, behavioral or cognitive functioning  
22 which constitute a severe or profound impairment  
23 attributable to one or more of the following:

24 (A) Physical functioning, which severely impairs  
25 the individual's motor performance that may be due to:

26 (i) Neurological, psychological or physical

1           involvement resulting in a variety of disabling  
2           conditions such as hemiplegia, quadriplegia or  
3           ataxia,

4           (ii) Severe organ systems involvement such as  
5           congenital heart defect,

6           (iii) Physical abnormalities resulting in the  
7           individual being non-mobile and non-ambulatory or  
8           confined to bed and receiving assistance in  
9           transferring, or

10          (iv) The need for regular medical or nursing  
11          supervision such as gastrostomy care and feeding.

12          Assessment of physical functioning must be based  
13          on clinical medical assessment, using the appropriate  
14          instruments, techniques and standards of measurement  
15          required by the professional.

16          (B) Sensory, which involves severe restriction due  
17          to hearing or visual impairment limiting the  
18          individual's movement and creating dependence in  
19          completing most daily activities. Hearing impairment  
20          is defined as a loss of 70 decibels aided or speech  
21          discrimination of less than 50% aided. Visual  
22          impairment is defined as 20/200 corrected in the better  
23          eye or a visual field of 20 degrees or less. Sensory  
24          functioning must be based on clinical medical  
25          assessment using the appropriate instruments,  
26          techniques and standards of measurement required by

1 the professional.

2 (C) Behavioral, which involves behavior that is  
3 maladaptive and presents a danger to self or others, is  
4 destructive to property by deliberately breaking,  
5 destroying or defacing objects, is disruptive by  
6 fighting, or has other socially offensive behaviors in  
7 sufficient frequency or severity to seriously limit  
8 social integration. Assessment of behavioral  
9 functioning may be measured by a standardized scale or  
10 informal appraisal by the medical professional.

11 (D) Cognitive, which involves intellectual  
12 functioning at a measured IQ of 70 or below. Assessment  
13 of cognitive functioning must be measured by a  
14 standardized instrument for general intelligence.

15 (3) The evaluation determines that development is  
16 substantially less than expected for the age in cognitive,  
17 affective or psychomotor behavior as follows:

18 (A) Cognitive, which involves intellectual  
19 functioning at a measured IQ of 70 or below. Assessment  
20 of cognitive functioning must be measured by a  
21 standardized instrument for general intelligence.

22 (B) Affective behavior, which involves over and  
23 under responding to stimuli in the environment and may  
24 be observed in mood, attention to awareness, or in  
25 behaviors such as euphoria, anger or sadness that  
26 seriously limit integration into society. Affective

1 behavior must be based on clinical medical and  
2 psychiatric assessment using the appropriate  
3 instruments, techniques and standards of measurement  
4 required by the professional.

5 (C) Psychomotor, which includes a severe  
6 developmental delay in fine or gross motor skills so  
7 that development in self-care, social interaction,  
8 communication or physical activity will be greatly  
9 delayed or restricted.

10 (4) A determination that the disability originated  
11 before the age of 18 years.

12 A determination of severe and multiple impairments shall be  
13 based upon a comprehensive, documented assessment with an  
14 evaluation by a licensed clinical psychologist or  
15 psychiatrist. If the examiner is a licensed clinical  
16 psychologist, ancillary evaluation of physical impairment,  
17 cerebral palsy or epilepsy must be made by a physician licensed  
18 to practice medicine in all its branches.

19 Regardless of the discipline of the examiner, ancillary  
20 evaluation of visual impairment must be made by an  
21 ophthalmologist or a licensed optometrist.

22 Regardless of the discipline of the examiner, ancillary  
23 evaluation of hearing impairment must be made by an  
24 otolaryngologist or an audiologist with a certificate of  
25 clinical competency.

26 The only exception to the above is in the case of a person

1 with cerebral palsy or epilepsy who, according to the  
2 eligibility criteria listed below, has multiple impairments  
3 which are only physical and sensory. In such a case, a  
4 physician licensed to practice medicine in all its branches may  
5 serve as the examiner.

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

7 (405 ILCS 80/3-5) (from Ch. 91 1/2, par. 1803-5)

8 Sec. 3-5. The Department shall create application forms  
9 which shall be used to determine the eligibility of families  
10 for the Program. The forms shall require at least the following  
11 items of information which constitute the eligibility criteria  
12 for participation in the Program:

13 (a) A statement that the family resides in the State of  
14 Illinois.

15 (b) A statement that the family member is 17 years of age  
16 or younger.

17 (c) A statement that the family member resides, or is  
18 expected to reside, with his or her parent or legal guardian,  
19 or that the family member resides in an out-of-home placement  
20 with the expectation of residing with the parent or legal  
21 guardian within 2 months of the date of the application.

22 (d) Verification that the family member has one of the  
23 following conditions: severe autism, severe mental illness, a  
24 severe or profound intellectual disability ~~mental retardation~~,  
25 or severe and multiple impairments. Verification of the family

1 member's condition shall be:

2 (1) by the family member's local school district for  
3 family members enrolled with a local school district; or

4 (2) by an entity designated by the Department.

5 (e) Verification that the taxable income for the family for  
6 the year immediately preceding the date of the application did  
7 not exceed an amount to be established by rule of the  
8 Department, unless it can be verified that the taxable income  
9 for the family for the year in which the application is made  
10 will be less than such amount. The maximum taxable family  
11 income set by rule of the Department may not be less than  
12 \$65,000 beginning January 1, 2008.

13 (Source: P.A. 95-112, eff. 8-13-07.)

14 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

15 Sec. 5-1. As the mental health and developmental  
16 disabilities or intellectual disabilities ~~mental retardation~~  
17 authority for the State of Illinois, the Department of Human  
18 Services shall have the authority to license, certify and  
19 prescribe standards governing the programs and services  
20 provided under this Act, as well as all other agencies or  
21 programs which provide home-based or community-based services  
22 to the mentally disabled, except those services, programs or  
23 agencies established under or otherwise subject to the Child  
24 Care Act of 1969 or the ID/DD ~~MR/DD~~ Community Care Act, as now  
25 or hereafter amended, and this Act shall not be construed to

1 limit the application of those Acts.

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

3 (405 ILCS 80/5-4)

4 Sec. 5-4. Home and Community-Based Services Waivers;  
5 autism spectrum disorder. A person diagnosed with an autism  
6 spectrum disorder may be assessed for eligibility for services  
7 under Home and Community-Based Services Waivers for persons  
8 with developmental disabilities, without regard to whether  
9 that person is also diagnosed with an intellectual disability  
10 ~~mental retardation~~, so long as the person otherwise meets  
11 applicable level-of-care criteria under those waivers. This  
12 amendatory Act of the 95th General Assembly does not create any  
13 new entitlement to a service, program, or benefit, but shall  
14 not affect any entitlement to a service, program, or benefit  
15 created by any other law.

16 (Source: P.A. 95-251, eff. 8-17-07.)

17 (405 ILCS 80/6-1)

18 Sec. 6-1. Community Residential Choices Program.

19 (a) The purpose of this Article is to promote greater  
20 compatibility among individuals with developmental  
21 disabilities who live together by allowing individuals with  
22 developmental disabilities who meet either the emergency or  
23 critical need criteria of the Department of Human Services as  
24 defined under the Department's developmental disabilities



1 cross-disability database (as required by Section 10-26 of the  
2 Department of Human Services Act), and who also meet the  
3 Department's developmental disabilities priority population  
4 criteria for residential services as defined in the  
5 Department's developmental disabilities Community Services  
6 Agreement and whose parents are over the age of 60, to choose  
7 to live together in a community-based residential program.

8 (b) For purposes of this Article:

9 "Community-based residential program" means one of a  
10 variety of living arrangements for persons with developmental  
11 disabilities, including existing settings such as  
12 community-integrated living arrangements, and may also include  
13 newly developed settings that are consistent with this  
14 definition.

15 "Developmental disability" may include an autism spectrum  
16 disorder.

17 (c) A person diagnosed with an autism spectrum disorder may  
18 be assessed for eligibility for services under Home and  
19 Community-Based Services Waivers for persons with  
20 developmental disabilities without regard to whether that  
21 person is also diagnosed with an intellectual disability ~~mental~~  
22 ~~retardation~~, so long as the person otherwise meets applicable  
23 level-of-care criteria under those waivers. This provision  
24 does not create any new entitlement to a service, program, or  
25 benefit, but shall not affect any entitlement to a service,  
26 program, or benefit created by any other law.

1 (Source: P.A. 95-636, eff. 10-5-07.)

2 Section 110. The Medical Patient Rights Act is amended by  
3 changing Section 2.03 as follows:

4 (410 ILCS 50/2.03) (from Ch. 111 1/2, par. 5402.03)

5 Sec. 2.03. "Health care provider" means any public or  
6 private facility that provides, on an inpatient or outpatient  
7 basis, preventive, diagnostic, therapeutic, convalescent,  
8 rehabilitation, mental health, or intellectual disability  
9 ~~mental retardation~~ services, including general or special  
10 hospitals, skilled nursing homes, extended care facilities,  
11 intermediate care facilities and mental health centers.

12 (Source: P.A. 81-1167.)

13 Section 115. The Newborn Metabolic Screening Act is amended  
14 by changing Section 2 as follows:

15 (410 ILCS 240/2) (from Ch. 111 1/2, par. 4904)

16 Sec. 2. The Department of Public Health shall administer  
17 the provisions of this Act and shall:

18 (a) Institute and carry on an intensive educational program  
19 among physicians, hospitals, public health nurses and the  
20 public concerning the diseases phenylketonuria,  
21 hypothyroidism, galactosemia and other metabolic diseases.  
22 This educational program shall include information about the

1 nature of the diseases and examinations for the detection of  
2 the diseases in early infancy in order that measures may be  
3 taken to prevent the intellectual disabilities ~~mental~~  
4 ~~retardation~~ resulting from the diseases.

5 (a-5) Beginning July 1, 2002, provide all newborns with  
6 expanded screening tests for the presence of genetic,  
7 endocrine, or other metabolic disorders, including  
8 phenylketonuria, galactosemia, hypothyroidism, congenital  
9 adrenal hyperplasia, biotinidase deficiency, and sickling  
10 disorders, as well as other amino acid disorders, organic acid  
11 disorders, fatty acid oxidation disorders, and other  
12 abnormalities detectable through the use of a tandem mass  
13 spectrometer. If by July 1, 2002, the Department is unable to  
14 provide expanded screening using the State Laboratory, it shall  
15 temporarily provide such screening through an accredited  
16 laboratory selected by the Department until the Department has  
17 the capacity to provide screening through the State Laboratory.  
18 If expanded screening is provided on a temporary basis through  
19 an accredited laboratory, the Department shall substitute the  
20 fee charged by the accredited laboratory, plus a 5% surcharge  
21 for documentation and handling, for the fee authorized in  
22 subsection (e) of this Section.

23 (a-6) In accordance with the timetable specified in this  
24 subsection, provide all newborns with expanded screening tests  
25 for the presence of certain Lysosomal Storage Disorders known  
26 as Krabbe, Pompe, Gaucher, Fabry, and Niemann-Pick. The testing

1 shall begin within 6 months following the occurrence of all of  
2 the following:

3 (i) the registration with the federal Food and Drug  
4 Administration of the necessary reagents;

5 (ii) the availability of the necessary reagents from  
6 the Centers for Disease Control and Prevention;

7 (iii) the availability of quality assurance testing  
8 methodology for these processes; and

9 (iv) the acquisition and installment by the Department  
10 of the equipment necessary to implement the expanded  
11 screening tests.

12 It is the goal of this amendatory Act of the 95th General  
13 Assembly that the expanded screening for the specified  
14 Lysosomal Storage Disorders begins within 3 years after the  
15 effective date of this Act. The Department is authorized to  
16 implement an additional fee for the screening prior to  
17 beginning the testing in order to accumulate the resources for  
18 start-up and other costs associated with implementation of the  
19 screening and thereafter to support the costs associated with  
20 screening and follow-up programs for the specified Lysosomal  
21 Storage Disorders.

22 (b) Maintain a registry of cases including information of  
23 importance for the purpose of follow-up services to prevent  
24 intellectual disabilities ~~mental retardation~~.

25 (c) Supply the necessary metabolic treatment formulas  
26 where practicable for diagnosed cases of amino acid metabolism

1 disorders, including phenylketonuria, organic acid disorders,  
2 and fatty acid oxidation disorders for as long as medically  
3 indicated, when the product is not available through other  
4 State agencies.

5 (d) Arrange for or provide public health nursing, nutrition  
6 and social services and clinical consultation as indicated.

7 (e) Require that all specimens collected pursuant to this  
8 Act or the rules and regulations promulgated hereunder be  
9 submitted for testing to the nearest Department of Public  
10 Health laboratory designated to perform such tests. The  
11 Department may develop a reasonable fee structure and may levy  
12 fees according to such structure to cover the cost of providing  
13 this testing service. Fees collected from the provision of this  
14 testing service shall be placed in a special fund in the State  
15 Treasury, hereafter known as the Metabolic Screening and  
16 Treatment Fund. Other State and federal funds for expenses  
17 related to metabolic screening, follow-up and treatment  
18 programs may also be placed in such Fund. Moneys shall be  
19 appropriated from such Fund to the Department of Public Health  
20 solely for the purposes of providing metabolic screening,  
21 follow-up and treatment programs. Nothing in this Act shall be  
22 construed to prohibit any licensed medical facility from  
23 collecting additional specimens for testing for metabolic or  
24 neonatal diseases or any other diseases or conditions, as it  
25 deems fit. Any person violating the provisions of this  
26 subsection (e) is guilty of a petty offense.

1 (Source: P.A. 95-695, eff. 11-5-07.)

2 Section 120. The Developmental Disability Prevention Act  
3 is amended by changing Section 2 as follows:

4 (410 ILCS 250/2) (from Ch. 111 1/2, par. 2102)

5 Sec. 2.

6 As used in this Act:

7 a "perinatal" means the period of time between the  
8 conception of an infant and the end of the first month of life;

9 b "congenital" means those intrauterine factors which  
10 influence the growth, development and function of the fetus;

11 c "environmental" means those extrauterine factors which  
12 influence the adaptation, well being or life of the newborn and  
13 may lead to disability;

14 d "high risk" means an increased level of risk of harm or  
15 mortality to the woman of childbearing age, fetus or newborn  
16 from congenital and/or environmental factors;

17 e "perinatal center" means a referral facility intended to  
18 care for the high risk patient before, during, or after labor  
19 and delivery and characterized by sophistication and  
20 availability of personnel, equipment, laboratory,  
21 transportation techniques, consultation and other support  
22 services;

23 f "developmental disability" means an intellectual  
24 disability ~~mental retardation~~, cerebral palsy, epilepsy, or

1 other neurological handicapping conditions of an individual  
2 found to be closely related to an intellectual disability  
3 ~~mental retardation~~ or to require treatment similar to that  
4 required by intellectually disabled ~~mentally retarded~~  
5 individuals, and the disability originates before such  
6 individual attains age 18, and has continued, or can be  
7 expected to continue indefinitely, and constitutes a  
8 substantial handicap of such individuals;

9 g "disability" means a condition characterized by  
10 temporary or permanent, partial or complete impairment of  
11 physical, mental or physiological function;

12 h "Department" means the Department of Public Health.

13 (Source: P.A. 78-557.)

14 Section 125. The Communicable Disease Prevention Act is  
15 amended by changing Section 1 as follows:

16 (410 ILCS 315/1) (from Ch. 111 1/2, par. 22.11)

17 Sec. 1. Certain communicable diseases such as measles,  
18 poliomyelitis, invasive pneumococcal disease, and tetanus, may  
19 and do result in serious physical and mental disability  
20 including an intellectual disability ~~mental retardation~~,  
21 permanent paralysis, encephalitis, convulsions, pneumonia, and  
22 not infrequently, death.

23 Most of these diseases attack young children, and if they  
24 have not been immunized, may spread to other susceptible

1 children and possibly, adults, thus, posing serious threats to  
2 the health of the community. Effective, safe and widely used  
3 vaccines and immunization procedures have been developed and  
4 are available to prevent these diseases and to limit their  
5 spread. Even though such immunization procedures are  
6 available, many children fail to receive this protection either  
7 through parental oversight, lack of concern, knowledge or  
8 interest, or lack of available facilities or funds. The  
9 existence of susceptible children in the community constitutes  
10 a health hazard to the individual and to the public at large by  
11 serving as a focus for the spread of these communicable  
12 diseases.

13 It is declared to be the public policy of this State that  
14 all children shall be protected, as soon after birth as  
15 medically indicated, by the appropriate vaccines and  
16 immunizing procedures to prevent communicable diseases which  
17 are or which may in the future become preventable by  
18 immunization.

19 (Source: P.A. 95-159, eff. 8-14-07.)

20 Section 126. The Arthritis Quality of Life Initiative Act  
21 is amended by changing Section 5 as follows:

22 (410 ILCS 503/5)

23 Sec. 5. Legislative findings. The General Assembly finds  
24 and declares that:



1           (1) Arthritis is the most common, physically disabling  
2 ~~crippling~~, and costly chronic disease in the United States;  
3 it affects 14.5% of the population or more than 40,000,000  
4 Americans of all ages. One in every 7 people and one in  
5 every 3 families are affected by the disease.

6           (2) Arthritis is the nation's number one disabling  
7 disease and disables 7,000,000 Americans. It is one of the  
8 most common and disabling chronic conditions reported by  
9 women and far exceeds the reporting of hypertension, heart  
10 disease, diabetes, and breast, cervical, and ovarian  
11 cancers.

12           (3) With an aggregate cost of about 1.1% of the gross  
13 national product or an estimated \$64,800,000,000 annually  
14 in medical expenses, lost wages, and associated economic  
15 losses, arthritis and other rheumatic diseases have a  
16 significant economic impact on the nation.

17           (4) As the leading cause of industrial absenteeism  
18 after the common cold, arthritis accounts nationally for  
19 500,000,000 days of restricted activity and 27,000,000  
20 days lost from work each year.

21           (5) The federal Centers for Disease Control and  
22 Prevention project that by the year 2020, the incidence of  
23 arthritis will increase by 59% in the State and throughout  
24 the country, affecting 20% of the population.

25           (6) Programs and services presently are available that  
26 can dramatically impact on early diagnosis and treatment as

1 well as the quality of life of people with arthritis.

2 (7) A mechanism for broader dissemination of these  
3 programs and services aimed at prevention, information,  
4 and education is needed to help reduce the physical and  
5 emotional impact of arthritis and its associated health  
6 care and related costs.

7 (Source: P.A. 91-750, eff. 1-1-01.)

8 Section 128. The Facilities Requiring Smoke Detectors Act  
9 is amended by changing Section 1 as follows:

10 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

11 Sec. 1. For purposes of this Act, unless the context  
12 requires otherwise:

13 (a) "Facility" means:

14 (1) Any long-term care facility as defined in Section  
15 1-113 of the Nursing Home Care Act or any facility as  
16 defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care  
17 Act, as amended;

18 (2) Any community residential alternative as defined  
19 in paragraph (4) of Section 3 of the Community Residential  
20 Alternatives Licensing Act, as amended; and

21 (3) Any child care facility as defined in Section 2.05  
22 of the Child Care Act of 1969, as amended.

23 (b) "Approved smoke detector" or "detector" means a smoke  
24 detector of the ionization or photoelectric type which complies

1 with all the requirements of the rules and regulations of the  
2 Illinois State Fire Marshal.

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

4 Section 130. The Firearm Owners Identification Card Act is  
5 amended by changing Sections 4 and 8 as follows:

6 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

7 Sec. 4. (a) Each applicant for a Firearm Owner's  
8 Identification Card must:

9 (1) Make application on blank forms prepared and  
10 furnished at convenient locations throughout the State by  
11 the Department of State Police, or by electronic means, if  
12 and when made available by the Department of State Police;  
13 and

14 (2) Submit evidence to the Department of State Police  
15 that:

16 (i) He or she is 21 years of age or over, or if he  
17 or she is under 21 years of age that he or she has the  
18 written consent of his or her parent or legal guardian  
19 to possess and acquire firearms and firearm ammunition  
20 and that he or she has never been convicted of a  
21 misdemeanor other than a traffic offense or adjudged  
22 delinquent, provided, however, that such parent or  
23 legal guardian is not an individual prohibited from  
24 having a Firearm Owner's Identification Card and files

1 an affidavit with the Department as prescribed by the  
2 Department stating that he or she is not an individual  
3 prohibited from having a Card;

4 (ii) He or she has not been convicted of a felony  
5 under the laws of this or any other jurisdiction;

6 (iii) He or she is not addicted to narcotics;

7 (iv) He or she has not been a patient in a mental  
8 institution within the past 5 years and he or she has  
9 not been adjudicated as a mental defective;

10 (v) He or she is not intellectually disabled  
11 ~~mentally retarded~~;

12 (vi) He or she is not an alien who is unlawfully  
13 present in the United States under the laws of the  
14 United States;

15 (vii) He or she is not subject to an existing order  
16 of protection prohibiting him or her from possessing a  
17 firearm;

18 (viii) He or she has not been convicted within the  
19 past 5 years of battery, assault, aggravated assault,  
20 violation of an order of protection, or a substantially  
21 similar offense in another jurisdiction, in which a  
22 firearm was used or possessed;

23 (ix) He or she has not been convicted of domestic  
24 battery or a substantially similar offense in another  
25 jurisdiction committed on or after the effective date  
26 of this amendatory Act of 1997;

1           (x) He or she has not been convicted within the  
2 past 5 years of domestic battery or a substantially  
3 similar offense in another jurisdiction committed  
4 before the effective date of this amendatory Act of  
5 1997;

6           (xi) He or she is not an alien who has been  
7 admitted to the United States under a non-immigrant  
8 visa (as that term is defined in Section 101(a)(26) of  
9 the Immigration and Nationality Act (8 U.S.C.  
10 1101(a)(26))), or that he or she is an alien who has  
11 been lawfully admitted to the United States under a  
12 non-immigrant visa if that alien is:

13                   (1) admitted to the United States for lawful  
14 hunting or sporting purposes;

15                   (2) an official representative of a foreign  
16 government who is:

17                           (A) accredited to the United States  
18 Government or the Government's mission to an  
19 international organization having its  
20 headquarters in the United States; or

21                           (B) en route to or from another country to  
22 which that alien is accredited;

23                   (3) an official of a foreign government or  
24 distinguished foreign visitor who has been so  
25 designated by the Department of State;

26                   (4) a foreign law enforcement officer of a

1 friendly foreign government entering the United  
2 States on official business; or

3 (5) one who has received a waiver from the  
4 Attorney General of the United States pursuant to  
5 18 U.S.C. 922 (y) (3);

6 (xii) He or she is not a minor subject to a  
7 petition filed under Section 5-520 of the Juvenile  
8 Court Act of 1987 alleging that the minor is a  
9 delinquent minor for the commission of an offense that  
10 if committed by an adult would be a felony; and

11 (xiii) He or she is not an adult who had been  
12 adjudicated a delinquent minor under the Juvenile  
13 Court Act of 1987 for the commission of an offense that  
14 if committed by an adult would be a felony; and

15 (3) Upon request by the Department of State Police,  
16 sign a release on a form prescribed by the Department of  
17 State Police waiving any right to confidentiality and  
18 requesting the disclosure to the Department of State Police  
19 of limited mental health institution admission information  
20 from another state, the District of Columbia, any other  
21 territory of the United States, or a foreign nation  
22 concerning the applicant for the sole purpose of  
23 determining whether the applicant is or was a patient in a  
24 mental health institution and disqualified because of that  
25 status from receiving a Firearm Owner's Identification  
26 Card. No mental health care or treatment records may be

1 requested. The information received shall be destroyed  
2 within one year of receipt.

3 (a-5) Each applicant for a Firearm Owner's Identification  
4 Card who is over the age of 18 shall furnish to the Department  
5 of State Police either his or her driver's license number or  
6 Illinois Identification Card number.

7 (a-10) Each applicant for a Firearm Owner's Identification  
8 Card, who is employed as an armed security officer at a nuclear  
9 energy, storage, weapons, or development facility regulated by  
10 the Nuclear Regulatory Commission and who is not an Illinois  
11 resident, shall furnish to the Department of State Police his  
12 or her driver's license number or state identification card  
13 number from his or her state of residence. The Department of  
14 State Police may promulgate rules to enforce the provisions of  
15 this subsection (a-10).

16 (b) Each application form shall include the following  
17 statement printed in bold type: "Warning: Entering false  
18 information on an application for a Firearm Owner's  
19 Identification Card is punishable as a Class 2 felony in  
20 accordance with subsection (d-5) of Section 14 of the Firearm  
21 Owners Identification Card Act."

22 (c) Upon such written consent, pursuant to Section 4,  
23 paragraph (a)(2)(i), the parent or legal guardian giving the  
24 consent shall be liable for any damages resulting from the  
25 applicant's use of firearms or firearm ammunition.

26 (Source: P.A. 95-581, eff. 6-1-08.)

1 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

2 Sec. 8. The Department of State Police has authority to  
3 deny an application for or to revoke and seize a Firearm  
4 Owner's Identification Card previously issued under this Act  
5 only if the Department finds that the applicant or the person  
6 to whom such card was issued is or was at the time of issuance:

7 (a) A person under 21 years of age who has been convicted  
8 of a misdemeanor other than a traffic offense or adjudged  
9 delinquent;

10 (b) A person under 21 years of age who does not have the  
11 written consent of his parent or guardian to acquire and  
12 possess firearms and firearm ammunition, or whose parent or  
13 guardian has revoked such written consent, or where such parent  
14 or guardian does not qualify to have a Firearm Owner's  
15 Identification Card;

16 (c) A person convicted of a felony under the laws of this  
17 or any other jurisdiction;

18 (d) A person addicted to narcotics;

19 (e) A person who has been a patient of a mental institution  
20 within the past 5 years or has been adjudicated as a mental  
21 defective;

22 (f) A person whose mental condition is of such a nature  
23 that it poses a clear and present danger to the applicant, any  
24 other person or persons or the community;

25 For the purposes of this Section, "mental condition" means



1 a state of mind manifested by violent, suicidal, threatening or  
2 assaultive behavior.

3 (g) A person who is intellectually disabled ~~mentally~~  
4 ~~retarded~~;

5 (h) A person who intentionally makes a false statement in  
6 the Firearm Owner's Identification Card application;

7 (i) An alien who is unlawfully present in the United States  
8 under the laws of the United States;

9 (i-5) An alien who has been admitted to the United States  
10 under a non-immigrant visa (as that term is defined in Section  
11 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.  
12 1101(a)(26))), except that this subsection (i-5) does not apply  
13 to any alien who has been lawfully admitted to the United  
14 States under a non-immigrant visa if that alien is:

15 (1) admitted to the United States for lawful hunting or  
16 sporting purposes;

17 (2) an official representative of a foreign government  
18 who is:

19 (A) accredited to the United States Government or  
20 the Government's mission to an international  
21 organization having its headquarters in the United  
22 States; or

23 (B) en route to or from another country to which  
24 that alien is accredited;

25 (3) an official of a foreign government or  
26 distinguished foreign visitor who has been so designated by

1 the Department of State;

2 (4) a foreign law enforcement officer of a friendly  
3 foreign government entering the United States on official  
4 business; or

5 (5) one who has received a waiver from the Attorney  
6 General of the United States pursuant to 18 U.S.C.  
7 922 (y) (3);

8 (j) (Blank);

9 (k) A person who has been convicted within the past 5 years  
10 of battery, assault, aggravated assault, violation of an order  
11 of protection, or a substantially similar offense in another  
12 jurisdiction, in which a firearm was used or possessed;

13 (l) A person who has been convicted of domestic battery or  
14 a substantially similar offense in another jurisdiction  
15 committed on or after January 1, 1998;

16 (m) A person who has been convicted within the past 5 years  
17 of domestic battery or a substantially similar offense in  
18 another jurisdiction committed before January 1, 1998;

19 (n) A person who is prohibited from acquiring or possessing  
20 firearms or firearm ammunition by any Illinois State statute or  
21 by federal law;

22 (o) A minor subject to a petition filed under Section 5-520  
23 of the Juvenile Court Act of 1987 alleging that the minor is a  
24 delinquent minor for the commission of an offense that if  
25 committed by an adult would be a felony; or

26 (p) An adult who had been adjudicated a delinquent minor

1 under the Juvenile Court Act of 1987 for the commission of an  
2 offense that if committed by an adult would be a felony.

3 (Source: P.A. 95-581, eff. 6-1-08; 96-701, eff. 1-1-10.)

4 Section 135. The Criminal Code of 1961 is amended by  
5 changing Sections 2-10.1, 10-1, 10-2, 10-5, 11-14.1, 11-15.1,  
6 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.3, 12-4.3,  
7 12-14, 12-16, 12-19, 12-21, 17-29, 24-3, 24-3.1, and 26-1 as  
8 follows:

9 (720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

10 Sec. 2-10.1. "Severely or profoundly intellectually  
11 disabled ~~mentally-retarded~~ person" means a person (i) whose  
12 intelligence quotient does not exceed 40 or (ii) whose  
13 intelligence quotient does not exceed 55 and who suffers from  
14 significant mental illness to the extent that the person's  
15 ability to exercise rational judgment is impaired. In any  
16 proceeding in which the defendant is charged with committing a  
17 violation of Section 10-2, 10-5, 11-15.1, 11-19.1, 11-19.2,  
18 11-20.1, 12-4.3, 12-14, or 12-16 of this Code against a victim  
19 who is alleged to be a severely or profoundly intellectually  
20 disabled ~~mentally-retarded~~ person, any findings concerning the  
21 victim's status as a severely or profoundly intellectually  
22 disabled ~~mentally-retarded~~ person, made by a court after a  
23 judicial admission hearing concerning the victim under  
24 Articles V and VI of Chapter 4 of the Mental Health and

1 Developmental Disabilities Code shall be admissible.

2 (Source: P.A. 92-434, eff. 1-1-02.)

3 (720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

4 Sec. 10-1. Kidnapping.

5 (a) A person commits the offense of kidnapping when he or  
6 she knowingly:

7 (1) and secretly confines another against his or her  
8 will;

9 (2) by force or threat of imminent force carries  
10 another from one place to another with intent secretly to  
11 confine that other person against his or her will; or

12 (3) by deceit or enticement induces another to go from  
13 one place to another with intent secretly to confine that  
14 other person against his or her will.

15 (b) Confinement of a child under the age of 13 years, or of  
16 a severely or profoundly intellectually disabled ~~mentally~~  
17 ~~retarded~~ person, is against that child's or person's will  
18 within the meaning of this Section if that confinement is  
19 without the consent of that child's or person's parent or legal  
20 guardian.

21 (c) Sentence. Kidnapping is a Class 2 felony.

22 (Source: P.A. 96-710, eff. 1-1-10.)

23 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

24 Sec. 10-2. Aggravated kidnaping.

1 (a) A person commits the offense of aggravated kidnaping  
2 when he or she commits kidnaping and:

3 (1) kidnaps with the intent to obtain ransom from the  
4 person kidnaped or from any other person;

5 (2) takes as his or her victim a child under the age of  
6 13 years, or a severely or profoundly intellectually  
7 disabled ~~mentally retarded~~ person;

8 (3) inflicts great bodily harm, other than by the  
9 discharge of a firearm, or commits another felony upon his  
10 or her victim;

11 (4) wears a hood, robe, or mask or conceals his or her  
12 identity;

13 (5) commits the offense of kidnaping while armed with a  
14 dangerous weapon, other than a firearm, as defined in  
15 Section 33A-1 of this Code;

16 (6) commits the offense of kidnaping while armed with a  
17 firearm;

18 (7) during the commission of the offense of kidnaping,  
19 personally discharges a firearm; or

20 (8) during the commission of the offense of kidnaping,  
21 personally discharges a firearm that proximately causes  
22 great bodily harm, permanent disability, permanent  
23 disfigurement, or death to another person.

24 As used in this Section, "ransom" includes money, benefit,  
25 or other valuable thing or concession.

26 (b) Sentence. Aggravated kidnaping in violation of

1 paragraph (1), (2), (3), (4), or (5) of subsection (a) is a  
2 Class X felony. A violation of subsection (a)(6) is a Class X  
3 felony for which 15 years shall be added to the term of  
4 imprisonment imposed by the court. A violation of subsection  
5 (a)(7) is a Class X felony for which 20 years shall be added to  
6 the term of imprisonment imposed by the court. A violation of  
7 subsection (a)(8) is a Class X felony for which 25 years or up  
8 to a term of natural life shall be added to the term of  
9 imprisonment imposed by the court.

10 A person who is convicted of a second or subsequent offense  
11 of aggravated kidnaping shall be sentenced to a term of natural  
12 life imprisonment; except that a sentence of natural life  
13 imprisonment shall not be imposed under this Section unless the  
14 second or subsequent offense was committed after conviction on  
15 the first offense.

16 (Source: P.A. 96-710, eff. 1-1-10.)

17 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

18 Sec. 10-5. Child abduction.

19 (a) For purposes of this Section, the following terms have  
20 the following meanings:

21 (1) "Child" means a person who, at the time the alleged  
22 violation occurred, was under the age of 18 or severely or  
23 profoundly intellectually disabled ~~mentally retarded~~.

24 (2) "Detains" means taking or retaining physical  
25 custody of a child, whether or not the child resists or

1 objects.

2 (3) "Lawful custodian" means a person or persons  
3 granted legal custody of a child or entitled to physical  
4 possession of a child pursuant to a court order. It is  
5 presumed that, when the parties have never been married to  
6 each other, the mother has legal custody of the child  
7 unless a valid court order states otherwise. If an  
8 adjudication of paternity has been completed and the father  
9 has been assigned support obligations or visitation  
10 rights, such a paternity order should, for the purposes of  
11 this Section, be considered a valid court order granting  
12 custody to the mother.

13 (4) "Putative father" means a man who has a reasonable  
14 belief that he is the father of a child born of a woman who  
15 is not his wife.

16 (b) A person commits the offense of child abduction when he  
17 or she does any one of the following:

18 (1) Intentionally violates any terms of a valid court  
19 order granting sole or joint custody, care, or possession  
20 to another by concealing or detaining the child or removing  
21 the child from the jurisdiction of the court.

22 (2) Intentionally violates a court order prohibiting  
23 the person from concealing or detaining the child or  
24 removing the child from the jurisdiction of the court.

25 (3) Intentionally conceals, detains, or removes the  
26 child without the consent of the mother or lawful custodian

1 of the child if the person is a putative father and either:  
2 (A) the paternity of the child has not been legally  
3 established or (B) the paternity of the child has been  
4 legally established but no orders relating to custody have  
5 been entered. Notwithstanding the presumption created by  
6 paragraph (3) of subsection (a), however, a mother commits  
7 child abduction when she intentionally conceals or removes  
8 a child, whom she has abandoned or relinquished custody of,  
9 from an unadjudicated father who has provided sole ongoing  
10 care and custody of the child in her absence.

11 (4) Intentionally conceals or removes the child from a  
12 parent after filing a petition or being served with process  
13 in an action affecting marriage or paternity but prior to  
14 the issuance of a temporary or final order determining  
15 custody.

16 (5) At the expiration of visitation rights outside the  
17 State, intentionally fails or refuses to return or impedes  
18 the return of the child to the lawful custodian in  
19 Illinois.

20 (6) Being a parent of the child, and if the parents of  
21 that child are or have been married and there has been no  
22 court order of custody, knowingly conceals the child for 15  
23 days, and fails to make reasonable attempts within the  
24 15-day period to notify the other parent as to the specific  
25 whereabouts of the child, including a means by which to  
26 contact the child, or to arrange reasonable visitation or



1 contact with the child. It is not a violation of this  
2 Section for a person fleeing domestic violence to take the  
3 child with him or her to housing provided by a domestic  
4 violence program.

5 (7) Being a parent of the child, and if the parents of  
6 the child are or have been married and there has been no  
7 court order of custody, knowingly conceals, detains, or  
8 removes the child with physical force or threat of physical  
9 force.

10 (8) Knowingly conceals, detains, or removes the child  
11 for payment or promise of payment at the instruction of a  
12 person who has no legal right to custody.

13 (9) Knowingly retains in this State for 30 days a child  
14 removed from another state without the consent of the  
15 lawful custodian or in violation of a valid court order of  
16 custody.

17 (10) Intentionally lures or attempts to lure a child  
18 under the age of 16 into a motor vehicle, building,  
19 housetrailer, or dwelling place without the consent of the  
20 child's parent or lawful custodian for other than a lawful  
21 purpose. For the purposes of this item (10), the luring or  
22 attempted luring of a child under the age of 16 into a  
23 motor vehicle, building, housetrailer, or dwelling place  
24 without the consent of the child's parent or lawful  
25 custodian is prima facie evidence of other than a lawful  
26 purpose.

1           (11) With the intent to obstruct or prevent efforts to  
2           locate the child victim of a child abduction, knowingly  
3           destroys, alters, conceals, or disguises physical evidence  
4           or furnishes false information.

5           (c) It is an affirmative defense to subsections (b) (1)  
6           through (b) (10) of this Section that:

7           (1) the person had custody of the child pursuant to a  
8           court order granting legal custody or visitation rights  
9           that existed at the time of the alleged violation;

10          (2) the person had physical custody of the child  
11          pursuant to a court order granting legal custody or  
12          visitation rights and failed to return the child as a  
13          result of circumstances beyond his or her control, and the  
14          person notified and disclosed to the other parent or legal  
15          custodian the specific whereabouts of the child and a means  
16          by which the child could be contacted or made a reasonable  
17          attempt to notify the other parent or lawful custodian of  
18          the child of those circumstances and made the disclosure  
19          within 24 hours after the visitation period had expired and  
20          returned the child as soon as possible;

21          (3) the person was fleeing an incidence or pattern of  
22          domestic violence; or

23          (4) the person lured or attempted to lure a child under  
24          the age of 16 into a motor vehicle, building, housetrailer,  
25          or dwelling place for a lawful purpose in prosecutions  
26          under paragraph (10) of subsection (b).

1 (d) A person convicted of child abduction under this  
2 Section is guilty of a Class 4 felony. A person convicted of a  
3 second or subsequent violation of paragraph (10) of subsection  
4 (b) of this Section is guilty of a Class 3 felony. It is a  
5 factor in aggravation under subsections (b)(1) through (b)(10)  
6 of this Section for which a court may impose a more severe  
7 sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5  
8 of Chapter V of the Unified Code of Corrections if, upon  
9 sentencing, the court finds evidence of any of the following  
10 aggravating factors:

11 (1) that the defendant abused or neglected the child  
12 following the concealment, detention, or removal of the  
13 child;

14 (2) that the defendant inflicted or threatened to  
15 inflict physical harm on a parent or lawful custodian of  
16 the child or on the child with intent to cause that parent  
17 or lawful custodian to discontinue criminal prosecution of  
18 the defendant under this Section;

19 (3) that the defendant demanded payment in exchange for  
20 return of the child or demanded that he or she be relieved  
21 of the financial or legal obligation to support the child  
22 in exchange for return of the child;

23 (4) that the defendant has previously been convicted of  
24 child abduction;

25 (5) that the defendant committed the abduction while  
26 armed with a deadly weapon or the taking of the child

1           resulted in serious bodily injury to another; or

2           (6) that the defendant committed the abduction while in  
3           a school, regardless of the time of day or time of year; in  
4           a playground; on any conveyance owned, leased, or  
5           contracted by a school to transport students to or from  
6           school or a school related activity; on the real property  
7           of a school; or on a public way within 1,000 feet of the  
8           real property comprising any school or playground. For  
9           purposes of this paragraph (6), "playground" means a piece  
10          of land owned or controlled by a unit of local government  
11          that is designated by the unit of local government for use  
12          solely or primarily for children's recreation; and  
13          "school" means a public or private elementary or secondary  
14          school, community college, college, or university.

15          (e) The court may order the child to be returned to the  
16          parent or lawful custodian from whom the child was concealed,  
17          detained, or removed. In addition to any sentence imposed, the  
18          court may assess any reasonable expense incurred in searching  
19          for or returning the child against any person convicted of  
20          violating this Section.

21          (f) Nothing contained in this Section shall be construed to  
22          limit the court's contempt power.

23          (g) Every law enforcement officer investigating an alleged  
24          incident of child abduction shall make a written police report  
25          of any bona fide allegation and the disposition of that  
26          investigation. Every police report completed pursuant to this

1 Section shall be compiled and recorded within the meaning of  
2 Section 5.1 of the Criminal Identification Act.

3 (h) Whenever a law enforcement officer has reasons to  
4 believe a child abduction has occurred, she or he shall provide  
5 the lawful custodian a summary of her or his rights under this  
6 Code, including the procedures and relief available to her or  
7 him.

8 (i) If during the course of an investigation under this  
9 Section the child is found in the physical custody of the  
10 defendant or another, the law enforcement officer shall return  
11 the child to the parent or lawful custodian from whom the child  
12 was concealed, detained, or removed, unless there is good cause  
13 for the law enforcement officer or the Department of Children  
14 and Family Services to retain temporary protective custody of  
15 the child pursuant to the Abused and Neglected Child Reporting  
16 Act.

17 (Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10; ;  
18 96-1000, eff. 7-2-10.)

19 (720 ILCS 5/11-14.1)

20 Sec. 11-14.1. Solicitation of a sexual act.

21 (a) Any person who offers a person not his or her spouse  
22 any money, property, token, object, or article or anything of  
23 value for that person or any other person not his or her spouse  
24 to perform any act of sexual penetration as defined in Section  
25 12-12 of this Code, or any touching or fondling of the sex

1 organs of one person by another person for the purpose of  
2 sexual arousal or gratification, commits the offense of  
3 solicitation of a sexual act.

4 (b) Sentence. Solicitation of a sexual act is a Class A  
5 misdemeanor. Solicitation of a sexual act from a person who is  
6 under the age of 18 or who is severely or profoundly  
7 intellectually disabled ~~mentally retarded~~ is a Class 4 felony.

8 (b-5) It is an affirmative defense to a charge of  
9 solicitation of a sexual act with a person who is under the age  
10 of 18 or who is severely or profoundly intellectually disabled  
11 ~~mentally retarded~~ that the accused reasonably believed the  
12 person was of the age of 18 years or over or was not a severely  
13 or profoundly intellectually disabled ~~mentally retarded~~ person  
14 at the time of the act giving rise to the charge.

15 (Source: P.A. 96-1464, eff. 8-20-10.)

16 (720 ILCS 5/11-15.1) (from Ch. 38, par. 11-15.1)

17 Sec. 11-15.1. Soliciting for a minor engaged in  
18 prostitution.

19 (a) Any person who violates any of the provisions of  
20 Section 11-15(a) of this Act commits soliciting for a minor  
21 engaged in prostitution where the person for whom such person  
22 is soliciting is under 18 years of age or is a severely or  
23 profoundly intellectually disabled ~~mentally retarded~~ person.

24 (b) It is an affirmative defense to a charge of soliciting  
25 for a minor engaged in prostitution that the accused reasonably

1 believed the person was of the age of 18 years or over or was  
2 not a severely or profoundly intellectually disabled ~~mentally~~  
3 ~~retarded~~ person at the time of the act giving rise to the  
4 charge.

5 (c) Sentence.

6 Soliciting for a minor engaged in prostitution is a Class 1  
7 felony. A person convicted of a second or subsequent violation  
8 of this Section, or of any combination of such number of  
9 convictions under this Section and Sections 11-14, 11-14.1,  
10 11-15, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,  
11 or 11-19.2 of this Code, is guilty of a Class X felony. The  
12 fact of such prior conviction is not an element of the offense  
13 and may not be disclosed to the jury during trial unless  
14 otherwise permitted by issues properly raised during the trial.

15 (c-5) A person who violates this Section within 1,000 feet  
16 of real property comprising a school commits a Class X felony.

17 (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

18 (720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

19 Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

20 (a) Any person who knowingly violates any of the provisions  
21 of Section 11-17 of this Act commits keeping a place of  
22 juvenile prostitution when any person engaged in prostitution  
23 in the place of prostitution is under 18 years of age or is a  
24 severely or profoundly intellectually disabled ~~mentally~~  
25 ~~retarded~~ person.

1 (b) If the accused did not have a reasonable opportunity to  
2 observe the person, it is an affirmative defense to a charge of  
3 keeping a place of juvenile prostitution that the accused  
4 reasonably believed the person was of the age of 18 years or  
5 over or was not a severely or profoundly intellectually  
6 disabled ~~mentally retarded~~ person at the time of the act giving  
7 rise to the charge.

8 (c) Sentence. Keeping a place of juvenile prostitution is a  
9 Class 1 felony. A person convicted of a second or subsequent  
10 violation of this Section, or of any combination of such number  
11 of convictions under this Section and Sections 11-14, 11-14.1,  
12 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1,  
13 or 11-19.2 of this Code, is guilty of a Class X felony.

14 (d) Forfeiture. Any person convicted under this Section is  
15 subject to the property forfeiture provisions set forth in  
16 Article 124B of the Code of Criminal Procedure of 1963.

17 (Source: P.A. 95-95, eff. 1-1-08; 96-712, eff. 1-1-10; 96-1464,  
18 eff. 8-20-10.)

19 (720 ILCS 5/11-18.1) (from Ch. 38, par. 11-18.1)

20 Sec. 11-18.1. Patronizing a minor engaged in prostitution.

21 (a) Any person who engages in an act of sexual penetration  
22 as defined in Section 12-12 of this Code with a person engaged  
23 in prostitution who is under 18 years of age or is a severely  
24 or profoundly intellectually disabled ~~mentally retarded~~ person  
25 commits the offense of patronizing a minor engaged in



1 prostitution.

2 (b) It is an affirmative defense to the charge of  
3 patronizing a minor engaged in prostitution that the accused  
4 reasonably believed that the person was of the age of 18 years  
5 or over or was not a severely or profoundly intellectually  
6 disabled ~~mentally retarded~~ person at the time of the act giving  
7 rise to the charge.

8 (c) Sentence. A person who commits patronizing a juvenile  
9 prostitute is guilty of a Class 3 felony. A person convicted of  
10 a second or subsequent violation of this Section, or of any  
11 combination of such number of convictions under this Section  
12 and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17,  
13 11-17.1, 11-18, 11-19, 11-19.1, or 11-19.2 of this Code, is  
14 guilty of a Class 2 felony. The fact of such conviction is not  
15 an element of the offense and may not be disclosed to the jury  
16 during trial unless otherwise permitted by issues properly  
17 raised during such trial. A person who violates this Section  
18 within 1,000 feet of real property comprising a school commits  
19 a Class 2 felony.

20 (Source: P.A. 96-1464, eff. 8-20-10.)

21 (720 ILCS 5/11-19.1) (from Ch. 38, par. 11-19.1)

22 Sec. 11-19.1. Juvenile Pimping and aggravated juvenile  
23 pimping.

24 (a) A person commits the offense of juvenile pimping if the  
25 person knowingly receives any form of consideration derived

1 from the practice of prostitution, in whole or in part, and

2 (1) the prostituted person was under the age of 18 at  
3 the time the act of prostitution occurred; or

4 (2) the prostitute was a severely or profoundly  
5 intellectually disabled ~~mentally retarded~~ person at the  
6 time the act of prostitution occurred.

7 (b) A person commits the offense of aggravated juvenile  
8 pimping if the person knowingly receives any form of  
9 consideration derived from the practice of prostitution, in  
10 whole or in part, and the prostituted person was under the age  
11 of 13 at the time the act of prostitution occurred.

12 (c) If the accused did not have a reasonable opportunity to  
13 observe the prostituted person, it is an affirmative defense to  
14 a charge of juvenile pimping that the accused reasonably  
15 believed the person was of the age of 18 years or over or was  
16 not a severely or profoundly intellectually disabled ~~mentally~~  
17 ~~retarded~~ person at the time of the act giving rise to the  
18 charge.

19 (d) Sentence.

20 A person who commits a violation of subsection (a) is  
21 guilty of a Class 1 felony. A person convicted of a second or  
22 subsequent violation of this Section, or of any combination of  
23 such number of convictions under this Section and Sections  
24 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18,  
25 11-18.1, 11-19, or 11-19.2 of this Code, is guilty of a Class X  
26 felony. A person who commits a violation of subsection (b) is

1 guilty of a Class X felony.

2 (e) For the purposes of this Section, "prostituted person"  
3 means any person who engages in, or agrees or offers to engage  
4 in, any act of sexual penetration as defined in Section 12-12  
5 of this Code for any money, property, token, object, or article  
6 or anything of value, or any touching or fondling of the sex  
7 organs of one person by another person, for any money,  
8 property, token, object, or article or anything of value, for  
9 the purpose of sexual arousal or gratification.

10 (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

11 (720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

12 Sec. 11-19.2. Exploitation of a child.

13 (A) A person commits exploitation of a child when he or she  
14 confines a child under the age of 18 or a severely or  
15 profoundly intellectually disabled ~~mentally-retarded~~ person  
16 against his or her will by the infliction or threat of imminent  
17 infliction of great bodily harm, permanent disability or  
18 disfigurement or by administering to the child or severely or  
19 profoundly intellectually disabled ~~mentally-retarded~~ person  
20 without his or her consent or by threat or deception and for  
21 other than medical purposes, any alcoholic intoxicant or a drug  
22 as defined in the Illinois Controlled Substances Act or the  
23 Cannabis Control Act or methamphetamine as defined in the  
24 Methamphetamine Control and Community Protection Act and:

25 (1) compels the child or severely or profoundly

1        intellectually disabled ~~mentally retarded~~ person to engage  
2        in prostitution; or

3            (2) arranges a situation in which the child or severely  
4        or profoundly intellectually disabled ~~mentally retarded~~  
5        person may practice prostitution; or

6            (3) receives any money, property, token, object, or  
7        article or anything of value from the child or severely or  
8        profoundly intellectually disabled ~~mentally retarded~~  
9        person knowing it was obtained in whole or in part from the  
10       practice of prostitution.

11        (B) For purposes of this Section, administering drugs, as  
12       defined in subsection (A), or an alcoholic intoxicant to a  
13       child under the age of 13 or a severely or profoundly  
14       intellectually disabled ~~mentally retarded~~ person shall be  
15       deemed to be without consent if such administering is done  
16       without the consent of the parents or legal guardian or if such  
17       administering is performed by the parents or legal guardians  
18       for other than medical purposes.

19        (C) Exploitation of a child is a Class X felony, for which  
20       the person shall be sentenced to a term of imprisonment of not  
21       less than 6 years and not more than 60 years.

22        (D) Any person convicted under this Section is subject to  
23       the property forfeiture provisions set forth in Article 124B of  
24       the Code of Criminal Procedure of 1963.

25        (Source: P.A. 95-640, eff. 6-1-08; 96-712, eff. 1-1-10;  
26        96-1464, eff. 8-20-10.)

1 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

2 Sec. 11-20.1. Child pornography.

3 (a) A person commits the offense of child pornography who:

4 (1) films, videotapes, photographs, or otherwise  
5 depicts or portrays by means of any similar visual medium  
6 or reproduction or depicts by computer any child whom he  
7 knows or reasonably should know to be under the age of 18  
8 or any severely or profoundly intellectually disabled  
9 ~~mentally retarded~~ person where such child or severely or  
10 profoundly intellectually disabled ~~mentally retarded~~  
11 person is:

12 (i) actually or by simulation engaged in any act of  
13 sexual penetration or sexual conduct with any person or  
14 animal; or

15 (ii) actually or by simulation engaged in any act  
16 of sexual penetration or sexual conduct involving the  
17 sex organs of the child or severely or profoundly  
18 intellectually disabled ~~mentally retarded~~ person and  
19 the mouth, anus, or sex organs of another person or  
20 animal; or which involves the mouth, anus or sex organs  
21 of the child or severely or profoundly intellectually  
22 disabled ~~mentally retarded~~ person and the sex organs of  
23 another person or animal; or

24 (iii) actually or by simulation engaged in any act  
25 of masturbation; or

1 (iv) actually or by simulation portrayed as being  
2 the object of, or otherwise engaged in, any act of lewd  
3 fondling, touching, or caressing involving another  
4 person or animal; or

5 (v) actually or by simulation engaged in any act of  
6 excretion or urination within a sexual context; or

7 (vi) actually or by simulation portrayed or  
8 depicted as bound, fettered, or subject to sadistic,  
9 masochistic, or sadomasochistic abuse in any sexual  
10 context; or

11 (vii) depicted or portrayed in any pose, posture or  
12 setting involving a lewd exhibition of the unclothed or  
13 transparently clothed genitals, pubic area, buttocks,  
14 or, if such person is female, a fully or partially  
15 developed breast of the child or other person; or

16 (2) with the knowledge of the nature or content  
17 thereof, reproduces, disseminates, offers to disseminate,  
18 exhibits or possesses with intent to disseminate any film,  
19 videotape, photograph or other similar visual reproduction  
20 or depiction by computer of any child or severely or  
21 profoundly intellectually disabled ~~mentally-retarded~~  
22 person whom the person knows or reasonably should know to  
23 be under the age of 18 or to be a severely or profoundly  
24 intellectually disabled ~~mentally-retarded~~ person, engaged  
25 in any activity described in subparagraphs (i) through  
26 (vii) of paragraph (1) of this subsection; or

1           (3) with knowledge of the subject matter or theme  
2           thereof, produces any stage play, live performance, film,  
3           videotape or other similar visual portrayal or depiction by  
4           computer which includes a child whom the person knows or  
5           reasonably should know to be under the age of 18 or a  
6           severely or profoundly intellectually disabled ~~mentally~~  
7           ~~retarded~~ person engaged in any activity described in  
8           subparagraphs (i) through (vii) of paragraph (1) of this  
9           subsection; or

10           (4) solicits, uses, persuades, induces, entices, or  
11           coerces any child whom he knows or reasonably should know  
12           to be under the age of 18 or a severely or profoundly  
13           intellectually disabled ~~mentally-retarded~~ person to appear  
14           in any stage play, live presentation, film, videotape,  
15           photograph or other similar visual reproduction or  
16           depiction by computer in which the child or severely or  
17           profoundly intellectually disabled ~~mentally-retarded~~  
18           person is or will be depicted, actually or by simulation,  
19           in any act, pose or setting described in subparagraphs (i)  
20           through (vii) of paragraph (1) of this subsection; or

21           (5) is a parent, step-parent, legal guardian or other  
22           person having care or custody of a child whom the person  
23           knows or reasonably should know to be under the age of 18  
24           or a severely or profoundly intellectually disabled  
25           ~~mentally-retarded~~ person and who knowingly permits,  
26           induces, promotes, or arranges for such child or severely

1 or profoundly intellectually disabled ~~mentally retarded~~  
2 person to appear in any stage play, live performance, film,  
3 videotape, photograph or other similar visual  
4 presentation, portrayal or simulation or depiction by  
5 computer of any act or activity described in subparagraphs  
6 (i) through (vii) of paragraph (1) of this subsection; or

7 (6) with knowledge of the nature or content thereof,  
8 possesses any film, videotape, photograph or other similar  
9 visual reproduction or depiction by computer of any child  
10 or severely or profoundly intellectually disabled ~~mentally~~  
11 ~~retarded~~ person whom the person knows or reasonably should  
12 know to be under the age of 18 or to be a severely or  
13 profoundly intellectually disabled ~~mentally retarded~~  
14 person, engaged in any activity described in subparagraphs  
15 (i) through (vii) of paragraph (1) of this subsection; or

16 (7) solicits, uses, persuades, induces, entices, or  
17 coerces a person to provide a child under the age of 18 or  
18 a severely or profoundly intellectually disabled ~~mentally~~  
19 ~~retarded~~ person to appear in any videotape, photograph,  
20 film, stage play, live presentation, or other similar  
21 visual reproduction or depiction by computer in which the  
22 child or severely or profoundly intellectually disabled  
23 ~~mentally retarded~~ person will be depicted, actually or by  
24 simulation, in any act, pose, or setting described in  
25 subparagraphs (i) through (vii) of paragraph (1) of this  
26 subsection.



1 (b) (1) It shall be an affirmative defense to a charge of  
2 child pornography that the defendant reasonably believed,  
3 under all of the circumstances, that the child was 18 years  
4 of age or older or that the person was not a severely or  
5 profoundly intellectually disabled ~~mentally-retarded~~  
6 person but only where, prior to the act or acts giving rise  
7 to a prosecution under this Section, he took some  
8 affirmative action or made a bonafide inquiry designed to  
9 ascertain whether the child was 18 years of age or older or  
10 that the person was not a severely or profoundly  
11 intellectually disabled ~~mentally-retarded~~ person and his  
12 reliance upon the information so obtained was clearly  
13 reasonable.

14 (2) (Blank).

15 (3) The charge of child pornography shall not apply to  
16 the performance of official duties by law enforcement or  
17 prosecuting officers or persons employed by law  
18 enforcement or prosecuting agencies, court personnel or  
19 attorneys, nor to bonafide treatment or professional  
20 education programs conducted by licensed physicians,  
21 psychologists or social workers.

22 (4) Possession by the defendant of more than one of the  
23 same film, videotape or visual reproduction or depiction by  
24 computer in which child pornography is depicted shall raise  
25 a rebuttable presumption that the defendant possessed such  
26 materials with the intent to disseminate them.

1           (5) The charge of child pornography does not apply to a  
2 person who does not voluntarily possess a film, videotape,  
3 or visual reproduction or depiction by computer in which  
4 child pornography is depicted. Possession is voluntary if  
5 the defendant knowingly procures or receives a film,  
6 videotape, or visual reproduction or depiction for a  
7 sufficient time to be able to terminate his or her  
8 possession.

9           (6) Any violation of paragraph (1), (2), (3), (4), (5),  
10 or (7) of subsection (a) that includes a child engaged in,  
11 solicited for, depicted in, or posed in any act of sexual  
12 penetration or bound, fettered, or subject to sadistic,  
13 masochistic, or sadomasochistic abuse in a sexual context  
14 shall be deemed a crime of violence.

15           (c) Violation of paragraph (1), (4), (5), or (7) of  
16 subsection (a) is a Class 1 felony with a mandatory minimum  
17 fine of \$2,000 and a maximum fine of \$100,000. Violation of  
18 paragraph (3) of subsection (a) is a Class 1 felony with a  
19 mandatory minimum fine of \$1500 and a maximum fine of \$100,000.  
20 Violation of paragraph (2) of subsection (a) is a Class 1  
21 felony with a mandatory minimum fine of \$1000 and a maximum  
22 fine of \$100,000. Violation of paragraph (6) of subsection (a)  
23 is a Class 3 felony with a mandatory minimum fine of \$1000 and  
24 a maximum fine of \$100,000.

25           (d) If a person is convicted of a second or subsequent  
26 violation of this Section within 10 years of a prior

1 conviction, the court shall order a presentence psychiatric  
2 examination of the person. The examiner shall report to the  
3 court whether treatment of the person is necessary.

4 (e) Any film, videotape, photograph or other similar visual  
5 reproduction or depiction by computer which includes a child  
6 under the age of 18 or a severely or profoundly intellectually  
7 disabled ~~mentally-retarded~~ person engaged in any activity  
8 described in subparagraphs (i) through (vii) or paragraph 1 of  
9 subsection (a), and any material or equipment used or intended  
10 for use in photographing, filming, printing, producing,  
11 reproducing, manufacturing, projecting, exhibiting, depiction  
12 by computer, or disseminating such material shall be seized and  
13 forfeited in the manner, method and procedure provided by  
14 Section 36-1 of this Code for the seizure and forfeiture of  
15 vessels, vehicles and aircraft.

16 In addition, any person convicted under this Section is  
17 subject to the property forfeiture provisions set forth in  
18 Article 124B of the Code of Criminal Procedure of 1963.

19 (e-5) Upon the conclusion of a case brought under this  
20 Section, the court shall seal all evidence depicting a victim  
21 or witness that is sexually explicit. The evidence may be  
22 unsealed and viewed, on a motion of the party seeking to unseal  
23 and view the evidence, only for good cause shown and in the  
24 discretion of the court. The motion must expressly set forth  
25 the purpose for viewing the material. The State's attorney and  
26 the victim, if possible, shall be provided reasonable notice of

1 the hearing on the motion to unseal the evidence. Any person  
2 entitled to notice of a hearing under this subsection (e-5) may  
3 object to the motion.

4 (f) Definitions. For the purposes of this Section:

5 (1) "Disseminate" means (i) to sell, distribute,  
6 exchange or transfer possession, whether with or without  
7 consideration or (ii) to make a depiction by computer  
8 available for distribution or downloading through the  
9 facilities of any telecommunications network or through  
10 any other means of transferring computer programs or data  
11 to a computer.

12 (2) "Produce" means to direct, promote, advertise,  
13 publish, manufacture, issue, present or show.

14 (3) "Reproduce" means to make a duplication or copy.

15 (4) "Depict by computer" means to generate or create,  
16 or cause to be created or generated, a computer program or  
17 data that, after being processed by a computer either alone  
18 or in conjunction with one or more computer programs,  
19 results in a visual depiction on a computer monitor,  
20 screen, or display.

21 (5) "Depiction by computer" means a computer program or  
22 data that, after being processed by a computer either alone  
23 or in conjunction with one or more computer programs,  
24 results in a visual depiction on a computer monitor,  
25 screen, or display.

26 (6) "Computer", "computer program", and "data" have

1 the meanings ascribed to them in Section 16D-2 of this  
2 Code.

3 (7) "Child" includes a film, videotape, photograph, or  
4 other similar visual medium or reproduction or depiction by  
5 computer that is, or appears to be, that of a person,  
6 either in part, or in total, under the age of 18,  
7 regardless of the method by which the film, videotape,  
8 photograph, or other similar visual medium or reproduction  
9 or depiction by computer is created, adopted, or modified  
10 to appear as such. "Child" also includes a film, videotape,  
11 photograph, or other similar visual medium or reproduction  
12 or depiction by computer that is advertised, promoted,  
13 presented, described, or distributed in such a manner that  
14 conveys the impression that the film, videotape,  
15 photograph, or other similar visual medium or reproduction  
16 or depiction by computer is of a person under the age of  
17 18.

18 (8) "Sexual penetration" and "sexual conduct" have the  
19 meanings ascribed to them in Section 12-12 of this Code.

20 (g) Re-enactment; findings; purposes.

21 (1) The General Assembly finds and declares that:

22 (i) Section 50-5 of Public Act 88-680, effective  
23 January 1, 1995, contained provisions amending the  
24 child pornography statute, Section 11-20.1 of the  
25 Criminal Code of 1961. Section 50-5 also contained  
26 other provisions.

1 (ii) In addition, Public Act 88-680 was entitled  
2 "AN ACT to create a Safe Neighborhoods Law". (A)  
3 Article 5 was entitled JUVENILE JUSTICE and amended the  
4 Juvenile Court Act of 1987. (B) Article 15 was entitled  
5 GANGS and amended various provisions of the Criminal  
6 Code of 1961 and the Unified Code of Corrections. (C)  
7 Article 20 was entitled ALCOHOL ABUSE and amended  
8 various provisions of the Illinois Vehicle Code. (D)  
9 Article 25 was entitled DRUG ABUSE and amended the  
10 Cannabis Control Act and the Illinois Controlled  
11 Substances Act. (E) Article 30 was entitled FIREARMS  
12 and amended the Criminal Code of 1961 and the Code of  
13 Criminal Procedure of 1963. (F) Article 35 amended the  
14 Criminal Code of 1961, the Rights of Crime Victims and  
15 Witnesses Act, and the Unified Code of Corrections. (G)  
16 Article 40 amended the Criminal Code of 1961 to  
17 increase the penalty for compelling organization  
18 membership of persons. (H) Article 45 created the  
19 Secure Residential Youth Care Facility Licensing Act  
20 and amended the State Finance Act, the Juvenile Court  
21 Act of 1987, the Unified Code of Corrections, and the  
22 Private Correctional Facility Moratorium Act. (I)  
23 Article 50 amended the WIC Vendor Management Act, the  
24 Firearm Owners Identification Card Act, the Juvenile  
25 Court Act of 1987, the Criminal Code of 1961, the  
26 Wrongs to Children Act, and the Unified Code of

1 Corrections.

2 (iii) On September 22, 1998, the Third District  
3 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,  
4 ruled that Public Act 88-680 violates the single  
5 subject clause of the Illinois Constitution (Article  
6 IV, Section 8 (d)) and was unconstitutional in its  
7 entirety. As of the time this amendatory Act of 1999  
8 was prepared, *People v. Dainty* was still subject to  
9 appeal.

10 (iv) Child pornography is a vital concern to the  
11 people of this State and the validity of future  
12 prosecutions under the child pornography statute of  
13 the Criminal Code of 1961 is in grave doubt.

14 (2) It is the purpose of this amendatory Act of 1999 to  
15 prevent or minimize any problems relating to prosecutions  
16 for child pornography that may result from challenges to  
17 the constitutional validity of Public Act 88-680 by  
18 re-enacting the Section relating to child pornography that  
19 was included in Public Act 88-680.

20 (3) This amendatory Act of 1999 re-enacts Section  
21 11-20.1 of the Criminal Code of 1961, as it has been  
22 amended. This re-enactment is intended to remove any  
23 question as to the validity or content of that Section; it  
24 is not intended to supersede any other Public Act that  
25 amends the text of the Section as set forth in this  
26 amendatory Act of 1999. The material is shown as existing

1 text (i.e., without underscoring) because, as of the time  
2 this amendatory Act of 1999 was prepared, People v. Dainty  
3 was subject to appeal to the Illinois Supreme Court.

4 (4) The re-enactment by this amendatory Act of 1999 of  
5 Section 11-20.1 of the Criminal Code of 1961 relating to  
6 child pornography that was amended by Public Act 88-680 is  
7 not intended, and shall not be construed, to imply that  
8 Public Act 88-680 is invalid or to limit or impair any  
9 legal argument concerning whether those provisions were  
10 substantially re-enacted by other Public Acts.

11 (Source: P.A. ; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10;  
12 96-1000, eff. 7-2-10.)

13 (720 ILCS 5/11-20.3)

14 Sec. 11-20.3. Aggravated child pornography.

15 (a) A person commits the offense of aggravated child  
16 pornography who:

17 (1) films, videotapes, photographs, or otherwise  
18 depicts or portrays by means of any similar visual medium  
19 or reproduction or depicts by computer any child whom he or  
20 she knows or reasonably should know to be under the age of  
21 13 years where such child is:

22 (i) actually or by simulation engaged in any act of  
23 sexual penetration or sexual conduct with any person or  
24 animal; or

25 (ii) actually or by simulation engaged in any act



1 of sexual penetration or sexual conduct involving the  
2 sex organs of the child and the mouth, anus, or sex  
3 organs of another person or animal; or which involves  
4 the mouth, anus or sex organs of the child and the sex  
5 organs of another person or animal; or

6 (iii) actually or by simulation engaged in any act  
7 of masturbation; or

8 (iv) actually or by simulation portrayed as being  
9 the object of, or otherwise engaged in, any act of lewd  
10 fondling, touching, or caressing involving another  
11 person or animal; or

12 (v) actually or by simulation engaged in any act of  
13 excretion or urination within a sexual context; or

14 (vi) actually or by simulation portrayed or  
15 depicted as bound, fettered, or subject to sadistic,  
16 masochistic, or sadomasochistic abuse in any sexual  
17 context; or

18 (vii) depicted or portrayed in any pose, posture or  
19 setting involving a lewd exhibition of the unclothed or  
20 transparently clothed genitals, pubic area, buttocks,  
21 or, if such person is female, a fully or partially  
22 developed breast of the child or other person; or

23 (2) with the knowledge of the nature or content  
24 thereof, reproduces, disseminates, offers to disseminate,  
25 exhibits or possesses with intent to disseminate any film,  
26 videotape, photograph or other similar visual reproduction

1 or depiction by computer of any child whom the person knows  
2 or reasonably should know to be under the age of 13 engaged  
3 in any activity described in subparagraphs (i) through  
4 (vii) of paragraph (1) of this subsection; or

5 (3) with knowledge of the subject matter or theme  
6 thereof, produces any stage play, live performance, film,  
7 videotape or other similar visual portrayal or depiction by  
8 computer which includes a child whom the person knows or  
9 reasonably should know to be under the age of 13 engaged in  
10 any activity described in subparagraphs (i) through (vii)  
11 of paragraph (1) of this subsection; or

12 (4) solicits, uses, persuades, induces, entices, or  
13 coerces any child whom he or she knows or reasonably should  
14 know to be under the age of 13 to appear in any stage play,  
15 live presentation, film, videotape, photograph or other  
16 similar visual reproduction or depiction by computer in  
17 which the child or severely or profoundly intellectually  
18 disabled ~~mentally retarded~~ person is or will be depicted,  
19 actually or by simulation, in any act, pose or setting  
20 described in subparagraphs (i) through (vii) of paragraph  
21 (1) of this subsection; or

22 (5) is a parent, step-parent, legal guardian or other  
23 person having care or custody of a child whom the person  
24 knows or reasonably should know to be under the age of 13  
25 and who knowingly permits, induces, promotes, or arranges  
26 for such child to appear in any stage play, live

1 performance, film, videotape, photograph or other similar  
2 visual presentation, portrayal or simulation or depiction  
3 by computer of any act or activity described in  
4 subparagraphs (i) through (vii) of paragraph (1) of this  
5 subsection; or

6 (6) with knowledge of the nature or content thereof,  
7 possesses any film, videotape, photograph or other similar  
8 visual reproduction or depiction by computer of any child  
9 whom the person knows or reasonably should know to be under  
10 the age of 13 engaged in any activity described in  
11 subparagraphs (i) through (vii) of paragraph (1) of this  
12 subsection; or

13 (7) solicits, or knowingly uses, persuades, induces,  
14 entices, or coerces a person to provide a child under the  
15 age of 13 to appear in any videotape, photograph, film,  
16 stage play, live presentation, or other similar visual  
17 reproduction or depiction by computer in which the child  
18 will be depicted, actually or by simulation, in any act,  
19 pose, or setting described in subparagraphs (i) through  
20 (vii) of paragraph (1) of this subsection.

21 (b)(1) It shall be an affirmative defense to a charge of  
22 aggravated child pornography that the defendant reasonably  
23 believed, under all of the circumstances, that the child was 13  
24 years of age or older, but only where, prior to the act or acts  
25 giving rise to a prosecution under this Section, he or she took  
26 some affirmative action or made a bonafide inquiry designed to

1 ascertain whether the child was 13 years of age or older and  
2 his or her reliance upon the information so obtained was  
3 clearly reasonable.

4 (2) The charge of aggravated child pornography shall not  
5 apply to the performance of official duties by law enforcement  
6 or prosecuting officers or persons employed by law enforcement  
7 or prosecuting agencies, court personnel or attorneys, nor to  
8 bonafide treatment or professional education programs  
9 conducted by licensed physicians, psychologists or social  
10 workers.

11 (3) If the defendant possessed more than 3 of the same  
12 film, videotape or visual reproduction or depiction by computer  
13 in which aggravated child pornography is depicted, then the  
14 trier of fact may infer that the defendant possessed such  
15 materials with the intent to disseminate them.

16 (4) The charge of aggravated child pornography does not  
17 apply to a person who does not voluntarily possess a film,  
18 videotape, or visual reproduction or depiction by computer in  
19 which aggravated child pornography is depicted. Possession is  
20 voluntary if the defendant knowingly procures or receives a  
21 film, videotape, or visual reproduction or depiction for a  
22 sufficient time to be able to terminate his or her possession.

23 (5) Any violation of paragraph (1), (2), (3), (4), (5), or  
24 (7) of subsection (a) that includes a child engaged in,  
25 solicited for, depicted in, or posed in any act of sexual  
26 penetration or bound, fettered, or subject to sadistic,

1 masochistic, or sadomasochistic abuse in a sexual context shall  
2 be deemed a crime of violence.

3 (c) Sentence: (1) A person who commits a violation of  
4 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is  
5 guilty of a Class X felony with a mandatory minimum fine of  
6 \$2,000 and a maximum fine of \$100,000.

7 (2) A person who commits a violation of paragraph (6) of  
8 subsection (a) is guilty of a Class 2 felony with a mandatory  
9 minimum fine of \$1000 and a maximum fine of \$100,000.

10 (3) A person who commits a violation of paragraph (1), (2),  
11 (3), (4), (5), or (7) of subsection (a) where the defendant has  
12 previously been convicted under the laws of this State or any  
13 other state of the offense of child pornography, aggravated  
14 child pornography, aggravated criminal sexual abuse,  
15 aggravated criminal sexual assault, predatory criminal sexual  
16 assault of a child, or any of the offenses formerly known as  
17 rape, deviate sexual assault, indecent liberties with a child,  
18 or aggravated indecent liberties with a child where the victim  
19 was under the age of 18 years or an offense that is  
20 substantially equivalent to those offenses, is guilty of a  
21 Class X felony for which the person shall be sentenced to a  
22 term of imprisonment of not less than 9 years with a mandatory  
23 minimum fine of \$2,000 and a maximum fine of \$100,000.

24 (4) A person who commits a violation of paragraph (6) of  
25 subsection (a) where the defendant has previously been  
26 convicted under the laws of this State or any other state of

1 the offense of child pornography, aggravated child  
2 pornography, aggravated criminal sexual abuse, aggravated  
3 criminal sexual assault, predatory criminal sexual assault of a  
4 child, or any of the offenses formerly known as rape, deviate  
5 sexual assault, indecent liberties with a child, or aggravated  
6 indecent liberties with a child where the victim was under the  
7 age of 18 years or an offense that is substantially equivalent  
8 to those offenses, is guilty of a Class 1 felony with a  
9 mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

10 (d) If a person is convicted of a second or subsequent  
11 violation of this Section within 10 years of a prior  
12 conviction, the court shall order a presentence psychiatric  
13 examination of the person. The examiner shall report to the  
14 court whether treatment of the person is necessary.

15 (e) Any film, videotape, photograph or other similar visual  
16 reproduction or depiction by computer which includes a child  
17 under the age of 13 engaged in any activity described in  
18 subparagraphs (i) through (vii) of paragraph (1) of subsection  
19 (a), and any material or equipment used or intended for use in  
20 photographing, filming, printing, producing, reproducing,  
21 manufacturing, projecting, exhibiting, depiction by computer,  
22 or disseminating such material shall be seized and forfeited in  
23 the manner, method and procedure provided by Section 36-1 of  
24 this Code for the seizure and forfeiture of vessels, vehicles  
25 and aircraft.

26 In addition, any person convicted under this Section is

1 subject to the property forfeiture provisions set forth in  
2 Article 124B of the Code of Criminal Procedure of 1963.

3 (e-5) Upon the conclusion of a case brought under this  
4 Section, the court shall seal all evidence depicting a victim  
5 or witness that is sexually explicit. The evidence may be  
6 unsealed and viewed, on a motion of the party seeking to unseal  
7 and view the evidence, only for good cause shown and in the  
8 discretion of the court. The motion must expressly set forth  
9 the purpose for viewing the material. The State's attorney and  
10 the victim, if possible, shall be provided reasonable notice of  
11 the hearing on the motion to unseal the evidence. Any person  
12 entitled to notice of a hearing under this subsection (e-5) may  
13 object to the motion.

14 (f) Definitions. For the purposes of this Section:

15 (1) "Disseminate" means (i) to sell, distribute,  
16 exchange or transfer possession, whether with or without  
17 consideration or (ii) to make a depiction by computer  
18 available for distribution or downloading through the  
19 facilities of any telecommunications network or through  
20 any other means of transferring computer programs or data  
21 to a computer.

22 (2) "Produce" means to direct, promote, advertise,  
23 publish, manufacture, issue, present or show.

24 (3) "Reproduce" means to make a duplication or copy.

25 (4) "Depict by computer" means to generate or create,  
26 or cause to be created or generated, a computer program or

1 data that, after being processed by a computer either alone  
2 or in conjunction with one or more computer programs,  
3 results in a visual depiction on a computer monitor,  
4 screen, or display.

5 (5) "Depiction by computer" means a computer program or  
6 data that, after being processed by a computer either alone  
7 or in conjunction with one or more computer programs,  
8 results in a visual depiction on a computer monitor,  
9 screen, or display.

10 (6) "Computer", "computer program", and "data" have  
11 the meanings ascribed to them in Section 16D-2 of this  
12 Code.

13 (7) For the purposes of this Section, "child" means a  
14 person, either in part or in total, under the age of 13,  
15 regardless of the method by which the film, videotape,  
16 photograph, or other similar visual medium or reproduction  
17 or depiction by computer is created, adopted, or modified  
18 to appear as such.

19 (8) "Sexual penetration" and "sexual conduct" have the  
20 meanings ascribed to them in Section 12-12 of this Code.

21 (g) When a charge of aggravated child pornography is  
22 brought, the age of the child is an element of the offense to  
23 be resolved by the trier of fact as either exceeding or not  
24 exceeding the age in question. The trier of fact can rely on  
25 its own everyday observations and common experiences in making  
26 this determination.



1 (Source: P.A. 95-579, eff. 6-1-08; 96-292, eff. 1-1-10; 96-712,  
2 eff. 1-1-10; 96-1000, eff. 7-2-10.)

3 (720 ILCS 5/12-4.3) (from Ch. 38, par. 12-4.3)

4 Sec. 12-4.3. Aggravated battery of a child.

5 (a) Any person of the age 18 years and upwards who  
6 intentionally or knowingly, and without legal justification  
7 and by any means, causes great bodily harm or permanent  
8 disability or disfigurement to any child under the age of 13  
9 years or to any severely or profoundly intellectually disabled  
10 ~~mentally retarded~~ person, commits the offense of aggravated  
11 battery of a child.

12 (a-5) Any person of the age 18 years and upwards who  
13 intentionally or knowingly, and without legal justification  
14 and by any means, causes bodily harm or disability or  
15 disfigurement to any child under the age of 13 years or to any  
16 severely or profoundly intellectually disabled ~~mentally~~  
17 ~~retarded~~ person, commits the offense of aggravated battery of a  
18 child.

19 (b) Sentence.

20 (1) Aggravated battery of a child under subsection (a) of  
21 this Section is a Class X felony, except that:

22 (A) if the person committed the offense while armed  
23 with a firearm, 15 years shall be added to the term of  
24 imprisonment imposed by the court;

25 (B) if, during the commission of the offense, the

1 person personally discharged a firearm, 20 years shall be  
2 added to the term of imprisonment imposed by the court;

3 (C) if, during the commission of the offense, the  
4 person personally discharged a firearm that proximately  
5 caused great bodily harm, permanent disability, permanent  
6 disfigurement, or death to another person, 25 years or up  
7 to a term of natural life shall be added to the term of  
8 imprisonment imposed by the court.

9 (2) Aggravated battery of a child under subsection (a-5) of  
10 this Section is a Class 3 felony.

11 (Source: P.A. 95-768, eff. 1-1-09.)

12 (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)  
13 Sec. 12-14. Aggravated Criminal Sexual Assault.

14 (a) The accused commits aggravated criminal sexual assault  
15 if he or she commits criminal sexual assault and any of the  
16 following aggravating circumstances existed during, or for the  
17 purposes of paragraph (7) of this subsection (a) as part of the  
18 same course of conduct as, the commission of the offense:

19 (1) the accused displayed, threatened to use, or used a  
20 dangerous weapon, other than a firearm, or any object  
21 fashioned or utilized in such a manner as to lead the  
22 victim under the circumstances reasonably to believe it to  
23 be a dangerous weapon; or

24 (2) the accused caused bodily harm, except as provided  
25 in subsection (a) (10), to the victim; or

1           (3) the accused acted in such a manner as to threaten  
2 or endanger the life of the victim or any other person; or

3           (4) the criminal sexual assault was perpetrated during  
4 the course of the commission or attempted commission of any  
5 other felony by the accused; or

6           (5) the victim was 60 years of age or over when the  
7 offense was committed; or

8           (6) the victim was a physically handicapped person; or

9           (7) the accused delivered (by injection, inhalation,  
10 ingestion, transfer of possession, or any other means) to  
11 the victim without his or her consent, or by threat or  
12 deception, and for other than medical purposes, any  
13 controlled substance; or

14           (8) the accused was armed with a firearm; or

15           (9) the accused personally discharged a firearm during  
16 the commission of the offense; or

17           (10) the accused, during the commission of the offense,  
18 personally discharged a firearm that proximately caused  
19 great bodily harm, permanent disability, permanent  
20 disfigurement, or death to another person.

21           (b) The accused commits aggravated criminal sexual assault  
22 if the accused was under 17 years of age and (i) commits an act  
23 of sexual penetration with a victim who was under 9 years of  
24 age when the act was committed; or (ii) commits an act of  
25 sexual penetration with a victim who was at least 9 years of  
26 age but under 13 years of age when the act was committed and

1 the accused used force or threat of force to commit the act.

2 (c) The accused commits aggravated criminal sexual assault  
3 if he or she commits an act of sexual penetration with a victim  
4 who was a severely or profoundly intellectually disabled  
5 ~~mentally retarded~~ person at the time the act was committed.

6 (d) Sentence.

7 (1) Aggravated criminal sexual assault in violation of  
8 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)  
9 or in violation of subsection (b) or (c) is a Class X  
10 felony. A violation of subsection (a)(1) is a Class X  
11 felony for which 10 years shall be added to the term of  
12 imprisonment imposed by the court. A violation of  
13 subsection (a)(8) is a Class X felony for which 15 years  
14 shall be added to the term of imprisonment imposed by the  
15 court. A violation of subsection (a)(9) is a Class X felony  
16 for which 20 years shall be added to the term of  
17 imprisonment imposed by the court. A violation of  
18 subsection (a)(10) is a Class X felony for which 25 years  
19 or up to a term of natural life imprisonment shall be added  
20 to the term of imprisonment imposed by the court.

21 (2) A person who is convicted of a second or subsequent  
22 offense of aggravated criminal sexual assault, or who is  
23 convicted of the offense of aggravated criminal sexual  
24 assault after having previously been convicted of the  
25 offense of criminal sexual assault or the offense of  
26 predatory criminal sexual assault of a child, or who is

1 convicted of the offense of aggravated criminal sexual  
2 assault after having previously been convicted under the  
3 laws of this or any other state of an offense that is  
4 substantially equivalent to the offense of criminal sexual  
5 assault, the offense of aggravated criminal sexual assault  
6 or the offense of predatory criminal sexual assault of a  
7 child, shall be sentenced to a term of natural life  
8 imprisonment. The commission of the second or subsequent  
9 offense is required to have been after the initial  
10 conviction for this paragraph (2) to apply.

11 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502,  
12 eff. 12-19-01; 92-721, eff. 1-1-03.)

13 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

14 Sec. 12-16. Aggravated Criminal Sexual Abuse.

15 (a) The accused commits aggravated criminal sexual abuse if  
16 he or she commits criminal sexual abuse as defined in  
17 subsection (a) of Section 12-15 of this Code and any of the  
18 following aggravating circumstances existed during, or for the  
19 purposes of paragraph (7) of this subsection (a) as part of the  
20 same course of conduct as, the commission of the offense:

21 (1) the accused displayed, threatened to use or used a  
22 dangerous weapon or any object fashioned or utilized in  
23 such a manner as to lead the victim under the circumstances  
24 reasonably to believe it to be a dangerous weapon; or

25 (2) the accused caused bodily harm to the victim; or

1           (3) the victim was 60 years of age or over when the  
2 offense was committed; or

3           (4) the victim was a physically handicapped person; or

4           (5) the accused acted in such a manner as to threaten  
5 or endanger the life of the victim or any other person; or

6           (6) the criminal sexual abuse was perpetrated during  
7 the course of the commission or attempted commission of any  
8 other felony by the accused; or

9           (7) the accused delivered (by injection, inhalation,  
10 ingestion, transfer of possession, or any other means) to  
11 the victim without his or her consent, or by threat or  
12 deception, and for other than medical purposes, any  
13 controlled substance.

14           (b) The accused commits aggravated criminal sexual abuse if  
15 he or she commits an act of sexual conduct with a victim who  
16 was under 18 years of age when the act was committed and the  
17 accused was a family member.

18           (c) The accused commits aggravated criminal sexual abuse  
19 if:

20           (1) the accused was 17 years of age or over and (i)  
21 commits an act of sexual conduct with a victim who was  
22 under 13 years of age when the act was committed; or (ii)  
23 commits an act of sexual conduct with a victim who was at  
24 least 13 years of age but under 17 years of age when the  
25 act was committed and the accused used force or threat of  
26 force to commit the act; or

1           (2) the accused was under 17 years of age and (i)  
2           commits an act of sexual conduct with a victim who was  
3           under 9 years of age when the act was committed; or (ii)  
4           commits an act of sexual conduct with a victim who was at  
5           least 9 years of age but under 17 years of age when the act  
6           was committed and the accused used force or threat of force  
7           to commit the act.

8           (d) The accused commits aggravated criminal sexual abuse if  
9           he or she commits an act of sexual penetration or sexual  
10          conduct with a victim who was at least 13 years of age but  
11          under 17 years of age and the accused was at least 5 years  
12          older than the victim.

13          (e) The accused commits aggravated criminal sexual abuse if  
14          he or she commits an act of sexual conduct with a victim who  
15          was a severely or profoundly intellectually disabled ~~mentally~~  
16          ~~retarded~~ person at the time the act was committed.

17          (f) The accused commits aggravated criminal sexual abuse if  
18          he or she commits an act of sexual conduct with a victim who  
19          was at least 13 years of age but under 18 years of age when the  
20          act was committed and the accused was 17 years of age or over  
21          and held a position of trust, authority or supervision in  
22          relation to the victim.

23          (g) Sentence. Aggravated criminal sexual abuse is a Class 2  
24          felony.

25          (Source: P.A. 92-434, eff. 1-1-02.)

1 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

2 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care  
3 Facility Resident.

4 (a) Any person or any owner or licensee of a long term care  
5 facility who abuses a long term care facility resident is  
6 guilty of a Class 3 felony. Any person or any owner or licensee  
7 of a long term care facility who criminally neglects a long  
8 term care facility resident is guilty of a Class 4 felony. A  
9 person whose criminal neglect of a long term care facility  
10 resident results in the resident's death is guilty of a Class 3  
11 felony. However, nothing herein shall be deemed to apply to a  
12 physician licensed to practice medicine in all its branches or  
13 a duly licensed nurse providing care within the scope of his or  
14 her professional judgment and within the accepted standards of  
15 care within the community.

16 (b) Notwithstanding the penalties in subsections (a) and  
17 (c) and in addition thereto, if a licensee or owner of a long  
18 term care facility or his or her employee has caused neglect of  
19 a resident, the licensee or owner is guilty of a petty offense.  
20 An owner or licensee is guilty under this subsection (b) only  
21 if the owner or licensee failed to exercise reasonable care in  
22 the hiring, training, supervising or providing of staff or  
23 other related routine administrative responsibilities.

24 (c) Notwithstanding the penalties in subsections (a) and  
25 (b) and in addition thereto, if a licensee or owner of a long  
26 term care facility or his or her employee has caused gross



1 neglect of a resident, the licensee or owner is guilty of a  
2 business offense for which a fine of not more than \$10,000 may  
3 be imposed. An owner or licensee is guilty under this  
4 subsection (c) only if the owner or licensee failed to exercise  
5 reasonable care in the hiring, training, supervising or  
6 providing of staff or other related routine administrative  
7 responsibilities.

8 (d) For the purpose of this Section:

9 (1) "Abuse" means intentionally or knowingly causing  
10 any physical or mental injury or committing any sexual  
11 offense set forth in this Code.

12 (2) "Criminal neglect" means an act whereby a person  
13 recklessly (i) performs acts that cause an elderly person's  
14 or person with a disability's life to be endangered, health  
15 to be injured, or pre-existing physical or mental condition  
16 to deteriorate or that create the substantial likelihood  
17 that an elderly person's or person with a disability's life  
18 will be endangered, health will be injured, or pre-existing  
19 physical or mental condition will deteriorate, or (ii)  
20 fails to perform acts that he or she knows or reasonably  
21 should know are necessary to maintain or preserve the life  
22 or health of an elderly person or person with a disability,  
23 and that failure causes the elderly person's or person with  
24 a disability's life to be endangered, health to be injured,  
25 or pre-existing physical or mental condition to  
26 deteriorate or that create the substantial likelihood that

1 an elderly person's or person with a disability's life will  
2 be endangered, health will be injured, or pre-existing  
3 physical or mental condition will deteriorate, or (iii)  
4 abandons an elderly person or person with a disability.

5 (3) "Neglect" means negligently failing to provide  
6 adequate medical or personal care or maintenance, which  
7 failure results in physical or mental injury or the  
8 deterioration of a physical or mental condition.

9 (4) "Resident" means a person residing in a long term  
10 care facility.

11 (5) "Owner" means the person who owns a long term care  
12 facility as provided under the Nursing Home Care Act, a  
13 facility as provided under the ID/DD ~~MR/DD~~ Community Care  
14 Act, or an assisted living or shared housing establishment  
15 under the Assisted Living and Shared Housing Act.

16 (6) "Licensee" means the individual or entity licensed  
17 to operate a facility under the Nursing Home Care Act, the  
18 MR/DD Community Care Act, or the Assisted Living and Shared  
19 Housing Act.

20 (7) "Facility" or "long term care facility" means a  
21 private home, institution, building, residence, or any  
22 other place, whether operated for profit or not, or a  
23 county home for the infirm and chronically ill operated  
24 pursuant to Division 5-21 or 5-22 of the Counties Code, or  
25 any similar institution operated by the State of Illinois  
26 or a political subdivision thereof, which provides,

1 through its ownership or management, personal care,  
2 sheltered care or nursing for 3 or more persons not related  
3 to the owner by blood or marriage. The term also includes  
4 skilled nursing facilities and intermediate care  
5 facilities as defined in Title XVIII and Title XIX of the  
6 federal Social Security Act and assisted living  
7 establishments and shared housing establishments licensed  
8 under the Assisted Living and Shared Housing Act.

9 (e) Nothing contained in this Section shall be deemed to  
10 apply to the medical supervision, regulation or control of the  
11 remedial care or treatment of residents in a facility conducted  
12 for those who rely upon treatment by prayer or spiritual means  
13 in accordance with the creed or tenets of any well recognized  
14 church or religious denomination and which is licensed in  
15 accordance with Section 3-803 of the Nursing Home Care Act or  
16 Section 3-803 of the ID/DD ~~MR/DD~~ Community Care Act.

17 (Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.)

18 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

19 Sec. 12-21. Criminal abuse or neglect of an elderly person  
20 or person with a disability.

21 (a) A person commits the offense of criminal abuse or  
22 neglect of an elderly person or person with a disability when  
23 he or she is a caregiver and he or she knowingly:

24 (1) performs acts that cause the elderly person or  
25 person with a disability's life to be endangered, health to

1 be injured, or pre-existing physical or mental condition to  
2 deteriorate; or

3 (2) fails to perform acts that he or she knows or  
4 reasonably should know are necessary to maintain or  
5 preserve the life or health of the elderly person or person  
6 with a disability and such failure causes the elderly  
7 person or person with a disability's life to be endangered,  
8 health to be injured or pre-existing physical or mental  
9 condition to deteriorate; or

10 (3) abandons the elderly person or person with a  
11 disability; or

12 (4) physically abuses, harasses, intimidates, or  
13 interferes with the personal liberty of the elderly person  
14 or person with a disability or exposes the elderly person  
15 or person with a disability to willful deprivation.

16 Criminal abuse or neglect of an elderly person or person  
17 with a disability is a Class 3 felony. Criminal neglect of an  
18 elderly person or person with a disability is a Class 2 felony  
19 if the criminal neglect results in the death of the person  
20 neglected for which the defendant, if sentenced to a term of  
21 imprisonment, shall be sentenced to a term of not less than 3  
22 years and not more than 14 years.

23 (b) For purposes of this Section:

24 (1) "Elderly person" means a person 60 years of age or  
25 older who is incapable of adequately providing for his own  
26 health and personal care.

1           (2) "Person with a disability" means a person who  
2 suffers from a permanent physical or mental impairment,  
3 resulting from disease, injury, functional disorder or  
4 congenital condition which renders such person incapable  
5 of adequately providing for his own health and personal  
6 care.

7           (3) "Caregiver" means a person who has a duty to  
8 provide for an elderly person or person with a disability's  
9 health and personal care, at such person's place of  
10 residence, including but not limited to, food and  
11 nutrition, shelter, hygiene, prescribed medication and  
12 medical care and treatment.

13           "Caregiver" shall include:

14           (A) a parent, spouse, adult child or other relative  
15 by blood or marriage who resides with or resides in the  
16 same building with or regularly visits the elderly  
17 person or person with a disability, knows or reasonably  
18 should know of such person's physical or mental  
19 impairment and knows or reasonably should know that  
20 such person is unable to adequately provide for his own  
21 health and personal care;

22           (B) a person who is employed by the elderly person  
23 or person with a disability or by another to reside  
24 with or regularly visit the elderly person or person  
25 with a disability and provide for such person's health  
26 and personal care;

1 (C) a person who has agreed for consideration to  
2 reside with or regularly visit the elderly person or  
3 person with a disability and provide for such person's  
4 health and personal care; and

5 (D) a person who has been appointed by a private or  
6 public agency or by a court of competent jurisdiction  
7 to provide for the elderly person or person with a  
8 disability's health and personal care.

9 "Caregiver" shall not include a long-term care  
10 facility licensed or certified under the Nursing Home Care  
11 Act or a facility licensed or certified under the ID/DD  
12 ~~MR/DD~~ Community Care Act, or any administrative, medical or  
13 other personnel of such a facility, or a health care  
14 provider who is licensed under the Medical Practice Act of  
15 1987 and renders care in the ordinary course of his  
16 profession.

17 (4) "Abandon" means to desert or knowingly forsake an  
18 elderly person or person with a disability under  
19 circumstances in which a reasonable person would continue  
20 to provide care and custody.

21 (5) "Willful deprivation" has the meaning ascribed to  
22 it in paragraph (15) of Section 103 of the Illinois  
23 Domestic Violence Act of 1986.

24 (c) Nothing in this Section shall be construed to limit the  
25 remedies available to the victim under the Illinois Domestic  
26 Violence Act.

1 (d) Nothing in this Section shall be construed to impose  
2 criminal liability on a person who has made a good faith effort  
3 to provide for the health and personal care of an elderly  
4 person or person with a disability, but through no fault of his  
5 own has been unable to provide such care.

6 (e) Nothing in this Section shall be construed as  
7 prohibiting a person from providing treatment by spiritual  
8 means through prayer alone and care consistent therewith in  
9 lieu of medical care and treatment in accordance with the  
10 tenets and practices of any church or religious denomination of  
11 which the elderly person or person with a disability is a  
12 member.

13 (f) It is not a defense to criminal abuse or neglect of an  
14 elderly person or person with a disability that the accused  
15 reasonably believed that the victim was not an elderly person  
16 or person with a disability.

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

18 (720 ILCS 5/17-29)

19 Sec. 17-29. Businesses owned by minorities, females, and  
20 persons with disabilities; fraudulent contracts with  
21 governmental units.

22 (a) In this Section:

23 "Minority person" means a person who is: (1) African  
24 American (a person having origins in any of the black  
25 racial groups in Africa); (2) Hispanic (a person of Spanish

1 or Portuguese culture with origins in Mexico, South or  
2 Central America, or the Caribbean Islands, regardless of  
3 race); (3) Asian American (a person having origins in any  
4 of the original peoples of the Far East, Southeast Asia,  
5 the Indian Subcontinent or the Pacific Islands); or (4)  
6 Native American or Alaskan Native (a person having origins  
7 in any of the original peoples of North America).

8 "Female" means a person who is of the female gender.

9 "Person with a disability" means a person who is a  
10 person qualifying as being disabled.

11 "Disabled" means a severe physical or mental  
12 disability that: (1) results from: amputation, arthritis,  
13 autism, blindness, burn injury, cancer, cerebral palsy,  
14 cystic fibrosis, deafness, head injury, heart disease,  
15 hemiplegia, hemophilia, respiratory or pulmonary  
16 dysfunction, an intellectual disability ~~mental~~  
17 ~~retardation~~, mental illness, multiple sclerosis, muscular  
18 dystrophy, musculoskeletal disorders, neurological  
19 disorders, including stroke and epilepsy, paraplegia,  
20 quadriplegia and other spinal cord conditions, sickle cell  
21 anemia, specific learning disabilities, or end stage renal  
22 failure disease; and (2) substantially limits one or more  
23 of the person's major life activities.

24 "Minority owned business" means a business concern  
25 that is at least 51% owned by one or more minority persons,  
26 or in the case of a corporation, at least 51% of the stock



1 in which is owned by one or more minority persons; and the  
2 management and daily business operations of which are  
3 controlled by one or more of the minority individuals who  
4 own it.

5 "Female owned business" means a business concern that  
6 is at least 51% owned by one or more females, or, in the  
7 case of a corporation, at least 51% of the stock in which  
8 is owned by one or more females; and the management and  
9 daily business operations of which are controlled by one or  
10 more of the females who own it.

11 "Business owned by a person with a disability" means a  
12 business concern that is at least 51% owned by one or more  
13 persons with a disability and the management and daily  
14 business operations of which are controlled by one or more  
15 of the persons with disabilities who own it. A  
16 not-for-profit agency for persons with disabilities that  
17 is exempt from taxation under Section 501 of the Internal  
18 Revenue Code of 1986 is also considered a "business owned  
19 by a person with a disability".

20 "Governmental unit" means the State, a unit of local  
21 government, or school district.

22 (b) In addition to any other penalties imposed by law or by  
23 an ordinance or resolution of a unit of local government or  
24 school district, any individual or entity that knowingly  
25 obtains, or knowingly assists another to obtain, a contract  
26 with a governmental unit, or a subcontract or written

1 commitment for a subcontract under a contract with a  
2 governmental unit, by falsely representing that the individual  
3 or entity, or the individual or entity assisted, is a minority  
4 owned business, female owned business, or business owned by a  
5 person with a disability is guilty of a Class 2 felony,  
6 regardless of whether the preference for awarding the contract  
7 to a minority owned business, female owned business, or  
8 business owned by a person with a disability was established by  
9 statute or by local ordinance or resolution.

10 (c) In addition to any other penalties authorized by law,  
11 the court shall order that an individual or entity convicted of  
12 a violation of this Section must pay to the governmental unit  
13 that awarded the contract a penalty equal to one and one-half  
14 times the amount of the contract obtained because of the false  
15 representation.

16 (Source: P.A. 94-126, eff. 1-1-06; 94-863, eff. 6-16-06.)

17 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

18 Sec. 24-3. Unlawful Sale of Firearms.

19 (A) A person commits the offense of unlawful sale of  
20 firearms when he or she knowingly does any of the following:

21 (a) Sells or gives any firearm of a size which may be  
22 concealed upon the person to any person under 18 years of  
23 age.

24 (b) Sells or gives any firearm to a person under 21  
25 years of age who has been convicted of a misdemeanor other

1 than a traffic offense or adjudged delinquent.

2 (c) Sells or gives any firearm to any narcotic addict.

3 (d) Sells or gives any firearm to any person who has  
4 been convicted of a felony under the laws of this or any  
5 other jurisdiction.

6 (e) Sells or gives any firearm to any person who has  
7 been a patient in a mental hospital within the past 5  
8 years.

9 (f) Sells or gives any firearms to any person who is  
10 intellectually disabled ~~mentally retarded~~.

11 (g) Delivers any firearm of a size which may be  
12 concealed upon the person, incidental to a sale, without  
13 withholding delivery of such firearm for at least 72 hours  
14 after application for its purchase has been made, or  
15 delivers any rifle, shotgun or other long gun, or a stun  
16 gun or taser, incidental to a sale, without withholding  
17 delivery of such rifle, shotgun or other long gun, or a  
18 stun gun or taser for at least 24 hours after application  
19 for its purchase has been made. However, this paragraph (g)  
20 does not apply to: (1) the sale of a firearm to a law  
21 enforcement officer if the seller of the firearm knows that  
22 the person to whom he or she is selling the firearm is a  
23 law enforcement officer or the sale of a firearm to a  
24 person who desires to purchase a firearm for use in  
25 promoting the public interest incident to his or her  
26 employment as a bank guard, armed truck guard, or other

1 similar employment; (2) a mail order sale of a firearm to a  
2 nonresident of Illinois under which the firearm is mailed  
3 to a point outside the boundaries of Illinois; (3) the sale  
4 of a firearm to a nonresident of Illinois while at a  
5 firearm showing or display recognized by the Illinois  
6 Department of State Police; or (4) the sale of a firearm to  
7 a dealer licensed as a federal firearms dealer under  
8 Section 923 of the federal Gun Control Act of 1968 (18  
9 U.S.C. 923). For purposes of this paragraph (g),  
10 "application" means when the buyer and seller reach an  
11 agreement to purchase a firearm.

12 (h) While holding any license as a dealer, importer,  
13 manufacturer or pawnbroker under the federal Gun Control  
14 Act of 1968, manufactures, sells or delivers to any  
15 unlicensed person a handgun having a barrel, slide, frame  
16 or receiver which is a die casting of zinc alloy or any  
17 other nonhomogeneous metal which will melt or deform at a  
18 temperature of less than 800 degrees Fahrenheit. For  
19 purposes of this paragraph, (1) "firearm" is defined as in  
20 the Firearm Owners Identification Card Act; and (2)  
21 "handgun" is defined as a firearm designed to be held and  
22 fired by the use of a single hand, and includes a  
23 combination of parts from which such a firearm can be  
24 assembled.

25 (i) Sells or gives a firearm of any size to any person  
26 under 18 years of age who does not possess a valid Firearm

1 Owner's Identification Card.

2 (j) Sells or gives a firearm while engaged in the  
3 business of selling firearms at wholesale or retail without  
4 being licensed as a federal firearms dealer under Section  
5 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).  
6 In this paragraph (j):

7 A person "engaged in the business" means a person who  
8 devotes time, attention, and labor to engaging in the  
9 activity as a regular course of trade or business with the  
10 principal objective of livelihood and profit, but does not  
11 include a person who makes occasional repairs of firearms  
12 or who occasionally fits special barrels, stocks, or  
13 trigger mechanisms to firearms.

14 "With the principal objective of livelihood and  
15 profit" means that the intent underlying the sale or  
16 disposition of firearms is predominantly one of obtaining  
17 livelihood and pecuniary gain, as opposed to other intents,  
18 such as improving or liquidating a personal firearms  
19 collection; however, proof of profit shall not be required  
20 as to a person who engages in the regular and repetitive  
21 purchase and disposition of firearms for criminal purposes  
22 or terrorism.

23 (k) Sells or transfers ownership of a firearm to a  
24 person who does not display to the seller or transferor of  
25 the firearm a currently valid Firearm Owner's  
26 Identification Card that has previously been issued in the

1 transferee's name by the Department of State Police under  
2 the provisions of the Firearm Owners Identification Card  
3 Act. This paragraph (k) does not apply to the transfer of a  
4 firearm to a person who is exempt from the requirement of  
5 possessing a Firearm Owner's Identification Card under  
6 Section 2 of the Firearm Owners Identification Card Act.  
7 For the purposes of this Section, a currently valid Firearm  
8 Owner's Identification Card means (i) a Firearm Owner's  
9 Identification Card that has not expired or (ii) if the  
10 transferor is licensed as a federal firearms dealer under  
11 Section 923 of the federal Gun Control Act of 1968 (18  
12 U.S.C. 923), an approval number issued in accordance with  
13 Section 3.1 of the Firearm Owners Identification Card Act  
14 shall be proof that the Firearm Owner's Identification Card  
15 was valid.

16 (B) Paragraph (h) of subsection (A) does not include  
17 firearms sold within 6 months after enactment of Public Act  
18 78-355 (approved August 21, 1973, effective October 1, 1973),  
19 nor is any firearm legally owned or possessed by any citizen or  
20 purchased by any citizen within 6 months after the enactment of  
21 Public Act 78-355 subject to confiscation or seizure under the  
22 provisions of that Public Act. Nothing in Public Act 78-355  
23 shall be construed to prohibit the gift or trade of any firearm  
24 if that firearm was legally held or acquired within 6 months  
25 after the enactment of that Public Act.

26 (C) Sentence.

1           (1) Any person convicted of unlawful sale of firearms  
2           in violation of paragraph (c), (e), (f), (g), or (h) of  
3           subsection (A) commits a Class 4 felony.

4           (2) Any person convicted of unlawful sale of firearms  
5           in violation of paragraph (b) or (i) of subsection (A)  
6           commits a Class 3 felony.

7           (3) Any person convicted of unlawful sale of firearms  
8           in violation of paragraph (a) of subsection (A) commits a  
9           Class 2 felony.

10          (4) Any person convicted of unlawful sale of firearms  
11          in violation of paragraph (a), (b), or (i) of subsection  
12          (A) in any school, on the real property comprising a  
13          school, within 1,000 feet of the real property comprising a  
14          school, at a school related activity, or on or within 1,000  
15          feet of any conveyance owned, leased, or contracted by a  
16          school or school district to transport students to or from  
17          school or a school related activity, regardless of the time  
18          of day or time of year at which the offense was committed,  
19          commits a Class 1 felony. Any person convicted of a second  
20          or subsequent violation of unlawful sale of firearms in  
21          violation of paragraph (a), (b), or (i) of subsection (A)  
22          in any school, on the real property comprising a school,  
23          within 1,000 feet of the real property comprising a school,  
24          at a school related activity, or on or within 1,000 feet of  
25          any conveyance owned, leased, or contracted by a school or  
26          school district to transport students to or from school or

1 a school related activity, regardless of the time of day or  
2 time of year at which the offense was committed, commits a  
3 Class 1 felony for which the sentence shall be a term of  
4 imprisonment of no less than 5 years and no more than 15  
5 years.

6 (5) Any person convicted of unlawful sale of firearms  
7 in violation of paragraph (a) or (i) of subsection (A) in  
8 residential property owned, operated, or managed by a  
9 public housing agency or leased by a public housing agency  
10 as part of a scattered site or mixed-income development, in  
11 a public park, in a courthouse, on residential property  
12 owned, operated, or managed by a public housing agency or  
13 leased by a public housing agency as part of a scattered  
14 site or mixed-income development, on the real property  
15 comprising any public park, on the real property comprising  
16 any courthouse, or on any public way within 1,000 feet of  
17 the real property comprising any public park, courthouse,  
18 or residential property owned, operated, or managed by a  
19 public housing agency or leased by a public housing agency  
20 as part of a scattered site or mixed-income development  
21 commits a Class 2 felony.

22 (6) Any person convicted of unlawful sale of firearms  
23 in violation of paragraph (j) of subsection (A) commits a  
24 Class A misdemeanor. A second or subsequent violation is a  
25 Class 4 felony.

26 (7) Any person convicted of unlawful sale of firearms



1 in violation of paragraph (k) of subsection (A) commits a  
2 Class 4 felony. A third or subsequent conviction for a  
3 violation of paragraph (k) of subsection (A) is a Class 1  
4 felony.

5 (8) A person 18 years of age or older convicted of  
6 unlawful sale of firearms in violation of paragraph (a) or  
7 (i) of subsection (A), when the firearm that was sold or  
8 given to another person under 18 years of age was used in  
9 the commission of or attempt to commit a forcible felony,  
10 shall be fined or imprisoned, or both, not to exceed the  
11 maximum provided for the most serious forcible felony so  
12 committed or attempted by the person under 18 years of age  
13 who was sold or given the firearm.

14 (9) Any person convicted of unlawful sale of firearms  
15 in violation of paragraph (d) of subsection (A) commits a  
16 Class 3 felony.

17 (D) For purposes of this Section:

18 "School" means a public or private elementary or secondary  
19 school, community college, college, or university.

20 "School related activity" means any sporting, social,  
21 academic, or other activity for which students' attendance or  
22 participation is sponsored, organized, or funded in whole or in  
23 part by a school or school district.

24 (E) A prosecution for a violation of paragraph (k) of  
25 subsection (A) of this Section may be commenced within 6 years  
26 after the commission of the offense. A prosecution for a

1 violation of this Section other than paragraph (g) of  
2 subsection (A) of this Section may be commenced within 5 years  
3 after the commission of the offense defined in the particular  
4 paragraph.

5 (Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08;  
6 96-190, eff. 1-1-10.)

7 (720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

8 Sec. 24-3.1. Unlawful possession of firearms and firearm  
9 ammunition.

10 (a) A person commits the offense of unlawful possession of  
11 firearms or firearm ammunition when:

12 (1) He is under 18 years of age and has in his  
13 possession any firearm of a size which may be concealed  
14 upon the person; or

15 (2) He is under 21 years of age, has been convicted of  
16 a misdemeanor other than a traffic offense or adjudged  
17 delinquent and has any firearms or firearm ammunition in  
18 his possession; or

19 (3) He is a narcotic addict and has any firearms or  
20 firearm ammunition in his possession; or

21 (4) He has been a patient in a mental hospital within  
22 the past 5 years and has any firearms or firearm ammunition  
23 in his possession; or

24 (5) He is intellectually disabled ~~mentally retarded~~  
25 and has any firearms or firearm ammunition in his

1 possession; or

2 (6) He has in his possession any explosive bullet.

3 For purposes of this paragraph "explosive bullet" means the  
4 projectile portion of an ammunition cartridge which contains or  
5 carries an explosive charge which will explode upon contact  
6 with the flesh of a human or an animal. "Cartridge" means a  
7 tubular metal case having a projectile affixed at the front  
8 thereof and a cap or primer at the rear end thereof, with the  
9 propellant contained in such tube between the projectile and  
10 the cap.

11 (b) Sentence.

12 Unlawful possession of firearms, other than handguns, and  
13 firearm ammunition is a Class A misdemeanor. Unlawful  
14 possession of handguns is a Class 4 felony. The possession of  
15 each firearm or firearm ammunition in violation of this Section  
16 constitutes a single and separate violation.

17 (c) Nothing in paragraph (1) of subsection (a) of this  
18 Section prohibits a person under 18 years of age from  
19 participating in any lawful recreational activity with a  
20 firearm such as, but not limited to, practice shooting at  
21 targets upon established public or private target ranges or  
22 hunting, trapping, or fishing in accordance with the Wildlife  
23 Code or the Fish and Aquatic Life Code.

24 (Source: P.A. 94-284, eff. 7-21-05; 95-331, eff. 8-21-07.)

25 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

1           Sec. 26-1. Elements of the Offense.

2           (a) A person commits disorderly conduct when he knowingly:

3                 (1) Does any act in such unreasonable manner as to  
4                 alarm or disturb another and to provoke a breach of the  
5                 peace; or

6                 (2) Transmits or causes to be transmitted in any manner  
7                 to the fire department of any city, town, village or fire  
8                 protection district a false alarm of fire, knowing at the  
9                 time of such transmission that there is no reasonable  
10                ground for believing that such fire exists; or

11                (3) Transmits or causes to be transmitted in any manner  
12                to another a false alarm to the effect that a bomb or other  
13                explosive of any nature or a container holding poison gas,  
14                a deadly biological or chemical contaminant, or  
15                radioactive substance is concealed in such place that its  
16                explosion or release would endanger human life, knowing at  
17                the time of such transmission that there is no reasonable  
18                ground for believing that such bomb, explosive or a  
19                container holding poison gas, a deadly biological or  
20                chemical contaminant, or radioactive substance is  
21                concealed in such place; or

22                (4) Transmits or causes to be transmitted in any manner  
23                to any peace officer, public officer or public employee a  
24                report to the effect that an offense will be committed, is  
25                being committed, or has been committed, knowing at the time  
26                of such transmission that there is no reasonable ground for

1 believing that such an offense will be committed, is being  
2 committed, or has been committed; or

3 (5) Enters upon the property of another and for a lewd  
4 or unlawful purpose deliberately looks into a dwelling on  
5 the property through any window or other opening in it; or

6 (6) While acting as a collection agency as defined in  
7 the "Collection Agency Act" or as an employee of such  
8 collection agency, and while attempting to collect an  
9 alleged debt, makes a telephone call to the alleged debtor  
10 which is designed to harass, annoy or intimidate the  
11 alleged debtor; or

12 (7) Transmits or causes to be transmitted a false  
13 report to the Department of Children and Family Services  
14 under Section 4 of the "Abused and Neglected Child  
15 Reporting Act"; or

16 (8) Transmits or causes to be transmitted a false  
17 report to the Department of Public Health under the Nursing  
18 Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; or

19 (9) Transmits or causes to be transmitted in any manner  
20 to the police department or fire department of any  
21 municipality or fire protection district, or any privately  
22 owned and operated ambulance service, a false request for  
23 an ambulance, emergency medical technician-ambulance or  
24 emergency medical technician-paramedic knowing at the time  
25 there is no reasonable ground for believing that such  
26 assistance is required; or

1           (10) Transmits or causes to be transmitted a false  
2           report under Article II of "An Act in relation to victims  
3           of violence and abuse", approved September 16, 1984, as  
4           amended; or

5           (11) Transmits or causes to be transmitted a false  
6           report to any public safety agency without the reasonable  
7           grounds necessary to believe that transmitting such a  
8           report is necessary for the safety and welfare of the  
9           public; or

10          (12) Calls the number "911" for the purpose of making  
11          or transmitting a false alarm or complaint and reporting  
12          information when, at the time the call or transmission is  
13          made, the person knows there is no reasonable ground for  
14          making the call or transmission and further knows that the  
15          call or transmission could result in the emergency response  
16          of any public safety agency; or

17          (13) Transmits or causes to be transmitted a threat of  
18          destruction of a school building or school property, or a  
19          threat of violence, death, or bodily harm directed against  
20          persons at a school, school function, or school event,  
21          whether or not school is in session.

22          (b) Sentence. A violation of subsection (a)(1) of this  
23          Section is a Class C misdemeanor. A violation of subsection  
24          (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A  
25          violation of subsection (a)(8) or (a)(10) of this Section is a  
26          Class B misdemeanor. A violation of subsection (a)(2), (a)(4),

1 (a) (7), (a) (9), (a) (12), or (a) (13) of this Section is a Class  
2 4 felony. A violation of subsection (a) (3) of this Section is a  
3 Class 3 felony, for which a fine of not less than \$3,000 and no  
4 more than \$10,000 shall be assessed in addition to any other  
5 penalty imposed.

6 A violation of subsection (a) (6) of this Section is a  
7 Business Offense and shall be punished by a fine not to exceed  
8 \$3,000. A second or subsequent violation of subsection (a) (7)  
9 or (a) (11) of this Section is a Class 4 felony. A third or  
10 subsequent violation of subsection (a) (5) of this Section is a  
11 Class 4 felony.

12 (c) In addition to any other sentence that may be imposed,  
13 a court shall order any person convicted of disorderly conduct  
14 to perform community service for not less than 30 and not more  
15 than 120 hours, if community service is available in the  
16 jurisdiction and is funded and approved by the county board of  
17 the county where the offense was committed. In addition,  
18 whenever any person is placed on supervision for an alleged  
19 offense under this Section, the supervision shall be  
20 conditioned upon the performance of the community service.

21 This subsection does not apply when the court imposes a  
22 sentence of incarceration.

23 (d) In addition to any other sentence that may be imposed,  
24 the court shall order any person convicted of disorderly  
25 conduct under paragraph (3) of subsection (a) involving a false  
26 alarm of a threat that a bomb or explosive device has been

1 placed in a school to reimburse the unit of government that  
2 employs the emergency response officer or officers that were  
3 dispatched to the school for the cost of the search for a bomb  
4 or explosive device. For the purposes of this Section,  
5 "emergency response" means any incident requiring a response by  
6 a police officer, a firefighter, a State Fire Marshal employee,  
7 or an ambulance.

8 (Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09;  
9 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff.  
10 1-1-11.)

11 Section 140. The Code of Criminal Procedure of 1963 is  
12 amended by changing Sections 102-23, 106B-5, 114-15, 115-10,  
13 and 122-2.2 as follows:

14 (725 ILCS 5/102-23)

15 Sec. 102-23. "Moderately intellectually disabled ~~mentally~~  
16 ~~retarded~~ person" means a person whose intelligence quotient is  
17 between 41 and 55 and who does not suffer from significant  
18 mental illness to the extent that the person's ability to  
19 exercise rational judgment is impaired.

20 (Source: P.A. 92-434, eff. 1-1-02.)

21 (725 ILCS 5/106B-5)

22 Sec. 106B-5. Testimony by a victim who is a child or a  
23 moderately, severely, or profoundly intellectually disabled



1 ~~mentally-retarded~~ person or a person affected by a  
2 developmental disability.

3 (a) In a proceeding in the prosecution of an offense of  
4 criminal sexual assault, predatory criminal sexual assault of a  
5 child, aggravated criminal sexual assault, criminal sexual  
6 abuse, or aggravated criminal sexual abuse, a court may order  
7 that the testimony of a victim who is a child under the age of  
8 18 years or a moderately, severely, or profoundly  
9 intellectually disabled ~~mentally-retarded~~ person or a person  
10 affected by a developmental disability be taken outside the  
11 courtroom and shown in the courtroom by means of a closed  
12 circuit television if:

13 (1) the testimony is taken during the proceeding; and

14 (2) the judge determines that testimony by the child  
15 victim or moderately, severely, or profoundly  
16 intellectually disabled ~~mentally-retarded~~ victim or victim  
17 affected by a developmental disability in the courtroom  
18 will result in the child or moderately, severely, or  
19 profoundly intellectually disabled ~~mentally-retarded~~  
20 person or person affected by a developmental disability  
21 suffering serious emotional distress such that the child or  
22 moderately, severely, or profoundly intellectually  
23 disabled ~~mentally-retarded~~ person or person affected by a  
24 developmental disability cannot reasonably communicate or  
25 that the child or moderately, severely, or profoundly  
26 intellectually disabled ~~mentally-retarded~~ person or person

1 affected by a developmental disability will suffer severe  
2 emotional distress that is likely to cause the child or  
3 moderately, severely, or profoundly intellectually  
4 disabled ~~mentally retarded~~ person or person affected by a  
5 developmental disability to suffer severe adverse effects.

6 (b) Only the prosecuting attorney, the attorney for the  
7 defendant, and the judge may question the child or moderately,  
8 severely, or profoundly intellectually disabled ~~mentally~~  
9 ~~retarded~~ person or person affected by a developmental  
10 disability.

11 (c) The operators of the closed circuit television shall  
12 make every effort to be unobtrusive.

13 (d) Only the following persons may be in the room with the  
14 child or moderately, severely, or profoundly intellectually  
15 disabled ~~mentally retarded~~ person or person affected by a  
16 developmental disability when the child or moderately,  
17 severely, or profoundly intellectually disabled ~~mentally~~  
18 ~~retarded~~ person or person affected by a developmental  
19 disability testifies by closed circuit television:

20 (1) the prosecuting attorney;

21 (2) the attorney for the defendant;

22 (3) the judge;

23 (4) the operators of the closed circuit television  
24 equipment; and

25 (5) any person or persons whose presence, in the  
26 opinion of the court, contributes to the well-being of the

1 child or moderately, severely, or profoundly  
2 intellectually disabled ~~mentally retarded~~ person or person  
3 affected by a developmental disability, including a person  
4 who has dealt with the child in a therapeutic setting  
5 concerning the abuse, a parent or guardian of the child or  
6 moderately, severely, or profoundly intellectually  
7 disabled ~~mentally retarded~~ person or person affected by a  
8 developmental disability, and court security personnel.

9 (e) During the child's or moderately, severely, or  
10 profoundly intellectually disabled ~~mentally retarded~~ person's  
11 or person affected by a developmental disability's testimony by  
12 closed circuit television, the defendant shall be in the  
13 courtroom and shall not communicate with the jury if the cause  
14 is being heard before a jury.

15 (f) The defendant shall be allowed to communicate with the  
16 persons in the room where the child or moderately, severely, or  
17 profoundly intellectually disabled ~~mentally retarded~~ person or  
18 person affected by a developmental disability is testifying by  
19 any appropriate electronic method.

20 (g) The provisions of this Section do not apply if the  
21 defendant represents himself pro se.

22 (h) This Section may not be interpreted to preclude, for  
23 purposes of identification of a defendant, the presence of both  
24 the victim and the defendant in the courtroom at the same time.

25 (i) This Section applies to prosecutions pending on or  
26 commenced on or after the effective date of this amendatory Act

1 of 1994.

2 (j) For the purposes of this Section, "developmental  
3 disability" includes, but is not limited to, cerebral palsy,  
4 epilepsy, and autism.

5 (Source: P.A. 95-897, eff. 1-1-09.)

6 (725 ILCS 5/114-15)

7 Sec. 114-15. Intellectual disability ~~Mental retardation~~.

8 (a) In a first degree murder case in which the State seeks  
9 the death penalty as an appropriate sentence, any party may  
10 raise the issue of the defendant's intellectual disabilities  
11 ~~mental retardation~~ by motion. A defendant wishing to raise the  
12 issue of his or her intellectual disabilities ~~mental~~  
13 ~~retardation~~ shall provide written notice to the State and the  
14 court as soon as the defendant reasonably believes such issue  
15 will be raised.

16 (b) The issue of the defendant's intellectual disabilities  
17 ~~mental retardation~~ shall be determined in a pretrial hearing.  
18 The court shall be the fact finder on the issue of the  
19 defendant's intellectual disabilities ~~mental retardation~~ and  
20 shall determine the issue by a preponderance of evidence in  
21 which the moving party has the burden of proof. The court may  
22 appoint an expert in the field of intellectual disabilities  
23 ~~mental retardation~~. The defendant and the State may offer  
24 experts from the field of intellectual disabilities ~~mental~~  
25 ~~retardation~~. The court shall determine admissibility of

1 evidence and qualification as an expert.

2 (c) If after a plea of guilty to first degree murder, or a  
3 finding of guilty of first degree murder in a bench trial, or a  
4 verdict of guilty for first degree murder in a jury trial, or  
5 on a matter remanded from the Supreme Court for sentencing for  
6 first degree murder, and the State seeks the death penalty as  
7 an appropriate sentence, the defendant may raise the issue of  
8 defendant's intellectual disabilities ~~mental retardation~~ not  
9 at eligibility but at aggravation and mitigation. The defendant  
10 and the State may offer experts from the field of intellectual  
11 disabilities ~~mental retardation~~. The court shall determine  
12 admissibility of evidence and qualification as an expert.

13 (d) In determining whether the defendant is intellectually  
14 disabled ~~mentally retarded~~, the intellectual disability ~~mental~~  
15 ~~retardation~~ must have manifested itself by the age of 18. IQ  
16 tests and psychometric tests administered to the defendant must  
17 be the kind and type recognized by experts in the field of  
18 intellectual disabilities ~~mental retardation~~. In order for the  
19 defendant to be considered intellectually disabled ~~mentally~~  
20 ~~retarded~~, a low IQ must be accompanied by significant deficits  
21 in adaptive behavior in at least 2 of the following skill  
22 areas: communication, self-care, social or interpersonal  
23 skills, home living, self-direction, academics, health and  
24 safety, use of community resources, and work. An intelligence  
25 quotient (IQ) of 75 or below is presumptive evidence of an  
26 intellectual disability ~~mental retardation~~.

1           (e) Evidence of an intellectual disability ~~mental~~  
2 ~~retardation~~ that did not result in disqualifying the case as a  
3 capital case, may be introduced as evidence in mitigation  
4 during a capital sentencing hearing. A failure of the court to  
5 determine that the defendant is intellectually disabled  
6 ~~mentally retarded~~ does not preclude the court during trial from  
7 allowing evidence relating to mental disability should the  
8 court deem it appropriate.

9           (f) If the court determines at a pretrial hearing or after  
10 remand that a capital defendant is intellectually disabled  
11 ~~mentally retarded~~, and the State does not appeal pursuant to  
12 Supreme Court Rule 604, the case shall no longer be considered  
13 a capital case and the procedural guidelines established for  
14 capital cases shall no longer be applicable to the defendant.  
15 In that case, the defendant shall be sentenced under the  
16 sentencing provisions of Chapter V of the Unified Code of  
17 Corrections.

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

19           (725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

20           Sec. 115-10. Certain hearsay exceptions.

21           (a) In a prosecution for a physical or sexual act  
22 perpetrated upon or against a child under the age of 13, or a  
23 person who was a moderately, severely, or profoundly  
24 intellectually disabled ~~mentally retarded~~ person as defined in  
25 this Code and in Section 2-10.1 of the Criminal Code of 1961 at

1 the time the act was committed, including but not limited to  
2 prosecutions for violations of Sections 12-13 through 12-16 of  
3 the Criminal Code of 1961 and prosecutions for violations of  
4 Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3  
5 (unlawful restraint), 10-3.1 (aggravated unlawful restraint),  
6 10-4 (forcible detention), 10-5 (child abduction), 10-6  
7 (harboring a runaway), 10-7 (aiding or abetting child  
8 abduction), 11-9 (public indecency), 11-11 (sexual relations  
9 within families), 11-21 (harmful material), 12-1 (assault),  
10 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic  
11 battery), 12-4 (aggravated battery), 12-4.1 (heinous battery),  
12 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated  
13 battery of a child), 12-4.7 (drug induced infliction of great  
14 bodily harm), 12-5 (reckless conduct), 12-6 (intimidation),  
15 12-6.1 (compelling organization membership of persons), 12-7.1  
16 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking),  
17 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5  
18 (child abandonment), 12-21.6 (endangering the life or health of  
19 a child) or 12-32 (ritual mutilation) of the Criminal Code of  
20 1961 or any sex offense as defined in subsection (B) of Section  
21 2 of the Sex Offender Registration Act, the following evidence  
22 shall be admitted as an exception to the hearsay rule:

23 (1) testimony by the victim of an out of court  
24 statement made by the victim that he or she complained of  
25 such act to another; and

26 (2) testimony of an out of court statement made by the

1 victim describing any complaint of such act or matter or  
2 detail pertaining to any act which is an element of an  
3 offense which is the subject of a prosecution for a sexual  
4 or physical act against that victim.

5 (b) Such testimony shall only be admitted if:

6 (1) The court finds in a hearing conducted outside the  
7 presence of the jury that the time, content, and  
8 circumstances of the statement provide sufficient  
9 safeguards of reliability; and

10 (2) The child or moderately, severely, or profoundly  
11 intellectually disabled ~~mentally retarded~~ person either:

12 (A) testifies at the proceeding; or

13 (B) is unavailable as a witness and there is  
14 corroborative evidence of the act which is the subject  
15 of the statement; and

16 (3) In a case involving an offense perpetrated against  
17 a child under the age of 13, the out of court statement was  
18 made before the victim attained 13 years of age or within 3  
19 months after the commission of the offense, whichever  
20 occurs later, but the statement may be admitted regardless  
21 of the age of the victim at the time of the proceeding.

22 (c) If a statement is admitted pursuant to this Section,  
23 the court shall instruct the jury that it is for the jury to  
24 determine the weight and credibility to be given the statement  
25 and that, in making the determination, it shall consider the  
26 age and maturity of the child, or the intellectual capabilities



1 of the moderately, severely, or profoundly intellectually  
2 disabled ~~mentally retarded~~ person, the nature of the statement,  
3 the circumstances under which the statement was made, and any  
4 other relevant factor.

5 (d) The proponent of the statement shall give the adverse  
6 party reasonable notice of his intention to offer the statement  
7 and the particulars of the statement.

8 (e) Statements described in paragraphs (1) and (2) of  
9 subsection (a) shall not be excluded on the basis that they  
10 were obtained as a result of interviews conducted pursuant to a  
11 protocol adopted by a Child Advocacy Advisory Board as set  
12 forth in subsections (c), (d), and (e) of Section 3 of the  
13 Children's Advocacy Center Act or that an interviewer or  
14 witness to the interview was or is an employee, agent, or  
15 investigator of a State's Attorney's office.

16 (Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

17 (725 ILCS 5/122-2.2)

18 Sec. 122-2.2. Intellectual disability ~~Mental retardation~~  
19 and post-conviction relief.

20 (a) In cases where no determination of an intellectual  
21 disability ~~mental retardation~~ was made and a defendant has been  
22 convicted of first-degree murder, sentenced to death, and is in  
23 custody pending execution of the sentence of death, the  
24 following procedures shall apply:

25 (1) Notwithstanding any other provision of law or rule

1 of court, a defendant may seek relief from the death  
2 sentence through a petition for post-conviction relief  
3 under this Article alleging that the defendant was  
4 intellectually disabled ~~mentally retarded~~ as defined in  
5 Section 114-15 at the time the offense was alleged to have  
6 been committed.

7 (2) The petition must be filed within 180 days of the  
8 effective date of this amendatory Act of the 93rd General  
9 Assembly or within 180 days of the issuance of the mandate  
10 by the Illinois Supreme Court setting the date of  
11 execution, whichever is later.

12 (3) All other provisions of this Article governing  
13 petitions for post-conviction relief shall apply to a petition  
14 for post-conviction relief alleging an intellectual disability  
15 ~~mental retardation~~.

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

17 Section 145. The Unified Code of Corrections is amended by  
18 changing Sections 5-1-8, 5-1-13, 5-2-6, and 5-5-3.1 as follows:

19 (730 ILCS 5/5-1-8) (from Ch. 38, par. 1005-1-8)

20 Sec. 5-1-8. Defendant in Need of Mental Treatment.

21 "Defendant in need of mental treatment" means any defendant  
22 afflicted with a mental disorder, not including a person who is  
23 intellectually disabled ~~mentally retarded~~, if that defendant,  
24 as a result of such mental disorder, is reasonably expected at

1 the time of determination or within a reasonable time  
2 thereafter to intentionally or unintentionally physically  
3 injure himself or other persons, or is unable to care for  
4 himself so as to guard himself from physical injury or to  
5 provide for his own physical needs.

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

7 (730 ILCS 5/5-1-13) (from Ch. 38, par. 1005-1-13)

8 Sec. 5-1-13. Intellectually Disabled ~~Mentally Retarded~~.

9 "Intellectually disabled" ~~Mentally retarded~~ and  
10 "intellectual disability ~~mental retardation~~" mean sub-average  
11 general intellectual functioning generally originating during  
12 the developmental period and associated with impairment in  
13 adaptive behavior reflected in delayed maturation or reduced  
14 learning ability or inadequate social adjustment.

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

16 (730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

17 Sec. 5-2-6. Sentencing and Treatment of Defendant Found  
18 Guilty but Mentally Ill.

19 (a) After a plea or verdict of guilty but mentally ill  
20 under Sections 115-2, 115-3 or 115-4 of the Code of Criminal  
21 Procedure of 1963, the court shall order a presentence  
22 investigation and report pursuant to Sections 5-3-1 and 5-3-2  
23 of this Act, and shall set a date for a sentencing hearing. The  
24 court may impose any sentence upon the defendant which could be

1 imposed pursuant to law upon a defendant who had been convicted  
2 of the same offense without a finding of mental illness.

3 (b) If the court imposes a sentence of imprisonment upon a  
4 defendant who has been found guilty but mentally ill, the  
5 defendant shall be committed to the Department of Corrections,  
6 which shall cause periodic inquiry and examination to be made  
7 concerning the nature, extent, continuance, and treatment of  
8 the defendant's mental illness. The Department of Corrections  
9 shall provide such psychiatric, psychological, or other  
10 counseling and treatment for the defendant as it determines  
11 necessary.

12 (c) The Department of Corrections may transfer the  
13 defendant's custody to the Department of Human Services in  
14 accordance with the provisions of Section 3-8-5 of this Act.

15 (d) (1) The Department of Human Services shall return to  
16 the Department of Corrections any person committed to it  
17 pursuant to this Section whose sentence has not expired and  
18 whom the Department of Human Services deems no longer requires  
19 hospitalization for mental treatment, an intellectual  
20 disability ~~mental retardation~~, or addiction.

21 (2) The Department of Corrections shall notify the  
22 Secretary of Human Services of the expiration of the sentence  
23 of any person transferred to the Department of Human Services  
24 under this Section. If the Department of Human Services  
25 determines that any such person requires further  
26 hospitalization, it shall file an appropriate petition for

1 involuntary commitment pursuant to the Mental Health and  
2 Developmental Disabilities Code.

3 (e) (1) All persons found guilty but mentally ill, whether  
4 by plea or by verdict, who are placed on probation or sentenced  
5 to a term of periodic imprisonment or a period of conditional  
6 discharge shall be required to submit to a course of mental  
7 treatment prescribed by the sentencing court.

8 (2) The course of treatment prescribed by the court shall  
9 reasonably assure the defendant's satisfactory progress in  
10 treatment or habilitation and for the safety of the defendant  
11 and others. The court shall consider terms, conditions and  
12 supervision which may include, but need not be limited to,  
13 notification and discharge of the person to the custody of his  
14 family, community adjustment programs, periodic checks with  
15 legal authorities and outpatient care and utilization of local  
16 mental health or developmental disabilities facilities.

17 (3) Failure to continue treatment, except by agreement with  
18 the treating person or agency and the court, shall be a basis  
19 for the institution of probation revocation proceedings.

20 (4) The period of probation shall be in accordance with  
21 Article 4.5 of Chapter V of this Code and shall not be  
22 shortened without receipt and consideration of such  
23 psychiatric or psychological report or reports as the court may  
24 require.

25 (Source: P.A. 95-1052, eff. 7-1-09.)

1 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

2 Sec. 5-5-3.1. Factors in Mitigation.

3 (a) The following grounds shall be accorded weight in favor  
4 of withholding or minimizing a sentence of imprisonment:

5 (1) The defendant's criminal conduct neither caused  
6 nor threatened serious physical harm to another.

7 (2) The defendant did not contemplate that his criminal  
8 conduct would cause or threaten serious physical harm to  
9 another.

10 (3) The defendant acted under a strong provocation.

11 (4) There were substantial grounds tending to excuse or  
12 justify the defendant's criminal conduct, though failing  
13 to establish a defense.

14 (5) The defendant's criminal conduct was induced or  
15 facilitated by someone other than the defendant.

16 (6) The defendant has compensated or will compensate  
17 the victim of his criminal conduct for the damage or injury  
18 that he sustained.

19 (7) The defendant has no history of prior delinquency  
20 or criminal activity or has led a law-abiding life for a  
21 substantial period of time before the commission of the  
22 present crime.

23 (8) The defendant's criminal conduct was the result of  
24 circumstances unlikely to recur.

25 (9) The character and attitudes of the defendant  
26 indicate that he is unlikely to commit another crime.

1           (10) The defendant is particularly likely to comply  
2 with the terms of a period of probation.

3           (11) The imprisonment of the defendant would entail  
4 excessive hardship to his dependents.

5           (12) The imprisonment of the defendant would endanger  
6 his or her medical condition.

7           (13) The defendant was intellectually disabled  
8 ~~mentally retarded~~ as defined in Section 5-1-13 of this  
9 Code.

10          (b) If the court, having due regard for the character of  
11 the offender, the nature and circumstances of the offense and  
12 the public interest finds that a sentence of imprisonment is  
13 the most appropriate disposition of the offender, or where  
14 other provisions of this Code mandate the imprisonment of the  
15 offender, the grounds listed in paragraph (a) of this  
16 subsection shall be considered as factors in mitigation of the  
17 term imposed.

18          (Source: P.A. 91-357, eff. 7-29-99.)

19          Section 146. The Unified Code of Corrections is amended by  
20 changing Section 5-5-3.2 as follows:

21           (730 ILCS 5/5-5-3.2)

22           Sec. 5-5-3.2. Factors in Aggravation and Extended-Term  
23 Sentencing.

24           (a) The following factors shall be accorded weight in favor

1 of imposing a term of imprisonment or may be considered by the  
2 court as reasons to impose a more severe sentence under Section  
3 5-8-1 or Article 4.5 of Chapter V:

4 (1) the defendant's conduct caused or threatened  
5 serious harm;

6 (2) the defendant received compensation for committing  
7 the offense;

8 (3) the defendant has a history of prior delinquency or  
9 criminal activity;

10 (4) the defendant, by the duties of his office or by  
11 his position, was obliged to prevent the particular offense  
12 committed or to bring the offenders committing it to  
13 justice;

14 (5) the defendant held public office at the time of the  
15 offense, and the offense related to the conduct of that  
16 office;

17 (6) the defendant utilized his professional reputation  
18 or position in the community to commit the offense, or to  
19 afford him an easier means of committing it;

20 (7) the sentence is necessary to deter others from  
21 committing the same crime;

22 (8) the defendant committed the offense against a  
23 person 60 years of age or older or such person's property;

24 (9) the defendant committed the offense against a  
25 person who is physically handicapped or such person's  
26 property;



1           (10) by reason of another individual's actual or  
2           perceived race, color, creed, religion, ancestry, gender,  
3           sexual orientation, physical or mental disability, or  
4           national origin, the defendant committed the offense  
5           against (i) the person or property of that individual; (ii)  
6           the person or property of a person who has an association  
7           with, is married to, or has a friendship with the other  
8           individual; or (iii) the person or property of a relative  
9           (by blood or marriage) of a person described in clause (i)  
10          or (ii). For the purposes of this Section, "sexual  
11          orientation" means heterosexuality, homosexuality, or  
12          bisexuality;

13          (11) the offense took place in a place of worship or on  
14          the grounds of a place of worship, immediately prior to,  
15          during or immediately following worship services. For  
16          purposes of this subparagraph, "place of worship" shall  
17          mean any church, synagogue or other building, structure or  
18          place used primarily for religious worship;

19          (12) the defendant was convicted of a felony committed  
20          while he was released on bail or his own recognizance  
21          pending trial for a prior felony and was convicted of such  
22          prior felony, or the defendant was convicted of a felony  
23          committed while he was serving a period of probation,  
24          conditional discharge, or mandatory supervised release  
25          under subsection (d) of Section 5-8-1 for a prior felony;

26          (13) the defendant committed or attempted to commit a

1 felony while he was wearing a bulletproof vest. For the  
2 purposes of this paragraph (13), a bulletproof vest is any  
3 device which is designed for the purpose of protecting the  
4 wearer from bullets, shot or other lethal projectiles;

5 (14) the defendant held a position of trust or  
6 supervision such as, but not limited to, family member as  
7 defined in Section 12-12 of the Criminal Code of 1961,  
8 teacher, scout leader, baby sitter, or day care worker, in  
9 relation to a victim under 18 years of age, and the  
10 defendant committed an offense in violation of Section  
11 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,  
12 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961  
13 against that victim;

14 (15) the defendant committed an offense related to the  
15 activities of an organized gang. For the purposes of this  
16 factor, "organized gang" has the meaning ascribed to it in  
17 Section 10 of the Streetgang Terrorism Omnibus Prevention  
18 Act;

19 (16) the defendant committed an offense in violation of  
20 one of the following Sections while in a school, regardless  
21 of the time of day or time of year; on any conveyance  
22 owned, leased, or contracted by a school to transport  
23 students to or from school or a school related activity; on  
24 the real property of a school; or on a public way within  
25 1,000 feet of the real property comprising any school:  
26 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,

1 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
2 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
3 33A-2 of the Criminal Code of 1961;

4 (16.5) the defendant committed an offense in violation  
5 of one of the following Sections while in a day care  
6 center, regardless of the time of day or time of year; on  
7 the real property of a day care center, regardless of the  
8 time of day or time of year; or on a public way within  
9 1,000 feet of the real property comprising any day care  
10 center, regardless of the time of day or time of year:  
11 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,  
12 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,  
13 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or  
14 33A-2 of the Criminal Code of 1961;

15 (17) the defendant committed the offense by reason of  
16 any person's activity as a community policing volunteer or  
17 to prevent any person from engaging in activity as a  
18 community policing volunteer. For the purpose of this  
19 Section, "community policing volunteer" has the meaning  
20 ascribed to it in Section 2-3.5 of the Criminal Code of  
21 1961;

22 (18) the defendant committed the offense in a nursing  
23 home or on the real property comprising a nursing home. For  
24 the purposes of this paragraph (18), "nursing home" means a  
25 skilled nursing or intermediate long term care facility  
26 that is subject to license by the Illinois Department of

1 Public Health under the Nursing Home Care Act or the ID/DD  
2 ~~MR/DD~~ Community Care Act;

3 (19) the defendant was a federally licensed firearm  
4 dealer and was previously convicted of a violation of  
5 subsection (a) of Section 3 of the Firearm Owners  
6 Identification Card Act and has now committed either a  
7 felony violation of the Firearm Owners Identification Card  
8 Act or an act of armed violence while armed with a firearm;

9 (20) the defendant (i) committed the offense of  
10 reckless homicide under Section 9-3 of the Criminal Code of  
11 1961 or the offense of driving under the influence of  
12 alcohol, other drug or drugs, intoxicating compound or  
13 compounds or any combination thereof under Section 11-501  
14 of the Illinois Vehicle Code or a similar provision of a  
15 local ordinance and (ii) was operating a motor vehicle in  
16 excess of 20 miles per hour over the posted speed limit as  
17 provided in Article VI of Chapter 11 of the Illinois  
18 Vehicle Code;

19 (21) the defendant (i) committed the offense of  
20 reckless driving or aggravated reckless driving under  
21 Section 11-503 of the Illinois Vehicle Code and (ii) was  
22 operating a motor vehicle in excess of 20 miles per hour  
23 over the posted speed limit as provided in Article VI of  
24 Chapter 11 of the Illinois Vehicle Code;

25 (22) the defendant committed the offense against a  
26 person that the defendant knew, or reasonably should have

1 known, was a member of the Armed Forces of the United  
2 States serving on active duty. For purposes of this clause  
3 (22), the term "Armed Forces" means any of the Armed Forces  
4 of the United States, including a member of any reserve  
5 component thereof or National Guard unit called to active  
6 duty;

7 (23) the defendant committed the offense against a  
8 person who was elderly, disabled, or infirm by taking  
9 advantage of a family or fiduciary relationship with the  
10 elderly, disabled, or infirm person;

11 (24) the defendant committed any offense under Section  
12 11-20.1 of the Criminal Code of 1961 and possessed 100 or  
13 more images;

14 (25) the defendant committed the offense while the  
15 defendant or the victim was in a train, bus, or other  
16 vehicle used for public transportation; ~~or~~

17 (26) the defendant committed the offense of child  
18 pornography or aggravated child pornography, specifically  
19 including paragraph (1), (2), (3), (4), (5), or (7) of  
20 subsection (a) of Section 11-20.1 of the Criminal Code of  
21 1961 where a child engaged in, solicited for, depicted in,  
22 or posed in any act of sexual penetration or bound,  
23 fettered, or subject to sadistic, masochistic, or  
24 sadomasochistic abuse in a sexual context and specifically  
25 including paragraph (1), (2), (3), (4), (5), or (7) of  
26 subsection (a) of Section 11-20.3 of the Criminal Code of

1 1961 where a child engaged in, solicited for, depicted in,  
2 or posed in any act of sexual penetration or bound,  
3 fettered, or subject to sadistic, masochistic, or  
4 sadomasochistic abuse in a sexual context; or

5 (27) the defendant committed the offense of first  
6 degree murder, assault, aggravated assault, battery,  
7 aggravated battery, robbery, armed robbery, or aggravated  
8 robbery against a person who was a veteran and the  
9 defendant knew, or reasonably should have known, that the  
10 person was a veteran performing duties as a representative  
11 of a veterans' organization. For the purposes of this  
12 paragraph (27), "veteran" means an Illinois resident who  
13 has served as a member of the United States Armed Forces, a  
14 member of the Illinois National Guard, or a member of the  
15 United States Reserve Forces; and "veterans' organization"  
16 means an organization comprised of members of which  
17 substantially all are individuals who are veterans or  
18 spouses, widows, or widowers of veterans, the primary  
19 purpose of which is to promote the welfare of its members  
20 and to provide assistance to the general public in such a  
21 way as to confer a public benefit.

22 For the purposes of this Section:

23 "School" is defined as a public or private elementary or  
24 secondary school, community college, college, or university.

25 "Day care center" means a public or private State certified  
26 and licensed day care center as defined in Section 2.09 of the

1 Child Care Act of 1969 that displays a sign in plain view  
2 stating that the property is a day care center.

3 "Public transportation" means the transportation or  
4 conveyance of persons by means available to the general public,  
5 and includes paratransit services.

6 (b) The following factors, related to all felonies, may be  
7 considered by the court as reasons to impose an extended term  
8 sentence under Section 5-8-2 upon any offender:

9 (1) When a defendant is convicted of any felony, after  
10 having been previously convicted in Illinois or any other  
11 jurisdiction of the same or similar class felony or greater  
12 class felony, when such conviction has occurred within 10  
13 years after the previous conviction, excluding time spent  
14 in custody, and such charges are separately brought and  
15 tried and arise out of different series of acts; or

16 (2) When a defendant is convicted of any felony and the  
17 court finds that the offense was accompanied by  
18 exceptionally brutal or heinous behavior indicative of  
19 wanton cruelty; or

20 (3) When a defendant is convicted of any felony  
21 committed against:

22 (i) a person under 12 years of age at the time of  
23 the offense or such person's property;

24 (ii) a person 60 years of age or older at the time  
25 of the offense or such person's property; or

26 (iii) a person physically handicapped at the time

1 of the offense or such person's property; or

2 (4) When a defendant is convicted of any felony and the  
3 offense involved any of the following types of specific  
4 misconduct committed as part of a ceremony, rite,  
5 initiation, observance, performance, practice or activity  
6 of any actual or ostensible religious, fraternal, or social  
7 group:

8 (i) the brutalizing or torturing of humans or  
9 animals;

10 (ii) the theft of human corpses;

11 (iii) the kidnapping of humans;

12 (iv) the desecration of any cemetery, religious,  
13 fraternal, business, governmental, educational, or  
14 other building or property; or

15 (v) ritualized abuse of a child; or

16 (5) When a defendant is convicted of a felony other  
17 than conspiracy and the court finds that the felony was  
18 committed under an agreement with 2 or more other persons  
19 to commit that offense and the defendant, with respect to  
20 the other individuals, occupied a position of organizer,  
21 supervisor, financier, or any other position of management  
22 or leadership, and the court further finds that the felony  
23 committed was related to or in furtherance of the criminal  
24 activities of an organized gang or was motivated by the  
25 defendant's leadership in an organized gang; or

26 (6) When a defendant is convicted of an offense



1 committed while using a firearm with a laser sight attached  
2 to it. For purposes of this paragraph, "laser sight" has  
3 the meaning ascribed to it in Section 24.6-5 of the  
4 Criminal Code of 1961; or

5 (7) When a defendant who was at least 17 years of age  
6 at the time of the commission of the offense is convicted  
7 of a felony and has been previously adjudicated a  
8 delinquent minor under the Juvenile Court Act of 1987 for  
9 an act that if committed by an adult would be a Class X or  
10 Class 1 felony when the conviction has occurred within 10  
11 years after the previous adjudication, excluding time  
12 spent in custody; or

13 (8) When a defendant commits any felony and the  
14 defendant used, possessed, exercised control over, or  
15 otherwise directed an animal to assault a law enforcement  
16 officer engaged in the execution of his or her official  
17 duties or in furtherance of the criminal activities of an  
18 organized gang in which the defendant is engaged.

19 (c) The following factors may be considered by the court as  
20 reasons to impose an extended term sentence under Section 5-8-2  
21 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

22 (1) When a defendant is convicted of first degree  
23 murder, after having been previously convicted in Illinois  
24 of any offense listed under paragraph (c)(2) of Section  
25 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred  
26 within 10 years after the previous conviction, excluding

1 time spent in custody, and the charges are separately  
2 brought and tried and arise out of different series of  
3 acts.

4 (1.5) When a defendant is convicted of first degree  
5 murder, after having been previously convicted of domestic  
6 battery (720 ILCS 5/12-3.2) or aggravated domestic battery  
7 (720 ILCS 5/12-3.3) committed on the same victim or after  
8 having been previously convicted of violation of an order  
9 of protection (720 ILCS 5/12-30) in which the same victim  
10 was the protected person.

11 (2) When a defendant is convicted of voluntary  
12 manslaughter, second degree murder, involuntary  
13 manslaughter, or reckless homicide in which the defendant  
14 has been convicted of causing the death of more than one  
15 individual.

16 (3) When a defendant is convicted of aggravated  
17 criminal sexual assault or criminal sexual assault, when  
18 there is a finding that aggravated criminal sexual assault  
19 or criminal sexual assault was also committed on the same  
20 victim by one or more other individuals, and the defendant  
21 voluntarily participated in the crime with the knowledge of  
22 the participation of the others in the crime, and the  
23 commission of the crime was part of a single course of  
24 conduct during which there was no substantial change in the  
25 nature of the criminal objective.

26 (4) If the victim was under 18 years of age at the time

1 of the commission of the offense, when a defendant is  
2 convicted of aggravated criminal sexual assault or  
3 predatory criminal sexual assault of a child under  
4 subsection (a)(1) of Section 12-14.1 of the Criminal Code  
5 of 1961 (720 ILCS 5/12-14.1).

6 (5) When a defendant is convicted of a felony violation  
7 of Section 24-1 of the Criminal Code of 1961 (720 ILCS  
8 5/24-1) and there is a finding that the defendant is a  
9 member of an organized gang.

10 (6) When a defendant was convicted of unlawful use of  
11 weapons under Section 24-1 of the Criminal Code of 1961  
12 (720 ILCS 5/24-1) for possessing a weapon that is not  
13 readily distinguishable as one of the weapons enumerated in  
14 Section 24-1 of the Criminal Code of 1961 (720 ILCS  
15 5/24-1).

16 (7) When a defendant is convicted of an offense  
17 involving the illegal manufacture of a controlled  
18 substance under Section 401 of the Illinois Controlled  
19 Substances Act (720 ILCS 570/401), the illegal manufacture  
20 of methamphetamine under Section 25 of the Methamphetamine  
21 Control and Community Protection Act (720 ILCS 646/25), or  
22 the illegal possession of explosives and an emergency  
23 response officer in the performance of his or her duties is  
24 killed or injured at the scene of the offense while  
25 responding to the emergency caused by the commission of the  
26 offense. In this paragraph, "emergency" means a situation

1 in which a person's life, health, or safety is in jeopardy;  
2 and "emergency response officer" means a peace officer,  
3 community policing volunteer, fireman, emergency medical  
4 technician-ambulance, emergency medical  
5 technician-intermediate, emergency medical  
6 technician-paramedic, ambulance driver, other medical  
7 assistance or first aid personnel, or hospital emergency  
8 room personnel.

9 (d) For the purposes of this Section, "organized gang" has  
10 the meaning ascribed to it in Section 10 of the Illinois  
11 Streetgang Terrorism Omnibus Prevention Act.

12 (e) The court may impose an extended term sentence under  
13 Article 4.5 of Chapter V upon an offender who has been  
14 convicted of a felony violation of Section 12-13, 12-14,  
15 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the  
16 victim of the offense is under 18 years of age at the time of  
17 the commission of the offense and, during the commission of the  
18 offense, the victim was under the influence of alcohol,  
19 regardless of whether or not the alcohol was supplied by the  
20 offender; and the offender, at the time of the commission of  
21 the offense, knew or should have known that the victim had  
22 consumed alcohol.

23 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,  
24 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;  
25 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;  
26 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.

1 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,  
2 eff. 1-1-11; revised 9-16-10.)

3 Section 147. The Secure Residential Youth Care Facility  
4 Licensing Act is amended by changing Section 45-10 as follows:

5 (730 ILCS 175/45-10)

6 Sec. 45-10. Definitions. As used in this Act:

7 "Department" means the Illinois Department of Corrections.

8 "Director" means the Director of Corrections.

9 "Secure residential youth care facility" means a facility

10 (1) where youth are placed and reside for care, treatment, and  
11 custody; (2) that is designed and operated so as to ensure that  
12 all entrances and exits from the facility, or from a building  
13 or distinct part of a building within the facility, are under  
14 the exclusive control of the staff of the facility, whether or  
15 not the youth has freedom of movement within the perimeter of  
16 the facility or within the perimeter of a building or distinct  
17 part of a building within the facility; and (3) that uses  
18 physically restrictive construction including, but not limited  
19 to, locks, bolts, gates, doors, bars, fences, and screen  
20 barriers. This definition does not include jails, prisons,  
21 detention centers, or other such correctional facilities;  
22 State operated mental health facilities; or facilities  
23 operating as psychiatric hospitals under a license pursuant to  
24 the ID/DD ~~MR/DD~~ Community Care Act, the Nursing Home Care Act,

1 or the Hospital Licensing Act.

2 "Youth" means an adjudicated delinquent who is 18 years of  
3 age or under and is transferred to the Department pursuant to  
4 Section 3-10-11 of the Unified Code of Corrections.

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

6 Section 150. The Code of Civil Procedure is amended by  
7 changing Sections 2-203 and 8-201 as follows:

8 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

9 Sec. 2-203. Service on individuals.

10 (a) Except as otherwise expressly provided, service of  
11 summons upon an individual defendant shall be made (1) by  
12 leaving a copy of the summons with the defendant personally,  
13 (2) by leaving a copy at the defendant's usual place of abode,  
14 with some person of the family or a person residing there, of  
15 the age of 13 years or upwards, and informing that person of  
16 the contents of the summons, provided the officer or other  
17 person making service shall also send a copy of the summons in  
18 a sealed envelope with postage fully prepaid, addressed to the  
19 defendant at his or her usual place of abode, or (3) as  
20 provided in Section 1-2-9.2 of the Illinois Municipal Code with  
21 respect to violation of an ordinance governing parking or  
22 standing of vehicles in cities with a population over 500,000.  
23 The certificate of the officer or affidavit of the person that  
24 he or she has sent the copy in pursuance of this Section is

1 evidence that he or she has done so. No employee of a facility  
2 licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~  
3 Community Care Act shall obstruct an officer or other person  
4 making service in compliance with this Section.

5 (b) The officer, in his or her certificate or in a record  
6 filed and maintained in the Sheriff's office, or other person  
7 making service, in his or her affidavit or in a record filed  
8 and maintained in his or her employer's office, shall (1)  
9 identify as to sex, race, and approximate age the defendant or  
10 other person with whom the summons was left and (2) state the  
11 place where (whenever possible in terms of an exact street  
12 address) and the date and time of the day when the summons was  
13 left with the defendant or other person.

14 (c) Any person who knowingly sets forth in the certificate  
15 or affidavit any false statement, shall be liable in civil  
16 contempt. When the court holds a person in civil contempt under  
17 this Section, it shall award such damages as it determines to  
18 be just and, when the contempt is prosecuted by a private  
19 attorney, may award reasonable attorney's fees.

20 (Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

21 (735 ILCS 5/8-201) (from Ch. 110, par. 8-201)

22 Sec. 8-201. Dead-Man's Act. In the trial of any action in  
23 which any party sues or defends as the representative of a  
24 deceased person or person under a legal disability, no adverse  
25 party or person directly interested in the action shall be

1 allowed to testify on his or her own behalf to any conversation  
2 with the deceased or person under legal disability or to any  
3 event which took place in the presence of the deceased or  
4 person under legal disability, except in the following  
5 instances:

6 (a) If any person testifies on behalf of the representative  
7 to any conversation with the deceased or person under legal  
8 disability or to any event which took place in the presence of  
9 the deceased or person under legal disability, any adverse  
10 party or interested person, if otherwise competent, may testify  
11 concerning the same conversation or event.

12 (b) If the deposition of the deceased or person under legal  
13 disability is admitted in evidence on behalf of the  
14 representative, any adverse party or interested person, if  
15 otherwise competent, may testify concerning the same matters  
16 admitted in evidence.

17 (c) Any testimony competent under Section 8-401 of this  
18 Act, is not barred by this Section.

19 (d) No person shall be barred from testifying as to any  
20 fact relating to the heirship of a decedent.

21 As used in this Section:

22 (a) "Person under legal disability" means any person who is  
23 adjudged by the court in the pending civil action to be unable  
24 to testify by reason of mental illness, an intellectual  
25 disability, ~~mental retardation~~ or deterioration of mentality.

26 (b) "Representative" means an executor, administrator,



1 heir or legatee of a deceased person and any guardian or  
2 trustee of any such heir or legatee, or a guardian or guardian  
3 ad litem for a person under legal disability.

4 (c) "Person directly interested in the action" or  
5 "interested person" does not include a person who is interested  
6 solely as executor, trustee or in any other fiduciary capacity,  
7 whether or not he or she receives or expects to receive  
8 compensation for acting in that capacity.

9 (d) This Section applies to proceedings filed on or after  
10 October 1, 1973.

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

12 Section 155. The Predator Accountability Act is amended by  
13 changing Section 10 as follows:

14 (740 ILCS 128/10)

15 Sec. 10. Definitions. As used in this Act:

16 "Sex trade" means any act, which if proven beyond a  
17 reasonable doubt could support a conviction for a violation or  
18 attempted violation of any of the following Sections of the  
19 Criminal Code of 1961: 11-15 (soliciting for a prostitute);  
20 11-15.1 (soliciting for a juvenile prostitute); 11-16  
21 (pandering); 11-17 (keeping a place of prostitution); 11-17.1  
22 (keeping a place of juvenile prostitution); 11-19 (pimping);  
23 11-19.1 (juvenile pimping and aggravated juvenile pimping);  
24 11-19.2 (exploitation of a child); 11-20 (obscenity); or

1 11-20.1 (child pornography); or Section 10-9 of the Criminal  
2 Code of 1961 (trafficking of persons and involuntary  
3 servitude).

4 "Sex trade" activity may involve adults and youth of all  
5 genders and sexual orientations.

6 "Victim of the sex trade" means, for the following sex  
7 trade acts, the person or persons indicated:

8 (1) soliciting for a prostitute: the prostitute who is  
9 the object of the solicitation;

10 (2) soliciting for a juvenile prostitute: the juvenile  
11 prostitute, or severely or profoundly intellectually  
12 disabled ~~mentally retarded~~ person, who is the object of the  
13 solicitation;

14 (3) pandering: the person intended or compelled to act  
15 as a prostitute;

16 (4) keeping a place of prostitution: any person  
17 intended or compelled to act as a prostitute, while present  
18 at the place, during the time period in question;

19 (5) keeping a place of juvenile prostitution: any  
20 juvenile intended or compelled to act as a prostitute,  
21 while present at the place, during the time period in  
22 question;

23 (6) pimping: the prostitute from whom anything of value  
24 is received;

25 (7) juvenile pimping and aggravated juvenile pimping:  
26 the juvenile, or severely or profoundly intellectually

1        disabled ~~mentally-retarded~~ person, from whom anything of  
2        value is received for that person's act of prostitution;

3            (8) exploitation of a child: the juvenile, or severely  
4        or profoundly intellectually disabled ~~mentally-retarded~~  
5        person, intended or compelled to act as a prostitute or  
6        from whom anything of value is received for that person's  
7        act of prostitution;

8            (9) obscenity: any person who appears in or is  
9        described or depicted in the offending conduct or material;

10          (10) child pornography: any child, or severely or  
11        profoundly intellectually disabled ~~mentally-retarded~~  
12        person, who appears in or is described or depicted in the  
13        offending conduct or material; or

14          (11) trafficking of persons or involuntary servitude:  
15        a "trafficking victim" as defined in Section 10-9 of the  
16        Criminal Code of 1961.

17        (Source: P.A. 96-710, eff. 1-1-10.)

18            Section 160. The Sports Volunteer Immunity Act is amended  
19        by changing Section 1 as follows:

20            (745 ILCS 80/1) (from Ch. 70, par. 701)

21            Sec. 1. Manager, coach, umpire or referee negligence  
22        standard. (a) General rule. Except as provided otherwise in  
23        this Section, no person who, without compensation and as a  
24        volunteer, renders services as a manager, coach, instructor,

1 umpire or referee or who, without compensation and as a  
2 volunteer, assists a manager, coach, instructor, umpire or  
3 referee in a sports program of a nonprofit association, shall  
4 be liable to any person for any civil damages as a result of  
5 any acts or omissions in rendering such services or in  
6 conducting or sponsoring such sports program, unless the  
7 conduct of such person falls substantially below the standards  
8 generally practiced and accepted in like circumstances by  
9 similar persons rendering such services or conducting or  
10 sponsoring such sports programs, and unless it is shown that  
11 such person did an act or omitted the doing of an act which  
12 such person was under a recognized duty to another to do,  
13 knowing or having reason to know that such act or omission  
14 created a substantial risk of actual harm to the person or  
15 property of another. It shall be insufficient to impose  
16 liability to establish only that the conduct of such person  
17 fell below ordinary standards of care.

18 (b) Exceptions.

19 (1) Nothing in this Section shall be construed as affecting  
20 or modifying the liability of such person or a nonprofit  
21 association for any of the following:

22 (i) acts or omissions relating to the transportation of  
23 participants in a sports program or others to or from a game,  
24 event or practice.

25 (ii) acts or omissions relating to the care and maintenance  
26 of real estate unrelated to the practice or playing areas which

1 such persons or nonprofit associations own, possess or control.

2 (2) Nothing in this Section shall be construed as affecting  
3 or modifying any existing legal basis for determining the  
4 liability, or any defense thereto, of any person not covered by  
5 the standard of negligence established by this Section.

6 (c) Assumption of risk or comparative fault. Nothing in  
7 this Section shall be construed as affecting or modifying the  
8 doctrine of assumption of risk or comparative fault on the part  
9 of the participant.

10 (d) Definitions. As used in this Act the following words  
11 and phrases shall have the meanings given to them in this  
12 subsection:

13 "Compensation" means any payment for services performed  
14 but does not include reimbursement for reasonable expenses  
15 actually incurred or to be incurred or, solely in the case of  
16 umpires or referees, a modest honorarium.

17 "Nonprofit association" means an entity which is organized  
18 as a not-for-profit corporation under the laws of this State or  
19 the United States or a nonprofit unincorporated association or  
20 any entity which is authorized to do business in this State as  
21 a not-for-profit corporation under the laws of this State,  
22 including, but not limited to, youth or athletic associations,  
23 volunteer fire, ambulance, religious, charitable, fraternal,  
24 veterans, civic, county fair or agricultural associations, or  
25 any separately chartered auxiliary of the foregoing, if  
26 organized and operated on a nonprofit basis.

1 "Sports program" means baseball (including softball),  
2 football, basketball, soccer or any other competitive sport  
3 formally recognized as a sport by the United States Olympic  
4 Committee as specified by and under the jurisdiction of the  
5 Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), the Amateur  
6 Athletic Union or the National Collegiate Athletic  
7 Association. The term shall be limited to a program or that  
8 portion of a program that is organized for recreational  
9 purposes and whose activities are substantially for such  
10 purposes and which is primarily for participants who are 18  
11 years of age or younger or whose 19th birthday occurs during  
12 the year of participation or the competitive season, whichever  
13 is longer. There shall, however, be no age limitation for  
14 programs operated for the physically handicapped or  
15 intellectually disabled ~~mentally retarded~~.

16 (e) Nothing in this Section is intended to bar any cause of  
17 action against a nonprofit association or change the liability  
18 of such an association which arises out of an act or omission  
19 of any person exempt from liability under this Act.

20 (Source: P.A. 85-959.)

21 Section 165. The Adoption Act is amended by changing  
22 Sections 1 and 12 as follows:

23 (750 ILCS 50/1) (from Ch. 40, par. 1501)

24 Sec. 1. Definitions. When used in this Act, unless the

1 context otherwise requires:

2 A. "Child" means a person under legal age subject to  
3 adoption under this Act.

4 B. "Related child" means a child subject to adoption where  
5 either or both of the adopting parents stands in any of the  
6 following relationships to the child by blood or marriage:  
7 parent, grand-parent, brother, sister, step-parent,  
8 step-grandparent, step-brother, step-sister, uncle, aunt,  
9 great-uncle, great-aunt, or cousin of first degree. A child  
10 whose parent has executed a final irrevocable consent to  
11 adoption or a final irrevocable surrender for purposes of  
12 adoption, or whose parent has had his or her parental rights  
13 terminated, is not a related child to that person, unless the  
14 consent is determined to be void or is void pursuant to  
15 subsection O of Section 10.

16 C. "Agency" for the purpose of this Act means a public  
17 child welfare agency or a licensed child welfare agency.

18 D. "Unfit person" means any person whom the court shall  
19 find to be unfit to have a child, without regard to the  
20 likelihood that the child will be placed for adoption. The  
21 grounds of unfitness are any one or more of the following,  
22 except that a person shall not be considered an unfit person  
23 for the sole reason that the person has relinquished a child in  
24 accordance with the Abandoned Newborn Infant Protection Act:

25 (a) Abandonment of the child.

26 (a-1) Abandonment of a newborn infant in a hospital.

1 (a-2) Abandonment of a newborn infant in any setting  
2 where the evidence suggests that the parent intended to  
3 relinquish his or her parental rights.

4 (b) Failure to maintain a reasonable degree of  
5 interest, concern or responsibility as to the child's  
6 welfare.

7 (c) Desertion of the child for more than 3 months next  
8 preceding the commencement of the Adoption proceeding.

9 (d) Substantial neglect of the child if continuous or  
10 repeated.

11 (d-1) Substantial neglect, if continuous or repeated,  
12 of any child residing in the household which resulted in  
13 the death of that child.

14 (e) Extreme or repeated cruelty to the child.

15 (f) There is a rebuttable presumption, which can be  
16 overcome only by clear and convincing evidence, that a  
17 parent is unfit if:

18 (1) Two or more findings of physical abuse have  
19 been entered regarding any children under Section 2-21  
20 of the Juvenile Court Act of 1987, the most recent of  
21 which was determined by the juvenile court hearing the  
22 matter to be supported by clear and convincing  
23 evidence; or

24 (2) The parent has been convicted or found not  
25 guilty by reason of insanity and the conviction or  
26 finding resulted from the death of any child by



1 physical abuse; or

2 (3) There is a finding of physical child abuse  
3 resulting from the death of any child under Section  
4 2-21 of the Juvenile Court Act of 1987.

5 No conviction or finding of delinquency pursuant  
6 to Article 5 of the Juvenile Court Act of 1987 shall be  
7 considered a criminal conviction for the purpose of  
8 applying any presumption under this item (f).

9 (g) Failure to protect the child from conditions within  
10 his environment injurious to the child's welfare.

11 (h) Other neglect of, or misconduct toward the child;  
12 provided that in making a finding of unfitness the court  
13 hearing the adoption proceeding shall not be bound by any  
14 previous finding, order or judgment affecting or  
15 determining the rights of the parents toward the child  
16 sought to be adopted in any other proceeding except such  
17 proceedings terminating parental rights as shall be had  
18 under either this Act, the Juvenile Court Act or the  
19 Juvenile Court Act of 1987.

20 (i) Depravity. Conviction of any one of the following  
21 crimes shall create a presumption that a parent is deprived  
22 which can be overcome only by clear and convincing  
23 evidence: (1) first degree murder in violation of paragraph  
24 1 or 2 of subsection (a) of Section 9-1 of the Criminal  
25 Code of 1961 or conviction of second degree murder in  
26 violation of subsection (a) of Section 9-2 of the Criminal

1 Code of 1961 of a parent of the child to be adopted; (2)  
2 first degree murder or second degree murder of any child in  
3 violation of the Criminal Code of 1961; (3) attempt or  
4 conspiracy to commit first degree murder or second degree  
5 murder of any child in violation of the Criminal Code of  
6 1961; (4) solicitation to commit murder of any child,  
7 solicitation to commit murder of any child for hire, or  
8 solicitation to commit second degree murder of any child in  
9 violation of the Criminal Code of 1961; (5) predatory  
10 criminal sexual assault of a child in violation of Section  
11 12-14.1 of the Criminal Code of 1961; (6) heinous battery  
12 of any child in violation of the Criminal Code of 1961; or  
13 (7) aggravated battery of any child in violation of the  
14 Criminal Code of 1961.

15 There is a rebuttable presumption that a parent is  
16 deprived if the parent has been criminally convicted of at  
17 least 3 felonies under the laws of this State or any other  
18 state, or under federal law, or the criminal laws of any  
19 United States territory; and at least one of these  
20 convictions took place within 5 years of the filing of the  
21 petition or motion seeking termination of parental rights.

22 There is a rebuttable presumption that a parent is  
23 deprived if that parent has been criminally convicted of  
24 either first or second degree murder of any person as  
25 defined in the Criminal Code of 1961 within 10 years of the  
26 filing date of the petition or motion to terminate parental

1 rights.

2 No conviction or finding of delinquency pursuant to  
3 Article 5 of the Juvenile Court Act of 1987 shall be  
4 considered a criminal conviction for the purpose of  
5 applying any presumption under this item (i).

6 (j) Open and notorious adultery or fornication.

7 (j-1) (Blank).

8 (k) Habitual drunkenness or addiction to drugs, other  
9 than those prescribed by a physician, for at least one year  
10 immediately prior to the commencement of the unfitness  
11 proceeding.

12 There is a rebuttable presumption that a parent is  
13 unfit under this subsection with respect to any child to  
14 which that parent gives birth where there is a confirmed  
15 test result that at birth the child's blood, urine, or  
16 meconium contained any amount of a controlled substance as  
17 defined in subsection (f) of Section 102 of the Illinois  
18 Controlled Substances Act or metabolites of such  
19 substances, the presence of which in the newborn infant was  
20 not the result of medical treatment administered to the  
21 mother or the newborn infant; and the biological mother of  
22 this child is the biological mother of at least one other  
23 child who was adjudicated a neglected minor under  
24 subsection (c) of Section 2-3 of the Juvenile Court Act of  
25 1987.

26 (l) Failure to demonstrate a reasonable degree of

1 interest, concern or responsibility as to the welfare of a  
2 new born child during the first 30 days after its birth.

3 (m) Failure by a parent (i) to make reasonable efforts  
4 to correct the conditions that were the basis for the  
5 removal of the child from the parent, or (ii) to make  
6 reasonable progress toward the return of the child to the  
7 parent within 9 months after an adjudication of neglected  
8 or abused minor under Section 2-3 of the Juvenile Court Act  
9 of 1987 or dependent minor under Section 2-4 of that Act,  
10 or (iii) to make reasonable progress toward the return of  
11 the child to the parent during any 9-month period after the  
12 end of the initial 9-month period following the  
13 adjudication of neglected or abused minor under Section 2-3  
14 of the Juvenile Court Act of 1987 or dependent minor under  
15 Section 2-4 of that Act. If a service plan has been  
16 established as required under Section 8.2 of the Abused and  
17 Neglected Child Reporting Act to correct the conditions  
18 that were the basis for the removal of the child from the  
19 parent and if those services were available, then, for  
20 purposes of this Act, "failure to make reasonable progress  
21 toward the return of the child to the parent" includes (I)  
22 the parent's failure to substantially fulfill his or her  
23 obligations under the service plan and correct the  
24 conditions that brought the child into care within 9 months  
25 after the adjudication under Section 2-3 or 2-4 of the  
26 Juvenile Court Act of 1987 and (II) the parent's failure to

1 substantially fulfill his or her obligations under the  
2 service plan and correct the conditions that brought the  
3 child into care during any 9-month period after the end of  
4 the initial 9-month period following the adjudication  
5 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.  
6 Notwithstanding any other provision, when a petition or  
7 motion seeks to terminate parental rights on the basis of  
8 item (iii) of this subsection (m), the petitioner shall  
9 file with the court and serve on the parties a pleading  
10 that specifies the 9-month period or periods relied on. The  
11 pleading shall be filed and served on the parties no later  
12 than 3 weeks before the date set by the court for closure  
13 of discovery, and the allegations in the pleading shall be  
14 treated as incorporated into the petition or motion.  
15 Failure of a respondent to file a written denial of the  
16 allegations in the pleading shall not be treated as an  
17 admission that the allegations are true.

18 (m-1) Pursuant to the Juvenile Court Act of 1987, a  
19 child has been in foster care for 15 months out of any 22  
20 month period which begins on or after the effective date of  
21 this amendatory Act of 1998 unless the child's parent can  
22 prove by a preponderance of the evidence that it is more  
23 likely than not that it will be in the best interests of  
24 the child to be returned to the parent within 6 months of  
25 the date on which a petition for termination of parental  
26 rights is filed under the Juvenile Court Act of 1987. The

1 15 month time limit is tolled during any period for which  
2 there is a court finding that the appointed custodian or  
3 guardian failed to make reasonable efforts to reunify the  
4 child with his or her family, provided that (i) the finding  
5 of no reasonable efforts is made within 60 days of the  
6 period when reasonable efforts were not made or (ii) the  
7 parent filed a motion requesting a finding of no reasonable  
8 efforts within 60 days of the period when reasonable  
9 efforts were not made. For purposes of this subdivision  
10 (m-1), the date of entering foster care is the earlier of:  
11 (i) the date of a judicial finding at an adjudicatory  
12 hearing that the child is an abused, neglected, or  
13 dependent minor; or (ii) 60 days after the date on which  
14 the child is removed from his or her parent, guardian, or  
15 legal custodian.

16 (n) Evidence of intent to forgo his or her parental  
17 rights, whether or not the child is a ward of the court,  
18 (1) as manifested by his or her failure for a period of 12  
19 months: (i) to visit the child, (ii) to communicate with  
20 the child or agency, although able to do so and not  
21 prevented from doing so by an agency or by court order, or  
22 (iii) to maintain contact with or plan for the future of  
23 the child, although physically able to do so, or (2) as  
24 manifested by the father's failure, where he and the mother  
25 of the child were unmarried to each other at the time of  
26 the child's birth, (i) to commence legal proceedings to

1 establish his paternity under the Illinois Parentage Act of  
2 1984 or the law of the jurisdiction of the child's birth  
3 within 30 days of being informed, pursuant to Section 12a  
4 of this Act, that he is the father or the likely father of  
5 the child or, after being so informed where the child is  
6 not yet born, within 30 days of the child's birth, or (ii)  
7 to make a good faith effort to pay a reasonable amount of  
8 the expenses related to the birth of the child and to  
9 provide a reasonable amount for the financial support of  
10 the child, the court to consider in its determination all  
11 relevant circumstances, including the financial condition  
12 of both parents; provided that the ground for termination  
13 provided in this subparagraph (n)(2)(ii) shall only be  
14 available where the petition is brought by the mother or  
15 the husband of the mother.

16 Contact or communication by a parent with his or her  
17 child that does not demonstrate affection and concern does  
18 not constitute reasonable contact and planning under  
19 subdivision (n). In the absence of evidence to the  
20 contrary, the ability to visit, communicate, maintain  
21 contact, pay expenses and plan for the future shall be  
22 presumed. The subjective intent of the parent, whether  
23 expressed or otherwise, unsupported by evidence of the  
24 foregoing parental acts manifesting that intent, shall not  
25 preclude a determination that the parent has intended to  
26 forgo his or her parental rights. In making this

1 determination, the court may consider but shall not require  
2 a showing of diligent efforts by an authorized agency to  
3 encourage the parent to perform the acts specified in  
4 subdivision (n).

5 It shall be an affirmative defense to any allegation  
6 under paragraph (2) of this subsection that the father's  
7 failure was due to circumstances beyond his control or to  
8 impediments created by the mother or any other person  
9 having legal custody. Proof of that fact need only be by a  
10 preponderance of the evidence.

11 (o) Repeated or continuous failure by the parents,  
12 although physically and financially able, to provide the  
13 child with adequate food, clothing, or shelter.

14 (p) Inability to discharge parental responsibilities  
15 supported by competent evidence from a psychiatrist,  
16 licensed clinical social worker, or clinical psychologist  
17 of mental impairment, mental illness or an intellectual  
18 disability ~~mental retardation~~ as defined in Section 1-116  
19 of the Mental Health and Developmental Disabilities Code,  
20 or developmental disability as defined in Section 1-106 of  
21 that Code, and there is sufficient justification to believe  
22 that the inability to discharge parental responsibilities  
23 shall extend beyond a reasonable time period. However, this  
24 subdivision (p) shall not be construed so as to permit a  
25 licensed clinical social worker to conduct any medical  
26 diagnosis to determine mental illness or mental



1           impairment.

2           (q) (Blank).

3           (r) The child is in the temporary custody or  
4 guardianship of the Department of Children and Family  
5 Services, the parent is incarcerated as a result of  
6 criminal conviction at the time the petition or motion for  
7 termination of parental rights is filed, prior to  
8 incarceration the parent had little or no contact with the  
9 child or provided little or no support for the child, and  
10 the parent's incarceration will prevent the parent from  
11 discharging his or her parental responsibilities for the  
12 child for a period in excess of 2 years after the filing of  
13 the petition or motion for termination of parental rights.

14           (s) The child is in the temporary custody or  
15 guardianship of the Department of Children and Family  
16 Services, the parent is incarcerated at the time the  
17 petition or motion for termination of parental rights is  
18 filed, the parent has been repeatedly incarcerated as a  
19 result of criminal convictions, and the parent's repeated  
20 incarceration has prevented the parent from discharging  
21 his or her parental responsibilities for the child.

22           (t) A finding that at birth the child's blood, urine,  
23 or meconium contained any amount of a controlled substance  
24 as defined in subsection (f) of Section 102 of the Illinois  
25 Controlled Substances Act, or a metabolite of a controlled  
26 substance, with the exception of controlled substances or

1 metabolites of such substances, the presence of which in  
2 the newborn infant was the result of medical treatment  
3 administered to the mother or the newborn infant, and that  
4 the biological mother of this child is the biological  
5 mother of at least one other child who was adjudicated a  
6 neglected minor under subsection (c) of Section 2-3 of the  
7 Juvenile Court Act of 1987, after which the biological  
8 mother had the opportunity to enroll in and participate in  
9 a clinically appropriate substance abuse counseling,  
10 treatment, and rehabilitation program.

11 E. "Parent" means the father or mother of a lawful child of  
12 the parties or child born out of wedlock. For the purpose of  
13 this Act, a person who has executed a final and irrevocable  
14 consent to adoption or a final and irrevocable surrender for  
15 purposes of adoption, or whose parental rights have been  
16 terminated by a court, is not a parent of the child who was the  
17 subject of the consent or surrender, unless the consent is void  
18 pursuant to subsection O of Section 10.

19 F. A person is available for adoption when the person is:

20 (a) a child who has been surrendered for adoption to an  
21 agency and to whose adoption the agency has thereafter  
22 consented;

23 (b) a child to whose adoption a person authorized by  
24 law, other than his parents, has consented, or to whose  
25 adoption no consent is required pursuant to Section 8 of  
26 this Act;

1 (c) a child who is in the custody of persons who intend  
2 to adopt him through placement made by his parents;

3 (c-1) a child for whom a parent has signed a specific  
4 consent pursuant to subsection O of Section 10;

5 (d) an adult who meets the conditions set forth in  
6 Section 3 of this Act; or

7 (e) a child who has been relinquished as defined in  
8 Section 10 of the Abandoned Newborn Infant Protection Act.

9 A person who would otherwise be available for adoption  
10 shall not be deemed unavailable for adoption solely by reason  
11 of his or her death.

12 G. The singular includes the plural and the plural includes  
13 the singular and the "male" includes the "female", as the  
14 context of this Act may require.

15 H. "Adoption disruption" occurs when an adoptive placement  
16 does not prove successful and it becomes necessary for the  
17 child to be removed from placement before the adoption is  
18 finalized.

19 I. "Foreign placing agency" is an agency or individual  
20 operating in a country or territory outside the United States  
21 that is authorized by its country to place children for  
22 adoption either directly with families in the United States or  
23 through United States based international agencies.

24 J. "Immediate relatives" means the biological parents, the  
25 parents of the biological parents and siblings of the  
26 biological parents.

1 K. "Intercountry adoption" is a process by which a child  
2 from a country other than the United States is adopted.

3 L. "Intercountry Adoption Coordinator" is a staff person of  
4 the Department of Children and Family Services appointed by the  
5 Director to coordinate the provision of services by the public  
6 and private sector to prospective parents of foreign-born  
7 children.

8 M. "Interstate Compact on the Placement of Children" is a  
9 law enacted by most states for the purpose of establishing  
10 uniform procedures for handling the interstate placement of  
11 children in foster homes, adoptive homes, or other child care  
12 facilities.

13 N. "Non-Compact state" means a state that has not enacted  
14 the Interstate Compact on the Placement of Children.

15 O. "Preadoption requirements" are any conditions  
16 established by the laws or regulations of the Federal  
17 Government or of each state that must be met prior to the  
18 placement of a child in an adoptive home.

19 P. "Abused child" means a child whose parent or immediate  
20 family member, or any person responsible for the child's  
21 welfare, or any individual residing in the same home as the  
22 child, or a paramour of the child's parent:

23 (a) inflicts, causes to be inflicted, or allows to be  
24 inflicted upon the child physical injury, by other than  
25 accidental means, that causes death, disfigurement,  
26 impairment of physical or emotional health, or loss or

1           impairment of any bodily function;

2           (b) creates a substantial risk of physical injury to  
3           the child by other than accidental means which would be  
4           likely to cause death, disfigurement, impairment of  
5           physical or emotional health, or loss or impairment of any  
6           bodily function;

7           (c) commits or allows to be committed any sex offense  
8           against the child, as sex offenses are defined in the  
9           Criminal Code of 1961 and extending those definitions of  
10          sex offenses to include children under 18 years of age;

11          (d) commits or allows to be committed an act or acts of  
12          torture upon the child; or

13          (e) inflicts excessive corporal punishment.

14          Q. "Neglected child" means any child whose parent or other  
15          person responsible for the child's welfare withholds or denies  
16          nourishment or medically indicated treatment including food or  
17          care denied solely on the basis of the present or anticipated  
18          mental or physical impairment as determined by a physician  
19          acting alone or in consultation with other physicians or  
20          otherwise does not provide the proper or necessary support,  
21          education as required by law, or medical or other remedial care  
22          recognized under State law as necessary for a child's  
23          well-being, or other care necessary for his or her well-being,  
24          including adequate food, clothing and shelter; or who is  
25          abandoned by his or her parents or other person responsible for  
26          the child's welfare.

1           A child shall not be considered neglected or abused for the  
2 sole reason that the child's parent or other person responsible  
3 for his or her welfare depends upon spiritual means through  
4 prayer alone for the treatment or cure of disease or remedial  
5 care as provided under Section 4 of the Abused and Neglected  
6 Child Reporting Act. A child shall not be considered neglected  
7 or abused for the sole reason that the child's parent or other  
8 person responsible for the child's welfare failed to vaccinate,  
9 delayed vaccination, or refused vaccination for the child due  
10 to a waiver on religious or medical grounds as permitted by  
11 law.

12           R. "Putative father" means a man who may be a child's  
13 father, but who (1) is not married to the child's mother on or  
14 before the date that the child was or is to be born and (2) has  
15 not established paternity of the child in a court proceeding  
16 before the filing of a petition for the adoption of the child.  
17 The term includes a male who is less than 18 years of age.  
18 "Putative father" does not mean a man who is the child's father  
19 as a result of criminal sexual abuse or assault as defined  
20 under Article 12 of the Criminal Code of 1961.

21           S. "Standby adoption" means an adoption in which a parent  
22 consents to custody and termination of parental rights to  
23 become effective upon the occurrence of a future event, which  
24 is either the death of the parent or the request of the parent  
25 for the entry of a final judgment of adoption.

26           T. (Blank).

1 (Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563,  
2 eff. 1-1-06; 94-939, eff. 1-1-07.)

3 (750 ILCS 50/12) (from Ch. 40, par. 1514)

4 Sec. 12. Consent of child or adult. If, upon the date of  
5 the entry of the judgment the person sought to be adopted is of  
6 the age of 14 years or upwards, the adoption shall not be made  
7 without the consent of such person. Such consent shall be in  
8 writing and shall be acknowledged by such person as provided in  
9 Section 10 of this Act, provided, that if such person is in  
10 need of mental treatment or is intellectually disabled ~~mentally~~  
11 ~~retarded~~, the court may waive the provisions of this Section.  
12 No consent shall be required under this Section if the person  
13 sought to be adopted has died before giving such consent.

14 (Source: P.A. 85-517.)

15 Section 170. The Probate Act of 1975 is amended by changing  
16 Section 11a-1 as follows:

17 (755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

18 Sec. 11a-1. Developmental disability defined.)  
19 "Developmental disability" means a disability which is  
20 attributable to: (a) an intellectual disability ~~mental~~  
21 ~~retardation~~, cerebral palsy, epilepsy or autism; or to (b) any  
22 other condition which results in impairment similar to that  
23 caused by an intellectual disability ~~mental retardation~~ and

1 which requires services similar to those required by  
2 intellectually disabled ~~mentally retarded~~ persons. Such  
3 disability must originate before the age of 18 years, be  
4 expected to continue indefinitely, and constitute a  
5 substantial handicap.

6 (Source: P.A. 80-1415.)

7 Section 175. The Health Care Surrogate Act is amended by  
8 changing Section 20 as follows:

9 (755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

10 Sec. 20. Private decision making process. (a)  
11 Decisions whether to forgo life-sustaining or any other form of  
12 medical treatment involving an adult patient with decisional  
13 capacity may be made by that adult patient.

14 (b) Decisions whether to forgo life-sustaining treatment  
15 on behalf of a patient without decisional capacity are lawful,  
16 without resort to the courts or legal process, if the patient  
17 has a qualifying condition and if the decisions are made in  
18 accordance with one of the following paragraphs in this  
19 subsection and otherwise meet the requirements of this Act:

20 (1) Decisions whether to forgo life-sustaining  
21 treatment on behalf of a minor or an adult patient who  
22 lacks decisional capacity may be made by a surrogate  
23 decision maker or makers in consultation with the attending  
24 physician, in the order or priority provided in Section 25.



1 A surrogate decision maker shall make decisions for the  
2 adult patient conforming as closely as possible to what the  
3 patient would have done or intended under the  
4 circumstances, taking into account evidence that includes,  
5 but is not limited to, the patient's personal,  
6 philosophical, religious and moral beliefs and ethical  
7 values relative to the purpose of life, sickness, medical  
8 procedures, suffering, and death. Where possible, the  
9 surrogate shall determine how the patient would have  
10 weighed the burdens and benefits of initiating or  
11 continuing life-sustaining treatment against the burdens  
12 and benefits of that treatment. In the event an unrevoked  
13 advance directive, such as a living will, a declaration for  
14 mental health treatment, or a power of attorney for health  
15 care, is no longer valid due to a technical deficiency or  
16 is not applicable to the patient's condition, that document  
17 may be used as evidence of a patient's wishes. The absence  
18 of a living will, declaration for mental health treatment,  
19 or power of attorney for health care shall not give rise to  
20 any presumption as to the patient's preferences regarding  
21 the initiation or continuation of life-sustaining  
22 procedures. If the adult patient's wishes are unknown and  
23 remain unknown after reasonable efforts to discern them or  
24 if the patient is a minor, the decision shall be made on  
25 the basis of the patient's best interests as determined by  
26 the surrogate decision maker. In determining the patient's

1 best interests, the surrogate shall weigh the burdens on  
2 and benefits to the patient of initiating or continuing  
3 life-sustaining treatment against the burdens and benefits  
4 of that treatment and shall take into account any other  
5 information, including the views of family and friends,  
6 that the surrogate decision maker believes the patient  
7 would have considered if able to act for herself or  
8 himself.

9 (2) Decisions whether to forgo life-sustaining  
10 treatment on behalf of a minor or an adult patient who  
11 lacks decisional capacity, but without any surrogate  
12 decision maker or guardian being available determined  
13 after reasonable inquiry by the health care provider, may  
14 be made by a court appointed guardian. A court appointed  
15 guardian shall be treated as a surrogate for the purposes  
16 of this Act.

17 (b-5) Decisions concerning medical treatment on behalf of a  
18 patient without decisional capacity are lawful, without resort  
19 to the courts or legal process, if the patient does not have a  
20 qualifying condition and if decisions are made in accordance  
21 with one of the following paragraphs in this subsection and  
22 otherwise meet the requirements of this Act:

23 (1) Decisions concerning medical treatment on behalf  
24 of a minor or adult patient who lacks decisional capacity  
25 may be made by a surrogate decision maker or makers in  
26 consultation with the attending physician, in the order of

1 priority provided in Section 25 with the exception that  
2 decisions to forgo life-sustaining treatment may be made  
3 only when a patient has a qualifying condition. A surrogate  
4 decision maker shall make decisions for the patient  
5 conforming as closely as possible to what the patient would  
6 have done or intended under the circumstances, taking into  
7 account evidence that includes, but is not limited to, the  
8 patient's personal, philosophical, religious, and moral  
9 beliefs and ethical values relative to the purpose of life,  
10 sickness, medical procedures, suffering, and death. In the  
11 event an unrevoked advance directive, such as a living  
12 will, a declaration for mental health treatment, or a power  
13 of attorney for health care, is no longer valid due to a  
14 technical deficiency or is not applicable to the patient's  
15 condition, that document may be used as evidence of a  
16 patient's wishes. The absence of a living will, declaration  
17 for mental health treatment, or power of attorney for  
18 health care shall not give rise to any presumption as to  
19 the patient's preferences regarding any process. If the  
20 adult patient's wishes are unknown and remain unknown after  
21 reasonable efforts to discern them or if the patient is a  
22 minor, the decision shall be made on the basis of the  
23 patient's best interests as determined by the surrogate  
24 decision maker. In determining the patient's best  
25 interests, the surrogate shall weigh the burdens on and  
26 benefits to the patient of the treatment against the

1           burdens and benefits of that treatment and shall take into  
2           account any other information, including the views of  
3           family and friends, that the surrogate decision maker  
4           believes the patient would have considered if able to act  
5           for herself or himself.

6           (2) Decisions concerning medical treatment on behalf  
7           of a minor or adult patient who lacks decisional capacity,  
8           but without any surrogate decision maker or guardian being  
9           available as determined after reasonable inquiry by the  
10          health care provider, may be made by a court appointed  
11          guardian. A court appointed guardian shall be treated as a  
12          surrogate for the purposes of this Act.

13          (c) For the purposes of this Act, a patient or surrogate  
14          decision maker is presumed to have decisional capacity in the  
15          absence of actual notice to the contrary without regard to  
16          advanced age. With respect to a patient, a diagnosis of mental  
17          illness or an intellectual disability ~~mental retardation~~, of  
18          itself, is not a bar to a determination of decisional capacity.  
19          A determination that an adult patient lacks decisional capacity  
20          shall be made by the attending physician to a reasonable degree  
21          of medical certainty. The determination shall be in writing in  
22          the patient's medical record and shall set forth the attending  
23          physician's opinion regarding the cause, nature, and duration  
24          of the patient's lack of decisional capacity. Before  
25          implementation of a decision by a surrogate decision maker to  
26          forgo life-sustaining treatment, at least one other qualified

1 physician must concur in the determination that an adult  
2 patient lacks decisional capacity. The concurring  
3 determination shall be made in writing in the patient's medical  
4 record after personal examination of the patient. The attending  
5 physician shall inform the patient that it has been determined  
6 that the patient lacks decisional capacity and that a surrogate  
7 decision maker will be making life-sustaining treatment  
8 decisions on behalf of the patient. Moreover, the patient shall  
9 be informed of the identity of the surrogate decision maker and  
10 any decisions made by that surrogate. If the person identified  
11 as the surrogate decision maker is not a court appointed  
12 guardian and the patient objects to the statutory surrogate  
13 decision maker or any decision made by that surrogate decision  
14 maker, then the provisions of this Act shall not apply.

15 (d) A surrogate decision maker acting on behalf of the  
16 patient shall express decisions to forgo life-sustaining  
17 treatment to the attending physician and one adult witness who  
18 is at least 18 years of age. This decision and the substance of  
19 any known discussion before making the decision shall be  
20 documented by the attending physician in the patient's medical  
21 record and signed by the witness.

22 (e) The existence of a qualifying condition shall be  
23 documented in writing in the patient's medical record by the  
24 attending physician and shall include its cause and nature, if  
25 known. The written concurrence of another qualified physician  
26 is also required.

1 (f) Once the provisions of this Act are complied with, the  
2 attending physician shall thereafter promptly implement the  
3 decision to forgo life-sustaining treatment on behalf of the  
4 patient unless he or she believes that the surrogate decision  
5 maker is not acting in accordance with his or her  
6 responsibilities under this Act, or is unable to do so for  
7 reasons of conscience or other personal views or beliefs.

8 (g) In the event of a patient's death as determined by a  
9 physician, all life-sustaining treatment and other medical  
10 care is to be terminated, unless the patient is an organ donor,  
11 in which case appropriate organ donation treatment may be  
12 applied or continued temporarily.

13 (Source: P.A. 93-794, eff. 7-22-04.)

14 Section 177. The Consumer Fraud and Deceptive Business  
15 Practices Act is amended by changing Section 2BBB as follows:

16 (815 ILCS 505/2BBB)

17 Sec. 2BBB. Long term care or ID/DD ~~MR/DD~~ facility; Consumer  
18 Choice Information Report. A long term care facility that fails  
19 to comply with Section 2-214 of the Nursing Home Care Act or a  
20 facility that fails to comply with Section 2-214 of the ID/DD  
21 ~~MR/DD~~ Community Care Act commits an unlawful practice within  
22 the meaning of this Act.

23 (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09;  
24 96-339, eff. 7-1-10.)