



Sen. Matt Murphy

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FISCAL NOTE ACT
MAY APPLY

09700SB1833sam001

LRB097 07747 KTG 51610 a

1 AMENDMENT TO SENATE BILL 1833

2 AMENDMENT NO. _____. Amend Senate Bill 1833 by replacing
3 everything after the enacting clause with the following:

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:

1 (5 ILCS 70/1.37 new)

2 Sec. 1.37. Intellectual disability. Except where the
3 context indicates otherwise, in any rule, contract, or other
4 document a reference to the term "mental retardation" shall be
5 considered a reference to the term "intellectual disability"
6 and a reference to the term "mentally retarded" shall be
7 considered a reference to the term "intellectually disabled".
8 The use of either "mental retardation" or "intellectually
9 disabled", or "mentally retarded" or "intellectually disabled"
10 shall not invalidate any rule, contract, or other document.

11 (5 ILCS 70/1.38 new)

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

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

1 (5 ILCS 100/5-146 new)

2 Sec. 5-146. Rule change; intellectual disability. Any
3 State agency with a rule that contains the term "mentally
4 retarded" or "mental retardation" shall amend the text of the
5 rule to substitute the term "intellectually disabled" for
6 "mentally retarded" and "intellectual disability" for "mental
7 retardation", and shall make any other changes that may be
8 necessary to conform to the changes made by this amendatory Act
9 of the 97th General Assembly.

10 (5 ILCS 100/5-147 new)

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

20 Section 5. The Supported Employees Act is amended by
21 changing Section 3 as follows:

22 (5 ILCS 390/3) (from Ch. 127, par. 3903)

1 Sec. 3. As used in this Act:

2 (a) "Agency" means those Departments, Boards, Commissions
3 and Authorities that are under the jurisdiction and control of
4 the Governor and are subject to the provisions and requirements
5 of the Personnel Code, the State Universities Civil Service Act
6 and the Secretary of State Merit Employment Code.

7 (b) "Department" means the Department of Central
8 Management Services.

9 (c) "Director" means the Director of the Department of
10 Central Management Services.

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

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

18 (2) has one or more physical or mental disabilities
19 resulting from amputation; arthritis; blindness; cancer;
20 cerebral palsy; cystic fibrosis; deafness; heart disease;
21 hemiplegia; respiratory or pulmonary dysfunction; an
22 intellectual disability ~~mental retardation~~; mental
23 illness; multiple sclerosis; muscular dystrophy;
24 musculoskeletal disorders; neurological disorders,
25 including stroke and epilepsy; paraplegia; quadriplegia
26 and other spinal cord conditions; sickle cell anemia; and

1 end-stage renal disease; or another disability or
2 combination of disabilities determined on the basis of an
3 evaluation of rehabilitation potential to cause comparable
4 substantial functional limitation.

5 (e) "Supported employment" means competitive work in
6 integrated work settings:

7 (1) for individuals with severe handicaps for whom
8 competitive employment has not traditionally occurred, or

9 (2) for individuals for whom competitive employment
10 has been interrupted or intermittent as a result of a
11 severe disability, and who because of their handicap, need
12 on-going support services to perform such work. The term
13 includes transitional employment for individuals with
14 chronic mental illness.

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

21 (g) "Funder" means any entity either State, local or
22 federal, or private not-for-profit or for-profit that provides
23 monies to programs that provide services related to supported
24 employment.

25 (h) "Provider" means any entity either public or private
26 that provides technical support and services to any department

1 or agency subject to the control of the Governor, the Secretary
2 of State or the University Civil Service System.

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

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

7 (10 ILCS 5/3-3) (from Ch. 46, par. 3-3)

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

1 at the time he entered said home or community-integrated living
2 arrangement to become a resident thereof.

3 (Source: P.A. 96-339, eff. 7-1-10; 96-563, eff. 1-1-10;
4 96-1000, eff. 7-2-10.)

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

6 Sec. 4-6.3. The county clerk may establish a temporary
7 place of registration for such times and at such locations
8 within the county as the county clerk may select. However, no
9 temporary place of registration may be in operation during the
10 27 days preceding an election. Notice of the time and place of
11 registration under this Section shall be published by the
12 county clerk in a newspaper having a general circulation in the
13 county not less than 3 nor more than 15 days before the holding
14 of such registration.

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

25 Temporary places of registration shall be available to the

1 public not less than 2 hours per year for each 1,000 population
2 or fraction thereof in the county.

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

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

7 (10 ILCS 5/4-10) (from Ch. 46, par. 4-10)

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

1 address. The registration officer shall require each applicant
2 for registration to read or have read to him the affidavit of
3 registration before permitting him to execute the affidavit.

4 One of the registration officers or a deputy registration
5 officer, county clerk, or clerk in the office of the county
6 clerk, shall administer to all persons who shall personally
7 apply to register the following oath or affirmation:

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

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

26 In case the officer is not satisfied that the applicant is

1 qualified he shall forthwith notify such applicant in writing
2 to appear before the county clerk to complete his registration.
3 Upon the card of such applicant shall be written the word
4 "incomplete" and no such applicant shall be permitted to vote
5 unless such registration is satisfactorily completed as
6 hereinafter provided. No registration shall be taken and marked
7 as incomplete if information to complete it can be furnished on
8 the date of the original application.

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

13 "I do solemnly swear that I,, did on (insert date)
14 make application to the board of registry of the precinct
15 of the township of (or to the county clerk of county)
16 and that said board or clerk refused to complete my
17 registration as a qualified voter in said precinct. That I
18 reside in said precinct, that I intend to reside in said
19 precinct, and am a duly qualified voter of said precinct and am
20 entitled to be registered to vote in said precinct at the next
21 election.

22 (Signature of applicant)"

23 All such applications shall be presented to the county
24 clerk or to his duly authorized representative by the
25 applicant, in person between the hours of 9:00 a.m. and 5:00

1 p.m. on any day after the days on which the 1969 and 1970
2 precinct re-registrations are held but not on any day within 27
3 days preceding the ensuing general election and thereafter for
4 the registration provided in Section 4-7 all such applications
5 shall be presented to the county clerk or his duly authorized
6 representative by the applicant in person between the hours of
7 9:00 a.m. and 5:00 p.m. on any day prior to 27 days preceding
8 the ensuing general election. Such application shall be heard
9 by the county clerk or his duly authorized representative at
10 the time the application is presented. If the applicant for
11 registration has registered with the county clerk, such
12 application may be presented to and heard by the county clerk
13 or by his duly authorized representative upon the dates
14 specified above or at any time prior thereto designated by the
15 county clerk.

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

24 Upon receipt of such application the county clerk shall
25 immediately mail an affidavit of registration in duplicate,
26 which affidavit shall contain the following and such other

1 information as the State Board of Elections may think it proper
2 to require for the identification of the applicant:

3 Name. The name of the applicant, giving surname and first
4 or Christian name in full, and the middle name or the initial
5 for such middle name, if any.

6 Sex.

7 Residence. The name and number of the street, avenue or
8 other location of the dwelling, and such additional clear and
9 definite description as may be necessary to determine the exact
10 location of the dwelling of the applicant. Where the location
11 cannot be determined by street and number, then the Section,
12 congressional township and range number may be used, or such
13 other information as may be necessary, including post office
14 mailing address.

15 Term of residence in the State of Illinois and the
16 precinct.

17 Nativity. The State or country in which the applicant was
18 born.

19 Citizenship. Whether the applicant is native born or
20 naturalized. If naturalized, the court, place and date of
21 naturalization.

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

23 Out of State address of

24 AFFIDAVIT OF REGISTRATION

25 State of

26)ss

1 County of)

2 I hereby swear (or affirm) that I am a citizen of the
3 United States; that on the day of the next election I shall
4 have resided in the State of Illinois and in the election
5 precinct 30 days; that I am fully qualified to vote, that I am
6 not registered to vote anywhere else in the United States, that
7 I intend to remain a resident of the State of Illinois and of
8 the election precinct, that I intend to return to the State of
9 Illinois, and that the above statements are true.

10

11 (His or her signature or mark)

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

14

15 Signature of officer administering oath.

16 Upon receipt of the executed duplicate affidavit of
17 Registration, the county clerk shall transfer the information
18 contained thereon to duplicate Registration Cards provided for
19 in Section 4-8 of this Article and shall attach thereto a copy
20 of each of the duplicate affidavit of registration and
21 thereafter such registration card and affidavit shall
22 constitute the registration of such person the same as if he
23 had applied for registration in person.

24 (Source: P.A. 96-317, eff. 1-1-10; 96-339, eff. 7-1-10;
25 96-1000, eff. 7-2-10.)

1 (10 ILCS 5/5-9) (from Ch. 46, par. 5-9)

2 Sec. 5-9. Except as herein provided, no person shall be
3 registered unless he applies in person to registration officer,
4 answers such relevant questions as may be asked of him by the
5 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 Deputy Registrars, the Judge of Registration, or
24 an Officer of Registration, County Clerk, or clerk in the
25 office of the County Clerk, shall administer to all persons who
26 shall personally apply to register the following oath or

1 affirmation:

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

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

20 In case the officer is not satisfied that the applicant is
21 qualified, he shall forthwith in writing notify such applicant
22 to appear before the County Clerk to furnish further proof of
23 his qualifications. Upon the card of such applicant shall be
24 written the word "Incomplete" and no such applicant shall be
25 permitted to vote unless such registration is satisfactorily
26 completed as hereinafter provided. No registration shall be

1 taken and marked as "incomplete" if information to complete it
2 can be furnished on the date of the original application.

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

8 "I do solemnly swear that I,, did on (insert
9 date) make application to the Board of Registry of the
10 precinct of ward of the City of or of the
11 District Town of (or to the
12 County Clerk of) and County; that
13 said Board or Clerk refused to complete my registration as a
14 qualified voter in said precinct, that I reside in said
15 precinct (or that I intend to reside in said precinct), am a
16 duly qualified voter and entitled to vote in said precinct at
17 the next election.

18
19 (Signature of Applicant)"

20 All such applications shall be presented to the County
21 Clerk by the applicant, in person between the hours of nine
22 o'clock a.m. and five o'clock p.m., on Monday and Tuesday of
23 the third week subsequent to the weeks in which the 1961 and
24 1962 precinct re-registrations are to be held, and thereafter
25 for the registration provided in Section 5-17 of this Article,
26 all such applications shall be presented to the County Clerk by

1 the applicant in person between the hours of nine o'clock a.m.
2 and nine o'clock p.m. on Monday and Tuesday of the third week
3 prior to the date on which such election is to be held.

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

12 Upon receipt of such application the county clerk shall
13 immediately mail an affidavit of registration in duplicate,
14 which affidavit shall contain the following and such other
15 information as the State Board of Elections may think it proper
16 to require for the identification of the applicant:

17 Name. The name of the applicant, giving surname and first
18 or Christian name in full, and the middle name or the initial
19 for such middle name, if any.

20 Sex.

21 Residence. The name and number of the street, avenue or
22 other location of the dwelling, and such additional clear and
23 definite description as may be necessary to determine the exact
24 location of the dwelling of the applicant. Where the location
25 cannot be determined by street and number, then the Section,
26 congressional township and range number may be used, or such

1 other information as may be necessary, including post office
2 mailing address.

3 Term of residence in the State of Illinois and the
4 precinct.

5 Nativity. The State or country in which the applicant was
6 born.

7 Citizenship. Whether the applicant is native born or
8 naturalized. If naturalized, the court, place and date of
9 naturalization.

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

11 Out of State address of

12 AFFIDAVIT OF REGISTRATION

13 State of

14)ss

15 County of

16 I hereby swear (or affirm) that I am a citizen of the
17 United States; that on the day of the next election I shall
18 have resided in the State of Illinois for 6 months and in the
19 election precinct 30 days; that I am fully qualified to vote,
20 that I am not registered to vote anywhere else in the United
21 States, that I intend to remain a resident of the State of
22 Illinois and of the election precinct, that I intend to return
23 to the State of Illinois, and that the above statements are
24 true.

25

26 (His or her signature or mark)

1 than 3 nor more than 15 days before the holding of such
2 registration.

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

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

16 All temporary places of registration shall be manned by
17 deputy county clerks or deputy registrars appointed pursuant to
18 Section 5-16.2.

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

20 (10 ILCS 5/6-50.3) (from Ch. 46, par. 6-50.3)

21 Sec. 6-50.3. The board of election commissioners may
22 establish temporary places of registration for such times and
23 at such locations as the board may select. However, no
24 temporary place of registration may be in operation during the
25 27 days preceding an election. Notice of the time and place of

1 registration at any such temporary place of registration under
2 this Section shall be published by the board of election
3 commissioners in a newspaper having a general circulation in
4 the city, village or incorporated town not less than 3 nor more
5 than 15 days before the holding of such registration.

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

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

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

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

23 (10 ILCS 5/6-56) (from Ch. 46, par. 6-56)

24 Sec. 6-56. Not more than 30 nor less than 28 days before
25 any election under this Article, all owners, managers,

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

26 Except in such cases where a precinct canvass is being

1 conducted by the Board of Election Commissioners prior to a
2 Primary or Election, the board of election commissioners shall
3 compare the original copy of each such report with the list of
4 registered voters from such addresses. Every person registered
5 from such address and not listed in such report or whose name
6 is different from any name so listed, shall immediately after
7 the last day of registration be sent a notice through the
8 United States mail, at the address appearing upon his
9 registration record card, requiring him to appear before the
10 board of election commissioners on one of the days specified in
11 Section 6-45 of this Article and show cause why his
12 registration should not be cancelled. The provisions of
13 Sections 6-45, 6-46 and 6-47 of this Article shall apply to
14 such hearing and proceedings subsequent thereto.

15 Any owner, manager or operator of any such hotel, lodging
16 house, rooming house or furnished apartment who shall fail or
17 neglect to file such statement and copy thereof as in this
18 Article provided, may, upon written information of the attorney
19 for the election commissioners, be cited by the election
20 commissioners or upon the complaint of any voter of such city,
21 village or incorporated town, to appear before them and furnish
22 such sworn statement and copy thereof and make such oral
23 statements under oath regarding such hotel, lodging house,
24 rooming house or furnished apartment, as the election
25 commissioners may require. The election commissioners shall
26 sit to hear such citations on the Friday of the fourth week

1 preceding the week in which such election is to be held. Such
2 citation shall be served not later than the day preceding the
3 day on which it is returnable.

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

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

6 Sec. 19-4. Mailing or delivery of ballots - Time.)
7 Immediately upon the receipt of such application either by
8 mail, not more than 40 days nor less than 5 days prior to such
9 election, or by personal delivery not more than 40 days nor
10 less than one day prior to such election, at the office of such
11 election authority, it shall be the duty of such election
12 authority to examine the records to ascertain whether or not
13 such applicant is lawfully entitled to vote as requested,
14 including a verification of the applicant's signature by
15 comparison with the signature on the official registration
16 record card, and if found so to be entitled to vote, to post
17 within one business day thereafter the name, street address,
18 ward and precinct number or township and district number, as
19 the case may be, of such applicant given on a list, the pages
20 of which are to be numbered consecutively to be kept by such
21 election authority for such purpose in a conspicuous, open and
22 public place accessible to the public at the entrance of the
23 office of such election authority, and in such a manner that
24 such list may be viewed without necessity of requesting
25 permission therefor. Within one day after posting the name and

1 other information of an applicant for an absentee ballot, the
2 election authority shall transmit that name and other posted
3 information to the State Board of Elections, which shall
4 maintain those names and other information in an electronic
5 format on its website, arranged by county and accessible to
6 State and local political committees. Within 2 business days
7 after posting a name and other information on the list within
8 its office, the election authority shall mail, postage prepaid,
9 or deliver in person in such office an official ballot or
10 ballots if more than one are to be voted at said election. Mail
11 delivery of Temporarily Absent Student ballot applications
12 pursuant to Section 19-12.3 shall be by nonforwardable mail.
13 However, for the consolidated election, absentee ballots for
14 certain precincts may be delivered to applicants not less than
15 25 days before the election if so much time is required to have
16 prepared and printed the ballots containing the names of
17 persons nominated for offices at the consolidated primary. The
18 election authority shall enclose with each absentee ballot or
19 application written instructions on how voting assistance
20 shall be provided pursuant to Section 17-14 and a document,
21 written and approved by the State Board of Elections,
22 enumerating the circumstances under which a person is
23 authorized to vote by absentee ballot pursuant to this Article;
24 such document shall also include a statement informing the
25 applicant that if he or she falsifies or is solicited by
26 another to falsify his or her eligibility to cast an absentee

1 ballot, such applicant or other is subject to penalties
2 pursuant to Section 29-10 and Section 29-20 of the Election
3 Code. Each election authority shall maintain a list of the
4 name, street address, ward and precinct, or township and
5 district number, as the case may be, of all applicants who have
6 returned absentee ballots to such authority, and the name of
7 such absent voter shall be added to such list within one
8 business day from receipt of such ballot. If the absentee
9 ballot envelope indicates that the voter was assisted in
10 casting the ballot, the name of the person so assisting shall
11 be included on the list. The list, the pages of which are to be
12 numbered consecutively, shall be kept by each election
13 authority in a conspicuous, open, and public place accessible
14 to the public at the entrance of the office of the election
15 authority and in a manner that the list may be viewed without
16 necessity of requesting permission for viewing.

17 Each election authority shall maintain a list for each
18 election of the voters to whom it has issued absentee ballots.
19 The list shall be maintained for each precinct within the
20 jurisdiction of the election authority. Prior to the opening of
21 the polls on election day, the election authority shall deliver
22 to the judges of election in each precinct the list of
23 registered voters in that precinct to whom absentee ballots
24 have been issued by mail.

25 Each election authority shall maintain a list for each
26 election of voters to whom it has issued temporarily absent

1 student ballots. The list shall be maintained for each election
2 jurisdiction within which such voters temporarily abide.
3 Immediately after the close of the period during which
4 application may be made by mail for absentee ballots, each
5 election authority shall mail to each other election authority
6 within the State a certified list of all such voters
7 temporarily abiding within the jurisdiction of the other
8 election authority.

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

24 All applications for absentee ballots shall be available at
25 the office of the election authority for public inspection upon
26 request from the time of receipt thereof by the election

1 authority until 30 days after the election, except during the
2 time such applications are kept in the office of the election
3 authority pursuant to Section 19-7, and except during the time
4 such applications are in the possession of the judges of
5 election.

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

7 (10 ILCS 5/19-12.1) (from Ch. 46, par. 19-12.1)

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

23 Application for a disabled voter's or nursing home
24 resident's identification card shall be made either: (a) in
25 writing, with voter's sworn affidavit, to the county clerk or

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

1 Each disabled voter's or nursing home resident's
2 identification card shall bear an identification number, which
3 shall be clearly noted on the voter's original and duplicate
4 registration record cards. In the event the holder becomes
5 physically capable of resuming normal voting, he must surrender
6 his disabled voter's or nursing home resident's identification
7 card to the county clerk or board of election commissioners
8 before the next election.

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

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

4 For the purposes of this Section, "nursing home resident"
5 includes a resident of a facility licensed under the MR/DD
6 Community Care Act.

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

8 (10 ILCS 5/19-12.2) (from Ch. 46, par. 19-12.2)

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

1 precinct within the jurisdiction of the election authority in
2 the same ward or township, as the case may be, in which the
3 facility is located or, only in the case where a judge or
4 judges from the precinct, township or ward are unavailable to
5 serve, (3) from a panel of judges appointed for any other
6 precinct within the jurisdiction of the election authority. The
7 two judges shall be from different political parties. Not less
8 than 30 days before each regular election, the election
9 authority shall have arranged with the chief administrative
10 officer of each facility in his or its election jurisdiction a
11 mutually convenient time period on the Friday, Saturday, Sunday
12 or Monday immediately preceding the election for such voting on
13 the premises of the facility and shall post in a prominent
14 place in his or its office a notice of the agreed day and time
15 period for conducting such voting at each facility; provided
16 that the election authority shall not later than noon on the
17 Thursday before the election also post the names and addresses
18 of those facilities from which no applications were received
19 and in which no supervised absentee voting will be conducted.
20 All provisions of this Code applicable to pollwatchers shall be
21 applicable herein. To the maximum extent feasible, voting
22 booths or screens shall be provided to insure the privacy of
23 the voter. Voting procedures shall be as described in Article
24 17 of this Code, except that ballots shall be treated as
25 absentee ballots and shall not be counted until the close of
26 the polls on the following day. After the last voter has

1 concluded voting, the judges shall seal the ballots in an
2 envelope and affix their signatures across the flap of the
3 envelope. Immediately thereafter, the judges shall bring the
4 sealed envelope to the office of the election authority who
5 shall deliver such ballots to the election authority's central
6 ballot counting location prior to the closing of the polls on
7 the day of election. The judges of election shall also report
8 to the election authority the name of any applicant in the
9 facility who, due to unforeseen circumstance or condition or
10 because of a religious holiday, was unable to vote. In this
11 event, the election authority may appoint a qualified person
12 from his or its staff to deliver the ballot to such applicant
13 on the day of election. This staff person shall follow the same
14 procedures prescribed for judges conducting absentee voting in
15 such facilities and shall return the ballot to the central
16 ballot counting location before the polls close. However, if
17 the facility from which the application was made is also used
18 as a regular precinct polling place for that voter, voting
19 procedures heretofore prescribed may be implemented by 2 of the
20 election judges of opposite party affiliation assigned to that
21 polling place during the hours of voting on the day of the
22 election. Judges of election shall be compensated not less than
23 \$25.00 for conducting absentee voting in such facilities.

24 Not less than 120 days before each regular election, the
25 Department of Public Health shall certify to the State Board of
26 Elections a list of the facilities licensed or certified

1 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~
2 Community Care Act, and shall indicate the approved bed
3 capacity and the name of the chief administrative officer of
4 each such facility, and the State Board of Elections shall
5 certify the same to the appropriate election authority within
6 20 days thereafter.

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

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

10 (15 ILCS 310/18c) (from Ch. 124, par. 118c)

11 Sec. 18c. Supported employees.

12 (a) The Director shall develop and implement a supported
13 employment program. It shall be the goal of the program to
14 appoint a minimum of 10 supported employees to Secretary of
15 State positions before June 30, 1992.

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

20 (c) As used in this Section:

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

22 (A) has a severe physical or mental disability
23 which seriously limits functional capacities including
24 but not limited to mobility, communication, self-care,

1 self-direction, work tolerance or work skills, in
2 terms of employability as defined, determined and
3 certified by the Department of Human Services; and

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

18 (2) "Supported employment" means competitive work in
19 integrated work settings:

20 (A) for individuals with severe handicaps for whom
21 competitive employment has not traditionally occurred,
22 or

23 (B) for individuals for whom competitive
24 employment has been interrupted or intermittent as a
25 result of a severe disability, and who because of their
26 handicap, need on-going support services to perform

1 such work. The term includes transitional employment
2 for individuals with chronic mental illness.

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

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

14 (5) "Provider" means any entity either public or
15 private that provides technical support and services to any
16 department or agency subject to the control of the
17 Governor, the Secretary of State or the University Civil
18 Service System.

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

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

26 (1) the number of supported employees initially

1 appointed;

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

4 (3) the number of permanent targeted positions by
5 titles.

6 (f) The Director shall submit an annual report to the
7 General Assembly regarding the employment progress of
8 supported employees, with recommendations for legislative
9 action.

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

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

13 (15 ILCS 335/4A) (from Ch. 124, par. 24A)

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

18 Type One: Physical disability. A physical disability is a
19 physical impairment, disease, or loss, which is of a permanent
20 nature, and which substantially impairs normal physical
21 ability or motor skills. The Secretary of State shall establish
22 standards not inconsistent with this provision necessary to
23 determine the presence of a physical disability.

24 Type Two: Developmental disability. A developmental

1 disability is a disability which originates before the age of
2 18 years, and results in or has resulted in impairment similar
3 to that caused by an intellectual disability ~~mental retardation~~
4 and which requires services similar to those required by
5 intellectually disabled ~~mentally retarded~~ persons and which is
6 attributable to an intellectual disability ~~mental retardation~~,
7 cerebral palsy, epilepsy, autism, or other conditions or
8 similar disorders. The Secretary of State shall establish
9 standards not inconsistent with this provision necessary to
10 determine the presence of a developmental disability.

11 Type Three: Visual disability. A visual disability is a
12 disability resulting in complete absence of vision, or vision
13 that with corrective glasses is so defective as to prevent
14 performance of tasks or activities for which eyesight is
15 essential. The Secretary of State shall establish standards not
16 inconsistent with this Section necessary to determine the
17 presence of a visual disability.

18 Type Four: Hearing disability. A hearing disability is a
19 disability resulting in complete absence of hearing, or hearing
20 that with sound enhancing or magnifying equipment is so
21 impaired as to require the use of sensory input other than
22 hearing as the principal means of receiving spoken language.
23 The Secretary of State shall establish standards not
24 inconsistent with this Section necessary to determine the
25 presence of a hearing disability.

26 Type Five: Mental Disability. A mental disability is an

1 emotional or psychological impairment or disease, which
2 substantially impairs the ability to meet individual or
3 societal needs. The Secretary of State shall establish
4 standards not inconsistent with this provision necessary to
5 determine the presence of a mental disability.

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

1 without supervision or in-home support services, or which
2 substantially impairs his ability to perform labor or services
3 for which he is qualified or significantly restricts the labor
4 or services which he is able to perform. The Secretary of State
5 shall establish standards not inconsistent with this Section
6 necessary to determine the presence of a Class 2 disability.
7 Class 2A disability: A Class 2A disability is a Class 2
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, blindness, or the loss of function or
14 absence of a limb or limbs. The Secretary of State shall
15 establish standards not inconsistent with this Section
16 necessary to determine the presence of a Class 2A disability.
17 (Source: P.A. 85-354.)

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

20 (20 ILCS 105/4.08)

21 Sec. 4.08. Rural and small town meals program. Subject to
22 appropriation, the Department may establish a program to ensure
23 the availability of congregate or home-delivered meals in
24 communities with populations of under 5,000 that are not

1 located within the large urban counties of Cook, DuPage, Kane,
2 Lake, or Will.

3 The Department may meet these requirements by entering into
4 agreements with Area Agencies on Aging or Department designees,
5 which shall in turn enter into grants or contractual agreements
6 with such local entities as restaurants, cafes, churches,
7 facilities licensed under the Nursing Home Care Act, the ID/DD
8 ~~MR/DD~~ Community Care Act, the Assisted Living and Shared
9 Housing Act, or the Hospital Licensing Act, facilities
10 certified by the Department of Healthcare and Family Services,
11 senior centers, or Older American Act designated nutrition
12 service providers.

13 First consideration shall be given to entities that can
14 cost effectively meet the needs of seniors in the community by
15 preparing the food locally.

16 In no instance shall funds provided pursuant to this
17 Section be used to replace funds allocated to a given area or
18 program as of the effective date of this amendatory Act of the
19 95th General Assembly.

20 The Department shall establish guidelines and standards by
21 administrative rule, which shall include submission of an
22 expenditure plan by the recipient of the funds.

23 (Source: P.A. 95-68, eff. 8-13-07; 95-876, eff. 8-21-08;
24 96-339, eff. 7-1-10.)

25 Section 20. The Mental Health and Developmental

1 Disabilities Administrative Act is amended by changing
2 Sections 7, 15, 34, 43, 45, 46, and 57.6 as follows:

3 (20 ILCS 1705/7) (from Ch. 91 1/2, par. 100-7)

4 Sec. 7. To receive and provide the highest possible quality
5 of humane and rehabilitative care and treatment to all persons
6 admitted or committed or transferred in accordance with law to
7 the facilities, divisions, programs, and services under the
8 jurisdiction of the Department. No resident of another state
9 shall be received or retained to the exclusion of any resident
10 of this State. No resident of another state shall be received
11 or retained to the exclusion of any resident of this State. All
12 recipients of 17 years of age and under in residence in a
13 Department facility other than a facility for the care of the
14 intellectually disabled ~~mentally retarded~~ shall be housed in
15 quarters separated from older recipients except for: (a)
16 recipients who are placed in medical-surgical units because of
17 physical illness; and (b) recipients between 13 and 18 years of
18 age who need temporary security measures.

19 All recipients in a Department facility shall be given a
20 dental examination by a licensed dentist or registered dental
21 hygienist at least once every 18 months and shall be assigned
22 to a dentist for such dental care and treatment as is
23 necessary.

24 All medications administered to recipients shall be
25 administered only by those persons who are legally qualified to

1 do so by the laws of the State of Illinois. Medication shall
2 not be prescribed until a physical and mental examination of
3 the recipient has been completed. If, in the clinical judgment
4 of a physician, it is necessary to administer medication to a
5 recipient before the completion of the physical and mental
6 examination, he may prescribe such medication but he must file
7 a report with the facility director setting forth the reasons
8 for prescribing such medication within 24 hours of the
9 prescription. A copy of the report shall be part of the
10 recipient's record.

11 No later than January 1, 2005, the Department shall adopt a
12 model protocol and forms for recording all patient diagnosis,
13 care, and treatment at each State-operated facility for the
14 mentally ill and developmentally disabled under the
15 jurisdiction of the Department. The model protocol and forms
16 shall be used by each facility unless the Department determines
17 that equivalent alternatives justify an exemption.

18 Every facility under the jurisdiction of the Department
19 shall maintain a copy of each report of suspected abuse or
20 neglect of the patient. Copies of those reports shall be made
21 available to the State Auditor General in connection with his
22 biennial program audit of the facility as required by Section
23 3-2 of the Illinois State Auditing Act.

24 No later than January 1 2004, the Department shall report
25 to the Governor and the General Assembly whether each
26 State-operated facility for the mentally ill and

1 developmentally disabled under the jurisdiction of the
2 Department and all services provided in those facilities comply
3 with all of the applicable standards adopted by the Social
4 Security Administration under Subchapter XVIII (Medicare) of
5 the Social Security Act (42 U.S.C. 1395-1395ccc), if the
6 facility and services may be eligible for federal financial
7 participation under that federal law. For those facilities that
8 do comply, the report shall indicate what actions need to be
9 taken to ensure continued compliance. For those facilities that
10 do not comply, the report shall indicate what actions need to
11 be taken to bring each facility into compliance.

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

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

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

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

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

25 (c) requires further personal care or general

1 oversight as defined by the ID/DD ~~MR/DD~~ Community Care Act,
2 for which placement arrangements have been made with a
3 suitable family home or other licensed facility approved by
4 the Department under this Section; or

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

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

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

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

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

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

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

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

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

1 required.

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

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

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

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

1 environment.

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

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

26 The Department shall promulgate rules and regulations

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

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

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

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

25 (20 ILCS 1705/34) (from Ch. 91 1/2, par. 100-34)

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

6 In addition to other standards and procedures governing the
7 disbursement of grants-in-aid implemented under this Section,
8 the Secretary shall require that each application for such aid
9 submitted by public agencies or public clinics with respect to
10 services to be provided by a municipality with a population of
11 500,000 or more shall include review and comment by a community
12 mental health board that is organized under local authority and
13 broadly representative of the geographic, social, cultural,
14 and economic interests of the area to be served, and which
15 includes persons who are professionals in the field of mental
16 health, consumers of services or representative of the general
17 public. Within planning and service areas designated by the
18 Secretary where more than one clinic or agency applies under
19 this paragraph, each application shall be reviewed by a single
20 community mental health board that is representative of the
21 areas to be served by each clinic or agency.

22 The Secretary may authorize advance disbursements to any
23 clinic or agency that has been awarded a grant-in-aid, provided
24 that the Secretary shall, within 30 days before the making of
25 such disbursement, certify to the Comptroller that (a) the
26 provider is eligible to receive that disbursement, and (b) the

1 disbursement is made as compensation for services to be
2 rendered within 60 days of that certification.

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

4 (20 ILCS 1705/43) (from Ch. 91 1/2, par. 100-43)

5 Sec. 43. To provide habilitation and care for the
6 intellectually disabled ~~mentally retarded~~ and persons with a
7 developmental disability and counseling for their families in
8 accordance with programs established and conducted by the
9 Department.

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

20 Whenever an intellectually disabled ~~a mentally retarded~~
21 person or a client is placed in a private facility pursuant to
22 this Section, such private facility must give the Department
23 and the person's guardian or nearest relative, at least 30
24 days' notice in writing before such person may be discharged or
25 transferred from the private facility, except in an emergency.

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

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

3 Sec. 45. The following Acts are repealed:

4 "An Act to provide for the establishment and maintenance of
5 services and facilities for severely physically handicapped
6 children", approved June 29, 1945.

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

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

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

16 "An Act to establish and maintain a home for the disabled
17 mothers, wives, widows and daughters of disabled or deceased
18 soldiers in the State of Illinois, and to provide for the
19 purchase and maintenance thereof", approved June 13, 1895, as
20 amended.

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

25 "An Act in relation to the disposal of certain funds and

1 property which now are or hereafter may be in the custody of
2 the managing officer of the Illinois Soldiers' and Sailors'
3 Home at Quincy", approved June 24, 1921.

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

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

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

13 "An Act to establish and provide for the conduct of an
14 institution for the care and custody of persons of unsound or
15 feeble mind, to be known as the Illinois Security Hospital, and
16 to designate the classes of persons to be confined therein",
17 approved June 30, 1933, as amended.

18 Sections one through 27 and Sections 29 through 34 of "An
19 Act to revise the laws relating to charities", approved June
20 11, 1912, as amended.

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

24 "An Act to establish in the Department of Public Welfare a
25 Psychiatric Training and Research Authority", approved July
26 14, 1955.

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

5 "An Act to provide for the construction, equipment, and
6 operation of a psychiatric institute state hospital to promote
7 and advance knowledge, through research, in the causes and
8 treatment of mental illness; to train competent psychiatric
9 personnel available for service in the state hospitals and
10 elsewhere; and to contribute to meeting the need for treatment
11 for mentally ill patients", approved June 30, 1953, as amended.

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

16 "An Act to require professional persons having patients
17 with major visual limitations to report information regarding
18 such cases to the Department of Public Welfare and to authorize
19 the Department to inform such patients of services and training
20 available," approved July 5, 1957.

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

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

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

2 Sec. 46. Separation between the sexes shall be maintained
3 relative to sleeping quarters in each facility under the
4 jurisdiction of the Department, except in relation to quarters
5 for intellectually disabled ~~mentally retarded~~ children under
6 age 6 and quarters for severely-profoundly intellectually
7 disabled ~~mentally retarded~~ persons and nonambulatory
8 intellectually disabled ~~mentally retarded~~ persons, regardless
9 of age.

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

11 (20 ILCS 1705/57.6)

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

1 the Governor and the General Assembly by April 1, 2008.

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

3 Section 22. The Civil Administrative Code of Illinois is
4 amended by changing Sections 2310-550, 2310-560, 2310-565, and
5 2310-625 as follows:

6 (20 ILCS 2310/2310-550) (was 20 ILCS 2310/55.40)

7 Sec. 2310-550. Long-term care facilities. The Department
8 may perform, in all long-term care facilities as defined in the
9 Nursing Home Care Act and all facilities as defined in the
10 ID/DD ~~MR/DD~~ Community Care Act, all inspection, evaluation,
11 certification, and inspection of care duties that the federal
12 government may require the State of Illinois to perform or have
13 performed as a condition of participation in any programs under
14 Title XVIII or Title XIX of the federal Social Security Act.

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

16 (20 ILCS 2310/2310-560) (was 20 ILCS 2310/55.87)

17 Sec. 2310-560. Advisory committees concerning construction
18 of facilities.

19 (a) The Director shall appoint an advisory committee. The
20 committee shall be established by the Department by rule. The
21 Director and the Department shall consult with the advisory
22 committee concerning the application of building codes and
23 Department rules related to those building codes to facilities

1 under the Ambulatory Surgical Treatment Center Act, the Nursing
2 Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.

3 (b) The Director shall appoint an advisory committee to
4 advise the Department and to conduct informal dispute
5 resolution concerning the application of building codes for new
6 and existing construction and related Department rules and
7 standards under the Hospital Licensing Act, including without
8 limitation rules and standards for (i) design and construction,
9 (ii) engineering and maintenance of the physical plant, site,
10 equipment, and systems (heating, cooling, electrical,
11 ventilation, plumbing, water, sewer, and solid waste
12 disposal), and (iii) fire and safety. The advisory committee
13 shall be composed of all of the following members:

14 (1) The chairperson or an elected representative from
15 the Hospital Licensing Board under the Hospital Licensing
16 Act.

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

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

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

25 (5) Two representatives from provider associations.

26 (6) The Director or his or her designee, who shall

1 serve as the committee moderator.

2 Appointments shall be made with the concurrence of the
3 Hospital Licensing Board. The committee shall submit
4 recommendations concerning the application of building codes
5 and related Department rules and standards to the Hospital
6 Licensing Board for review and comment prior to submission to
7 the Department. The committee shall submit recommendations
8 concerning informal dispute resolution to the Director. The
9 Department shall provide per diem and travel expenses to the
10 committee members.

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

12 (20 ILCS 2310/2310-565) (was 20 ILCS 2310/55.88)

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

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

22 (20 ILCS 2310/2310-625)

23 Sec. 2310-625. Emergency Powers.

24 (a) Upon proclamation of a disaster by the Governor, as

1 provided for in the Illinois Emergency Management Agency Act,
2 the Director of Public Health shall have the following powers,
3 which shall be exercised only in coordination with the Illinois
4 Emergency Management Agency and the Department of Financial and
5 Professional Regulation:

6 (1) The power to suspend the requirements for temporary
7 or permanent licensure or certification of persons who are
8 licensed or certified in another state and are working
9 under the direction of the Illinois Emergency Management
10 Agency and the Illinois Department of Public Health
11 pursuant to the declared disaster.

12 (2) The power to modify the scope of practice
13 restrictions under the Emergency Medical Services (EMS)
14 Systems Act for any persons who are licensed under that Act
15 for any person working under the direction of the Illinois
16 Emergency Management Agency and the Illinois Department of
17 Public Health pursuant to the declared disaster.

18 (3) The power to modify the scope of practice
19 restrictions under the Nursing Home Care Act or the ID/DD
20 ~~MR/DD~~ Community Care Act for Certified Nursing Assistants
21 for any person working under the direction of the Illinois
22 Emergency Management Agency and the Illinois Department of
23 Public Health pursuant to the declared disaster.

24 (b) Persons exempt from licensure or certification under
25 paragraph (1) of subsection (a) and persons operating under
26 modified scope of practice provisions under paragraph (2) of

1 subsection (a) and paragraph (3) of subsection (a) shall be
2 exempt from licensure or certification or subject to modified
3 scope of practice only until the declared disaster has ended as
4 provided by law. For purposes of this Section, persons working
5 under the direction of an emergency services and disaster
6 agency accredited by the Illinois Emergency Management Agency
7 and a local public health department, pursuant to a declared
8 disaster, shall be deemed to be working under the direction of
9 the Illinois Emergency Management Agency and the Department of
10 Public Health.

11 (c) The Director shall exercise these powers by way of
12 proclamation.

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

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

16 (20 ILCS 2407/10)

17 Sec. 10. Application of Act; definitions.

18 (a) This Act applies to persons with disabilities. The
19 disabilities included are defined for purposes of this Act as
20 follows:

21 "Disability" means a disability as defined by the Americans
22 with Disabilities Act of 1990 that is attributable to a
23 developmental disability, a mental illness, or a physical
24 disability, or combination of those.

1 "Developmental disability" means a disability that is
2 attributable to an intellectual disability ~~mental retardation~~
3 or a related condition. A related condition must meet all of
4 the following conditions:

5 (1) It must be attributable to cerebral palsy,
6 epilepsy, or any other condition (other than mental
7 illness) found to be closely related to an intellectual
8 disability ~~mental retardation~~ because that condition
9 results in impairment of general intellectual functioning
10 or adaptive behavior similar to that of individuals with an
11 intellectual disability ~~mental retardation~~, and requires
12 treatment or services similar to those required for those
13 individuals. For purposes of this Section, autism is
14 considered a related condition.

15 (2) It must be manifested before the individual reaches
16 age 22.

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

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

22 "Mental Illness" means a mental or emotional disorder
23 verified by a diagnosis contained in the Diagnostic and
24 Statistical Manual of Mental Disorders-Fourth Edition,
25 published by the American Psychiatric Association (DSM-IV), or
26 its successor, or International Classification of Diseases,

1 9th Revision, Clinical Modification (ICD-9-CM), or its
2 successor, that substantially impairs a person's cognitive,
3 emotional, or behavioral functioning, or any combination of
4 those, excluding (i) conditions that may be the focus of
5 clinical attention but are not of sufficient duration or
6 severity to be categorized as a mental illness, such as
7 parent-child relational problems, partner-relational problems,
8 sexual abuse of a child, bereavement, academic problems,
9 phase-of-life problems, and occupational problems
10 (collectively, "V codes"), (ii) organic disorders such as
11 substance intoxication dementia, substance withdrawal
12 dementia, Alzheimer's disease, vascular dementia, dementia due
13 to HIV infection, and dementia due to Creutzfeld-Jakob disease
14 and disorders associated with known or unknown physical
15 conditions such as hallucinosis, amnesic disorders and
16 delirium, and psychoactive substance-induced organic
17 disorders, and (iii) an intellectual disability ~~mental~~
18 ~~retardation~~ or psychoactive substance use disorders.

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

23 "Physical disability" means a disability as defined by the
24 Americans with Disabilities Act of 1990 that meets the
25 following criteria:

- 26 (1) It is attributable to a physical impairment.

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

6 (3) It reflects the person's need for a combination and
7 sequence of special, interdisciplinary, or general care,
8 treatment, or other services that are of lifelong or of
9 extended duration and must be individually planned and
10 coordinated.

11 (b) In this Act:

12 "Chronological age-appropriate services" means services,
13 activities, and strategies for persons with disabilities that
14 are representative of the lifestyle activities of nondisabled
15 peers of similar age in the community.

16 "Comprehensive evaluation" means procedures used by
17 qualified professionals selectively with an individual to
18 determine whether a person has a disability and the nature and
19 extent of the services that the person with a disability needs.

20 "Department" means the Department on Aging, the Department
21 of Human Services, the Department of Public Health, the
22 Department of Public Aid (now Department Healthcare and Family
23 Services), the University of Illinois Division of Specialized
24 Care for Children, the Department of Children and Family
25 Services, and the Illinois State Board of Education, where
26 appropriate, as designated in the implementation plan

1 developed under Section 20.

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

5 "Family or individual support" means those resources and
6 services that are necessary to maintain an individual with a
7 disability within the family home or his or her own home. These
8 services may include, but are not limited to, cash subsidy,
9 respite care, and counseling services.

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

1 to determine individual progress in meeting goals and
2 objectives; and (vi) advocacy to assist the person in obtaining
3 all services for which he or she is eligible or entitled.

4 "Individual service or treatment plan" means a recorded
5 assessment of the needs of a person with a disability, a
6 description of the services recommended, the goals of each type
7 of element of service, an anticipated timetable for the
8 accomplishment of the goals, and a designation of the qualified
9 professionals responsible for the implementation of the plan.

10 "Least restrictive environment" means an environment that
11 represents the least departure from the normal patterns of
12 living and that effectively meets the needs of the person
13 receiving the service.

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

15 (20 ILCS 2407/52)

16 Sec. 52. Applicability; definitions. In accordance with
17 Section 6071 of the Deficit Reduction Act of 2005 (P.L.
18 109-171), as used in this Article:

19 "Departments". The term "Departments" means for the
20 purposes of this Act, the Department of Human Services, the
21 Department on Aging, Department of Healthcare and Family
22 Services and Department of Public Health, unless otherwise
23 noted.

24 "Home and community-based long-term care services". The
25 term "home and community-based long-term care services" means,

1 with respect to the State Medicaid program, a service aid, or
2 benefit, home and community-based services, including but not
3 limited to home health and personal care services, that are
4 provided to a person with a disability, and are voluntarily
5 accepted, as part of his or her long-term care that: (i) is
6 provided under the State's qualified home and community-based
7 program or that could be provided under such a program but is
8 otherwise provided under the Medicaid program; (ii) is
9 delivered in a qualified residence; and (iii) is necessary for
10 the person with a disability to live in the community.

11 "~~ID/DDMR/DD~~ community care facility". The term "~~ID/DDMR/DD~~
12 community care facility", for the purposes of this Article,
13 means a skilled nursing or intermediate long-term care facility
14 subject to licensure by the Department of Public Health under
15 the ID/DD ~~MR/DD~~ Community Care Act, an intermediate care
16 facility for the developmentally disabled (ICF-DDs), and a
17 State-operated developmental center or mental health center,
18 whether publicly or privately owned.

19 "Money Follows the Person" Demonstration. Enacted by the
20 Deficit Reduction Act of 2005, the Money Follows the Person
21 (MFP) Rebalancing Demonstration is part of a comprehensive,
22 coordinated strategy to assist states, in collaboration with
23 stakeholders, to make widespread changes to their long-term
24 care support systems. This initiative will assist states in
25 their efforts to reduce their reliance on institutional care
26 while developing community-based long-term care opportunities,

1 enabling the elderly and people with disabilities to fully
2 participate in their communities.

3 "Public funds" mean any funds appropriated by the General
4 Assembly to the Departments of Human Services, on Aging, of
5 Healthcare and Family Services and of Public Health for
6 settings and services as defined in this Article.

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

20 "Self-directed services". The term "self-directed
21 services" means, with respect to home and community-based
22 long-term services for an eligible individual, those services
23 for the individual that are planned and purchased under the
24 direction and control of the individual or the individual's
25 authorized representative, including the amount, duration,
26 scope, provider, and location of such services, under the State

1 Medicaid program consistent with the following requirements:

2 (a) Assessment: there is an assessment of the needs,
3 capabilities, and preference of the individual with
4 respect to such services.

5 (b) Individual service care or treatment plan: based on
6 the assessment, there is development jointly with such
7 individual or individual's authorized representative, a
8 plan for such services for the individual that (i)
9 specifies those services, if any, that the individual or
10 the individual's authorized representative would be
11 responsible for directing; (ii) identifies the methods by
12 which the individual or the individual's authorized
13 representative or an agency designated by an individual or
14 representative will select, manage, and dismiss providers
15 of such services.

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

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

19 (20 ILCS 2435/15) (from Ch. 23, par. 3395-15)

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

21 "Abuse" means causing any physical, sexual, or mental
22 injury to an adult with disabilities, including exploitation of
23 the adult's financial resources. Nothing in this Act shall be
24 construed to mean that an adult with disabilities is a victim

1 of abuse or neglect for the sole reason that he or she is being
2 furnished with or relies upon treatment by spiritual means
3 through prayer alone, in accordance with the tenets and
4 practices of a recognized church or religious denomination.
5 Nothing in this Act shall be construed to mean that an adult
6 with disabilities is a victim of abuse because of health care
7 services provided or not provided by licensed health care
8 professionals.

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

13 "Department" means the Department of Human Services.

14 "Adults with Disabilities Abuse Project" or "project"
15 means that program within the Office of Inspector General
16 designated by the Department of Human Services to receive and
17 assess reports of alleged or suspected abuse, neglect, or
18 exploitation of adults with disabilities.

19 "Domestic living situation" means a residence where the
20 adult with disabilities lives alone or with his or her family
21 or household members, a care giver, or others or at a board and
22 care home or other community-based unlicensed facility, but is
23 not:

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

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

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

5 (4) A hospital, sanitarium, or other institution, the
6 principal activity or business of which is the diagnosis,
7 care, and treatment of human illness through the
8 maintenance and operation of organized facilities and that
9 is required to be licensed under the Hospital Licensing
10 Act.

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

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

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

19 "Exploitation" means the illegal, including tortious, use
20 of the assets or resources of an adult with disabilities.
21 Exploitation includes, but is not limited to, the
22 misappropriation of assets or resources of an adult with
23 disabilities by undue influence, by breach of a fiduciary
24 relationship, by fraud, deception, or extortion, or by the use
25 of the assets or resources in a manner contrary to law.

26 "Family or household members" means a person who as a

1 family member, volunteer, or paid care provider has assumed
2 responsibility for all or a portion of the care of an adult
3 with disabilities who needs assistance with activities of daily
4 living.

5 "Neglect" means the failure of another individual to
6 provide an adult with disabilities with or the willful
7 withholding from an adult with disabilities the necessities of
8 life, including, but not limited to, food, clothing, shelter,
9 or medical care.

10 Nothing in the definition of "neglect" shall be construed to
11 impose a requirement that assistance be provided to an adult
12 with disabilities over his or her objection in the absence of a
13 court order, nor to create any new affirmative duty to provide
14 support, assistance, or intervention to an adult with
15 disabilities. Nothing in this Act shall be construed to mean
16 that an adult with disabilities is a victim of neglect because
17 of health care services provided or not provided by licensed
18 health care professionals.

19 "Physical abuse" includes sexual abuse and means any of the
20 following:

21 (1) knowing or reckless use of physical force,
22 confinement, or restraint;

23 (2) knowing, repeated, and unnecessary sleep
24 deprivation; or

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

1 "Secretary" means the Secretary of Human Services.

2 "Sexual abuse" means touching, fondling, sexual threats,
3 sexually inappropriate remarks, or any other sexual activity
4 with an adult with disabilities when the adult with
5 disabilities is unable to understand, unwilling to consent,
6 threatened, or physically forced to engage in sexual behavior.

7 "Substantiated case" means a reported case of alleged or
8 suspected abuse, neglect, or exploitation in which the Adults
9 with Disabilities Abuse Project staff, after assessment,
10 determines that there is reason to believe abuse, neglect, or
11 exploitation has occurred.

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

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

15 (20 ILCS 3501/801-10)

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

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

22 (b) The term "project" means an industrial project,
23 conservation project, housing project, public purpose project,
24 higher education project, health facility project, cultural

1 institution project, agricultural facility or agribusiness,
2 and "project" may include any combination of one or more of the
3 foregoing undertaken jointly by any person with one or more
4 other persons.

5 (c) The term "public purpose project" means any project or
6 facility including without limitation land, buildings,
7 structures, machinery, equipment and all other real and
8 personal property, which is authorized or required by law to be
9 acquired, constructed, improved, rehabilitated, reconstructed,
10 replaced or maintained by any unit of government or any other
11 lawful public purpose which is authorized or required by law to
12 be undertaken by any unit of government.

13 (d) The term "industrial project" means the acquisition,
14 construction, refurbishment, creation, development or
15 redevelopment of any facility, equipment, machinery, real
16 property or personal property for use by any instrumentality of
17 the State or its political subdivisions, for use by any person
18 or institution, public or private, for profit or not for
19 profit, or for use in any trade or business including, but not
20 limited to, any industrial, manufacturing or commercial
21 enterprise and which is (1) a capital project including but not
22 limited to: (i) land and any rights therein, one or more
23 buildings, structures or other improvements, machinery and
24 equipment, whether now existing or hereafter acquired, and
25 whether or not located on the same site or sites; (ii) all
26 appurtenances and facilities incidental to the foregoing,

1 including, but not limited to utilities, access roads, railroad
2 sidings, track, docking and similar facilities, parking
3 facilities, dockage, wharfage, railroad roadbed, track,
4 trestle, depot, terminal, switching and signaling or related
5 equipment, site preparation and landscaping; and (iii) all
6 non-capital costs and expenses relating thereto or (2) any
7 addition to, renovation, rehabilitation or improvement of a
8 capital project or (3) any activity or undertaking which the
9 Authority determines will aid, assist or encourage economic
10 growth, development or redevelopment within the State or any
11 area thereof, will promote the expansion, retention or
12 diversification of employment opportunities within the State
13 or any area thereof or will aid in stabilizing or developing
14 any industry or economic sector of the State economy. The term
15 "industrial project" also means the production of motion
16 pictures.

17 (e) The term "bond" or "bonds" shall include bonds, notes
18 (including bond, grant or revenue anticipation notes),
19 certificates and/or other evidences of indebtedness
20 representing an obligation to pay money, including refunding
21 bonds.

22 (f) The terms "lease agreement" and "loan agreement" shall
23 mean: (i) an agreement whereby a project acquired by the
24 Authority by purchase, gift or lease is leased to any person,
25 corporation or unit of local government which will use or cause
26 the project to be used as a project as heretofore defined upon

1 terms providing for lease rental payments at least sufficient
2 to pay when due all principal of, interest and premium, if any,
3 on any bonds of the Authority issued with respect to such
4 project, providing for the maintenance, insuring and operation
5 of the project on terms satisfactory to the Authority,
6 providing for disposition of the project upon termination of
7 the lease term, including purchase options or abandonment of
8 the premises, and such other terms as may be deemed desirable
9 by the Authority, or (ii) any agreement pursuant to which the
10 Authority agrees to loan the proceeds of its bonds issued with
11 respect to a project or other funds of the Authority to any
12 person which will use or cause the project to be used as a
13 project as heretofore defined upon terms providing for loan
14 repayment installments at least sufficient to pay when due all
15 principal of, interest and premium, if any, on any bonds of the
16 Authority, if any, issued with respect to the project, and
17 providing for maintenance, insurance and other matters as may
18 be deemed desirable by the Authority.

19 (g) The term "financial aid" means the expenditure of
20 Authority funds or funds provided by the Authority through the
21 issuance of its bonds, notes or other evidences of indebtedness
22 or from other sources for the development, construction,
23 acquisition or improvement of a project.

24 (h) The term "person" means an individual, corporation,
25 unit of government, business trust, estate, trust, partnership
26 or association, 2 or more persons having a joint or common

1 interest, or any other legal entity.

2 (i) The term "unit of government" means the federal
3 government, the State or unit of local government, a school
4 district, or any agency or instrumentality, office, officer,
5 department, division, bureau, commission, college or
6 university thereof.

7 (j) The term "health facility" means: (a) any public or
8 private institution, place, building, or agency required to be
9 licensed under the Hospital Licensing Act; (b) any public or
10 private institution, place, building, or agency required to be
11 licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~
12 Community Care Act; (c) any public or licensed private hospital
13 as defined in the Mental Health and Developmental Disabilities
14 Code; (d) any such facility exempted from such licensure when
15 the Director of Public Health attests that such exempted
16 facility meets the statutory definition of a facility subject
17 to licensure; (e) any other public or private health service
18 institution, place, building, or agency which the Director of
19 Public Health attests is subject to certification by the
20 Secretary, U.S. Department of Health and Human Services under
21 the Social Security Act, as now or hereafter amended, or which
22 the Director of Public Health attests is subject to
23 standard-setting by a recognized public or voluntary
24 accrediting or standard-setting agency; (f) any public or
25 private institution, place, building or agency engaged in
26 providing one or more supporting services to a health facility;

1 (g) any public or private institution, place, building or
2 agency engaged in providing training in the healing arts,
3 including but not limited to schools of medicine, dentistry,
4 osteopathy, optometry, podiatry, pharmacy or nursing, schools
5 for the training of x-ray, laboratory or other health care
6 technicians and schools for the training of para-professionals
7 in the health care field; (h) any public or private congregate,
8 life or extended care or elderly housing facility or any public
9 or private home for the aged or infirm, including, without
10 limitation, any Facility as defined in the Life Care Facilities
11 Act; (i) any public or private mental, emotional or physical
12 rehabilitation facility or any public or private educational,
13 counseling, or rehabilitation facility or home, for those
14 persons with a developmental disability, those who are
15 physically ill or disabled, the emotionally disturbed, those
16 persons with a mental illness or persons with learning or
17 similar disabilities or problems; (j) any public or private
18 alcohol, drug or substance abuse diagnosis, counseling
19 treatment or rehabilitation facility, (k) any public or private
20 institution, place, building or agency licensed by the
21 Department of Children and Family Services or which is not so
22 licensed but which the Director of Children and Family Services
23 attests provides child care, child welfare or other services of
24 the type provided by facilities subject to such licensure; (l)
25 any public or private adoption agency or facility; and (m) any
26 public or private blood bank or blood center. "Health facility"

1 also means a public or private structure or structures suitable
2 primarily for use as a laboratory, laundry, nurses or interns
3 residence or other housing or hotel facility used in whole or
4 in part for staff, employees or students and their families,
5 patients or relatives of patients admitted for treatment or
6 care in a health facility, or persons conducting business with
7 a health facility, physician's facility, surgicenter,
8 administration building, research facility, maintenance,
9 storage or utility facility and all structures or facilities
10 related to any of the foregoing or required or useful for the
11 operation of a health facility, including parking or other
12 facilities or other supporting service structures required or
13 useful for the orderly conduct of such health facility. "Health
14 facility" also means, with respect to a project located outside
15 the State, any public or private institution, place, building,
16 or agency which provides services similar to those described
17 above, provided that such project is owned, operated, leased or
18 managed by a participating health institution located within
19 the State, or a participating health institution affiliated
20 with an entity located within the State.

21 (k) The term "participating health institution" means (i) a
22 private corporation or association or (ii) a public entity of
23 this State, in either case authorized by the laws of this State
24 or the applicable state to provide or operate a health facility
25 as defined in this Act and which, pursuant to the provisions of
26 this Act, undertakes the financing, construction or

1 acquisition of a project or undertakes the refunding or
2 refinancing of obligations, loans, indebtedness or advances as
3 provided in this Act.

4 (l) The term "health facility project", means a specific
5 health facility work or improvement to be financed or
6 refinanced (including without limitation through reimbursement
7 of prior expenditures), acquired, constructed, enlarged,
8 remodeled, renovated, improved, furnished, or equipped, with
9 funds provided in whole or in part hereunder, any accounts
10 receivable, working capital, liability or insurance cost or
11 operating expense financing or refinancing program of a health
12 facility with or involving funds provided in whole or in part
13 hereunder, or any combination thereof.

14 (m) The term "bond resolution" means the resolution or
15 resolutions authorizing the issuance of, or providing terms and
16 conditions related to, bonds issued under this Act and
17 includes, where appropriate, any trust agreement, trust
18 indenture, indenture of mortgage or deed of trust providing
19 terms and conditions for such bonds.

20 (n) The term "property" means any real, personal or mixed
21 property, whether tangible or intangible, or any interest
22 therein, including, without limitation, any real estate,
23 leasehold interests, appurtenances, buildings, easements,
24 equipment, furnishings, furniture, improvements, machinery,
25 rights of way, structures, accounts, contract rights or any
26 interest therein.

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

4 (p) The term "higher education project" means, in the case
5 of a private institution of higher education, an educational
6 facility to be acquired, constructed, enlarged, remodeled,
7 renovated, improved, furnished, or equipped, or any
8 combination thereof.

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

13 (r) The term "educational facility" means any property
14 located within the State, or any property located outside the
15 State, provided that, if the property is located outside the
16 State, it must be owned, operated, leased or managed by an
17 entity located within the State or an entity affiliated with an
18 entity located within the State, in each case constructed or
19 acquired before or after the effective date of this Act, which
20 is or will be, in whole or in part, suitable for the
21 instruction, feeding, recreation or housing of students, the
22 conducting of research or other work of a private institution
23 of higher education, the use by a private institution of higher
24 education in connection with any educational, research or
25 related or incidental activities then being or to be conducted
26 by it, or any combination of the foregoing, including, without

1 limitation, any such property suitable for use as or in
2 connection with any one or more of the following: an academic
3 facility, administrative facility, agricultural facility,
4 assembly hall, athletic facility, auditorium, boating
5 facility, campus, communication facility, computer facility,
6 continuing education facility, classroom, dining hall,
7 dormitory, exhibition hall, fire fighting facility, fire
8 prevention facility, food service and preparation facility,
9 gymnasium, greenhouse, health care facility, hospital,
10 housing, instructional facility, laboratory, library,
11 maintenance facility, medical facility, museum, offices,
12 parking area, physical education facility, recreational
13 facility, research facility, stadium, storage facility,
14 student union, study facility, theatre or utility.

15 (s) The term "cultural facility" means any property located
16 within the State, or any property located outside the State,
17 provided that, if the property is located outside the State, it
18 must be owned, operated, leased or managed by an entity located
19 within the State or an entity affiliated with an entity located
20 within the State, in each case constructed or acquired before
21 or after the effective date of this Act, which is or will be,
22 in whole or in part, suitable for the particular purposes or
23 needs of a cultural institution, including, without
24 limitation, any such property suitable for use as or in
25 connection with any one or more of the following: an
26 administrative facility, aquarium, assembly hall, auditorium,

1 botanical garden, exhibition hall, gallery, greenhouse,
2 library, museum, scientific laboratory, theater or zoological
3 facility, and shall also include, without limitation, books,
4 works of art or music, animal, plant or aquatic life or other
5 items for display, exhibition or performance. The term
6 "cultural facility" includes buildings on the National
7 Register of Historic Places which are owned or operated by
8 nonprofit entities.

9 (t) "Private institution of higher education" means a
10 not-for-profit educational institution which is not owned by
11 the State or any political subdivision, agency,
12 instrumentality, district or municipality thereof, which is
13 authorized by law to provide a program of education beyond the
14 high school level and which:

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

18 (2) Provides an educational program for which it awards
19 a bachelor's degree, or provides an educational program,
20 admission into which is conditioned upon the prior
21 attainment of a bachelor's degree or its equivalent, for
22 which it awards a postgraduate degree, or provides not less
23 than a 2-year program which is acceptable for full credit
24 toward such a degree, or offers a 2-year program in
25 engineering, mathematics, or the physical or biological
26 sciences which is designed to prepare the student to work

1 as a technician and at a semiprofessional level in
2 engineering, scientific, or other technological fields
3 which require the understanding and application of basic
4 engineering, scientific, or mathematical principles or
5 knowledge;

6 (3) Is accredited by a nationally recognized
7 accrediting agency or association or, if not so accredited,
8 is an institution whose credits are accepted, on transfer,
9 by not less than 3 institutions which are so accredited,
10 for credit on the same basis as if transferred from an
11 institution so accredited, and holds an unrevoked
12 certificate of approval under the Private College Act from
13 the Board of Higher Education, or is qualified as a "degree
14 granting institution" under the Academic Degree Act; and

15 (4) Does not discriminate in the admission of students
16 on the basis of race or color. "Private institution of
17 higher education" also includes any "academic
18 institution".

19 (u) The term "academic institution" means any
20 not-for-profit institution which is not owned by the State or
21 any political subdivision, agency, instrumentality, district
22 or municipality thereof, which institution engages in, or
23 facilitates academic, scientific, educational or professional
24 research or learning in a field or fields of study taught at a
25 private institution of higher education. Academic institutions
26 include, without limitation, libraries, archives, academic,

1 scientific, educational or professional societies,
2 institutions, associations or foundations having such
3 purposes.

4 (v) The term "cultural institution" means any
5 not-for-profit institution which is not owned by the State or
6 any political subdivision, agency, instrumentality, district
7 or municipality thereof, which institution engages in the
8 cultural, intellectual, scientific, educational or artistic
9 enrichment of the people of the State. Cultural institutions
10 include, without limitation, aquaria, botanical societies,
11 historical societies, libraries, museums, performing arts
12 associations or societies, scientific societies and zoological
13 societies.

14 (w) The term "affiliate" means, with respect to financing
15 of an agricultural facility or an agribusiness, any lender, any
16 person, firm or corporation controlled by, or under common
17 control with, such lender, and any person, firm or corporation
18 controlling such lender.

19 (x) The term "agricultural facility" means land, any
20 building or other improvement thereon or thereto, and any
21 personal properties deemed necessary or suitable for use,
22 whether or not now in existence, in farming, ranching, the
23 production of agricultural commodities (including, without
24 limitation, the products of aquaculture, hydroponics and
25 silviculture) or the treating, processing or storing of such
26 agricultural commodities when such activities are customarily

1 engaged in by farmers as a part of farming.

2 (y) The term "lender" with respect to financing of an
3 agricultural facility or an agribusiness, means any federal or
4 State chartered bank, Federal Land Bank, Production Credit
5 Association, Bank for Cooperatives, federal or State chartered
6 savings and loan association or building and loan association,
7 Small Business Investment Company or any other institution
8 qualified within this State to originate and service loans,
9 including, but without limitation to, insurance companies,
10 credit unions and mortgage loan companies. "Lender" also means
11 a wholly owned subsidiary of a manufacturer, seller or
12 distributor of goods or services that makes loans to businesses
13 or individuals, commonly known as a "captive finance company".

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

25 (1) grain handling and processing, including grain
26 storage, drying, treatment, conditioning, mailing and

1 packaging;

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

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

5 (4) processing of livestock and livestock products,
6 dairy products, poultry and poultry products, fish or
7 apiarian products, including slaughter, shearing,
8 collecting, preparation, canning and packaging;

9 (5) fertilizer and agricultural chemical
10 manufacturing, processing, application and supplying;

11 (6) farm machinery, equipment and implement
12 manufacturing and supplying;

13 (7) manufacturing and supplying of agricultural
14 commodity processing machinery and equipment, including
15 machinery and equipment used in slaughter, treatment,
16 handling, collecting, preparation, canning or packaging of
17 agricultural commodities;

18 (8) farm building and farm structure manufacturing,
19 construction and supplying;

20 (9) construction, manufacturing, implementation,
21 supplying or servicing of irrigation, drainage and soil and
22 water conservation devices or equipment;

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

25 (11) facilities and equipment for processing and
26 packaging agricultural commodities specifically for

1 export;

2 (12) facilities and equipment for forestry product
3 processing and supplying, including sawmilling operations,
4 wood chip operations, timber harvesting operations, and
5 manufacturing of prefabricated buildings, paper, furniture
6 or other goods from forestry products;

7 (13) facilities and equipment for research and
8 development of products, processes and equipment for the
9 production, processing, preparation or packaging of
10 agricultural commodities and byproducts.

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

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

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

3 (dd) The term "housing project" means a specific work or
4 improvement undertaken to provide residential dwelling
5 accommodations, including the acquisition, construction or
6 rehabilitation of lands, buildings and community facilities
7 and in connection therewith to provide nonhousing facilities
8 which are part of the housing project, including land,
9 buildings, improvements, equipment and all ancillary
10 facilities for use for offices, stores, retirement homes,
11 hotels, financial institutions, service, health care,
12 education, recreation or research establishments, or any other
13 commercial purpose which are or are to be related to a housing
14 development.

15 (ee) The term "conservation project" means any project
16 including the acquisition, construction, rehabilitation,
17 maintenance, operation, or upgrade that is intended to create
18 or expand open space or to reduce energy usage through
19 efficiency measures. For the purpose of this definition, "open
20 space" has the definition set forth under Section 10 of the
21 Illinois Open Land Trust Act.

22 (ff) The term "significant presence" means the existence
23 within the State of the national or regional headquarters of an
24 entity or group or such other facility of an entity or group of
25 entities where a significant amount of the business functions
26 are performed for such entity or group of entities.

1 (Source: P.A. 95-697, eff. 11-6-07; 96-339, eff. 7-1-10;
2 96-1021, eff. 7-12-10.)

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

5 (20 ILCS 3960/3) (from Ch. 111 1/2, par. 1153)

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

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

8 "Health care facilities" means and includes the following
9 facilities and organizations:

10 1. An ambulatory surgical treatment center required to
11 be licensed pursuant to the Ambulatory Surgical Treatment
12 Center Act;

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

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

17 3.5. Skilled and intermediate care facilities licensed
18 under the ID/DD ~~MR/DD~~ Community Care Act;

19 4. Hospitals, nursing homes, ambulatory surgical
20 treatment centers, or kidney disease treatment centers
21 maintained by the State or any department or agency
22 thereof;

23 5. Kidney disease treatment centers, including a
24 free-standing hemodialysis unit required to be licensed

1 under the End Stage Renal Disease Facility Act;

2 6. An institution, place, building, or room used for
3 the performance of outpatient surgical procedures that is
4 leased, owned, or operated by or on behalf of an
5 out-of-state facility;

6 7. An institution, place, building, or room used for
7 provision of a health care category of service as defined
8 by the Board, including, but not limited to, cardiac
9 catheterization and open heart surgery; and

10 8. An institution, place, building, or room used for
11 provision of major medical equipment used in the direct
12 clinical diagnosis or treatment of patients, and whose
13 project cost is in excess of the capital expenditure
14 minimum.

15 This Act shall not apply to the construction of any new
16 facility or the renovation of any existing facility located on
17 any campus facility as defined in Section 5-5.8b of the
18 Illinois Public Aid Code, provided that the campus facility
19 encompasses 30 or more contiguous acres and that the new or
20 renovated facility is intended for use by a licensed
21 residential facility.

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

25 No facility licensed under the Supportive Residences
26 Licensing Act or the Assisted Living and Shared Housing Act

1 shall be subject to the provisions of this Act.

2 No facility established and operating under the
3 Alternative Health Care Delivery Act as a children's respite
4 care center alternative health care model demonstration
5 program or as an Alzheimer's Disease Management Center
6 alternative health care model demonstration program shall be
7 subject to the provisions of this Act.

8 A facility designated as a supportive living facility that
9 is in good standing with the program established under Section
10 5-5.01a of the Illinois Public Aid Code shall not be subject to
11 the provisions of this Act.

12 This Act does not apply to facilities granted waivers under
13 Section 3-102.2 of the Nursing Home Care Act. However, if a
14 demonstration project under that Act applies for a certificate
15 of need to convert to a nursing facility, it shall meet the
16 licensure and certificate of need requirements in effect as of
17 the date of application.

18 This Act does not apply to a dialysis facility that
19 provides only dialysis training, support, and related services
20 to individuals with end stage renal disease who have elected to
21 receive home dialysis. This Act does not apply to a dialysis
22 unit located in a licensed nursing home that offers or provides
23 dialysis-related services to residents with end stage renal
24 disease who have elected to receive home dialysis within the
25 nursing home. The Board, however, may require these dialysis
26 facilities and licensed nursing homes to report statistical

1 information on a quarterly basis to the Board to be used by the
2 Board to conduct analyses on the need for proposed kidney
3 disease treatment centers.

4 This Act shall not apply to the closure of an entity or a
5 portion of an entity licensed under the Nursing Home Care Act
6 or the MR/DD Community Care Act, with the exceptions of
7 facilities operated by a county or Illinois Veterans Homes,
8 that elects to convert, in whole or in part, to an assisted
9 living or shared housing establishment licensed under the
10 Assisted Living and Shared Housing Act.

11 This Act does not apply to any change of ownership of a
12 healthcare facility that is licensed under the Nursing Home
13 Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with the
14 exceptions of facilities operated by a county or Illinois
15 Veterans Homes. Changes of ownership of facilities licensed
16 under the Nursing Home Care Act must meet the requirements set
17 forth in Sections 3-101 through 3-119 of the Nursing Home Care
18 Act.

19 With the exception of those health care facilities
20 specifically included in this Section, nothing in this Act
21 shall be intended to include facilities operated as a part of
22 the practice of a physician or other licensed health care
23 professional, whether practicing in his individual capacity or
24 within the legal structure of any partnership, medical or
25 professional corporation, or unincorporated medical or
26 professional group. Further, this Act shall not apply to

1 physicians or other licensed health care professional's
2 practices where such practices are carried out in a portion of
3 a health care facility under contract with such health care
4 facility by a physician or by other licensed health care
5 professionals, whether practicing in his individual capacity
6 or within the legal structure of any partnership, medical or
7 professional corporation, or unincorporated medical or
8 professional groups. This Act shall apply to construction or
9 modification and to establishment by such health care facility
10 of such contracted portion which is subject to facility
11 licensing requirements, irrespective of the party responsible
12 for such action or attendant financial obligation.

13 "Person" means any one or more natural persons, legal
14 entities, governmental bodies other than federal, or any
15 combination thereof.

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

26 "State Board" or "Board" means the Health Facilities and

1 Services Review Board.

2 "Construction or modification" means the establishment,
3 erection, building, alteration, reconstruction, modernization,
4 improvement, extension, discontinuation, change of ownership,
5 of or by a health care facility, or the purchase or acquisition
6 by or through a health care facility of equipment or service
7 for diagnostic or therapeutic purposes or for facility
8 administration or operation, or any capital expenditure made by
9 or on behalf of a health care facility which exceeds the
10 capital expenditure minimum; however, any capital expenditure
11 made by or on behalf of a health care facility for (i) the
12 construction or modification of a facility licensed under the
13 Assisted Living and Shared Housing Act or (ii) a conversion
14 project undertaken in accordance with Section 30 of the Older
15 Adult Services Act shall be excluded from any obligations under
16 this Act.

17 "Establish" means the construction of a health care
18 facility or the replacement of an existing facility on another
19 site or the initiation of a category of service as defined by
20 the Board.

21 "Major medical equipment" means medical equipment which is
22 used for the provision of medical and other health services and
23 which costs in excess of the capital expenditure minimum,
24 except that such term does not include medical equipment
25 acquired by or on behalf of a clinical laboratory to provide
26 clinical laboratory services if the clinical laboratory is

1 independent of a physician's office and a hospital and it has
2 been determined under Title XVIII of the Social Security Act to
3 meet the requirements of paragraphs (10) and (11) of Section
4 1861(s) of such Act. In determining whether medical equipment
5 has a value in excess of the capital expenditure minimum, the
6 value of studies, surveys, designs, plans, working drawings,
7 specifications, and other activities essential to the
8 acquisition of such equipment shall be included.

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

17 For the purpose of this paragraph, the cost of any studies,
18 surveys, designs, plans, working drawings, specifications, and
19 other activities essential to the acquisition, improvement,
20 expansion, or replacement of any plant or equipment with
21 respect to which an expenditure is made shall be included in
22 determining if such expenditure exceeds the capital
23 expenditures minimum. Unless otherwise interdependent, or
24 submitted as one project by the applicant, components of
25 construction or modification undertaken by means of a single
26 construction contract or financed through the issuance of a

1 single debt instrument shall not be grouped together as one
2 project. Donations of equipment or facilities to a health care
3 facility which if acquired directly by such facility would be
4 subject to review under this Act shall be considered capital
5 expenditures, and a transfer of equipment or facilities for
6 less than fair market value shall be considered a capital
7 expenditure for purposes of this Act if a transfer of the
8 equipment or facilities at fair market value would be subject
9 to review.

10 "Capital expenditure minimum" means \$11,500,000 for
11 projects by hospital applicants, \$6,500,000 for applicants for
12 projects related to skilled and intermediate care long-term
13 care facilities licensed under the Nursing Home Care Act, and
14 \$3,000,000 for projects by all other applicants, which shall be
15 annually adjusted to reflect the increase in construction costs
16 due to inflation, for major medical equipment and for all other
17 capital expenditures.

18 "Non-clinical service area" means an area (i) for the
19 benefit of the patients, visitors, staff, or employees of a
20 health care facility and (ii) not directly related to the
21 diagnosis, treatment, or rehabilitation of persons receiving
22 services from the health care facility. "Non-clinical service
23 areas" include, but are not limited to, chapels; gift shops;
24 news stands; computer systems; tunnels, walkways, and
25 elevators; telephone systems; projects to comply with life
26 safety codes; educational facilities; student housing;

1 patient, employee, staff, and visitor dining areas;
2 administration and volunteer offices; modernization of
3 structural components (such as roof replacement and masonry
4 work); boiler repair or replacement; vehicle maintenance and
5 storage facilities; parking facilities; mechanical systems for
6 heating, ventilation, and air conditioning; loading docks; and
7 repair or replacement of carpeting, tile, wall coverings,
8 window coverings or treatments, or furniture. Solely for the
9 purpose of this definition, "non-clinical service area" does
10 not include health and fitness centers.

11 "Areawide" means a major area of the State delineated on a
12 geographic, demographic, and functional basis for health
13 planning and for health service and having within it one or
14 more local areas for health planning and health service. The
15 term "region", as contrasted with the term "subregion", and the
16 word "area" may be used synonymously with the term "areawide".

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

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

23 "Licensed health care professional" means a person
24 licensed to practice a health profession under pertinent
25 licensing statutes of the State of Illinois.

26 "Director" means the Director of the Illinois Department of

1 Public Health.

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

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

5 "Out-of-state facility" means a person that is both (i)
6 licensed as a hospital or as an ambulatory surgery center under
7 the laws of another state or that qualifies as a hospital or an
8 ambulatory surgery center under regulations adopted pursuant
9 to the Social Security Act and (ii) not licensed under the
10 Ambulatory Surgical Treatment Center Act, the Hospital
11 Licensing Act, or the Nursing Home Care Act. Affiliates of
12 out-of-state facilities shall be considered out-of-state
13 facilities. Affiliates of Illinois licensed health care
14 facilities 100% owned by an Illinois licensed health care
15 facility, its parent, or Illinois physicians licensed to
16 practice medicine in all its branches shall not be considered
17 out-of-state facilities. Nothing in this definition shall be
18 construed to include an office or any part of an office of a
19 physician licensed to practice medicine in all its branches in
20 Illinois that is not required to be licensed under the
21 Ambulatory Surgical Treatment Center Act.

22 "Change of ownership of a health care facility" means a
23 change in the person who has ownership or control of a health
24 care facility's physical plant and capital assets. A change in
25 ownership is indicated by the following transactions: sale,
26 transfer, acquisition, lease, change of sponsorship, or other

1 means of transferring control.

2 "Related person" means any person that: (i) is at least 50%
3 owned, directly or indirectly, by either the health care
4 facility or a person owning, directly or indirectly, at least
5 50% of the health care facility; or (ii) owns, directly or
6 indirectly, at least 50% of the health care facility.

7 "Charity care" means care provided by a health care
8 facility for which the provider does not expect to receive
9 payment from the patient or a third-party payer.

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

13 (Source: P.A. 95-331, eff. 8-21-07; 95-543, eff. 8-28-07;
14 95-584, eff. 8-31-07; 95-727, eff. 6-30-08; 95-876, eff.
15 8-21-08; 96-31, eff. 6-30-09; 96-339, eff. 7-1-10; 96-1000,
16 eff. 7-2-10.)

17 (20 ILCS 3960/12) (from Ch. 111 1/2, par. 1162)

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

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

22 (1) Prescribe rules, regulations, standards, criteria,
23 procedures or reviews which may vary according to the purpose
24 for which a particular review is being conducted or the type of
25 project reviewed and which are required to carry out the

1 provisions and purposes of this Act. Policies and procedures of
2 the State Board shall take into consideration the priorities
3 and needs of medically underserved areas and other health care
4 services identified through the comprehensive health planning
5 process, giving special consideration to the impact of projects
6 on access to safety net services.

7 (2) Adopt procedures for public notice and hearing on all
8 proposed rules, regulations, standards, criteria, and plans
9 required to carry out the provisions of this Act.

10 (3) (Blank).

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

1 provided by a facility to its residents and to the community at
2 large and differentiate between active and inactive beds.

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

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

7 (b) The number of existing and planned facilities
8 offering similar programs;

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

10 (d) The availability of facilities which may serve as
11 alternatives or substitutes;

12 (e) The availability of personnel necessary to the
13 operation of the facility;

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

16 (g) The financial and economic feasibility of proposed
17 construction or modification; and

18 (h) In the case of health care facilities established
19 by a religious body or denomination, the needs of the
20 members of such religious body or denomination may be
21 considered to be public need.

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

26 (5) Coordinate with the Center for Comprehensive Health

1 Planning and other state agencies having responsibilities
2 affecting health care facilities, including those of licensure
3 and cost reporting.

4 (6) Solicit, accept, hold and administer on behalf of the
5 State any grants or bequests of money, securities or property
6 for use by the State Board or Center for Comprehensive Health
7 Planning in the administration of this Act; and enter into
8 contracts consistent with the appropriations for purposes
9 enumerated in this Act.

10 (7) The State Board shall prescribe procedures for review,
11 standards, and criteria which shall be utilized to make
12 periodic reviews and determinations of the appropriateness of
13 any existing health services being rendered by health care
14 facilities subject to the Act. The State Board shall consider
15 recommendations of the Board in making its determinations.

16 (8) Prescribe, in consultation with the Center for
17 Comprehensive Health Planning, rules, regulations, standards,
18 and criteria for the conduct of an expeditious review of
19 applications for permits for projects of construction or
20 modification of a health care facility, which projects are
21 classified as emergency, substantive, or non-substantive in
22 nature.

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

26 (a) Projects to construct (1) a new or replacement

1 facility located on a new site or (2) a replacement
2 facility located on the same site as the original facility
3 and the cost of the replacement facility exceeds the
4 capital expenditure minimum;

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

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

15 The Chairman may approve applications for exemption that
16 meet the criteria set forth in rules or refer them to the full
17 Board. The Chairman may approve any unopposed application that
18 meets all of the review criteria or refer them to the full
19 Board.

20 Such rules shall not abridge the right of the Center for
21 Comprehensive Health Planning to make recommendations on the
22 classification and approval of projects, nor shall such rules
23 prevent the conduct of a public hearing upon the timely request
24 of an interested party. Such reviews shall not exceed 60 days
25 from the date the application is declared to be complete.

26 (9) Prescribe rules, regulations, standards, and criteria

1 pertaining to the granting of permits for construction and
2 modifications which are emergent in nature and must be
3 undertaken immediately to prevent or correct structural
4 deficiencies or hazardous conditions that may harm or injure
5 persons using the facility, as defined in the rules and
6 regulations of the State Board. This procedure is exempt from
7 public hearing requirements of this Act.

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

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

24 (12) Require at least one of its members to participate in
25 any public hearing, after the appointment of the 9 members to
26 the Board.

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

3 (14) Implement public information campaigns to regularly
4 inform the general public about the opportunity for public
5 hearings and public hearing procedures.

6 (15) Establish a separate set of rules and guidelines for
7 long-term care that recognizes that nursing homes are a
8 different business line and service model from other regulated
9 facilities. An open and transparent process shall be developed
10 that considers the following: how skilled nursing fits in the
11 continuum of care with other care providers, modernization of
12 nursing homes, establishment of more private rooms,
13 development of alternative services, and current trends in
14 long-term care services. The Chairman of the Board shall
15 appoint a permanent Health Services Review Board Long-term Care
16 Facility Advisory Subcommittee that shall develop and
17 recommend to the Board the rules to be established by the Board
18 under this paragraph (15). The Subcommittee shall also provide
19 continuous review and commentary on policies and procedures
20 relative to long-term care and the review of related projects.
21 In consultation with other experts from the health field of
22 long-term care, the Board and the Subcommittee shall study new
23 approaches to the current bed need formula and Health Service
24 Area boundaries to encourage flexibility and innovation in
25 design models reflective of the changing long-term care
26 marketplace and consumer preferences. The Board shall file the

1 proposed related administrative rules for the separate rules
2 and guidelines for long-term care required by this paragraph
3 (15) by September 1, 2010. The Subcommittee shall be provided a
4 reasonable and timely opportunity to review and comment on any
5 review, revision, or updating of the criteria, standards,
6 procedures, and rules used to evaluate project applications as
7 provided under Section 12.3 of this Act prior to approval by
8 the Board and promulgation of related rules.

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

11 (20 ILCS 3960/13) (from Ch. 111 1/2, par. 1163)

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

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

25 Any circuit court of this State, upon the application of

1 the State Board or upon the application of any party to such
2 proceedings, may, in its discretion, compel the attendance of
3 witnesses, the production of books, papers, records, or
4 memoranda and the giving of testimony before the State Board,
5 by a proceeding as for contempt, or otherwise, in the same
6 manner as production of evidence may be compelled before the
7 court.

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

1 planning information submitted in accord with this Act
2 pertaining to their area.

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

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

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

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

7 (1) The acquisition of major medical equipment without
8 a permit or in violation of the terms of a permit.

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

12 (3) The violation of any provision of this Act or any
13 rule adopted under this Act.

14 (4) The failure, by any person subject to this Act, to
15 provide information requested by the State Board or Agency
16 within 30 days after a formal written request for the
17 information.

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

20 (a-5) For facilities licensed under the ID/DD ~~MR/DD~~
21 Community Care Act, no permit shall be denied on the basis of
22 prior operator history, other than for actions specified under
23 item (2), (4), or (5) of Section 3-117 of the ID/DD ~~MR/DD~~
24 Community Care Act. For facilities licensed under the Nursing
25 Home Care Act, no permit shall be denied on the basis of prior
26 operator history, other than for: (i) actions specified under

1 item (2), (3), (4), (5), or (6) of Section 3-117 of the Nursing
2 Home Care Act; (ii) actions specified under item (a)(6) of
3 Section 3-119 of the Nursing Home Care Act; or (iii) actions
4 within the preceding 5 years constituting a substantial and
5 repeated failure to comply with the Nursing Home Care Act or
6 the rules and regulations adopted by the Department under that
7 Act. The State Board shall not deny a permit on account of any
8 action described in this subsection (a-5) without also
9 considering all such actions in the light of all relevant
10 information available to the State Board, including whether the
11 permit is sought to substantially comply with a mandatory or
12 voluntary plan of correction associated with any action
13 described in this subsection (a-5).

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

15 (1) A permit holder who fails to comply with the
16 requirements of maintaining a valid permit shall be fined
17 an amount not to exceed 1% of the approved permit amount
18 plus an additional 1% of the approved permit amount for
19 each 30-day period, or fraction thereof, that the violation
20 continues.

21 (2) A permit holder who alters the scope of an approved
22 project or whose project costs exceed the allowable permit
23 amount without first obtaining approval from the State
24 Board shall be fined an amount not to exceed the sum of (i)
25 the lesser of \$25,000 or 2% of the approved permit amount
26 and (ii) in those cases where the approved permit amount is

1 exceeded by more than \$1,000,000, an additional \$20,000 for
2 each \$1,000,000, or fraction thereof, in excess of the
3 approved permit amount.

4 (3) A person who acquires major medical equipment or
5 who establishes a category of service without first
6 obtaining a permit or exemption, as the case may be, shall
7 be fined an amount not to exceed \$10,000 for each such
8 acquisition or category of service established plus an
9 additional \$10,000 for each 30-day period, or fraction
10 thereof, that the violation continues.

11 (4) A person who constructs, modifies, or establishes a
12 health care facility without first obtaining a permit shall
13 be fined an amount not to exceed \$25,000 plus an additional
14 \$25,000 for each 30-day period, or fraction thereof, that
15 the violation continues.

16 (5) A person who discontinues a health care facility or
17 a category of service without first obtaining a permit
18 shall be fined an amount not to exceed \$10,000 plus an
19 additional \$10,000 for each 30-day period, or fraction
20 thereof, that the violation continues. For purposes of this
21 subparagraph (5), facilities licensed under the Nursing
22 Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act, with
23 the exceptions of facilities operated by a county or
24 Illinois Veterans Homes, are exempt from this permit
25 requirement. However, facilities licensed under the
26 Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act

1 must comply with Section 3-423 of the Nursing Home Care Act
2 or Section 3-423 of the ID/DD ~~MR/DD~~ Community Care Act and
3 must provide the Board with 30-days' written notice of its
4 intent to close.

5 (6) A person subject to this Act who fails to provide
6 information requested by the State Board or Agency within
7 30 days of a formal written request shall be fined an
8 amount not to exceed \$1,000 plus an additional \$1,000 for
9 each 30-day period, or fraction thereof, that the
10 information is not received by the State Board or Agency.

11 (c) Before imposing any fine authorized under this Section,
12 the State Board shall afford the person or permit holder, as
13 the case may be, an appearance before the State Board and an
14 opportunity for a hearing before a hearing officer appointed by
15 the State Board. The hearing shall be conducted in accordance
16 with Section 10.

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

20 (Source: P.A. 95-543, eff. 8-28-07; 96-339, eff. 7-1-10;
21 96-1372, eff. 7-29-10.)

22 Section 30. The State Finance Act is amended by changing
23 Section 8.8 as follows:

24 (30 ILCS 105/8.8) (from Ch. 127, par. 144.8)

1 Sec. 8.8. Appropriations for the improvement, development,
2 addition or expansion of services for the care, treatment, and
3 training of persons who are intellectually disabled ~~mentally~~
4 ~~retarded~~ or subject to involuntary admission under the Mental
5 Health and Developmental Disabilities Code or for the financing
6 of any program designed to provide such improvement,
7 development, addition or expansion of services or for expenses
8 incurred in administering the provisions of Sections 5-105 to
9 5-115, inclusive, of the Mental Health and Developmental
10 Disabilities Code, or other ordinary and contingent expenses of
11 the Department of Human Services relating to mental health and
12 developmental disabilities, are payable from the Mental Health
13 Fund. However, no expenditures shall be made for the purchase,
14 construction, lease, or rental of buildings for use as
15 State-operated mental health or developmental disability
16 facilities.

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

18 Section 35. The Business Enterprise for Minorities,
19 Females, and Persons with Disabilities Act is amended by
20 changing Section 2 as follows:

21 (30 ILCS 575/2)

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

23 Sec. 2. Definitions.

24 (A) For the purpose of this Act, the following terms shall

1 have the following definitions:

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

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

6 (b) Hispanic (a person of Spanish or Portuguese culture
7 with origins in Mexico, South or Central America, or the
8 Caribbean Islands, regardless of race);

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

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

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

17 (2.05) "Person with a disability" means a person who is a
18 citizen or lawful resident of the United States and is a person
19 qualifying as being disabled under subdivision (2.1) of this
20 subsection (A).

21 (2.1) "Disabled" means a severe physical or mental
22 disability that:

23 (a) results from:

24 amputation,

25 arthritis,

26 autism,

1 blindness,
2 burn injury,
3 cancer,
4 cerebral palsy,
5 Crohn's disease,
6 cystic fibrosis,
7 deafness,
8 head injury,
9 heart disease,
10 hemiplegia,
11 hemophilia,
12 respiratory or pulmonary dysfunction,
13 an intellectual disability ~~mental retardation~~,
14 mental illness,
15 multiple sclerosis,
16 muscular dystrophy,
17 musculoskeletal disorders,
18 neurological disorders, including stroke and epilepsy,
19 paraplegia,
20 quadriplegia and other spinal cord conditions,
21 sickle cell anemia,
22 ulcerative colitis,
23 specific learning disabilities, or
24 end stage renal failure disease; and
25 (b) substantially limits one or more of the person's major
26 life activities.

1 Another disability or combination of disabilities may also
2 be considered as a severe disability for the purposes of item
3 (a) of this subdivision (2.1) if it is determined by an
4 evaluation of rehabilitation potential to cause a comparable
5 degree of substantial functional limitation similar to the
6 specific list of disabilities listed in item (a) of this
7 subdivision (2.1).

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

15 (4) "Female owned business" means a business concern which
16 is at least 51% owned by one or more females, or, in the case of
17 a corporation, at least 51% of the stock in which is owned by
18 one or more females; and the management and daily business
19 operations of which are controlled by one or more of the
20 females who own it.

21 (4.1) "Business owned by a person with a disability" means
22 a business concern that is at least 51% owned by one or more
23 persons with a disability and the management and daily business
24 operations of which are controlled by one or more of the
25 persons with disabilities who own it. A not-for-profit agency
26 for persons with disabilities that is exempt from taxation

1 under Section 501 of the Internal Revenue Code of 1986 is also
2 considered a "business owned by a person with a disability".

3 (4.2) "Council" means the Business Enterprise Council for
4 Minorities, Females, and Persons with Disabilities created
5 under Section 5 of this Act.

6 (5) "State contracts" shall mean all State contracts,
7 funded exclusively with State funds which are not subject to
8 federal reimbursement, whether competitively bid or negotiated
9 as defined by the Secretary of the Council and approved by the
10 Council.

11 "State construction contracts" means all State contracts
12 entered into by a State agency or State university for the
13 repair, remodeling, renovation or construction of a building or
14 structure, or for the construction or maintenance of a highway
15 defined in Article 2 of the Illinois Highway Code.

16 (6) "State agencies" shall mean all departments, officers,
17 boards, commissions, institutions and bodies politic and
18 corporate of the State, but does not include the Board of
19 Trustees of the University of Illinois, the Board of Trustees
20 of Southern Illinois University, the Board of Trustees of
21 Chicago State University, the Board of Trustees of Eastern
22 Illinois University, the Board of Trustees of Governors State
23 University, the Board of Trustees of Illinois State University,
24 the Board of Trustees of Northeastern Illinois University, the
25 Board of Trustees of Northern Illinois University, the Board of
26 Trustees of Western Illinois University, municipalities or

1 other local governmental units, or other State constitutional
2 officers.

3 (7) "State universities" shall mean the Board of Trustees
4 of the University of Illinois, the Board of Trustees of
5 Southern Illinois University, the Board of Trustees of Chicago
6 State University, the Board of Trustees of Eastern Illinois
7 University, the Board of Trustees of Governors State
8 University, the Board of Trustees of Illinois State University,
9 the Board of Trustees of Northeastern Illinois University, the
10 Board of Trustees of Northern Illinois University, and the
11 Board of Trustees of Western Illinois University.

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

21 (9) "Control" means the exclusive or ultimate and sole
22 control of the business including, but not limited to, capital
23 investment and all other financial matters, property,
24 acquisitions, contract negotiations, legal matters,
25 officer-director-employee selection and comprehensive hiring,
26 operating responsibilities, cost-control matters, income and

1 dividend matters, financial transactions and rights of other
2 shareholders or joint partners. Control shall be real,
3 substantial and continuing, not pro forma. Control shall
4 include the power to direct or cause the direction of the
5 management and policies of the business and to make the
6 day-to-day as well as major decisions in matters of policy,
7 management and operations. Control shall be exemplified by
8 possessing the requisite knowledge and expertise to run the
9 particular business and control shall not include simple
10 majority or absentee ownership.

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

20 (B) When a business concern is owned at least 51% by any
21 combination of minority persons, females, or persons with
22 disabilities, even though none of the 3 classes alone holds at
23 least a 51% interest, the ownership requirement for purposes of
24 this Act is considered to be met. The certification category
25 for the business is that of the class holding the largest
26 ownership interest in the business. If 2 or more classes have

1 equal ownership interests, the certification category shall be
2 determined by the business concern.

3 (Source: P.A. 95-344, eff. 8-21-07; 96-453, eff. 8-14-09;
4 96-795, eff. 7-1-10 (see Section 5 of P.A. 96-793 for effective
5 date of changes made by P.A. 96-795); 96-1000, eff. 7-2-10.)

6 Section 36. The Illinois Income Tax Act is amended by
7 changing Section 806 as follows:

8 (35 ILCS 5/806)

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

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

19 Section 37. The Use Tax Act is amended by changing Section
20 3-5 as follows:

21 (35 ILCS 105/3-5)

22 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 not-for-profit
10 Illinois county fair association for use in conducting,
11 operating, or 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) Personal property purchased by a governmental body, by
2 a corporation, society, association, foundation, or
3 institution organized and operated exclusively for charitable,
4 religious, or educational purposes, or by a not-for-profit
5 corporation, society, association, foundation, institution, or
6 organization that has no compensated officers or employees and
7 that is organized and operated primarily for the recreation of
8 persons 55 years of age or older. A limited liability company
9 may qualify for the exemption under this paragraph only if the
10 limited liability company is organized and operated
11 exclusively for educational purposes. On and after July 1,
12 1987, however, no entity otherwise eligible for this exemption
13 shall make tax-free purchases unless it has an active exemption
14 identification number issued by the Department.

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

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

1 graphic arts product.

2 (7) Farm chemicals.

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

7 (9) Personal property purchased from a teacher-sponsored
8 student organization affiliated with an elementary or
9 secondary school located in Illinois.

10 (10) A motor vehicle of the first division, a motor vehicle
11 of the second division that is a self-contained motor vehicle
12 designed or permanently converted to provide living quarters
13 for recreational, camping, or travel use, with direct walk
14 through to the living quarters from the driver's seat, or a
15 motor vehicle of the second division that is of the van
16 configuration designed for the transportation of not less than
17 7 nor more than 16 passengers, as defined in Section 1-146 of
18 the Illinois Vehicle Code, that is used for automobile renting,
19 as defined in the Automobile Renting Occupation and Use Tax
20 Act.

21 (11) Farm machinery and equipment, both new and used,
22 including that manufactured on special order, certified by the
23 purchaser to be used primarily for production agriculture or
24 State or federal agricultural programs, including individual
25 replacement parts for the machinery and equipment, including
26 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (11). Agricultural chemical tender tanks and dry
10 boxes shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed if the selling price of the
13 tender is separately stated.

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

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

1 crop data for the purpose of formulating animal diets and
2 agricultural chemicals. This item (11) is exempt from the
3 provisions of Section 3-90.

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

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

19 (14) Until July 1, 2003, oil field exploration, drilling,
20 and production equipment, including (i) rigs and parts of rigs,
21 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
22 tubular goods, including casing and drill strings, (iii) pumps
23 and pump-jack units, (iv) storage tanks and flow lines, (v) any
24 individual replacement part for oil field exploration,
25 drilling, and production equipment, and (vi) machinery and
26 equipment purchased for lease; but excluding motor vehicles

1 required to be registered under the Illinois Vehicle Code.

2 (15) Photoprocessing machinery and equipment, including
3 repair and replacement parts, both new and used, including that
4 manufactured on special order, certified by the purchaser to be
5 used primarily for photoprocessing, and including
6 photoprocessing machinery and equipment purchased for lease.

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

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

19 (18) Manufacturing and assembling machinery and equipment
20 used primarily in the process of manufacturing or assembling
21 tangible personal property for wholesale or retail sale or
22 lease, whether that sale or lease is made directly by the
23 manufacturer or by some other person, whether the materials
24 used in the process are owned by the manufacturer or some other
25 person, or whether that sale or lease is made apart from or as
26 an incident to the seller's engaging in the service occupation

1 of producing machines, tools, dies, jigs, patterns, gauges, or
2 other similar items of no commercial value on special order for
3 a particular purchaser.

4 (19) Personal property delivered to a purchaser or
5 purchaser's donee inside Illinois when the purchase order for
6 that personal property was received by a florist located
7 outside Illinois who has a florist located inside Illinois
8 deliver the personal property.

9 (20) Semen used for artificial insemination of livestock
10 for direct agricultural production.

11 (21) Horses, or interests in horses, registered with and
12 meeting the requirements of any of the Arabian Horse Club
13 Registry of America, Appaloosa Horse Club, American Quarter
14 Horse Association, United States Trotting Association, or
15 Jockey Club, as appropriate, used for purposes of breeding or
16 racing for prizes. This item (21) is exempt from the provisions
17 of Section 3-90, and the exemption provided for under this item
18 (21) applies for all periods beginning May 30, 1995, but no
19 claim for credit or refund is allowed on or after January 1,
20 2008 for such taxes paid during the period beginning May 30,
21 2000 and ending on January 1, 2008.

22 (22) Computers and communications equipment utilized for
23 any hospital purpose and equipment used in the diagnosis,
24 analysis, or treatment of hospital patients purchased by a
25 lessor who leases the equipment, under a lease of one year or
26 longer executed or in effect at the time the lessor would

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

19 (23) Personal property purchased by a lessor who leases the
20 property, under a lease of one year or longer executed or in
21 effect at the time the lessor would otherwise be subject to the
22 tax imposed by this Act, to a governmental body that has been
23 issued an active sales tax exemption identification number by
24 the Department under Section 1g of the Retailers' Occupation
25 Tax Act. If the property is leased in a manner that does not
26 qualify for this exemption or used in any other non-exempt

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

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

23 (25) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is used in the
26 performance of infrastructure repairs in this State, including

1 but not limited to municipal roads and streets, access roads,
2 bridges, sidewalks, waste disposal systems, water and sewer
3 line extensions, water distribution and purification
4 facilities, storm water drainage and retention facilities, and
5 sewage treatment facilities, resulting from a State or
6 federally declared disaster in Illinois or bordering Illinois
7 when such repairs are initiated on facilities located in the
8 declared disaster area within 6 months after the disaster.

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

15 (27) A motor vehicle, as that term is defined in Section
16 1-146 of the Illinois Vehicle Code, that is donated to a
17 corporation, limited liability company, society, association,
18 foundation, or institution that is determined by the Department
19 to be organized and operated exclusively for educational
20 purposes. For purposes of this exemption, "a corporation,
21 limited liability company, society, association, foundation,
22 or institution organized and operated exclusively for
23 educational purposes" means all tax-supported public schools,
24 private schools that offer systematic instruction in useful
25 branches of learning by methods common to public schools and
26 that compare favorably in their scope and intensity with the

1 course of study presented in tax-supported schools, and
2 vocational or technical schools or institutes organized and
3 operated exclusively to provide a course of study of not less
4 than 6 weeks duration and designed to prepare individuals to
5 follow a trade or to pursue a manual, technical, mechanical,
6 industrial, business, or commercial occupation.

7 (28) Beginning January 1, 2000, personal property,
8 including food, purchased through fundraising events for the
9 benefit of a public or private elementary or secondary school,
10 a group of those schools, or one or more school districts if
11 the events are sponsored by an entity recognized by the school
12 district that consists primarily of volunteers and includes
13 parents and teachers of the school children. This paragraph
14 does not apply to fundraising events (i) for the benefit of
15 private home instruction or (ii) for which the fundraising
16 entity purchases the personal property sold at the events from
17 another individual or entity that sold the property for the
18 purpose of resale by the fundraising entity and that profits
19 from the sale to the fundraising entity. This paragraph is
20 exempt from the provisions of Section 3-90.

21 (29) Beginning January 1, 2000 and through December 31,
22 2001, new or used automatic vending machines that prepare and
23 serve hot food and beverages, including coffee, soup, and other
24 items, and replacement parts for these machines. Beginning
25 January 1, 2002 and through June 30, 2003, machines and parts
26 for machines used in commercial, coin-operated amusement and

1 vending business if a use or occupation tax is paid on the
2 gross receipts derived from the use of the commercial,
3 coin-operated amusement and vending machines. This paragraph
4 is exempt from the provisions of Section 3-90.

5 (30) Beginning January 1, 2001 and through June 30, 2011,
6 food for human consumption that is to be consumed off the
7 premises where it is sold (other than alcoholic beverages, soft
8 drinks, and food that has been prepared for immediate
9 consumption) and prescription and nonprescription medicines,
10 drugs, medical appliances, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use, when purchased for use by a person receiving medical
13 assistance under Article V of the Illinois Public Aid Code who
14 resides in a licensed long-term care facility, as defined in
15 the Nursing Home Care Act, or in a licensed facility as defined
16 in the ID/DD ~~MR/DD~~ Community Care Act.

17 (31) Beginning on the effective date of this amendatory Act
18 of the 92nd General Assembly, computers and communications
19 equipment utilized for any hospital purpose and equipment used
20 in the diagnosis, analysis, or treatment of hospital patients
21 purchased by a lessor who leases the equipment, under a lease
22 of one year or longer executed or in effect at the time the
23 lessor would otherwise be subject to the tax imposed by this
24 Act, to a hospital that has been issued an active tax exemption
25 identification number by the Department under Section 1g of the
26 Retailers' Occupation Tax Act. If the equipment is leased in a

1 manner that does not qualify for this exemption or is used in
2 any other nonexempt manner, the lessor shall be liable for the
3 tax imposed under this Act or the Service Use Tax Act, as the
4 case may be, based on the fair market value of the property at
5 the time the nonqualifying use occurs. No lessor shall collect
6 or attempt to collect an amount (however designated) that
7 purports to reimburse that lessor for the tax imposed by this
8 Act or the Service Use Tax Act, as the case may be, if the tax
9 has not been paid by the lessor. If a lessor improperly
10 collects any such amount from the lessee, the lessee shall have
11 a legal right to claim a refund of that amount from the lessor.
12 If, however, that amount is not refunded to the lessee for any
13 reason, the lessor is liable to pay that amount to the
14 Department. This paragraph is exempt from the provisions of
15 Section 3-90.

16 (32) Beginning on the effective date of this amendatory Act
17 of the 92nd General Assembly, personal property purchased by a
18 lessor who leases the property, 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 governmental body that has been issued an active sales tax
22 exemption identification number by the Department under
23 Section 1g of the Retailers' Occupation Tax Act. If the
24 property is leased in a manner that does not qualify for this
25 exemption or used in any other nonexempt manner, the lessor
26 shall be liable for the tax imposed under this Act or the

1 Service Use Tax Act, as the case may be, based on the fair
2 market value of the property at the time the nonqualifying use
3 occurs. No lessor shall collect or attempt to collect an amount
4 (however designated) that purports to reimburse that lessor for
5 the tax imposed by this Act or the Service Use Tax Act, as the
6 case may be, if the tax has not been paid by the lessor. If a
7 lessor improperly collects any such amount from the lessee, the
8 lessee shall have a legal right to claim a refund of that
9 amount from the lessor. If, however, that amount is not
10 refunded to the lessee for any reason, the lessor is liable to
11 pay that amount to the Department. This paragraph is exempt
12 from the provisions of Section 3-90.

13 (33) On and after July 1, 2003 and through June 30, 2004,
14 the use in this State of motor vehicles of the second division
15 with a gross vehicle weight in excess of 8,000 pounds and that
16 are subject to the commercial distribution fee imposed under
17 Section 3-815.1 of the Illinois Vehicle Code. Beginning on July
18 1, 2004 and through June 30, 2005, the use in this State of
19 motor vehicles of the second division: (i) with a gross vehicle
20 weight rating in excess of 8,000 pounds; (ii) that are subject
21 to the commercial distribution fee imposed under Section
22 3-815.1 of the Illinois Vehicle Code; and (iii) that are
23 primarily used for commercial purposes. Through June 30, 2005,
24 this exemption applies to repair and replacement parts added
25 after the initial purchase of such a motor vehicle if that
26 motor vehicle is used in a manner that would qualify for the

1 rolling stock exemption otherwise provided for in this Act. For
2 purposes of this paragraph, the term "used for commercial
3 purposes" means the transportation of persons or property in
4 furtherance of any commercial or industrial enterprise,
5 whether for-hire or not.

6 (34) Beginning January 1, 2008, tangible personal property
7 used in the construction or maintenance of a community water
8 supply, as defined under Section 3.145 of the Environmental
9 Protection Act, that is operated by a not-for-profit
10 corporation that holds a valid water supply permit issued under
11 Title IV of the Environmental Protection Act. This paragraph is
12 exempt from the provisions of Section 3-90.

13 (35) Beginning January 1, 2010, materials, parts,
14 equipment, components, and furnishings incorporated into or
15 upon an aircraft as part of the modification, refurbishment,
16 completion, replacement, repair, or maintenance of the
17 aircraft. This exemption includes consumable supplies used in
18 the modification, refurbishment, completion, replacement,
19 repair, and maintenance of aircraft, but excludes any
20 materials, parts, equipment, components, and consumable
21 supplies used in the modification, replacement, repair, and
22 maintenance of aircraft engines or power plants, whether such
23 engines or power plants are installed or uninstalled upon any
24 such aircraft. "Consumable supplies" include, but are not
25 limited to, adhesive, tape, sandpaper, general purpose
26 lubricants, cleaning solution, latex gloves, and protective

1 films. This exemption applies only to those organizations that
2 (i) hold an Air Agency Certificate and are empowered to operate
3 an approved repair station by the Federal Aviation
4 Administration, (ii) have a Class IV Rating, and (iii) conduct
5 operations in accordance with Part 145 of the Federal Aviation
6 Regulations. The exemption does not include aircraft operated
7 by a commercial air carrier providing scheduled passenger air
8 service pursuant to authority issued under Part 121 or Part 129
9 of the Federal Aviation Regulations.

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

24 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,
25 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
26 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.

1 7-2-10.)

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

4 (35 ILCS 110/3-5)

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

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

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

17 (3) Personal property purchased by a not-for-profit arts or
18 cultural organization that establishes, by proof required by
19 the Department by rule, that it has received an exemption under
20 Section 501(c)(3) of the Internal Revenue Code and that is
21 organized and operated primarily for the presentation or
22 support of arts or cultural programming, activities, or
23 services. These organizations include, but are not limited to,
24 music and dramatic arts organizations such as symphony

1 orchestras and theatrical groups, arts and cultural service
2 organizations, local arts councils, visual arts organizations,
3 and media arts organizations. On and after the effective date
4 of this amendatory Act of the 92nd General Assembly, however,
5 an entity otherwise eligible for this exemption shall not make
6 tax-free purchases unless it has an active identification
7 number issued by the Department.

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

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

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

24 (7) Farm machinery and equipment, both new and used,
25 including that manufactured on special order, certified by the
26 purchaser to be used primarily for production agriculture or

1 State or federal agricultural programs, including individual
2 replacement parts for the machinery and equipment, including
3 machinery and equipment purchased for lease, and including
4 implements of husbandry defined in Section 1-130 of the
5 Illinois Vehicle Code, farm machinery and agricultural
6 chemical and fertilizer spreaders, and nurse wagons required to
7 be registered under Section 3-809 of the Illinois Vehicle Code,
8 but excluding other motor vehicles required to be registered
9 under the Illinois Vehicle Code. Horticultural polyhouses or
10 hoop houses used for propagating, growing, or overwintering
11 plants shall be considered farm machinery and equipment under
12 this item (7). Agricultural chemical tender tanks and dry boxes
13 shall include units sold separately from a motor vehicle
14 required to be licensed and units sold mounted on a motor
15 vehicle required to be licensed if the selling price of the
16 tender is separately stated.

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

25 Farm machinery and equipment also includes computers,
26 sensors, software, and related equipment used primarily in the

1 computer-assisted operation of production agriculture
2 facilities, equipment, and activities such as, but not limited
3 to, the collection, monitoring, and correlation of animal and
4 crop data for the purpose of formulating animal diets and
5 agricultural chemicals. This item (7) is exempt from the
6 provisions of Section 3-75.

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

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

23 (10) Until July 1, 2003, oil field exploration, drilling,
24 and production equipment, including (i) rigs and parts of rigs,
25 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
26 tubular goods, including casing and drill strings, (iii) pumps

1 and pump-jack units, (iv) storage tanks and flow lines, (v) any
2 individual replacement part for oil field exploration,
3 drilling, and production equipment, and (vi) machinery and
4 equipment purchased for lease; but excluding motor vehicles
5 required to be registered under the Illinois Vehicle Code.

6 (11) Proceeds from the sale of photoprocessing machinery
7 and equipment, including repair and replacement parts, both new
8 and used, including that manufactured on special order,
9 certified by the purchaser to be used primarily for
10 photoprocessing, and including photoprocessing machinery and
11 equipment purchased for lease.

12 (12) Until July 1, 2003, coal exploration, mining,
13 offhighway hauling, processing, maintenance, and reclamation
14 equipment, including replacement parts and equipment, and
15 including equipment purchased for lease, but excluding motor
16 vehicles required to be registered under the Illinois Vehicle
17 Code.

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

20 (14) 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 (14) is exempt from the provisions
26 of Section 3-75, and the exemption provided for under this item

1 (14) applies for all periods beginning May 30, 1995, but no
2 claim for credit or refund is allowed on or after the effective
3 date of this amendatory Act of the 95th General Assembly for
4 such taxes paid during the period beginning May 30, 2000 and
5 ending on the effective date of this amendatory Act of the 95th
6 General Assembly.

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

1 is not refunded to the lessee for any reason, the lessor is
2 liable to pay that amount to the Department.

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

23 (17) Beginning with taxable years ending on or after
24 December 31, 1995 and ending with taxable years ending on or
25 before December 31, 2004, personal property that is donated for
26 disaster relief to be used in a State or federally declared

1 disaster area in Illinois or bordering Illinois by a
2 manufacturer or retailer that is registered in this State to a
3 corporation, society, association, foundation, or institution
4 that has been issued a sales tax exemption identification
5 number by the Department that assists victims of the disaster
6 who reside within the declared disaster area.

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

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

25 (20) A motor vehicle, as that term is defined in Section
26 1-146 of the Illinois Vehicle Code, that is donated to a

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

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

1 another individual or entity that sold the property for the
2 purpose of resale by the fundraising entity and that profits
3 from the sale to the fundraising entity. This paragraph is
4 exempt from the provisions of Section 3-75.

5 (22) Beginning January 1, 2000 and through December 31,
6 2001, new or used automatic vending machines that prepare and
7 serve hot food and beverages, including coffee, soup, and other
8 items, and replacement parts for these machines. Beginning
9 January 1, 2002 and through June 30, 2003, machines and parts
10 for machines used in commercial, coin-operated amusement and
11 vending business if a use or occupation tax is paid on the
12 gross receipts derived from the use of the commercial,
13 coin-operated amusement and vending machines. This paragraph
14 is exempt from the provisions of Section 3-75.

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

1 (24) Beginning on the effective date of this amendatory Act
2 of the 92nd General Assembly, computers and communications
3 equipment utilized for any hospital purpose and equipment used
4 in the diagnosis, analysis, or treatment of hospital patients
5 purchased by a lessor who leases the equipment, under a lease
6 of one year or longer executed or in effect at the time the
7 lessor would otherwise be subject to the tax imposed by this
8 Act, to a hospital that has been issued an active tax exemption
9 identification number by the Department under Section 1g of the
10 Retailers' Occupation Tax Act. If the equipment is leased in a
11 manner that does not qualify for this exemption or is used in
12 any other nonexempt manner, the lessor shall be liable for the
13 tax imposed under this Act or the Use Tax Act, as the case may
14 be, based on the fair market value of the property at the time
15 the nonqualifying use occurs. No lessor shall collect or
16 attempt to collect an amount (however designated) that purports
17 to reimburse that lessor for the tax imposed by this Act or the
18 Use Tax Act, as the case may be, if the tax has not been paid by
19 the lessor. If a lessor improperly collects any such amount
20 from the lessee, the lessee shall have a legal right to claim a
21 refund of that amount from the lessor. If, however, that amount
22 is not refunded to the lessee for any reason, the lessor is
23 liable to pay that amount to the Department. This paragraph is
24 exempt from the provisions of Section 3-75.

25 (25) Beginning on the effective date of this amendatory Act
26 of the 92nd General Assembly, personal property purchased by a

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

21 (26) Beginning January 1, 2008, tangible personal property
22 used in the construction or maintenance of a community water
23 supply, as defined under Section 3.145 of the Environmental
24 Protection Act, that is operated by a not-for-profit
25 corporation that holds a valid water supply permit issued under
26 Title IV of the Environmental Protection Act. This paragraph is

1 exempt from the provisions of Section 3-75.

2 (27) Beginning January 1, 2010, materials, parts,
3 equipment, components, and furnishings incorporated into or
4 upon an aircraft as part of the modification, refurbishment,
5 completion, replacement, repair, or maintenance of the
6 aircraft. This exemption includes consumable supplies used in
7 the modification, refurbishment, completion, replacement,
8 repair, and maintenance of aircraft, but excludes any
9 materials, parts, equipment, components, and consumable
10 supplies used in the modification, replacement, repair, and
11 maintenance of aircraft engines or power plants, whether such
12 engines or power plants are installed or uninstalled upon any
13 such aircraft. "Consumable supplies" include, but are not
14 limited to, adhesive, tape, sandpaper, general purpose
15 lubricants, cleaning solution, latex gloves, and protective
16 films. This exemption applies only to those organizations that
17 (i) hold an Air Agency Certificate and are empowered to operate
18 an approved repair station by the Federal Aviation
19 Administration, (ii) have a Class IV Rating, and (iii) conduct
20 operations in accordance with Part 145 of the Federal Aviation
21 Regulations. The exemption does not include aircraft operated
22 by a commercial air carrier providing scheduled passenger air
23 service pursuant to authority issued under Part 121 or Part 129
24 of the Federal Aviation Regulations.

25 (28) Tangible personal property purchased by a
26 public-facilities corporation, as described in Section

1 11-65-10 of the Illinois Municipal Code, for purposes of
2 constructing or furnishing a municipal convention hall, but
3 only if the legal title to the municipal convention hall is
4 transferred to the municipality without any further
5 consideration by or on behalf of the municipality at the time
6 of the completion of the municipal convention hall or upon the
7 retirement or redemption of any bonds or other debt instruments
8 issued by the public-facilities corporation in connection with
9 the development of the municipal convention hall. This
10 exemption includes existing public-facilities corporations as
11 provided in Section 11-65-25 of the Illinois Municipal Code.
12 This paragraph is exempt from the provisions of Section 3-75.

13 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,
14 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
15 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
16 7-2-10.)

17 (35 ILCS 110/3-10) (from Ch. 120, par. 439.33-10)

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

24 Beginning on July 1, 2000 and through December 31, 2000,
25 with respect to motor fuel, as defined in Section 1.1 of the

1 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of
2 the Use Tax Act, the tax is imposed at the rate of 1.25%.

3 With respect to gasohol, as defined in the Use Tax Act, the
4 tax imposed by this Act applies to (i) 70% of the selling price
5 of property transferred as an incident to the sale of service
6 on or after January 1, 1990, and before July 1, 2003, (ii) 80%
7 of the selling price of property transferred as an incident to
8 the sale of service on or after July 1, 2003 and on or before
9 December 31, 2013, and (iii) 100% of the selling price
10 thereafter. If, at any time, however, the tax under this Act on
11 sales of gasohol, as defined in the Use Tax Act, is imposed at
12 the rate of 1.25%, then the tax imposed by this Act applies to
13 100% of the proceeds of sales of gasohol made during that time.

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

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

1 biodiesel blends, as defined in the Use Tax Act, with no less
2 than 1% and no more than 10% biodiesel is imposed at the rate
3 of 1.25%, then the tax imposed by this Act applies to 100% of
4 the proceeds of sales of biodiesel blends with no less than 1%
5 and no more than 10% biodiesel made during that time.

6 With respect to 100% biodiesel, as defined in the Use Tax
7 Act, and biodiesel blends, as defined in the Use Tax Act, with
8 more than 10% but no more than 99% biodiesel, the tax imposed
9 by this Act does not apply to the proceeds of the selling price
10 of property transferred as an incident to the sale of service
11 on or after July 1, 2003 and on or before December 31, 2013 but
12 applies to 100% of the selling price thereafter.

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

23 The tax shall be imposed at the rate of 1% on food prepared
24 for immediate consumption and transferred incident to a sale of
25 service subject to this Act or the Service Occupation Tax Act
26 by an entity licensed under the Hospital Licensing Act, the

1 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or
2 the Child Care Act of 1969. The tax shall also be imposed at
3 the rate of 1% on food for human consumption that is to be
4 consumed off the premises where it is sold (other than
5 alcoholic beverages, soft drinks, and food that has been
6 prepared for immediate consumption and is not otherwise
7 included in this paragraph) and prescription and
8 nonprescription medicines, drugs, medical appliances,
9 modifications to a motor vehicle for the purpose of rendering
10 it usable by a disabled person, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use. For the purposes of this Section, until September 1, 2009:
13 the term "soft drinks" means any complete, finished,
14 ready-to-use, non-alcoholic drink, whether carbonated or not,
15 including but not limited to soda water, cola, fruit juice,
16 vegetable juice, carbonated water, and all other preparations
17 commonly known as soft drinks of whatever kind or description
18 that are contained in any closed or sealed bottle, can, carton,
19 or container, regardless of size; but "soft drinks" does not
20 include coffee, tea, non-carbonated water, infant formula,
21 milk or milk products as defined in the Grade A Pasteurized
22 Milk and Milk Products Act, or drinks containing 50% or more
23 natural fruit or vegetable juice.

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "soft drinks" means non-alcoholic
26 beverages that contain natural or artificial sweeteners. "Soft

1 drinks" do not include beverages that contain milk or milk
2 products, soy, rice or similar milk substitutes, or greater
3 than 50% of vegetable or fruit juice by volume.

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

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

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "nonprescription medicines and

1 drugs" does not include grooming and hygiene products. For
2 purposes of this Section, "grooming and hygiene products"
3 includes, but is not limited to, soaps and cleaning solutions,
4 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
5 lotions and screens, unless those products are available by
6 prescription only, regardless of whether the products meet the
7 definition of "over-the-counter-drugs". For the purposes of
8 this paragraph, "over-the-counter-drug" means a drug for human
9 use that contains a label that identifies the product as a drug
10 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
11 label includes:

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

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

16 If the property that is acquired from a serviceman is
17 acquired outside Illinois and used outside Illinois before
18 being brought to Illinois for use here and is taxable under
19 this Act, the "selling price" on which the tax is computed
20 shall be reduced by an amount that represents a reasonable
21 allowance for depreciation for the period of prior out-of-state
22 use.

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

25 Section 39. The Service Occupation Tax Act is amended by

1 changing Sections 3-5 and 3-10 as follows:

2 (35 ILCS 115/3-5)

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

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

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

15 (3) Personal property purchased by any not-for-profit arts
16 or cultural organization that establishes, by proof required by
17 the Department by rule, that it has received an exemption under
18 Section 501(c)(3) of the Internal Revenue Code and that is
19 organized and operated primarily for the presentation or
20 support of arts or cultural programming, activities, or
21 services. These organizations include, but are not limited to,
22 music and dramatic arts organizations such as symphony
23 orchestras and theatrical groups, arts and cultural service
24 organizations, local arts councils, visual arts organizations,
25 and media arts organizations. On and after the effective date

1 of this amendatory Act of the 92nd General Assembly, however,
2 an entity otherwise eligible for this exemption shall not make
3 tax-free purchases unless it has an active identification
4 number issued by the Department.

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

9 (5) Until July 1, 2003 and beginning again on 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 (6) Personal property sold by a teacher-sponsored student
19 organization affiliated with an elementary or secondary school
20 located in Illinois.

21 (7) Farm machinery and equipment, both new and used,
22 including that manufactured on special order, certified by the
23 purchaser to be used primarily for production agriculture or
24 State or federal agricultural programs, including individual
25 replacement parts for the machinery and equipment, including
26 machinery and equipment purchased for lease, and including

1 implements of husbandry defined in Section 1-130 of the
2 Illinois Vehicle Code, farm machinery and agricultural
3 chemical and fertilizer spreaders, and nurse wagons required to
4 be registered under Section 3-809 of the Illinois Vehicle Code,
5 but excluding other motor vehicles required to be registered
6 under the Illinois Vehicle Code. Horticultural polyhouses or
7 hoop houses used for propagating, growing, or overwintering
8 plants shall be considered farm machinery and equipment under
9 this item (7). Agricultural chemical tender tanks and dry boxes
10 shall include units sold separately from a motor vehicle
11 required to be licensed and units sold mounted on a motor
12 vehicle required to be licensed if the selling price of the
13 tender is separately stated.

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

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

1 crop data for the purpose of formulating animal diets and
2 agricultural chemicals. This item (7) is exempt from the
3 provisions of Section 3-55.

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

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

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

1 required to be registered under the Illinois Vehicle Code.

2 (11) Photoprocessing machinery and equipment, including
3 repair and replacement parts, both new and used, including that
4 manufactured on special order, certified by the purchaser to be
5 used primarily for photoprocessing, and including
6 photoprocessing machinery and equipment purchased for lease.

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

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

25 (14) Semen used for artificial insemination of livestock
26 for direct agricultural production.

1 (15) Horses, or interests in horses, registered with and
2 meeting the requirements of any of the Arabian Horse Club
3 Registry of America, Appaloosa Horse Club, American Quarter
4 Horse Association, United States Trotting Association, or
5 Jockey Club, as appropriate, used for purposes of breeding or
6 racing for prizes. This item (15) is exempt from the provisions
7 of Section 3-55, and the exemption provided for under this item
8 (15) applies for all periods beginning May 30, 1995, but no
9 claim for credit or refund is allowed on or after January 1,
10 2008 (the effective date of Public Act 95-88) for such taxes
11 paid during the period beginning May 30, 2000 and ending on
12 January 1, 2008 (the effective date of Public Act 95-88).

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

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

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

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

23 (20) Beginning July 1, 1999, game or game birds sold at a
24 "game breeding and hunting preserve area" or an "exotic game
25 hunting area" as those terms are used in the Wildlife Code or
26 at a hunting enclosure approved through rules adopted by the

1 Department of Natural Resources. This paragraph is exempt from
2 the provisions of Section 3-55.

3 (21) A motor vehicle, as that term is defined in Section
4 1-146 of the Illinois Vehicle Code, that is donated to a
5 corporation, limited liability company, society, association,
6 foundation, or institution that is determined by the Department
7 to be organized and operated exclusively for educational
8 purposes. For purposes of this exemption, "a corporation,
9 limited liability company, society, association, foundation,
10 or institution organized and operated exclusively for
11 educational purposes" means all tax-supported public schools,
12 private schools that offer systematic instruction in useful
13 branches of learning by methods common to public schools and
14 that compare favorably in their scope and intensity with the
15 course of study presented in tax-supported schools, and
16 vocational or technical schools or institutes organized and
17 operated exclusively to provide a course of study of not less
18 than 6 weeks duration and designed to prepare individuals to
19 follow a trade or to pursue a manual, technical, mechanical,
20 industrial, business, or commercial occupation.

21 (22) Beginning January 1, 2000, personal property,
22 including food, purchased through fundraising events for the
23 benefit of a public or private elementary or secondary school,
24 a group of those schools, or one or more school districts if
25 the events are sponsored by an entity recognized by the school
26 district that consists primarily of volunteers and includes

1 parents and teachers of the school children. This paragraph
2 does not apply to fundraising events (i) for the benefit of
3 private home instruction or (ii) for which the fundraising
4 entity purchases the personal property sold at the events from
5 another individual or entity that sold the property for the
6 purpose of resale by the fundraising entity and that profits
7 from the sale to the fundraising entity. This paragraph is
8 exempt from the provisions of Section 3-55.

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

19 (24) Beginning on the effective date of this amendatory Act
20 of the 92nd General Assembly, computers and communications
21 equipment utilized for any hospital purpose and equipment used
22 in the diagnosis, analysis, or treatment of hospital patients
23 sold to a lessor who leases the equipment, under a lease of one
24 year or longer executed or in effect at the time of the
25 purchase, to a hospital that has been issued an active tax
26 exemption identification number by the Department under

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

3 (25) Beginning on the effective date of this amendatory Act
4 of the 92nd General Assembly, personal property sold to a
5 lessor who leases the property, under a lease of one year or
6 longer executed or in effect at the time of the purchase, to a
7 governmental body that has been issued an active tax exemption
8 identification number by the Department under Section 1g of the
9 Retailers' Occupation Tax Act. This paragraph is exempt from
10 the provisions of Section 3-55.

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

1 shall authorize the holder, to the extent and in the manner
2 specified in the rules adopted under this Act, to purchase
3 tangible personal property from a retailer exempt from the
4 taxes imposed by this Act. Taxpayers shall maintain all
5 necessary books and records to substantiate the use and
6 consumption of all such tangible personal property outside of
7 the State of Illinois.

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

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

1 provided in Section 11-65-25 of the Illinois Municipal Code.

2 This paragraph is exempt from the provisions of Section 3-55.

3 (29) Beginning January 1, 2010, materials, parts,
4 equipment, components, and furnishings incorporated into or
5 upon an aircraft as part of the modification, refurbishment,
6 completion, replacement, repair, or maintenance of the
7 aircraft. This exemption includes consumable supplies used in
8 the modification, refurbishment, completion, replacement,
9 repair, and maintenance of aircraft, but excludes any
10 materials, parts, equipment, components, and consumable
11 supplies used in the modification, replacement, repair, and
12 maintenance of aircraft engines or power plants, whether such
13 engines or power plants are installed or uninstalled upon any
14 such aircraft. "Consumable supplies" include, but are not
15 limited to, adhesive, tape, sandpaper, general purpose
16 lubricants, cleaning solution, latex gloves, and protective
17 films. This exemption applies only to those organizations that
18 (i) hold an Air Agency Certificate and are empowered to operate
19 an approved repair station by the Federal Aviation
20 Administration, (ii) have a Class IV Rating, and (iii) conduct
21 operations in accordance with Part 145 of the Federal Aviation
22 Regulations. The exemption does not include aircraft operated
23 by a commercial air carrier providing scheduled passenger air
24 service pursuant to authority issued under Part 121 or Part 129
25 of the Federal Aviation Regulations.

26 (Source: P.A. 95-88, eff. 1-1-08; 95-538, eff. 1-1-08; 95-876,

1 eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff. 7-1-10;
2 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000, eff.
3 7-2-10.)

4 (35 ILCS 115/3-10) (from Ch. 120, par. 439.103-10)

5 Sec. 3-10. Rate of tax. Unless otherwise provided in this
6 Section, the tax imposed by this Act is at the rate of 6.25% of
7 the "selling price", as defined in Section 2 of the Service Use
8 Tax Act, of the tangible personal property. For the purpose of
9 computing this tax, in no event shall the "selling price" be
10 less than the cost price to the serviceman of the tangible
11 personal property transferred. The selling price of each item
12 of tangible personal property transferred as an incident of a
13 sale of service may be shown as a distinct and separate item on
14 the serviceman's billing to the service customer. If the
15 selling price is not so shown, the selling price of the
16 tangible personal property is deemed to be 50% of the
17 serviceman's entire billing to the service customer. When,
18 however, a serviceman contracts to design, develop, and produce
19 special order machinery or equipment, the tax imposed by this
20 Act shall be based on the serviceman's cost price of the
21 tangible personal property transferred incident to the
22 completion of the contract.

23 Beginning on July 1, 2000 and through December 31, 2000,
24 with respect to motor fuel, as defined in Section 1.1 of the
25 Motor Fuel Tax Law, and gasohol, as defined in Section 3-40 of

1 the Use Tax Act, the tax is imposed at the rate of 1.25%.

2 With respect to gasohol, as defined in the Use Tax Act, the
3 tax imposed by this Act shall apply to (i) 70% of the cost
4 price of property transferred as an incident to the sale of
5 service on or after January 1, 1990, and before July 1, 2003,
6 (ii) 80% of the selling price of property transferred as an
7 incident to the sale of service on or after July 1, 2003 and on
8 or before December 31, 2013, and (iii) 100% of the cost price
9 thereafter. If, at any time, however, the tax under this Act on
10 sales of gasohol, as defined in the Use Tax Act, is imposed at
11 the rate of 1.25%, then the tax imposed by this Act applies to
12 100% of the proceeds of sales of gasohol made during that time.

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

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

1 than 1% and no more than 10% biodiesel is imposed at the rate
2 of 1.25%, then the tax imposed by this Act applies to 100% of
3 the proceeds of sales of biodiesel blends with no less than 1%
4 and no more than 10% biodiesel made during that time.

5 With respect to 100% biodiesel, as defined in the Use Tax
6 Act, and biodiesel blends, as defined in the Use Tax Act, with
7 more than 10% but no more than 99% biodiesel material, the tax
8 imposed by this Act does not apply to the proceeds of the
9 selling price of property transferred as an incident to the
10 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 At the election of any registered serviceman made for each
14 fiscal year, sales of service in which the aggregate annual
15 cost price of tangible personal property transferred as an
16 incident to the sales of service is less than 35%, or 75% in
17 the case of servicemen transferring prescription drugs or
18 servicemen engaged in graphic arts production, of the aggregate
19 annual total gross receipts from all sales of service, the tax
20 imposed by this Act shall be based on the serviceman's cost
21 price of the tangible personal property transferred incident to
22 the sale of those services.

23 The tax shall be imposed at the rate of 1% on food prepared
24 for immediate consumption and transferred incident to a sale of
25 service subject to this Act or the Service Occupation Tax Act
26 by an entity licensed under the Hospital Licensing Act, the

1 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or
2 the Child Care Act of 1969. The tax shall also be imposed at
3 the rate of 1% on food for human consumption that is to be
4 consumed off the premises where it is sold (other than
5 alcoholic beverages, soft drinks, and food that has been
6 prepared for immediate consumption and is not otherwise
7 included in this paragraph) and prescription and
8 nonprescription medicines, drugs, medical appliances,
9 modifications to a motor vehicle for the purpose of rendering
10 it usable by a disabled person, and insulin, urine testing
11 materials, syringes, and needles used by diabetics, for human
12 use. For the purposes of this Section, until September 1, 2009:
13 the term "soft drinks" means any complete, finished,
14 ready-to-use, non-alcoholic drink, whether carbonated or not,
15 including but not limited to soda water, cola, fruit juice,
16 vegetable juice, carbonated water, and all other preparations
17 commonly known as soft drinks of whatever kind or description
18 that are contained in any closed or sealed can, carton, or
19 container, regardless of size; but "soft drinks" does not
20 include coffee, tea, non-carbonated water, infant formula,
21 milk or milk products as defined in the Grade A Pasteurized
22 Milk and Milk Products Act, or drinks containing 50% or more
23 natural fruit or vegetable juice.

24 Notwithstanding any other provisions of this Act,
25 beginning September 1, 2009, "soft drinks" means non-alcoholic
26 beverages that contain natural or artificial sweeteners. "Soft

1 drinks" do not include beverages that contain milk or milk
2 products, soy, rice or similar milk substitutes, or greater
3 than 50% of vegetable or fruit juice by volume.

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

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

25 Notwithstanding any other provisions of this Act,
26 beginning September 1, 2009, "nonprescription medicines and

1 drugs" does not include grooming and hygiene products. For
2 purposes of this Section, "grooming and hygiene products"
3 includes, but is not limited to, soaps and cleaning solutions,
4 shampoo, toothpaste, mouthwash, antiperspirants, and sun tan
5 lotions and screens, unless those products are available by
6 prescription only, regardless of whether the products meet the
7 definition of "over-the-counter-drugs". For the purposes of
8 this paragraph, "over-the-counter-drug" means a drug for human
9 use that contains a label that identifies the product as a drug
10 as required by 21 C.F.R. § 201.66. The "over-the-counter-drug"
11 label includes:

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

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

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

20 (35 ILCS 120/2-5)

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

24 (1) Farm chemicals.

1 (2) Farm machinery and equipment, both new and used,
2 including that manufactured on special order, certified by the
3 purchaser to be used primarily for production agriculture or
4 State or federal agricultural programs, including individual
5 replacement parts for the machinery and equipment, including
6 machinery and equipment purchased for lease, and including
7 implements of husbandry defined in Section 1-130 of the
8 Illinois Vehicle Code, farm machinery and agricultural
9 chemical and fertilizer spreaders, and nurse wagons required to
10 be registered under Section 3-809 of the Illinois Vehicle Code,
11 but excluding other motor vehicles required to be registered
12 under the Illinois Vehicle Code. Horticultural polyhouses or
13 hoop houses used for propagating, growing, or overwintering
14 plants shall be considered farm machinery and equipment under
15 this item (2). Agricultural chemical tender tanks and dry boxes
16 shall include units sold separately from a motor vehicle
17 required to be licensed and units sold mounted on a motor
18 vehicle required to be licensed, if the selling price of the
19 tender is separately stated.

20 Farm machinery and equipment shall include precision
21 farming equipment that is installed or purchased to be
22 installed on farm machinery and equipment including, but not
23 limited to, tractors, harvesters, sprayers, planters, seeders,
24 or spreaders. Precision farming equipment includes, but is not
25 limited to, soil testing sensors, computers, monitors,
26 software, global positioning and mapping systems, and other

1 such equipment.

2 Farm machinery and equipment also includes computers,
3 sensors, software, and related equipment used primarily in the
4 computer-assisted operation of production agriculture
5 facilities, equipment, and activities such as, but not limited
6 to, the collection, monitoring, and correlation of animal and
7 crop data for the purpose of formulating animal diets and
8 agricultural chemicals. This item (7) is exempt from the
9 provisions of Section 2-70.

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

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

25 (5) A motor vehicle of the first division, a motor vehicle
26 of the second division that is a self contained motor vehicle

1 designed or permanently converted to provide living quarters
2 for recreational, camping, or travel use, with direct walk
3 through access to the living quarters from the driver's seat,
4 or a motor vehicle of the second division that is of the van
5 configuration designed for the transportation of not less than
6 7 nor more than 16 passengers, as defined in Section 1-146 of
7 the Illinois Vehicle Code, that is used for automobile renting,
8 as defined in the Automobile Renting Occupation and Use Tax
9 Act. This paragraph is exempt from the provisions of Section
10 2-70.

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

17 (8) Personal property sold to an Illinois county fair
18 association for use in conducting, operating, or promoting the
19 county fair.

20 (9) Personal property sold to a not-for-profit arts or
21 cultural organization that establishes, by proof required by
22 the Department by rule, that it has received an exemption under
23 Section 501(c)(3) of the Internal Revenue Code and that is
24 organized and operated primarily for the presentation or
25 support of arts or cultural programming, activities, or
26 services. These organizations include, but are not limited to,

1 music and dramatic arts organizations such as symphony
2 orchestras and theatrical groups, arts and cultural service
3 organizations, local arts councils, visual arts organizations,
4 and media arts organizations. On and after the effective date
5 of this amendatory Act of the 92nd General Assembly, however,
6 an entity otherwise eligible for this exemption shall not make
7 tax-free purchases unless it has an active identification
8 number issued by the Department.

9 (10) Personal property sold by a corporation, society,
10 association, foundation, institution, or organization, other
11 than a limited liability company, that is organized and
12 operated as a not-for-profit service enterprise for the benefit
13 of persons 65 years of age or older if the personal property
14 was not purchased by the enterprise for the purpose of resale
15 by the enterprise.

16 (11) Personal property sold to a governmental body, to a
17 corporation, society, association, foundation, or institution
18 organized and operated exclusively for charitable, religious,
19 or educational purposes, or to a not-for-profit corporation,
20 society, association, foundation, institution, or organization
21 that has no compensated officers or employees and that is
22 organized and operated primarily for the recreation of persons
23 55 years of age or older. A limited liability company may
24 qualify for the exemption under this paragraph only if the
25 limited liability company is organized and operated
26 exclusively for educational purposes. On and after July 1,

1 1987, however, no entity otherwise eligible for this exemption
2 shall make tax-free purchases unless it has an active
3 identification number issued by the Department.

4 (12) Tangible personal property sold to interstate
5 carriers for hire for use as rolling stock moving in interstate
6 commerce or to lessors under leases of one year or longer
7 executed or in effect at the time of purchase by interstate
8 carriers for hire for use as rolling stock moving in interstate
9 commerce and equipment operated by a telecommunications
10 provider, licensed as a common carrier by the Federal
11 Communications Commission, which is permanently installed in
12 or affixed to aircraft moving in interstate commerce.

13 (12-5) On and after July 1, 2003 and through June 30, 2004,
14 motor vehicles of the second division with a gross vehicle
15 weight in excess of 8,000 pounds that are subject to the
16 commercial distribution fee imposed under Section 3-815.1 of
17 the Illinois Vehicle Code. Beginning on July 1, 2004 and
18 through June 30, 2005, the use in this State of motor vehicles
19 of the second division: (i) with a gross vehicle weight rating
20 in excess of 8,000 pounds; (ii) that are subject to the
21 commercial distribution fee imposed under Section 3-815.1 of
22 the Illinois Vehicle Code; and (iii) that are primarily used
23 for commercial purposes. Through June 30, 2005, this exemption
24 applies to repair and replacement parts added after the initial
25 purchase of such a motor vehicle if that motor vehicle is used
26 in a manner that would qualify for the rolling stock exemption

1 otherwise provided for in this Act. For purposes of this
2 paragraph, "used for commercial purposes" means the
3 transportation of persons or property in furtherance of any
4 commercial or industrial enterprise whether for-hire or not.

5 (13) Proceeds from sales to owners, lessors, or shippers of
6 tangible personal property that is utilized by interstate
7 carriers for hire for use as rolling stock moving in interstate
8 commerce and equipment operated by a telecommunications
9 provider, licensed as a common carrier by the Federal
10 Communications Commission, which is permanently installed in
11 or affixed to aircraft moving in interstate commerce.

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

24 (15) Proceeds of mandatory service charges separately
25 stated on customers' bills for purchase and consumption of food
26 and beverages, to the extent that the proceeds of the service

1 charge are in fact turned over as tips or as a substitute for
2 tips to the employees who participate directly in preparing,
3 serving, hosting or cleaning up the food or beverage function
4 with respect to which the service charge is imposed.

5 (16) Petroleum products sold to a purchaser if the seller
6 is prohibited by federal law from charging tax to the
7 purchaser.

8 (17) Tangible personal property sold to a common carrier by
9 rail or motor that receives the physical possession of the
10 property in Illinois and that transports the property, or
11 shares with another common carrier in the transportation of the
12 property, out of Illinois on a standard uniform bill of lading
13 showing the seller of the property as the shipper or consignor
14 of the property to a destination outside Illinois, for use
15 outside Illinois.

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

20 (19) Until July 1 2003, oil field exploration, drilling,
21 and production equipment, including (i) rigs and parts of rigs,
22 rotary rigs, cable tool rigs, and workover rigs, (ii) pipe and
23 tubular goods, including casing and drill strings, (iii) pumps
24 and pump-jack units, (iv) storage tanks and flow lines, (v) any
25 individual replacement part for oil field exploration,
26 drilling, and production equipment, and (vi) machinery and

1 equipment purchased for lease; but excluding motor vehicles
2 required to be registered under the Illinois Vehicle Code.

3 (20) Photoprocessing machinery and equipment, including
4 repair and replacement parts, both new and used, including that
5 manufactured on special order, certified by the purchaser to be
6 used primarily for photoprocessing, and including
7 photoprocessing machinery and equipment purchased for lease.

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

14 (22) Fuel and petroleum products sold to or used by an air
15 carrier, certified by the carrier to be used for consumption,
16 shipment, or storage in the conduct of its business as an air
17 common carrier, for a flight destined for or returning from a
18 location or locations outside the United States without regard
19 to previous or subsequent domestic stopovers.

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

24 (24) Fuel consumed or used in the operation of ships,
25 barges, or vessels that are used primarily in or for the
26 transportation of property or the conveyance of persons for

1 hire on rivers bordering on this State if the fuel is delivered
2 by the seller to the purchaser's barge, ship, or vessel while
3 it is afloat upon that bordering river.

4 (25) Except as provided in item (25-5) of this Section, a
5 motor vehicle sold in this State to a nonresident even though
6 the motor vehicle is delivered to the nonresident in this
7 State, if the motor vehicle is not to be titled in this State,
8 and if a drive-away permit is issued to the motor vehicle as
9 provided in Section 3-603 of the Illinois Vehicle Code or if
10 the nonresident purchaser has vehicle registration plates to
11 transfer to the motor vehicle upon returning to his or her home
12 state. The issuance of the drive-away permit or having the
13 out-of-state registration plates to be transferred is prima
14 facie evidence that the motor vehicle will not be titled in
15 this State.

16 (25-5) The exemption under item (25) does not apply if the
17 state in which the motor vehicle will be titled does not allow
18 a reciprocal exemption for a motor vehicle sold and delivered
19 in that state to an Illinois resident but titled in Illinois.
20 The tax collected under this Act on the sale of a motor vehicle
21 in this State to a resident of another state that does not
22 allow a reciprocal exemption shall be imposed at a rate equal
23 to the state's rate of tax on taxable property in the state in
24 which the purchaser is a resident, except that the tax shall
25 not exceed the tax that would otherwise be imposed under this
26 Act. At the time of the sale, the purchaser shall execute a

1 statement, signed under penalty of perjury, of his or her
2 intent to title the vehicle in the state in which the purchaser
3 is a resident within 30 days after the sale and of the fact of
4 the payment to the State of Illinois of tax in an amount
5 equivalent to the state's rate of tax on taxable property in
6 his or her state of residence and shall submit the statement to
7 the appropriate tax collection agency in his or her state of
8 residence. In addition, the retailer must retain a signed copy
9 of the statement in his or her records. Nothing in this item
10 shall be construed to require the removal of the vehicle from
11 this state following the filing of an intent to title the
12 vehicle in the purchaser's state of residence if the purchaser
13 titles the vehicle in his or her state of residence within 30
14 days after the date of sale. The tax collected under this Act
15 in accordance with this item (25-5) shall be proportionately
16 distributed as if the tax were collected at the 6.25% general
17 rate imposed under this Act.

18 (25-7) Beginning on July 1, 2007, no tax is imposed under
19 this Act on the sale of an aircraft, as defined in Section 3 of
20 the Illinois Aeronautics Act, if all of the following
21 conditions are met:

22 (1) the aircraft leaves this State within 15 days after
23 the later of either the issuance of the final billing for
24 the sale of the aircraft, or the authorized approval for
25 return to service, completion of the maintenance record
26 entry, and completion of the test flight and ground test

1 for inspection, as required by 14 C.F.R. 91.407;

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

4 (3) the seller retains in his or her books and records
5 and provides to the Department a signed and dated
6 certification from the purchaser, on a form prescribed by
7 the Department, certifying that the requirements of this
8 item (25-7) are met. The certificate must also include the
9 name and address of the purchaser, the address of the
10 location where the aircraft is to be titled or registered,
11 the address of the primary physical location of the
12 aircraft, and other information that the Department may
13 reasonably require.

14 For purposes of this item (25-7):

15 "Based in this State" means hangared, stored, or otherwise
16 used, excluding post-sale customizations as defined in this
17 Section, for 10 or more days in each 12-month period
18 immediately following the date of the sale of the aircraft.

19 "Registered in this State" means an aircraft registered
20 with the Department of Transportation, Aeronautics Division,
21 or titled or registered with the Federal Aviation
22 Administration to an address located in this State.

23 This paragraph (25-7) is exempt from the provisions of
24 Section 2-70.

25 (26) Semen used for artificial insemination of livestock
26 for direct agricultural production.

1 (27) Horses, or interests in horses, registered with and
2 meeting the requirements of any of the Arabian Horse Club
3 Registry of America, Appaloosa Horse Club, American Quarter
4 Horse Association, United States Trotting Association, or
5 Jockey Club, as appropriate, used for purposes of breeding or
6 racing for prizes. This item (27) is exempt from the provisions
7 of Section 2-70, and the exemption provided for under this item
8 (27) applies for all periods beginning May 30, 1995, but no
9 claim for credit or refund is allowed on or after January 1,
10 2008 (the effective date of Public Act 95-88) for such taxes
11 paid during the period beginning May 30, 2000 and ending on
12 January 1, 2008 (the effective date of Public Act 95-88).

13 (28) Computers and communications equipment utilized for
14 any hospital purpose and equipment used in the diagnosis,
15 analysis, or treatment of hospital patients sold to a lessor
16 who leases the equipment, under a lease of one year or longer
17 executed or in effect at the time of the purchase, to a
18 hospital that has been issued an active tax exemption
19 identification number by the Department under Section 1g of
20 this Act.

21 (29) Personal property sold to a lessor who leases the
22 property, under a lease of one year or longer executed or in
23 effect at the time of the purchase, to a governmental body that
24 has been issued an active tax exemption identification number
25 by the Department under Section 1g of this Act.

26 (30) 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 donated for
3 disaster relief to be used in a State or federally declared
4 disaster area in Illinois or bordering Illinois by a
5 manufacturer or retailer that is registered in this State to a
6 corporation, society, association, foundation, or institution
7 that has been issued a sales tax exemption identification
8 number by the Department that assists victims of the disaster
9 who reside within the declared disaster area.

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

22 (32) Beginning July 1, 1999, game or game birds sold at a
23 "game breeding and hunting preserve area" or an "exotic game
24 hunting area" as those terms are used in the Wildlife Code or
25 at a hunting enclosure approved through rules adopted by the
26 Department of Natural Resources. This paragraph is exempt from

1 the provisions of Section 2-70.

2 (33) A motor vehicle, as that term is defined in Section
3 1-146 of the Illinois Vehicle Code, that is donated to a
4 corporation, limited liability company, society, association,
5 foundation, or institution that is determined by the Department
6 to be organized and operated exclusively for educational
7 purposes. For purposes of this exemption, "a corporation,
8 limited liability company, society, association, foundation,
9 or institution organized and operated exclusively for
10 educational purposes" means all tax-supported public schools,
11 private schools that offer systematic instruction in useful
12 branches of learning by methods common to public schools and
13 that compare favorably in their scope and intensity with the
14 course of study presented in tax-supported schools, and
15 vocational or technical schools or institutes organized and
16 operated exclusively to provide a course of study of not less
17 than 6 weeks duration and designed to prepare individuals to
18 follow a trade or to pursue a manual, technical, mechanical,
19 industrial, business, or commercial occupation.

20 (34) Beginning January 1, 2000, personal property,
21 including food, purchased through fundraising events for the
22 benefit of a public or private elementary or secondary school,
23 a group of those schools, or one or more school districts if
24 the events are sponsored by an entity recognized by the school
25 district that consists primarily of volunteers and includes
26 parents and teachers of the school children. This paragraph

1 does not apply to fundraising events (i) for the benefit of
2 private home instruction or (ii) for which the fundraising
3 entity purchases the personal property sold at the events from
4 another individual or entity that sold the property for the
5 purpose of resale by the fundraising entity and that profits
6 from the sale to the fundraising entity. This paragraph is
7 exempt from the provisions of Section 2-70.

8 (35) Beginning January 1, 2000 and through December 31,
9 2001, new or used automatic vending machines that prepare and
10 serve hot food and beverages, including coffee, soup, and other
11 items, and replacement parts for these machines. Beginning
12 January 1, 2002 and through June 30, 2003, machines and parts
13 for machines used in commercial, coin-operated amusement and
14 vending business if a use or occupation tax is paid on the
15 gross receipts derived from the use of the commercial,
16 coin-operated amusement and vending machines. This paragraph
17 is exempt from the provisions of Section 2-70.

18 (35-5) Beginning August 23, 2001 and through June 30, 2011,
19 food for human consumption that is to be consumed off the
20 premises where it is sold (other than alcoholic beverages, soft
21 drinks, and food that has been prepared for immediate
22 consumption) and prescription and nonprescription medicines,
23 drugs, medical appliances, and insulin, urine testing
24 materials, syringes, and needles used by diabetics, for human
25 use, when purchased for use by a person receiving medical
26 assistance under Article V of the Illinois Public Aid Code who

1 resides in a licensed long-term care facility, as defined in
2 the Nursing Home Care Act, or a licensed facility as defined in
3 the ID/DD ~~MR/DD~~ Community Care Act.

4 (36) Beginning August 2, 2001, computers and
5 communications equipment utilized for any hospital purpose and
6 equipment used in the diagnosis, analysis, or treatment of
7 hospital patients sold to a lessor who leases the equipment,
8 under a lease of one year or longer executed or in effect at
9 the time of the purchase, to a hospital that has been issued an
10 active tax exemption identification number by the Department
11 under Section 1g of this Act. This paragraph is exempt from the
12 provisions of Section 2-70.

13 (37) Beginning August 2, 2001, personal property sold to a
14 lessor who leases the property, under a lease of one year or
15 longer executed or in effect at the time of the purchase, to a
16 governmental body that has been issued an active tax exemption
17 identification number by the Department under Section 1g of
18 this Act. This paragraph is exempt from the provisions of
19 Section 2-70.

20 (38) Beginning on January 1, 2002 and through June 30,
21 2011, tangible personal property purchased from an Illinois
22 retailer by a taxpayer engaged in centralized purchasing
23 activities in Illinois who will, upon receipt of the property
24 in Illinois, temporarily store the property in Illinois (i) for
25 the purpose of subsequently transporting it outside this State
26 for use or consumption thereafter solely outside this State or

1 (ii) for the purpose of being processed, fabricated, or
2 manufactured into, attached to, or incorporated into other
3 tangible personal property to be transported outside this State
4 and thereafter used or consumed solely outside this State. The
5 Director of Revenue shall, pursuant to rules adopted in
6 accordance with the Illinois Administrative Procedure Act,
7 issue a permit to any taxpayer in good standing with the
8 Department who is eligible for the exemption under this
9 paragraph (38). The permit issued under this paragraph (38)
10 shall authorize the holder, to the extent and in the manner
11 specified in the rules adopted under this Act, to purchase
12 tangible personal property from a retailer exempt from the
13 taxes imposed by this Act. Taxpayers shall maintain all
14 necessary books and records to substantiate the use and
15 consumption of all such tangible personal property outside of
16 the State of Illinois.

17 (39) Beginning January 1, 2008, tangible personal property
18 used in the construction or maintenance of a community water
19 supply, as defined under Section 3.145 of the Environmental
20 Protection Act, that is operated by a not-for-profit
21 corporation that holds a valid water supply permit issued under
22 Title IV of the Environmental Protection Act. This paragraph is
23 exempt from the provisions of Section 2-70.

24 (40) Beginning January 1, 2010, materials, parts,
25 equipment, components, and furnishings incorporated into or
26 upon an aircraft as part of the modification, refurbishment,

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

21 (41) Tangible personal property sold to a
22 public-facilities corporation, as described in Section
23 11-65-10 of the Illinois Municipal Code, for purposes of
24 constructing or furnishing a municipal convention hall, but
25 only if the legal title to the municipal convention hall is
26 transferred to the municipality without any further

1 consideration by or on behalf of the municipality at the time
2 of the completion of the municipal convention hall or upon the
3 retirement or redemption of any bonds or other debt instruments
4 issued by the public-facilities corporation in connection with
5 the development of the municipal convention hall. This
6 exemption includes existing public-facilities corporations as
7 provided in Section 11-65-25 of the Illinois Municipal Code.
8 This paragraph is exempt from the provisions of Section 2-70.

9 (Source: P.A. 95-88, eff. 1-1-08; 95-233, eff. 8-16-07; 95-304,
10 eff. 8-20-07; 95-538, eff. 1-1-08; 95-707, eff. 1-11-08;
11 95-876, eff. 8-21-08; 96-116, eff. 7-31-09; 96-339, eff.
12 7-1-10; 96-532, eff. 8-14-09; 96-759, eff. 1-1-10; 96-1000,
13 eff. 7-2-10.)

14 Section 41. The Property Tax Code is amended by changing
15 Sections 15-168, 15-170, and 15-172 as follows:

16 (35 ILCS 200/15-168)

17 Sec. 15-168. Disabled persons' homestead exemption.

18 (a) Beginning with taxable year 2007, an annual homestead
19 exemption is granted to disabled persons in the amount of
20 \$2,000, except as provided in subsection (c), to be deducted
21 from the property's value as equalized or assessed by the
22 Department of Revenue. The disabled person shall receive the
23 homestead exemption upon meeting the following requirements:

24 (1) The property must be occupied as the primary

1 residence by the disabled person.

2 (2) The disabled person must be liable for paying the
3 real estate taxes on the property.

4 (3) The disabled person must be an owner of record of
5 the property or have a legal or equitable interest in the
6 property as evidenced by a written instrument. In the case
7 of a leasehold interest in property, the lease must be for
8 a single family residence.

9 A person who is disabled during the taxable year is
10 eligible to apply for this homestead exemption during that
11 taxable year. Application must be made during the application
12 period in effect for the county of residence. If a homestead
13 exemption has been granted under this Section and the person
14 awarded the exemption subsequently becomes a resident of a
15 facility licensed under the Nursing Home Care Act or the ID/DD
16 ~~MR/DD~~ Community Care Act, then the exemption shall continue (i)
17 so long as the residence continues to be occupied by the
18 qualifying person's spouse or (ii) if the residence remains
19 unoccupied but is still owned by the person qualified for the
20 homestead exemption.

21 (b) For the purposes of this Section, "disabled person"
22 means a person unable to engage in any substantial gainful
23 activity by reason of a medically determinable physical or
24 mental impairment which can be expected to result in death or
25 has lasted or can be expected to last for a continuous period
26 of not less than 12 months. Disabled persons filing claims

1 under this Act shall submit proof of disability in such form
2 and manner as the Department shall by rule and regulation
3 prescribe. Proof that a claimant is eligible to receive
4 disability benefits under the Federal Social Security Act shall
5 constitute proof of disability for purposes of this Act.
6 Issuance of an Illinois Disabled Person Identification Card
7 stating that the claimant is under a Class 2 disability, as
8 defined in Section 4A of The Illinois Identification Card Act,
9 shall constitute proof that the person named thereon is a
10 disabled person for purposes of this Act. A disabled person not
11 covered under the Federal Social Security Act and not
12 presenting a Disabled Person Identification Card stating that
13 the claimant is under a Class 2 disability shall be examined by
14 a physician designated by the Department, and his status as a
15 disabled person determined using the same standards as used by
16 the Social Security Administration. The costs of any required
17 examination shall be borne by the claimant.

18 (c) For land improved with (i) an apartment building owned
19 and operated as a cooperative or (ii) a life care facility as
20 defined under Section 2 of the Life Care Facilities Act that is
21 considered to be a cooperative, the maximum reduction from the
22 value of the property, as equalized or assessed by the
23 Department, shall be multiplied by the number of apartments or
24 units occupied by a disabled person. The disabled person shall
25 receive the homestead exemption upon meeting the following
26 requirements:

1 (1) The property must be occupied as the primary
2 residence by the disabled person.

3 (2) The disabled person must be liable by contract with
4 the owner or owners of record for paying the apportioned
5 property taxes on the property of the cooperative or life
6 care facility. In the case of a life care facility, the
7 disabled person must be liable for paying the apportioned
8 property taxes under a life care contract as defined in
9 Section 2 of the Life Care Facilities Act.

10 (3) The disabled person must be an owner of record of a
11 legal or equitable interest in the cooperative apartment
12 building. A leasehold interest does not meet this
13 requirement.

14 If a homestead exemption is granted under this subsection, the
15 cooperative association or management firm shall credit the
16 savings resulting from the exemption to the apportioned tax
17 liability of the qualifying disabled person. The chief county
18 assessment officer may request reasonable proof that the
19 association or firm has properly credited the exemption. A
20 person who willfully refuses to credit an exemption to the
21 qualified disabled person is guilty of a Class B misdemeanor.

22 (d) The chief county assessment officer shall determine the
23 eligibility of property to receive the homestead exemption
24 according to guidelines established by the Department. After a
25 person has received an exemption under this Section, an annual
26 verification of eligibility for the exemption shall be mailed

1 to the taxpayer.

2 In counties with fewer than 3,000,000 inhabitants, the
3 chief county assessment officer shall provide to each person
4 granted a homestead exemption under this Section a form to
5 designate any other person to receive a duplicate of any notice
6 of delinquency in the payment of taxes assessed and levied
7 under this Code on the person's qualifying property. The
8 duplicate notice shall be in addition to the notice required to
9 be provided to the person receiving the exemption and shall be
10 given in the manner required by this Code. The person filing
11 the request for the duplicate notice shall pay an
12 administrative fee of \$5 to the chief county assessment
13 officer. The assessment officer shall then file the executed
14 designation with the county collector, who shall issue the
15 duplicate notices as indicated by the designation. A
16 designation may be rescinded by the disabled person in the
17 manner required by the chief county assessment officer.

18 (e) A taxpayer who claims an exemption under Section 15-165
19 or 15-169 may not claim an exemption under this Section.

20 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10.)

21 (35 ILCS 200/15-170)

22 Sec. 15-170. Senior Citizens Homestead Exemption. An
23 annual homestead exemption limited, except as described here
24 with relation to cooperatives or life care facilities, to a
25 maximum reduction set forth below from the property's value, as

1 equalized or assessed by the Department, is granted for
2 property that is occupied as a residence by a person 65 years
3 of age or older who is liable for paying real estate taxes on
4 the property and is an owner of record of the property or has a
5 legal or equitable interest therein as evidenced by a written
6 instrument, except for a leasehold interest, other than a
7 leasehold interest of land on which a single family residence
8 is located, which is occupied as a residence by a person 65
9 years or older who has an ownership interest therein, legal,
10 equitable or as a lessee, and on which he or she is liable for
11 the payment of property taxes. Before taxable year 2004, the
12 maximum reduction shall be \$2,500 in counties with 3,000,000 or
13 more inhabitants and \$2,000 in all other counties. For taxable
14 years 2004 through 2005, the maximum reduction shall be \$3,000
15 in all counties. For taxable years 2006 and 2007, the maximum
16 reduction shall be \$3,500 and, for taxable years 2008 and
17 thereafter, the maximum reduction is \$4,000 in all counties.

18 For land improved with an apartment building owned and
19 operated as a cooperative, the maximum reduction from the value
20 of the property, as equalized by the Department, shall be
21 multiplied by the number of apartments or units occupied by a
22 person 65 years of age or older who is liable, by contract with
23 the owner or owners of record, for paying property taxes on the
24 property and is an owner of record of a legal or equitable
25 interest in the cooperative apartment building, other than a
26 leasehold interest. For land improved with a life care

1 facility, the maximum reduction from the value of the property,
2 as equalized by the Department, shall be multiplied by the
3 number of apartments or units occupied by persons 65 years of
4 age or older, irrespective of any legal, equitable, or
5 leasehold interest in the facility, who are liable, under a
6 contract with the owner or owners of record of the facility,
7 for paying property taxes on the property. In a cooperative or
8 a life care facility where a homestead exemption has been
9 granted, the cooperative association or the management firm of
10 the cooperative or facility shall credit the savings resulting
11 from that exemption only to the apportioned tax liability of
12 the owner or resident who qualified for the exemption. Any
13 person who willfully refuses to so credit the savings shall be
14 guilty of a Class B misdemeanor. Under this Section and
15 Sections 15-175, 15-176, and 15-177, "life care facility" means
16 a facility, as defined in Section 2 of the Life Care Facilities
17 Act, with which the applicant for the homestead exemption has a
18 life care contract as defined in that Act.

19 When a homestead exemption has been granted under this
20 Section and the person qualifying subsequently becomes a
21 resident of a facility licensed under the Assisted Living and
22 Shared Housing Act, the Nursing Home Care Act, or the ID/DD
23 ~~MR/DD~~ Community Care Act, the exemption shall continue so long
24 as the residence continues to be occupied by the qualifying
25 person's spouse if the spouse is 65 years of age or older, or
26 if the residence remains unoccupied but is still owned by the

1 person qualified for the homestead exemption.

2 A person who will be 65 years of age during the current
3 assessment year shall be eligible to apply for the homestead
4 exemption during that assessment year. Application shall be
5 made during the application period in effect for the county of
6 his residence.

7 Beginning with assessment year 2003, for taxes payable in
8 2004, property that is first occupied as a residence after
9 January 1 of any assessment year by a person who is eligible
10 for the senior citizens homestead exemption under this Section
11 must be granted a pro-rata exemption for the assessment year.
12 The amount of the pro-rata exemption is the exemption allowed
13 in the county under this Section divided by 365 and multiplied
14 by the number of days during the assessment year the property
15 is occupied as a residence by a person eligible for the
16 exemption under this Section. The chief county assessment
17 officer must adopt reasonable procedures to establish
18 eligibility for this pro-rata exemption.

19 The assessor or chief county assessment officer may
20 determine the eligibility of a life care facility to receive
21 the benefits provided by this Section, by affidavit,
22 application, visual inspection, questionnaire or other
23 reasonable methods in order to insure that the tax savings
24 resulting from the exemption are credited by the management
25 firm to the apportioned tax liability of each qualifying
26 resident. The assessor may request reasonable proof that the

1 management firm has so credited the exemption.

2 The chief county assessment officer of each county with
3 less than 3,000,000 inhabitants shall provide to each person
4 allowed a homestead exemption under this Section a form to
5 designate any other person to receive a duplicate of any notice
6 of delinquency in the payment of taxes assessed and levied
7 under this Code on the property of the person receiving the
8 exemption. The duplicate notice shall be in addition to the
9 notice required to be provided to the person receiving the
10 exemption, and shall be given in the manner required by this
11 Code. The person filing the request for the duplicate notice
12 shall pay a fee of \$5 to cover administrative costs to the
13 supervisor of assessments, who shall then file the executed
14 designation with the county collector. Notwithstanding any
15 other provision of this Code to the contrary, the filing of
16 such an executed designation requires the county collector to
17 provide duplicate notices as indicated by the designation. A
18 designation may be rescinded by the person who executed such
19 designation at any time, in the manner and form required by the
20 chief county assessment officer.

21 The assessor or chief county assessment officer may
22 determine the eligibility of residential property to receive
23 the homestead exemption provided by this Section by
24 application, visual inspection, questionnaire or other
25 reasonable methods. The determination shall be made in
26 accordance with guidelines established by the Department.

1 In counties with 3,000,000 or more inhabitants, beginning
2 in taxable year 2010, each taxpayer who has been granted an
3 exemption under this Section must reapply on an annual basis.
4 The chief county assessment officer shall mail the application
5 to the taxpayer. In counties with less than 3,000,000
6 inhabitants, the county board may by resolution provide that if
7 a person has been granted a homestead exemption under this
8 Section, the person qualifying need not reapply for the
9 exemption.

10 In counties with less than 3,000,000 inhabitants, if the
11 assessor or chief county assessment officer requires annual
12 application for verification of eligibility for an exemption
13 once granted under this Section, the application shall be
14 mailed to the taxpayer.

15 The assessor or chief county assessment officer shall
16 notify each person who qualifies for an exemption under this
17 Section that the person may also qualify for deferral of real
18 estate taxes under the Senior Citizens Real Estate Tax Deferral
19 Act. The notice shall set forth the qualifications needed for
20 deferral of real estate taxes, the address and telephone number
21 of county collector, and a statement that applications for
22 deferral of real estate taxes may be obtained from the county
23 collector.

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; 95-876, eff. 8-21-08;
2 96-339, eff. 7-1-10; 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10;
3 96-1418, eff. 8-2-10.)

4 (35 ILCS 200/15-172)

5 Sec. 15-172. Senior Citizens Assessment Freeze Homestead
6 Exemption.

7 (a) This Section may be cited as the Senior Citizens
8 Assessment Freeze Homestead Exemption.

9 (b) As used in this Section:

10 "Applicant" means an individual who has filed an
11 application under this Section.

12 "Base amount" means the base year equalized assessed value
13 of the residence plus the first year's equalized assessed value
14 of any added improvements which increased the assessed value of
15 the residence after the base year.

16 "Base year" means the taxable year prior to the taxable
17 year for which the applicant first qualifies and applies for
18 the exemption provided that in the prior taxable year the
19 property was improved with a permanent structure that was
20 occupied as a residence by the applicant who was liable for
21 paying real property taxes on the property and who was either
22 (i) an owner of record of the property or had legal or
23 equitable interest in the property as evidenced by a written
24 instrument or (ii) had a legal or equitable interest as a
25 lessee in the parcel of property that was single family

1 residence. If in any subsequent taxable year for which the
2 applicant applies and qualifies for the exemption the equalized
3 assessed value of the residence is less than the equalized
4 assessed value in the existing base year (provided that such
5 equalized assessed value is not based on an assessed value that
6 results from a temporary irregularity in the property that
7 reduces the assessed value for one or more taxable years), then
8 that subsequent taxable year shall become the base year until a
9 new base year is established under the terms of this paragraph.
10 For taxable year 1999 only, the Chief County Assessment Officer
11 shall review (i) all taxable years for which the applicant
12 applied and qualified for the exemption and (ii) the existing
13 base year. The assessment officer shall select as the new base
14 year the year with the lowest equalized assessed value. An
15 equalized assessed value that is based on an assessed value
16 that results from a temporary irregularity in the property that
17 reduces the assessed value for one or more taxable years shall
18 not be considered the lowest equalized assessed value. The
19 selected year shall be the base year for taxable year 1999 and
20 thereafter until a new base year is established under the terms
21 of this paragraph.

22 "Chief County Assessment Officer" means the County
23 Assessor or Supervisor of Assessments of the county in which
24 the property is located.

25 "Equalized assessed value" means the assessed value as
26 equalized by the Illinois Department of Revenue.

1 "Household" means the applicant, the spouse of the
2 applicant, and all persons using the residence of the applicant
3 as their principal place of residence.

4 "Household income" means the combined income of the members
5 of a household for the calendar year preceding the taxable
6 year.

7 "Income" has the same meaning as provided in Section 3.07
8 of the Senior Citizens and Disabled Persons Property Tax Relief
9 and Pharmaceutical Assistance Act, except that, beginning in
10 assessment year 2001, "income" does not include veteran's
11 benefits.

12 "Internal Revenue Code of 1986" means the United States
13 Internal Revenue Code of 1986 or any successor law or laws
14 relating to federal income taxes in effect for the year
15 preceding the taxable year.

16 "Life care facility that qualifies as a cooperative" means
17 a facility as defined in Section 2 of the Life Care Facilities
18 Act.

19 "Maximum income limitation" means:

- 20 (1) \$35,000 prior to taxable year 1999;
- 21 (2) \$40,000 in taxable years 1999 through 2003;
- 22 (3) \$45,000 in taxable years 2004 through 2005;
- 23 (4) \$50,000 in taxable years 2006 and 2007; and
- 24 (5) \$55,000 in taxable year 2008 and thereafter.

25 "Residence" means the principal dwelling place and
26 appurtenant structures used for residential purposes in this

1 State occupied on January 1 of the taxable year by a household
2 and so much of the surrounding land, constituting the parcel
3 upon which the dwelling place is situated, as is used for
4 residential purposes. If the Chief County Assessment Officer
5 has established a specific legal description for a portion of
6 property constituting the residence, then that portion of
7 property shall be deemed the residence for the purposes of this
8 Section.

9 "Taxable year" means the calendar year during which ad
10 valorem property taxes payable in the next succeeding year are
11 levied.

12 (c) Beginning in taxable year 1994, a senior citizens
13 assessment freeze homestead exemption is granted for real
14 property that is improved with a permanent structure that is
15 occupied as a residence by an applicant who (i) is 65 years of
16 age or older during the taxable year, (ii) has a household
17 income that does not exceed the maximum income limitation,
18 (iii) is liable for paying real property taxes on the property,
19 and (iv) is an owner of record of the property or has a legal or
20 equitable interest in the property as evidenced by a written
21 instrument. This homestead exemption shall also apply to a
22 leasehold interest in a parcel of property improved with a
23 permanent structure that is a single family residence that is
24 occupied as a residence by a person who (i) is 65 years of age
25 or older during the taxable year, (ii) has a household income
26 that does not exceed the maximum income limitation, (iii) has a

1 legal or equitable ownership interest in the property as
2 lessee, and (iv) is liable for the payment of real property
3 taxes on that property.

4 In counties of 3,000,000 or more inhabitants, the amount of
5 the exemption for all taxable years is the equalized assessed
6 value of the residence in the taxable year for which
7 application is made minus the base amount. In all other
8 counties, the amount of the exemption is as follows: (i)
9 through taxable year 2005 and for taxable year 2007 and
10 thereafter, the amount of this exemption shall be the equalized
11 assessed value of the residence in the taxable year for which
12 application is made minus the base amount; and (ii) for taxable
13 year 2006, the amount of the exemption is as follows:

14 (1) For an applicant who has a household income of
15 \$45,000 or less, the amount of the exemption is the
16 equalized assessed value of the residence in the taxable
17 year for which application is made minus the base amount.

18 (2) For an applicant who has a household income
19 exceeding \$45,000 but not exceeding \$46,250, the amount of
20 the exemption is (i) the equalized assessed value of the
21 residence in the taxable year for which application is made
22 minus the base amount (ii) multiplied by 0.8.

23 (3) For an applicant who has a household income
24 exceeding \$46,250 but not exceeding \$47,500, the amount of
25 the exemption is (i) the equalized assessed value of the
26 residence in the taxable year for which application is made

1 minus the base amount (ii) multiplied by 0.6.

2 (4) For an applicant who has a household income
3 exceeding \$47,500 but not exceeding \$48,750, the amount of
4 the exemption is (i) the equalized assessed value of the
5 residence in the taxable year for which application is made
6 minus the base amount (ii) multiplied by 0.4.

7 (5) For an applicant who has a household income
8 exceeding \$48,750 but not exceeding \$50,000, the amount of
9 the exemption is (i) the equalized assessed value of the
10 residence in the taxable year for which application is made
11 minus the base amount (ii) multiplied by 0.2.

12 When the applicant is a surviving spouse of an applicant
13 for a prior year for the same residence for which an exemption
14 under this Section has been granted, the base year and base
15 amount for that residence are the same as for the applicant for
16 the prior year.

17 Each year at the time the assessment books are certified to
18 the County Clerk, the Board of Review or Board of Appeals shall
19 give to the County Clerk a list of the assessed values of
20 improvements on each parcel qualifying for this exemption that
21 were added after the base year for this parcel and that
22 increased the assessed value of the property.

23 In the case of land improved with an apartment building
24 owned and operated as a cooperative or a building that is a
25 life care facility that qualifies as a cooperative, the maximum
26 reduction from the equalized assessed value of the property is

1 limited to the sum of the reductions calculated for each unit
2 occupied as a residence by a person or persons (i) 65 years of
3 age or older, (ii) with a household income that does not exceed
4 the maximum income limitation, (iii) who is liable, by contract
5 with the owner or owners of record, for paying real property
6 taxes on the property, and (iv) who is an owner of record of a
7 legal or equitable interest in the cooperative apartment
8 building, other than a leasehold interest. In the instance of a
9 cooperative where a homestead exemption has been granted under
10 this Section, the cooperative association or its management
11 firm shall credit the savings resulting from that exemption
12 only to the apportioned tax liability of the owner who
13 qualified for the exemption. Any person who willfully refuses
14 to credit that savings to an owner who qualifies for the
15 exemption is guilty of a Class B misdemeanor.

16 When a homestead exemption has been granted under this
17 Section and an applicant then becomes a resident of a facility
18 licensed under the Assisted Living and Shared Housing Act, the
19 Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act,
20 the exemption shall be granted in subsequent years so long as
21 the residence (i) continues to be occupied by the qualified
22 applicant's spouse or (ii) if remaining unoccupied, is still
23 owned by the qualified applicant for the homestead exemption.

24 Beginning January 1, 1997, when an individual dies who
25 would have qualified for an exemption under this Section, and
26 the surviving spouse does not independently qualify for this

1 exemption because of age, the exemption under this Section
2 shall be granted to the surviving spouse for the taxable year
3 preceding and the taxable year of the death, provided that,
4 except for age, the surviving spouse meets all other
5 qualifications for the granting of this exemption for those
6 years.

7 When married persons maintain separate residences, the
8 exemption provided for in this Section may be claimed by only
9 one of such persons and for only one residence.

10 For taxable year 1994 only, in counties having less than
11 3,000,000 inhabitants, to receive the exemption, a person shall
12 submit an application by February 15, 1995 to the Chief County
13 Assessment Officer of the county in which the property is
14 located. In counties having 3,000,000 or more inhabitants, for
15 taxable year 1994 and all subsequent taxable years, to receive
16 the exemption, a person may submit an application to the Chief
17 County Assessment Officer of the county in which the property
18 is located during such period as may be specified by the Chief
19 County Assessment Officer. The Chief County Assessment Officer
20 in counties of 3,000,000 or more inhabitants shall annually
21 give notice of the application period by mail or by
22 publication. In counties having less than 3,000,000
23 inhabitants, beginning with taxable year 1995 and thereafter,
24 to receive the exemption, a person shall submit an application
25 by July 1 of each taxable year to the Chief County Assessment
26 Officer of the county in which the property is located. A

1 county may, by ordinance, establish a date for submission of
2 applications that is different than July 1. The applicant shall
3 submit with the application an affidavit of the applicant's
4 total household income, age, marital status (and if married the
5 name and address of the applicant's spouse, if known), and
6 principal dwelling place of members of the household on January
7 1 of the taxable year. The Department shall establish, by rule,
8 a method for verifying the accuracy of affidavits filed by
9 applicants under this Section, and the Chief County Assessment
10 Officer may conduct audits of any taxpayer claiming an
11 exemption under this Section to verify that the taxpayer is
12 eligible to receive the exemption. Each application shall
13 contain or be verified by a written declaration that it is made
14 under the penalties of perjury. A taxpayer's signing a
15 fraudulent application under this Act is perjury, as defined in
16 Section 32-2 of the Criminal Code of 1961. The applications
17 shall be clearly marked as applications for the Senior Citizens
18 Assessment Freeze Homestead Exemption and must contain a notice
19 that any taxpayer who receives the exemption is subject to an
20 audit by the Chief County Assessment Officer.

21 Notwithstanding any other provision to the contrary, in
22 counties having fewer than 3,000,000 inhabitants, if an
23 applicant fails to file the application required by this
24 Section in a timely manner and this failure to file is due to a
25 mental or physical condition sufficiently severe so as to
26 render the applicant incapable of filing the application in a

1 timely manner, the Chief County Assessment Officer may extend
2 the filing deadline for a period of 30 days after the applicant
3 regains the capability to file the application, but in no case
4 may the filing deadline be extended beyond 3 months of the
5 original filing deadline. In order to receive the extension
6 provided in this paragraph, the applicant shall provide the
7 Chief County Assessment Officer with a signed statement from
8 the applicant's physician stating the nature and extent of the
9 condition, that, in the physician's opinion, the condition was
10 so severe that it rendered the applicant incapable of filing
11 the application in a timely manner, and the date on which the
12 applicant regained the capability to file the application.

13 Beginning January 1, 1998, notwithstanding any other
14 provision to the contrary, in counties having fewer than
15 3,000,000 inhabitants, if an applicant fails to file the
16 application required by this Section in a timely manner and
17 this failure to file is due to a mental or physical condition
18 sufficiently severe so as to render the applicant incapable of
19 filing the application in a timely manner, the Chief County
20 Assessment Officer may extend the filing deadline for a period
21 of 3 months. In order to receive the extension provided in this
22 paragraph, the applicant shall provide the Chief County
23 Assessment Officer with a signed statement from the applicant's
24 physician stating the nature and extent of the condition, and
25 that, in the physician's opinion, the condition was so severe
26 that it rendered the applicant incapable of filing the

1 application in a timely manner.

2 In counties having less than 3,000,000 inhabitants, if an
3 applicant was denied an exemption in taxable year 1994 and the
4 denial occurred due to an error on the part of an assessment
5 official, or his or her agent or employee, then beginning in
6 taxable year 1997 the applicant's base year, for purposes of
7 determining the amount of the exemption, shall be 1993 rather
8 than 1994. In addition, in taxable year 1997, the applicant's
9 exemption shall also include an amount equal to (i) the amount
10 of any exemption denied to the applicant in taxable year 1995
11 as a result of using 1994, rather than 1993, as the base year,
12 (ii) the amount of any exemption denied to the applicant in
13 taxable year 1996 as a result of using 1994, rather than 1993,
14 as the base year, and (iii) the amount of the exemption
15 erroneously denied for taxable year 1994.

16 For purposes of this Section, a person who will be 65 years
17 of age during the current taxable year shall be eligible to
18 apply for the homestead exemption during that taxable year.
19 Application shall be made during the application period in
20 effect for the county of his or her residence.

21 The Chief County Assessment Officer may determine the
22 eligibility of a life care facility that qualifies as a
23 cooperative to receive the benefits provided by this Section by
24 use of an affidavit, application, visual inspection,
25 questionnaire, or other reasonable method in order to insure
26 that the tax savings resulting from the exemption are credited

1 by the management firm to the apportioned tax liability of each
2 qualifying resident. The Chief County Assessment Officer may
3 request reasonable proof that the management firm has so
4 credited that exemption.

5 Except as provided in this Section, all information
6 received by the chief county assessment officer or the
7 Department from applications filed under this Section, or from
8 any investigation conducted under the provisions of this
9 Section, shall be confidential, except for official purposes or
10 pursuant to official procedures for collection of any State or
11 local tax or enforcement of any civil or criminal penalty or
12 sanction imposed by this Act or by any statute or ordinance
13 imposing a State or local tax. Any person who divulges any such
14 information in any manner, except in accordance with a proper
15 judicial order, is guilty of a Class A misdemeanor.

16 Nothing contained in this Section shall prevent the
17 Director or chief county assessment officer from publishing or
18 making available reasonable statistics concerning the
19 operation of the exemption contained in this Section in which
20 the contents of claims are grouped into aggregates in such a
21 way that information contained in any individual claim shall
22 not be disclosed.

23 (d) Each Chief County Assessment Officer shall annually
24 publish a notice of availability of the exemption provided
25 under this Section. The notice shall be published at least 60
26 days but no more than 75 days prior to the date on which the

1 application must be submitted to the Chief County Assessment
2 Officer of the county in which the property is located. The
3 notice shall appear in a newspaper of general circulation in
4 the county.

5 Notwithstanding Sections 6 and 8 of the State Mandates Act,
6 no reimbursement by the State is required for the
7 implementation of any mandate created by this Section.

8 (Source: P.A. 95-644, eff. 10-12-07; 96-339, eff. 7-1-10;
9 96-355, eff. 1-1-10; 96-1000, eff. 7-2-10.)

10 Section 42. The Counties Code is amended by changing
11 Section 5-25013 as follows:

12 (55 ILCS 5/5-25013) (from Ch. 34, par. 5-25013)

13 Sec. 5-25013. Organization of board; powers and duties.

14 (A) The board of health of each county or multiple-county
15 health department shall, immediately after appointment, meet
16 and organize, by the election of one of its number as president
17 and one as secretary, and either from its number or otherwise,
18 a treasurer and such other officers as it may deem necessary. A
19 board of health may make and adopt such rules for its own
20 guidance and for the government of the health department as may
21 be deemed necessary to protect and improve public health not
22 inconsistent with this Division. It shall:

23 1. Hold a meeting prior to the end of each operating
24 fiscal year, at which meeting officers shall be elected for

1 the ensuing operating fiscal year;

2 2. Hold meetings at least quarterly;

3 3. Hold special meetings upon a written request signed
4 by two members and filed with the Secretary or on request
5 of the medical health officer or public health
6 administrator;

7 4. Provide, equip and maintain suitable offices,
8 facilities and appliances for the health department;

9 5. Publish annually, within 90 days after the end of
10 the county's operating fiscal year, in pamphlet form, for
11 free distribution, an annual report showing the condition
12 of its trust on the last day of the most recently completed
13 operating fiscal year, the sums of money received from all
14 sources, giving the name of any donor, how all moneys have
15 been expended and for what purpose, and such other
16 statistics and information in regard to the work of the
17 health department as it may deem of general interest;

18 6. Within its jurisdiction, and professional and
19 technical competence, enforce and observe all State laws
20 pertaining to the preservation of health, and all county
21 and municipal ordinances except as otherwise provided in
22 this Division;

23 7. Within its jurisdiction, and professional and
24 technical competence, investigate the existence of any
25 contagious or infectious disease and adopt measures, not
26 inconsistent with the regulations of the State Department

1 of Public Health, to arrest the progress of the same;

2 8. Within its jurisdiction, and professional and
3 technical competence, make all necessary sanitary and
4 health investigations and inspections;

5 9. Upon request, give professional advice and
6 information to all city, village, incorporated town and
7 school authorities, within its jurisdiction, in all
8 matters pertaining to sanitation and public health;

9 10. Appoint a medical health officer as the executive
10 officer for the department, who shall be a citizen of the
11 United States and shall possess such qualifications as may
12 be prescribed by the State Department of Public Health; or
13 appoint a public health administrator who shall possess
14 such qualifications as may be prescribed by the State
15 Department of Public Health as the executive officer for
16 the department, provided that the board of health shall
17 make available medical supervision which is considered
18 adequate by the Director of Public Health;

19 10 1/2. Appoint such professional employees as may be
20 approved by the executive officer who meet the
21 qualification requirements of the State Department of
22 Public Health for their respective positions provided,
23 that in those health departments temporarily without a
24 medical health officer or public health administrator
25 approval by the State Department of Public Health shall
26 suffice;

1 11. Appoint such other officers and employees as may be
2 necessary;

3 12. Prescribe the powers and duties of all officers and
4 employees, fix their compensation, and authorize payment
5 of the same and all other department expenses from the
6 County Health Fund of the county or counties concerned;

7 13. Submit an annual budget to the county board or
8 boards;

9 14. Submit an annual report to the county board or
10 boards, explaining all of its activities and expenditures;

11 15. Establish and carry out programs and services in
12 mental health, including intellectual disabilities ~~mental~~
13 ~~retardation~~ and alcoholism and substance abuse, not
14 inconsistent with the regulations of the Department of
15 Human Services;

16 16. Consult with all other private and public health
17 agencies in the county in the development of local plans
18 for the most efficient delivery of health services.

19 (B) The board of health of each county or multiple-county
20 health department may:

21 1. Initiate and carry out programs and activities of
22 all kinds, not inconsistent with law, that may be deemed
23 necessary or desirable in the promotion and protection of
24 health and in the control of disease including
25 tuberculosis;

26 2. Receive contributions of real and personal

1 property;

2 3. Recommend to the county board or boards the adoption
3 of such ordinances and of such rules and regulations as may
4 be deemed necessary or desirable for the promotion and
5 protection of health and control of disease;

6 4. Appoint a medical and dental advisory committee and
7 a non-medical advisory committee to the health department;

8 5. Enter into contracts with the State,
9 municipalities, other political subdivisions and
10 non-official agencies for the purchase, sale or exchange of
11 health services;

12 6. Set fees it deems reasonable and necessary (i) to
13 provide services or perform regulatory activities, (ii)
14 when required by State or federal grant award conditions,
15 (iii) to support activities delegated to the board of
16 health by the Illinois Department of Public Health, or (iv)
17 when required by an agreement between the board of health
18 and other private or governmental organizations, unless
19 the fee has been established as a part of a regulatory
20 ordinance adopted by the county board, in which case the
21 board of health shall make recommendations to the county
22 board concerning those fees. Revenue generated under this
23 Section shall be deposited into the County Health Fund or
24 to the account of the multiple-county health department.

25 7. Enter into multiple year employment contracts with
26 the medical health officer or public health administrator

1 as may be necessary for the recruitment and retention of
2 personnel and the proper functioning of the health
3 department.

4 (C) The board of health of a multiple-county health
5 department may hire attorneys to represent and advise the
6 department concerning matters that are not within the exclusive
7 jurisdiction of the State's Attorney of one of the counties
8 that created the department.

9 (Source: P.A. 89-272, eff. 8-10-95; 89-507, eff. 7-1-97.)

10 Section 45. The County Care for Persons with Developmental
11 Disabilities Act is amended by changing the title of the Act
12 and by changing Sections 1, 1.1, and 1.2 as follows:

13 (55 ILCS 105/Act title)

14 An Act concerning the care and treatment of persons who are
15 intellectually disabled ~~mentally retarded~~ or under
16 developmental disability.

17 (55 ILCS 105/1) (from Ch. 91 1/2, par. 201)

18 Sec. 1. Facilities or services; tax levy. Any county may
19 provide facilities or services for the benefit of its residents
20 who are intellectually disabled ~~mentally retarded~~ or under a
21 developmental disability and who are not eligible to
22 participate in any such program conducted under Article 14 of
23 the School Code, or may contract therefor with any privately or

1 publicly operated entity which provides facilities or services
2 either in or out of such county.

3 For such purpose, the county board may levy an annual tax
4 of not to exceed .1% upon all of the taxable property in the
5 county at the value thereof, as equalized or assessed by the
6 Department of Revenue. Taxes first levied under this Section on
7 or after the effective date of this amendatory Act of the 96th
8 General Assembly are subject to referendum approval under
9 Section 1.1 or 1.2 of this Act. Such tax shall be levied and
10 collected in the same manner as other county taxes, but shall
11 not be included in any limitation otherwise prescribed as to
12 the rate or amount of county taxes but shall be in addition
13 thereto and in excess thereof. When collected, such tax shall
14 be paid into a special fund in the county treasury, to be
15 designated as the "Fund for Persons With a Developmental
16 Disability", and shall be used only for the purpose specified
17 in this Section. The levying of this annual tax shall not
18 preclude the county from the use of other federal, State, or
19 local funds for the purpose of providing facilities or services
20 for the care and treatment of its residents who are mentally
21 retarded or under a developmental disability.

22 (Source: P.A. 96-1350, eff. 7-28-10.)

23 (55 ILCS 105/1.1)

24 Sec. 1.1. Petition for submission to referendum by county.

25 (a) If, on and after the effective date of this amendatory

1 Act of the 96th General Assembly, the county board passes an
2 ordinance or resolution as provided in Section 1 of this Act
3 asking that an annual tax may be levied for the purpose of
4 providing facilities or services set forth in that Section and
5 so instructs the county clerk, the clerk shall certify the
6 proposition to the proper election officials for submission at
7 the next general county election. The proposition shall be in
8 substantially the following form:

9 Shall County levy an annual tax not to exceed
10 0.1% upon the equalized assessed value of all taxable
11 property in the county for the purposes of providing
12 facilities or services for the benefit of its residents who
13 are intellectually disabled ~~mentally retarded~~ or under a
14 developmental disability and who are not eligible to
15 participate in any program provided under Article 14 of the
16 School Code, 105 ILCS 5/14.1-1.01 et seq., including
17 contracting for those facilities or services with any
18 privately or publicly operated entity that provides those
19 facilities or services either in or out of the county?

20 (b) If a majority of the votes cast upon the proposition
21 are in favor thereof, such tax levy shall be authorized and the
22 county shall levy a tax not to exceed the rate set forth in
23 Section 1 of this Act.

24 (Source: P.A. 96-1350, eff. 7-28-10.)

25 (55 ILCS 105/1.2)

1 Sec. 1.2. Petition for submission to referendum by
2 electors.

3 (a) Whenever a petition for submission to referendum by the
4 electors which requests the establishment and maintenance of
5 facilities or services for the benefit of its residents with a
6 developmental disability and the levy of an annual tax not to
7 exceed 0.1% upon all the taxable property in the county at the
8 value thereof, as equalized or assessed by the Department of
9 Revenue, is signed by electors of the county equal in number to
10 at least 10% of the total votes cast for the office that
11 received the greatest total number of votes at the last
12 preceding general county election and is presented to the
13 county clerk, the clerk shall certify the proposition to the
14 proper election authorities for submission at the next general
15 county election. The proposition shall be in substantially the
16 following form:

17 Shall County levy an annual tax not to exceed
18 0.1% upon the equalized assessed value of all taxable
19 property in the county for the purposes of establishing and
20 maintaining facilities or services for the benefit of its
21 residents who are intellectually disabled ~~mentally~~
22 ~~retarded~~ or under a developmental disability and who are
23 not eligible to participate in any program provided under
24 Article 14 of the School Code, 105 ILCS 5/14.1-1.01 et
25 seq., including contracting for those facilities or
26 services with any privately or publicly operated entity

1 that provides those facilities or services either in or out
2 of the county?

3 (b) If a majority of the votes cast upon the proposition
4 are in favor thereof, such tax levy shall be authorized and the
5 county shall levy a tax not to exceed the rate set forth in
6 Section 1 of this Act.

7 (Source: P.A. 96-1350, eff. 7-28-10.)

8 Section 50. The Township Code is amended by changing
9 Sections 30-145, 190-10, and 260-5 as follows:

10 (60 ILCS 1/30-145)

11 Sec. 30-145. Mental health services. If a township is not
12 included in a mental health district organized under the
13 Community Mental Health Act, the electors may authorize the
14 board of trustees to provide mental health services, including
15 services for the alcoholic, the drug addicted, and the
16 intellectually disabled ~~mentally retarded~~, for residents of
17 the township by disbursing existing funds if available by
18 contracting with mental health agencies approved by the
19 Department of Human Services, alcoholism treatment programs
20 licensed by the Department of Public Health, and drug abuse
21 facilities and other alcohol and drug abuse services approved
22 by the Department of Human Services. To be eligible to receive
23 township funds, an agency, program, facility, or other service
24 provider must have been in existence for more than one year and

1 must serve the township area.

2 (Source: P.A. 89-507, eff. 7-1-97; 90-210, eff. 7-25-97.)

3 (60 ILCS 1/190-10)

4 Sec. 190-10. Mental health services. If a township is not
5 included in a mental health district organized under the
6 Community Mental Health Act, the township board may provide
7 mental health services (including services for the alcoholic,
8 the drug addicted, and the intellectually disabled ~~mentally~~
9 ~~retarded~~) for residents of the township by disbursing funds,
10 pursuant to an appropriation, to mental health agencies
11 approved by the Department of Human Services, alcoholism
12 treatment programs licensed by the Department of Public Health,
13 drug abuse facilities approved by the Department of Human
14 Services, and other alcoholism and drug abuse services approved
15 by the Department of Human Services. To be eligible for
16 township funds disbursed under this Section, an agency,
17 program, facility, or other service provider must have been in
18 existence for more than one year and serve the township area.

19 (Source: P.A. 88-62; 89-507, eff. 7-1-97.)

20 (60 ILCS 1/260-5)

21 Sec. 260-5. Distributions from general fund, generally. To
22 the extent that moneys in the township general fund have not
23 been appropriated for other purposes, the township board may
24 direct that distributions be made from that fund as follows:

1 (1) To (i) school districts maintaining grades 1
2 through 8 that are wholly or partly located within the
3 township or (ii) governmental units as defined in Section 1
4 of the Community Mental Health Act that provide mental
5 health facilities and services (including facilities and
6 services for the intellectually disabled ~~mentally~~
7 ~~retarded~~) under that Act within the township, or (iii)
8 both.

9 (2) To community action agencies that serve township
10 residents. "Community action agencies" are defined as in
11 Part A of Title II of the federal Economic Opportunity Act
12 of 1964.

13 (Source: P.A. 82-783; 88-62.)

14 Section 55. The Public Health District Act is amended by
15 changing Section 17 as follows:

16 (70 ILCS 905/17) (from Ch. 111 1/2, par. 17)

17 Sec. 17. The medical health officer or administrator shall
18 have power, and it shall be his or her duty:

19 (1) To be the executive officer of the board of health.

20 (2) To enforce and observe the rules, regulations and
21 orders of the State Department of Public Health and all
22 State laws pertaining to the preservation of the health of
23 the people within the public health district, including
24 regulations in which the State Department of Public Health

1 shall require provision of home visitation and other
2 services for pregnant women, new mothers and infants who
3 are at risk as defined by that Department that encompass
4 but are not limited to consultation for parental and child
5 development, comprehensive health education, nutritional
6 assessment, dental health, and periodic health screening,
7 referral and follow-up; the services shall be provided
8 through programs funded by grants from the Department of
9 Public Health from appropriations to the Department for
10 that purpose.

11 (3) To exercise the rights, powers and duties of all
12 township boards of health and county boards of health
13 within the public health district.

14 (4) To execute and enforce, within the public health
15 district, all city, village and incorporated town
16 ordinances relating to public health and sanitation.

17 (5) To investigate the existence of any contagious or
18 infectious disease within the public health district and to
19 adopt measures, with the approval of the State Department
20 of Public Health, to arrest the progress of the same.

21 (6) To make all necessary sanitary and health
22 investigations and inspections within the public health
23 district.

24 (7) To establish a dental clinic for the benefit of the
25 school children of the district.

26 (8) To give professional advice and information to all

1 city, village, incorporated town and school authorities
2 within the public health district in all matters pertaining
3 to sanitation and public health.

4 (9) To devote his or her entire time to his or her
5 official duties.

6 (10) To establish and execute programs and services in
7 the field of mental health, including intellectual
8 disabilities ~~mental retardation~~, not inconsistent with the
9 regulations of the Department of Human Services.

10 (11) If approved by the board of health, to enter into
11 contracts with municipalities, other political
12 subdivisions and private agencies for the purchase, sale,
13 delivery or exchange of health services.

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

15 Section 56. The Regional Transportation Authority Act is
16 amended by changing Section 4.03 as follows:

17 (70 ILCS 3615/4.03) (from Ch. 111 2/3, par. 704.03)

18 Sec. 4.03. Taxes.

19 (a) In order to carry out any of the powers or purposes of
20 the Authority, the Board may by ordinance adopted with the
21 concurrence of 12 of the then Directors, impose throughout the
22 metropolitan region any or all of the taxes provided in this
23 Section. Except as otherwise provided in this Act, taxes
24 imposed under this Section and civil penalties imposed incident

1 thereto shall be collected and enforced by the State Department
2 of Revenue. The Department shall have the power to administer
3 and enforce the taxes and to determine all rights for refunds
4 for erroneous payments of the taxes. Nothing in this amendatory
5 Act of the 95th General Assembly is intended to invalidate any
6 taxes currently imposed by the Authority. The increased vote
7 requirements to impose a tax shall only apply to actions taken
8 after the effective date of this amendatory Act of the 95th
9 General Assembly.

10 (b) The Board may impose a public transportation tax upon
11 all persons engaged in the metropolitan region in the business
12 of selling at retail motor fuel for operation of motor vehicles
13 upon public highways. The tax shall be at a rate not to exceed
14 5% of the gross receipts from the sales of motor fuel in the
15 course of the business. As used in this Act, the term "motor
16 fuel" shall have the same meaning as in the Motor Fuel Tax Law.
17 The Board may provide for details of the tax. The provisions of
18 any tax shall conform, as closely as may be practicable, to the
19 provisions of the Municipal Retailers Occupation Tax Act,
20 including without limitation, conformity to penalties with
21 respect to the tax imposed and as to the powers of the State
22 Department of Revenue to promulgate and enforce rules and
23 regulations relating to the administration and enforcement of
24 the provisions of the tax imposed, except that reference in the
25 Act to any municipality shall refer to the Authority and the
26 tax shall be imposed only with regard to receipts from sales of

1 motor fuel in the metropolitan region, at rates as limited by
2 this Section.

3 (c) In connection with the tax imposed under paragraph (b)
4 of this Section the Board may impose a tax upon the privilege
5 of using in the metropolitan region motor fuel for the
6 operation of a motor vehicle upon public highways, the tax to
7 be at a rate not in excess of the rate of tax imposed under
8 paragraph (b) of this Section. The Board may provide for
9 details of the tax.

10 (d) The Board may impose a motor vehicle parking tax upon
11 the privilege of parking motor vehicles at off-street parking
12 facilities in the metropolitan region at which a fee is
13 charged, and may provide for reasonable classifications in and
14 exemptions to the tax, for administration and enforcement
15 thereof and for civil penalties and refunds thereunder and may
16 provide criminal penalties thereunder, the maximum penalties
17 not to exceed the maximum criminal penalties provided in the
18 Retailers' Occupation Tax Act. The Authority may collect and
19 enforce the tax itself or by contract with any unit of local
20 government. The State Department of Revenue shall have no
21 responsibility for the collection and enforcement unless the
22 Department agrees with the Authority to undertake the
23 collection and enforcement. As used in this paragraph, the term
24 "parking facility" means a parking area or structure having
25 parking spaces for more than 2 vehicles at which motor vehicles
26 are permitted to park in return for an hourly, daily, or other

1 periodic fee, whether publicly or privately owned, but does not
2 include parking spaces on a public street, the use of which is
3 regulated by parking meters.

4 (e) The Board may impose a Regional Transportation
5 Authority Retailers' Occupation Tax upon all persons engaged in
6 the business of selling tangible personal property at retail in
7 the metropolitan region. In Cook County the tax rate shall be
8 1.25% of the gross receipts from sales of food for human
9 consumption that is to be consumed off the premises where it is
10 sold (other than alcoholic beverages, soft drinks and food that
11 has been prepared for immediate consumption) and prescription
12 and nonprescription medicines, drugs, medical appliances and
13 insulin, urine testing materials, syringes and needles used by
14 diabetics, and 1% of the gross receipts from other taxable
15 sales made in the course of that business. In DuPage, Kane,
16 Lake, McHenry, and Will Counties, the tax rate shall be 0.75%
17 of the gross receipts from all taxable sales made in the course
18 of that business. The tax imposed under this Section and all
19 civil penalties that may be assessed as an incident thereof
20 shall be collected and enforced by the State Department of
21 Revenue. The Department shall have full power to administer and
22 enforce this Section; to collect all taxes and penalties so
23 collected in the manner hereinafter provided; and to determine
24 all rights to credit memoranda arising on account of the
25 erroneous payment of tax or penalty hereunder. In the
26 administration of, and compliance with this Section, the

1 Department and persons who are subject to this Section shall
2 have the same rights, remedies, privileges, immunities, powers
3 and duties, and be subject to the same conditions,
4 restrictions, limitations, penalties, exclusions, exemptions
5 and definitions of terms, and employ the same modes of
6 procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d,
7 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions
8 therein other than the State rate of tax), 2c, 3 (except as to
9 the disposition of taxes and penalties collected), 4, 5, 5a,
10 5b, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8,
11 9, 10, 11, 12 and 13 of the Retailers' Occupation Tax Act and
12 Section 3-7 of the Uniform Penalty and Interest Act, as fully
13 as if those provisions were set forth herein.

14 Persons subject to any tax imposed under the authority
15 granted in this Section may reimburse themselves for their
16 seller's tax liability hereunder by separately stating the tax
17 as an additional charge, which charge may be stated in
18 combination in a single amount with State taxes that sellers
19 are required to collect under the Use Tax Act, under any
20 bracket schedules the Department may prescribe.

21 Whenever the Department determines that a refund should be
22 made under this Section to a claimant instead of issuing a
23 credit memorandum, the Department shall notify the State
24 Comptroller, who shall cause the warrant to be drawn for the
25 amount specified, and to the person named, in the notification
26 from the Department. The refund shall be paid by the State

1 Treasurer out of the Regional Transportation Authority tax fund
2 established under paragraph (n) of this Section.

3 If a tax is imposed under this subsection (e), a tax shall
4 also be imposed under subsections (f) and (g) of this Section.

5 For the purpose of determining whether a tax authorized
6 under this Section is applicable, a retail sale by a producer
7 of coal or other mineral mined in Illinois, is a sale at retail
8 at the place where the coal or other mineral mined in Illinois
9 is extracted from the earth. This paragraph does not apply to
10 coal or other mineral when it is delivered or shipped by the
11 seller to the purchaser at a point outside Illinois so that the
12 sale is exempt under the Federal Constitution as a sale in
13 interstate or foreign commerce.

14 No tax shall be imposed or collected under this subsection
15 on the sale of a motor vehicle in this State to a resident of
16 another state if that motor vehicle will not be titled in this
17 State.

18 Nothing in this Section shall be construed to authorize the
19 Regional Transportation Authority to impose a tax upon the
20 privilege of engaging in any business that under the
21 Constitution of the United States may not be made the subject
22 of taxation by this State.

23 (f) If a tax has been imposed under paragraph (e), a
24 Regional Transportation Authority Service Occupation Tax shall
25 also be imposed upon all persons engaged, in the metropolitan
26 region in the business of making sales of service, who as an

1 incident to making the sales of service, transfer tangible
2 personal property within the metropolitan region, either in the
3 form of tangible personal property or in the form of real
4 estate as an incident to a sale of service. In Cook County, the
5 tax rate shall be: (1) 1.25% of the serviceman's cost price of
6 food prepared for immediate consumption and transferred
7 incident to a sale of service subject to the service occupation
8 tax by an entity licensed under the Hospital Licensing Act, the
9 Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act
10 that is located in the metropolitan region; (2) 1.25% of the
11 selling price of food for human consumption that is to be
12 consumed off the premises where it is sold (other than
13 alcoholic beverages, soft drinks and food that has been
14 prepared for immediate consumption) and prescription and
15 nonprescription medicines, drugs, medical appliances and
16 insulin, urine testing materials, syringes and needles used by
17 diabetics; and (3) 1% of the selling price from other taxable
18 sales of tangible personal property transferred. In DuPage,
19 Kane, Lake, McHenry and Will Counties the rate shall be 0.75%
20 of the selling price of all tangible personal property
21 transferred.

22 The tax imposed under this paragraph and all civil
23 penalties that may be assessed as an incident thereof shall be
24 collected and enforced by the State Department of Revenue. The
25 Department shall have full power to administer and enforce this
26 paragraph; to collect all taxes and penalties due hereunder; to

1 dispose of taxes and penalties collected in the manner
2 hereinafter provided; and to determine all rights to credit
3 memoranda arising on account of the erroneous payment of tax or
4 penalty hereunder. In the administration of and compliance with
5 this paragraph, the Department and persons who are subject to
6 this paragraph shall have the same rights, remedies,
7 privileges, immunities, powers and duties, and be subject to
8 the same conditions, restrictions, limitations, penalties,
9 exclusions, exemptions and definitions of terms, and employ the
10 same modes of procedure, as are prescribed in Sections 1a-1, 2,
11 2a, 3 through 3-50 (in respect to all provisions therein other
12 than the State rate of tax), 4 (except that the reference to
13 the State shall be to the Authority), 5, 7, 8 (except that the
14 jurisdiction to which the tax shall be a debt to the extent
15 indicated in that Section 8 shall be the Authority), 9 (except
16 as to the disposition of taxes and penalties collected, and
17 except that the returned merchandise credit for this tax may
18 not be taken against any State tax), 10, 11, 12 (except the
19 reference therein to Section 2b of the Retailers' Occupation
20 Tax Act), 13 (except that any reference to the State shall mean
21 the Authority), the first paragraph of Section 15, 16, 17, 18,
22 19 and 20 of the Service Occupation Tax Act and Section 3-7 of
23 the Uniform Penalty and Interest Act, as fully as if those
24 provisions were set forth herein.

25 Persons subject to any tax imposed under the authority
26 granted in this paragraph may reimburse themselves for their

1 serviceman's tax liability hereunder by separately stating the
2 tax as an additional charge, that charge may be stated in
3 combination in a single amount with State tax that servicemen
4 are authorized to collect under the Service Use Tax Act, under
5 any bracket schedules the Department may prescribe.

6 Whenever the Department determines that a refund should be
7 made under this paragraph to a claimant instead of issuing a
8 credit memorandum, the Department shall notify the State
9 Comptroller, who shall cause the warrant to be drawn for the
10 amount specified, and to the person named in the notification
11 from the Department. The refund shall be paid by the State
12 Treasurer out of the Regional Transportation Authority tax fund
13 established under paragraph (n) of this Section.

14 Nothing in this paragraph shall be construed to authorize
15 the Authority to impose a tax upon the privilege of engaging in
16 any business that under the Constitution of the United States
17 may not be made the subject of taxation by the State.

18 (g) If a tax has been imposed under paragraph (e), a tax
19 shall also be imposed upon the privilege of using in the
20 metropolitan region, any item of tangible personal property
21 that is purchased outside the metropolitan region at retail
22 from a retailer, and that is titled or registered with an
23 agency of this State's government. In Cook County the tax rate
24 shall be 1% of the selling price of the tangible personal
25 property, as "selling price" is defined in the Use Tax Act. In
26 DuPage, Kane, Lake, McHenry and Will counties the tax rate

1 shall be 0.75% of the selling price of the tangible personal
2 property, as "selling price" is defined in the Use Tax Act. The
3 tax shall be collected from persons whose Illinois address for
4 titling or registration purposes is given as being in the
5 metropolitan region. The tax shall be collected by the
6 Department of Revenue for the Regional Transportation
7 Authority. The tax must be paid to the State, or an exemption
8 determination must be obtained from the Department of Revenue,
9 before the title or certificate of registration for the
10 property may be issued. The tax or proof of exemption may be
11 transmitted to the Department by way of the State agency with
12 which, or the State officer with whom, the tangible personal
13 property must be titled or registered if the Department and the
14 State agency or State officer determine that this procedure
15 will expedite the processing of applications for title or
16 registration.

17 The Department shall have full power to administer and
18 enforce this paragraph; to collect all taxes, penalties and
19 interest due hereunder; to dispose of taxes, penalties and
20 interest collected in the manner hereinafter provided; and to
21 determine all rights to credit memoranda or refunds arising on
22 account of the erroneous payment of tax, penalty or interest
23 hereunder. In the administration of and compliance with this
24 paragraph, the Department and persons who are subject to this
25 paragraph shall have the same rights, remedies, privileges,
26 immunities, powers and duties, and be subject to the same

1 conditions, restrictions, limitations, penalties, exclusions,
2 exemptions and definitions of terms and employ the same modes
3 of procedure, as are prescribed in Sections 2 (except the
4 definition of "retailer maintaining a place of business in this
5 State"), 3 through 3-80 (except provisions pertaining to the
6 State rate of tax, and except provisions concerning collection
7 or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15,
8 19 (except the portions pertaining to claims by retailers and
9 except the last paragraph concerning refunds), 20, 21 and 22 of
10 the Use Tax Act, and are not inconsistent with this paragraph,
11 as fully as if those provisions were set forth herein.

12 Whenever the Department determines that a refund should be
13 made under this paragraph to a claimant instead of issuing a
14 credit memorandum, the Department shall notify the State
15 Comptroller, who shall cause the order to be drawn for the
16 amount specified, and to the person named in the notification
17 from the Department. The refund shall be paid by the State
18 Treasurer out of the Regional Transportation Authority tax fund
19 established under paragraph (n) of this Section.

20 (h) The Authority may impose a replacement vehicle tax of
21 \$50 on any passenger car as defined in Section 1-157 of the
22 Illinois Vehicle Code purchased within the metropolitan region
23 by or on behalf of an insurance company to replace a passenger
24 car of an insured person in settlement of a total loss claim.
25 The tax imposed may not become effective before the first day
26 of the month following the passage of the ordinance imposing

1 the tax and receipt of a certified copy of the ordinance by the
2 Department of Revenue. The Department of Revenue shall collect
3 the tax for the Authority in accordance with Sections 3-2002
4 and 3-2003 of the Illinois Vehicle Code.

5 The Department shall immediately pay over to the State
6 Treasurer, ex officio, as trustee, all taxes collected
7 hereunder.

8 As soon as possible after the first day of each month,
9 beginning January 1, 2011, upon certification of the Department
10 of Revenue, the Comptroller shall order transferred, and the
11 Treasurer shall transfer, to the STAR Bonds Revenue Fund the
12 local sales tax increment, as defined in the Innovation
13 Development and Economy Act, collected under this Section
14 during the second preceding calendar month for sales within a
15 STAR bond district.

16 After the monthly transfer to the STAR Bonds Revenue Fund,
17 on or before the 25th day of each calendar month, the
18 Department shall prepare and certify to the Comptroller the
19 disbursement of stated sums of money to the Authority. The
20 amount to be paid to the Authority shall be the amount
21 collected hereunder during the second preceding calendar month
22 by the Department, less any amount determined by the Department
23 to be necessary for the payment of refunds, and less any
24 amounts that are transferred to the STAR Bonds Revenue Fund.
25 Within 10 days after receipt by the Comptroller of the
26 disbursement certification to the Authority provided for in

1 this Section to be given to the Comptroller by the Department,
2 the Comptroller shall cause the orders to be drawn for that
3 amount in accordance with the directions contained in the
4 certification.

5 (i) The Board may not impose any other taxes except as it
6 may from time to time be authorized by law to impose.

7 (j) A certificate of registration issued by the State
8 Department of Revenue to a retailer under the Retailers'
9 Occupation Tax Act or under the Service Occupation Tax Act
10 shall permit the registrant to engage in a business that is
11 taxed under the tax imposed under paragraphs (b), (e), (f) or
12 (g) of this Section and no additional registration shall be
13 required under the tax. A certificate issued under the Use Tax
14 Act or the Service Use Tax Act shall be applicable with regard
15 to any tax imposed under paragraph (c) of this Section.

16 (k) The provisions of any tax imposed under paragraph (c)
17 of this Section shall conform as closely as may be practicable
18 to the provisions of the Use Tax Act, including without
19 limitation conformity as to penalties with respect to the tax
20 imposed and as to the powers of the State Department of Revenue
21 to promulgate and enforce rules and regulations relating to the
22 administration and enforcement of the provisions of the tax
23 imposed. The taxes shall be imposed only on use within the
24 metropolitan region and at rates as provided in the paragraph.

25 (l) The Board in imposing any tax as provided in paragraphs
26 (b) and (c) of this Section, shall, after seeking the advice of

1 the State Department of Revenue, provide means for retailers,
2 users or purchasers of motor fuel for purposes other than those
3 with regard to which the taxes may be imposed as provided in
4 those paragraphs to receive refunds of taxes improperly paid,
5 which provisions may be at variance with the refund provisions
6 as applicable under the Municipal Retailers Occupation Tax Act.
7 The State Department of Revenue may provide for certificates of
8 registration for users or purchasers of motor fuel for purposes
9 other than those with regard to which taxes may be imposed as
10 provided in paragraphs (b) and (c) of this Section to
11 facilitate the reporting and nontaxability of the exempt sales
12 or uses.

13 (m) Any ordinance imposing or discontinuing any tax under
14 this Section shall be adopted and a certified copy thereof
15 filed with the Department on or before June 1, whereupon the
16 Department of Revenue shall proceed to administer and enforce
17 this Section on behalf of the Regional Transportation Authority
18 as of September 1 next following such adoption and filing.
19 Beginning January 1, 1992, an ordinance or resolution imposing
20 or discontinuing the tax hereunder shall be adopted and a
21 certified copy thereof filed with the Department on or before
22 the first day of July, whereupon the Department shall proceed
23 to administer and enforce this Section as of the first day of
24 October next following such adoption and filing. Beginning
25 January 1, 1993, an ordinance or resolution imposing,
26 increasing, decreasing, or discontinuing the tax hereunder

1 shall be adopted and a certified copy thereof filed with the
2 Department, whereupon the Department shall proceed to
3 administer and enforce this Section as of the first day of the
4 first month to occur not less than 60 days following such
5 adoption and filing. Any ordinance or resolution of the
6 Authority imposing a tax under this Section and in effect on
7 August 1, 2007 shall remain in full force and effect and shall
8 be administered by the Department of Revenue under the terms
9 and conditions and rates of tax established by such ordinance
10 or resolution until the Department begins administering and
11 enforcing an increased tax under this Section as authorized by
12 this amendatory Act of the 95th General Assembly. The tax rates
13 authorized by this amendatory Act of the 95th General Assembly
14 are effective only if imposed by ordinance of the Authority.

15 (n) The State Department of Revenue shall, upon collecting
16 any taxes as provided in this Section, pay the taxes over to
17 the State Treasurer as trustee for the Authority. The taxes
18 shall be held in a trust fund outside the State Treasury. On or
19 before the 25th day of each calendar month, the State
20 Department of Revenue shall prepare and certify to the
21 Comptroller of the State of Illinois and to the Authority (i)
22 the amount of taxes collected in each County other than Cook
23 County in the metropolitan region, (ii) the amount of taxes
24 collected within the City of Chicago, and (iii) the amount
25 collected in that portion of Cook County outside of Chicago,
26 each amount less the amount necessary for the payment of

1 refunds to taxpayers located in those areas described in items
2 (i), (ii), and (iii). Within 10 days after receipt by the
3 Comptroller of the certification of the amounts, the
4 Comptroller shall cause an order to be drawn for the payment of
5 two-thirds of the amounts certified in item (i) of this
6 subsection to the Authority and one-third of the amounts
7 certified in item (i) of this subsection to the respective
8 counties other than Cook County and the amount certified in
9 items (ii) and (iii) of this subsection to the Authority.

10 In addition to the disbursement required by the preceding
11 paragraph, an allocation shall be made in July 1991 and each
12 year thereafter to the Regional Transportation Authority. The
13 allocation shall be made in an amount equal to the average
14 monthly distribution during the preceding calendar year
15 (excluding the 2 months of lowest receipts) and the allocation
16 shall include the amount of average monthly distribution from
17 the Regional Transportation Authority Occupation and Use Tax
18 Replacement Fund. The distribution made in July 1992 and each
19 year thereafter under this paragraph and the preceding
20 paragraph shall be reduced by the amount allocated and
21 disbursed under this paragraph in the preceding calendar year.
22 The Department of Revenue shall prepare and certify to the
23 Comptroller for disbursement the allocations made in
24 accordance with this paragraph.

25 (o) Failure to adopt a budget ordinance or otherwise to
26 comply with Section 4.01 of this Act or to adopt a Five-year

1 Capital Program or otherwise to comply with paragraph (b) of
2 Section 2.01 of this Act shall not affect the validity of any
3 tax imposed by the Authority otherwise in conformity with law.

4 (p) At no time shall a public transportation tax or motor
5 vehicle parking tax authorized under paragraphs (b), (c) and
6 (d) of this Section be in effect at the same time as any
7 retailers' occupation, use or service occupation tax
8 authorized under paragraphs (e), (f) and (g) of this Section is
9 in effect.

10 Any taxes imposed under the authority provided in
11 paragraphs (b), (c) and (d) shall remain in effect only until
12 the time as any tax authorized by paragraphs (e), (f) or (g) of
13 this Section are imposed and becomes effective. Once any tax
14 authorized by paragraphs (e), (f) or (g) is imposed the Board
15 may not reimpose taxes as authorized in paragraphs (b), (c) and
16 (d) of the Section unless any tax authorized by paragraphs (e),
17 (f) or (g) of this Section becomes ineffective by means other
18 than an ordinance of the Board.

19 (q) Any existing rights, remedies and obligations
20 (including enforcement by the Regional Transportation
21 Authority) arising under any tax imposed under paragraphs (b),
22 (c) or (d) of this Section shall not be affected by the
23 imposition of a tax under paragraphs (e), (f) or (g) of this
24 Section.

25 (Source: P.A. 95-708, eff. 1-18-08; 96-339, eff. 7-1-10;
26 96-939, eff. 6-24-10.)

1 Section 60. The School Code is amended by changing Sections
2 2-3.83, 14-1.03a, 21-28, and 34-18 as follows:

3 (105 ILCS 5/2-3.83) (from Ch. 122, par. 2-3.83)

4 Sec. 2-3.83. Individual transition plan model pilot
5 program.

6 (a) The General Assembly finds that transition services for
7 special education students in secondary schools are needed for
8 the increasing numbers of students exiting school programs.
9 Therefore, to ensure coordinated and timely delivery of
10 services, the State shall establish a model pilot program to
11 provide such services. Local school districts, using joint
12 agreements and regional service delivery systems for special
13 and vocational education selected by the Governor's Planning
14 Council on Developmental Disabilities, shall have the primary
15 responsibility to convene transition planning meetings for
16 these students who will require post-school adult services.

17 (b) For purposes of this Section:

18 (1) "Post-secondary Service Provider" means a provider
19 of services for adults who have any developmental
20 disability as defined in Section 1-106 of the Mental Health
21 and Developmental Disabilities Code or who are disabled as
22 defined in the Disabled Persons Rehabilitation Act.

23 (2) "Individual Education Plan" means a written
24 statement for an exceptional child that provides at least a

1 statement of: the child's present levels of educational
2 performance, annual goals and short-term instructional
3 objectives; specific special education and related
4 services; the extent of participation in the regular
5 education program; the projected dates for initiation of
6 services; anticipated duration of services; appropriate
7 objective criteria and evaluation procedures; and a
8 schedule for annual determination of short-term
9 objectives.

10 (3) "Individual Transition Plan" (ITP) means a
11 multi-agency informal assessment of a student's needs for
12 post-secondary adult services including but not limited to
13 employment, post-secondary education or training and
14 residential independent living.

15 (4) "Developmental Disability" means a disability
16 which is attributable to: (a) an intellectual disability
17 ~~mental retardation~~, cerebral palsy, epilepsy or autism; or
18 to (b) any other condition which results in impairment
19 similar to that caused by an intellectual disability ~~mental~~
20 ~~retardation~~ and which requires services similar to those
21 required by intellectually disabled ~~mentally retarded~~
22 persons. Such disability must originate before the age of
23 18 years, be expected to continue indefinitely, and
24 constitute a substantial handicap.

25 (5) "Exceptional Characteristic" means any disabling
26 or exceptional characteristic which interferes with a

1 student's education including, but not limited to, a
2 determination that the student is severely or profoundly
3 mentally disabled, trainably mentally disabled,
4 deaf-blind, or has some other health impairment.

5 (c) The model pilot program required by this Section shall
6 be established and administered by the Governor's Planning
7 Council on Developmental Disabilities in conjunction with the
8 case coordination pilot projects established by the Department
9 of Human Services pursuant to Section 4.1 of the Community
10 Services Act, as amended.

11 (d) The model pilot program shall include the following
12 features:

13 (1) Written notice shall be sent to the student and,
14 when appropriate, his or her parent or guardian giving the
15 opportunity to consent to having the student's name and
16 relevant information shared with the local case
17 coordination unit and other appropriate State or local
18 agencies for purposes of inviting participants to the
19 individual transition plan meeting.

20 (2) Meetings to develop and modify, as needed, an
21 Individual Transition Plan shall be conducted annually for
22 all students with a developmental disability in the pilot
23 program area who are age 16 or older and who are receiving
24 special education services for 50% or more of their public
25 school program. These meetings shall be convened by the
26 local school district and conducted in conjunction with any

1 other regularly scheduled meetings such as the student's
2 annual individual educational plan meeting. The Governor's
3 Planning Council on Developmental Disabilities shall
4 cooperate with and may enter into any necessary written
5 agreements with the Department of Human Services and the
6 State Board of Education to identify the target group of
7 students for transition planning and the appropriate case
8 coordination unit to serve these individuals.

9 (3) The ITP meetings shall be co-chaired by the
10 individual education plan coordinator and the case
11 coordinator. The ITP meeting shall include but not be
12 limited to discussion of the following: the student's
13 projected date of exit from the public schools; his
14 projected post-school goals in the areas of employment,
15 residential living arrangement and post-secondary
16 education or training; specific school or post-school
17 services needed during the following year to achieve the
18 student's goals, including but not limited to vocational
19 evaluation, vocational education, work experience or
20 vocational training, placement assistance, independent
21 living skills training, recreational or leisure training,
22 income support, medical needs and transportation; and
23 referrals and linkage to needed services, including a
24 proposed time frame for services and the responsible agency
25 or provider. The individual transition plan shall be signed
26 by participants in the ITP discussion, including but not

1 limited to the student's parents or guardian, the student
2 (where appropriate), multi-disciplinary team
3 representatives from the public schools, the case
4 coordinator and any other individuals who have
5 participated in the ITP meeting at the discretion of the
6 individual education plan coordinator, the developmental
7 disability case coordinator or the parents or guardian.

8 (4) At least 10 days prior to the ITP meeting, the
9 parents or guardian of the student shall be notified in
10 writing of the time and place of the meeting by the local
11 school district. The ITP discussion shall be documented by
12 the assigned case coordinator, and an individual student
13 file shall be maintained by each case coordination unit.
14 One year following a student's exit from public school the
15 case coordinator shall conduct a follow up interview with
16 the student.

17 (5) Determinations with respect to individual
18 transition plans made under this Section shall not be
19 subject to any due process requirements prescribed in
20 Section 14-8.02 of this Code.

21 (e) (Blank).

22 (Source: P.A. 91-96; eff. 7-9-99.)

23 (105 ILCS 5/14-1.03a) (from Ch. 122, par. 14-1.03a)
24 Sec. 14-1.03a. Children with Specific Learning
25 Disabilities.

1 "Children with Specific Learning Disabilities" means
2 children between the ages of 3 and 21 years who have a disorder
3 in one or more of the basic psychological processes involved in
4 understanding or in using language, spoken or written, which
5 disorder may manifest itself in imperfect ability to listen,
6 think, speak, read, write, spell or do mathematical
7 calculations. Such disorders include such conditions as
8 perceptual disabilities, brain injury, minimal brain
9 dysfunction, dyslexia, and developmental aphasia. Such term
10 does not include children who have learning problems which are
11 primarily the result of visual, hearing or motor disabilities,
12 of an intellectual disability ~~mental retardation~~, emotional
13 disturbance or environmental disadvantage.

14 (Source: P.A. 89-397, eff. 8-20-95.)

15 (105 ILCS 5/21-28)

16 Sec. 21-28. Special education teachers; categorical
17 certification. The State Teacher Certification Board shall
18 categorically certify a special education teacher in one or
19 more of the following specialized categories of disability if
20 the special education teacher applies and qualifies for such
21 certification:

- 22 (1) Serious emotional disturbance.
- 23 (2) Learning disabilities.
- 24 (3) Autism.
- 25 (4) Intellectual disabilities ~~Mental retardation~~.

1 (5) Orthopedic (physical) impairment.

2 (6) Traumatic brain injury.

3 (7) Other health impairment.

4 (Source: P.A. 92-709, eff. 7-19-02.)

5 (105 ILCS 5/34-18) (from Ch. 122, par. 34-18)

6 Sec. 34-18. Powers of the board. The board shall exercise
7 general supervision and jurisdiction over the public education
8 and the public school system of the city, and, except as
9 otherwise provided by this Article, shall have power:

10 1. To make suitable provision for the establishment and
11 maintenance throughout the year or for such portion thereof
12 as it may direct, not less than 9 months, of schools of all
13 grades and kinds, including normal schools, high schools,
14 night schools, schools for defectives and delinquents,
15 parental and truant schools, schools for the blind, the
16 deaf and the physically disabled ~~crippled~~, schools or
17 classes in manual training, constructural and vocational
18 teaching, domestic arts and physical culture, vocation and
19 extension schools and lecture courses, and all other
20 educational courses and facilities, including
21 establishing, equipping, maintaining and operating
22 playgrounds and recreational programs, when such programs
23 are conducted in, adjacent to, or connected with any public
24 school under the general supervision and jurisdiction of
25 the board; provided that the calendar for the school term

1 and any changes must be submitted to and approved by the
2 State Board of Education before the calendar or changes may
3 take effect, and provided that in allocating funds from
4 year to year for the operation of all attendance centers
5 within the district, the board shall ensure that
6 supplemental general State aid funds are allocated and
7 applied in accordance with Section 18-8 or 18-8.05. To
8 admit to such schools without charge foreign exchange
9 students who are participants in an organized exchange
10 student program which is authorized by the board. The board
11 shall permit all students to enroll in apprenticeship
12 programs in trade schools operated by the board, whether
13 those programs are union-sponsored or not. No student shall
14 be refused admission into or be excluded from any course of
15 instruction offered in the common schools by reason of that
16 student's sex. No student shall be denied equal access to
17 physical education and interscholastic athletic programs
18 supported from school district funds or denied
19 participation in comparable physical education and
20 athletic programs solely by reason of the student's sex.
21 Equal access to programs supported from school district
22 funds and comparable programs will be defined in rules
23 promulgated by the State Board of Education in consultation
24 with the Illinois High School Association. Notwithstanding
25 any other provision of this Article, neither the board of
26 education nor any local school council or other school

1 official shall recommend that children with disabilities
2 be placed into regular education classrooms unless those
3 children with disabilities are provided with supplementary
4 services to assist them so that they benefit from the
5 regular classroom instruction and are included on the
6 teacher's regular education class register;

7 2. To furnish lunches to pupils, to make a reasonable
8 charge therefor, and to use school funds for the payment of
9 such expenses as the board may determine are necessary in
10 conducting the school lunch program;

11 3. To co-operate with the circuit court;

12 4. To make arrangements with the public or quasi-public
13 libraries and museums for the use of their facilities by
14 teachers and pupils of the public schools;

15 5. To employ dentists and prescribe their duties for
16 the purpose of treating the pupils in the schools, but
17 accepting such treatment shall be optional with parents or
18 guardians;

19 6. To grant the use of assembly halls and classrooms
20 when not otherwise needed, including light, heat, and
21 attendants, for free public lectures, concerts, and other
22 educational and social interests, free of charge, under
23 such provisions and control as the principal of the
24 affected attendance center may prescribe;

25 7. To apportion the pupils to the several schools;
26 provided that no pupil shall be excluded from or segregated

1 in any such school on account of his color, race, sex, or
2 nationality. The board shall take into consideration the
3 prevention of segregation and the elimination of
4 separation of children in public schools because of color,
5 race, sex, or nationality. Except that children may be
6 committed to or attend parental and social adjustment
7 schools established and maintained either for boys or girls
8 only. All records pertaining to the creation, alteration or
9 revision of attendance areas shall be open to the public.
10 Nothing herein shall limit the board's authority to
11 establish multi-area attendance centers or other student
12 assignment systems for desegregation purposes or
13 otherwise, and to apportion the pupils to the several
14 schools. Furthermore, beginning in school year 1994-95,
15 pursuant to a board plan adopted by October 1, 1993, the
16 board shall offer, commencing on a phased-in basis, the
17 opportunity for families within the school district to
18 apply for enrollment of their children in any attendance
19 center within the school district which does not have
20 selective admission requirements approved by the board.
21 The appropriate geographical area in which such open
22 enrollment may be exercised shall be determined by the
23 board of education. Such children may be admitted to any
24 such attendance center on a space available basis after all
25 children residing within such attendance center's area
26 have been accommodated. If the number of applicants from

1 outside the attendance area exceed the space available,
2 then successful applicants shall be selected by lottery.
3 The board of education's open enrollment plan must include
4 provisions that allow low income students to have access to
5 transportation needed to exercise school choice. Open
6 enrollment shall be in compliance with the provisions of
7 the Consent Decree and Desegregation Plan cited in Section
8 34-1.01;

9 8. To approve programs and policies for providing
10 transportation services to students. Nothing herein shall
11 be construed to permit or empower the State Board of
12 Education to order, mandate, or require busing or other
13 transportation of pupils for the purpose of achieving
14 racial balance in any school;

15 9. Subject to the limitations in this Article, to
16 establish and approve system-wide curriculum objectives
17 and standards, including graduation standards, which
18 reflect the multi-cultural diversity in the city and are
19 consistent with State law, provided that for all purposes
20 of this Article courses or proficiency in American Sign
21 Language shall be deemed to constitute courses or
22 proficiency in a foreign language; and to employ principals
23 and teachers, appointed as provided in this Article, and
24 fix their compensation. The board shall prepare such
25 reports related to minimal competency testing as may be
26 requested by the State Board of Education, and in addition

1 shall monitor and approve special education and bilingual
2 education programs and policies within the district to
3 assure that appropriate services are provided in
4 accordance with applicable State and federal laws to
5 children requiring services and education in those areas;

6 10. To employ non-teaching personnel or utilize
7 volunteer personnel for: (i) non-teaching duties not
8 requiring instructional judgment or evaluation of pupils,
9 including library duties; and (ii) supervising study
10 halls, long distance teaching reception areas used
11 incident to instructional programs transmitted by
12 electronic media such as computers, video, and audio,
13 detention and discipline areas, and school-sponsored
14 extracurricular activities. The board may further utilize
15 volunteer non-certificated personnel or employ
16 non-certificated personnel to assist in the instruction of
17 pupils under the immediate supervision of a teacher holding
18 a valid certificate, directly engaged in teaching subject
19 matter or conducting activities; provided that the teacher
20 shall be continuously aware of the non-certificated
21 persons' activities and shall be able to control or modify
22 them. The general superintendent shall determine
23 qualifications of such personnel and shall prescribe rules
24 for determining the duties and activities to be assigned to
25 such personnel;

26 10.5. To utilize volunteer personnel from a regional

1 School Crisis Assistance Team (S.C.A.T.), created as part
2 of the Safe to Learn Program established pursuant to
3 Section 25 of the Illinois Violence Prevention Act of 1995,
4 to provide assistance to schools in times of violence or
5 other traumatic incidents within a school community by
6 providing crisis intervention services to lessen the
7 effects of emotional trauma on individuals and the
8 community; the School Crisis Assistance Team Steering
9 Committee shall determine the qualifications for
10 volunteers;

11 11. To provide television studio facilities in not to
12 exceed one school building and to provide programs for
13 educational purposes, provided, however, that the board
14 shall not construct, acquire, operate, or maintain a
15 television transmitter; to grant the use of its studio
16 facilities to a licensed television station located in the
17 school district; and to maintain and operate not to exceed
18 one school radio transmitting station and provide programs
19 for educational purposes;

20 12. To offer, if deemed appropriate, outdoor education
21 courses, including field trips within the State of
22 Illinois, or adjacent states, and to use school educational
23 funds for the expense of the said outdoor educational
24 programs, whether within the school district or not;

25 13. During that period of the calendar year not
26 embraced within the regular school term, to provide and

1 conduct courses in subject matters normally embraced in the
2 program of the schools during the regular school term and
3 to give regular school credit for satisfactory completion
4 by the student of such courses as may be approved for
5 credit by the State Board of Education;

6 14. To insure against any loss or liability of the
7 board, the former School Board Nominating Commission,
8 Local School Councils, the Chicago Schools Academic
9 Accountability Council, or the former Subdistrict Councils
10 or of any member, officer, agent or employee thereof,
11 resulting from alleged violations of civil rights arising
12 from incidents occurring on or after September 5, 1967 or
13 from the wrongful or negligent act or omission of any such
14 person whether occurring within or without the school
15 premises, provided the officer, agent or employee was, at
16 the time of the alleged violation of civil rights or
17 wrongful act or omission, acting within the scope of his
18 employment or under direction of the board, the former
19 School Board Nominating Commission, the Chicago Schools
20 Academic Accountability Council, Local School Councils, or
21 the former Subdistrict Councils; and to provide for or
22 participate in insurance plans for its officers and
23 employees, including but not limited to retirement
24 annuities, medical, surgical and hospitalization benefits
25 in such types and amounts as may be determined by the
26 board; provided, however, that the board shall contract for

1 such insurance only with an insurance company authorized to
2 do business in this State. Such insurance may include
3 provision for employees who rely on treatment by prayer or
4 spiritual means alone for healing, in accordance with the
5 tenets and practice of a recognized religious
6 denomination;

7 15. To contract with the corporate authorities of any
8 municipality or the county board of any county, as the case
9 may be, to provide for the regulation of traffic in parking
10 areas of property used for school purposes, in such manner
11 as is provided by Section 11-209 of The Illinois Vehicle
12 Code, approved September 29, 1969, as amended;

13 16. (a) To provide, on an equal basis, access to a high
14 school campus and student directory information to the
15 official recruiting representatives of the armed forces of
16 Illinois and the United States for the purposes of
17 informing students of the educational and career
18 opportunities available in the military if the board has
19 provided such access to persons or groups whose purpose is
20 to acquaint students with educational or occupational
21 opportunities available to them. The board is not required
22 to give greater notice regarding the right of access to
23 recruiting representatives than is given to other persons
24 and groups. In this paragraph 16, "directory information"
25 means a high school student's name, address, and telephone
26 number.

1 (b) If a student or his or her parent or guardian
2 submits a signed, written request to the high school before
3 the end of the student's sophomore year (or if the student
4 is a transfer student, by another time set by the high
5 school) that indicates that the student or his or her
6 parent or guardian does not want the student's directory
7 information to be provided to official recruiting
8 representatives under subsection (a) of this Section, the
9 high school may not provide access to the student's
10 directory information to these recruiting representatives.
11 The high school shall notify its students and their parents
12 or guardians of the provisions of this subsection (b).

13 (c) A high school may require official recruiting
14 representatives of the armed forces of Illinois and the
15 United States to pay a fee for copying and mailing a
16 student's directory information in an amount that is not
17 more than the actual costs incurred by the high school.

18 (d) Information received by an official recruiting
19 representative under this Section may be used only to
20 provide information to students concerning educational and
21 career opportunities available in the military and may not
22 be released to a person who is not involved in recruiting
23 students for the armed forces of Illinois or the United
24 States;

25 17. (a) To sell or market any computer program
26 developed by an employee of the school district, provided

1 that such employee developed the computer program as a
2 direct result of his or her duties with the school district
3 or through the utilization of the school district resources
4 or facilities. The employee who developed the computer
5 program shall be entitled to share in the proceeds of such
6 sale or marketing of the computer program. The distribution
7 of such proceeds between the employee and the school
8 district shall be as agreed upon by the employee and the
9 school district, except that neither the employee nor the
10 school district may receive more than 90% of such proceeds.
11 The negotiation for an employee who is represented by an
12 exclusive bargaining representative may be conducted by
13 such bargaining representative at the employee's request.

14 (b) For the purpose of this paragraph 17:

15 (1) "Computer" means an internally programmed,
16 general purpose digital device capable of
17 automatically accepting data, processing data and
18 supplying the results of the operation.

19 (2) "Computer program" means a series of coded
20 instructions or statements in a form acceptable to a
21 computer, which causes the computer to process data in
22 order to achieve a certain result.

23 (3) "Proceeds" means profits derived from
24 marketing or sale of a product after deducting the
25 expenses of developing and marketing such product;

26 18. To delegate to the general superintendent of

1 schools, by resolution, the authority to approve contracts
2 and expenditures in amounts of \$10,000 or less;

3 19. Upon the written request of an employee, to
4 withhold from the compensation of that employee any dues,
5 payments or contributions payable by such employee to any
6 labor organization as defined in the Illinois Educational
7 Labor Relations Act. Under such arrangement, an amount
8 shall be withheld from each regular payroll period which is
9 equal to the pro rata share of the annual dues plus any
10 payments or contributions, and the board shall transmit
11 such withholdings to the specified labor organization
12 within 10 working days from the time of the withholding;

13 19a. Upon receipt of notice from the comptroller of a
14 municipality with a population of 500,000 or more, a county
15 with a population of 3,000,000 or more, the Cook County
16 Forest Preserve District, the Chicago Park District, the
17 Metropolitan Water Reclamation District, the Chicago
18 Transit Authority, or a housing authority of a municipality
19 with a population of 500,000 or more that a debt is due and
20 owing the municipality, the county, the Cook County Forest
21 Preserve District, the Chicago Park District, the
22 Metropolitan Water Reclamation District, the Chicago
23 Transit Authority, or the housing authority by an employee
24 of the Chicago Board of Education, to withhold, from the
25 compensation of that employee, the amount of the debt that
26 is due and owing and pay the amount withheld to the

1 municipality, the county, the Cook County Forest Preserve
2 District, the Chicago Park District, the Metropolitan
3 Water Reclamation District, the Chicago Transit Authority,
4 or the housing authority; provided, however, that the
5 amount deducted from any one salary or wage payment shall
6 not exceed 25% of the net amount of the payment. Before the
7 Board deducts any amount from any salary or wage of an
8 employee under this paragraph, the municipality, the
9 county, the Cook County Forest Preserve District, the
10 Chicago Park District, the Metropolitan Water Reclamation
11 District, the Chicago Transit Authority, or the housing
12 authority shall certify that (i) the employee has been
13 afforded an opportunity for a hearing to dispute the debt
14 that is due and owing the municipality, the county, the
15 Cook County Forest Preserve District, the Chicago Park
16 District, the Metropolitan Water Reclamation District, the
17 Chicago Transit Authority, or the housing authority and
18 (ii) the employee has received notice of a wage deduction
19 order and has been afforded an opportunity for a hearing to
20 object to the order. For purposes of this paragraph, "net
21 amount" means that part of the salary or wage payment
22 remaining after the deduction of any amounts required by
23 law to be deducted and "debt due and owing" means (i) a
24 specified sum of money owed to the municipality, the
25 county, the Cook County Forest Preserve District, the
26 Chicago Park District, the Metropolitan Water Reclamation

1 District, the Chicago Transit Authority, or the housing
2 authority for services, work, or goods, after the period
3 granted for payment has expired, or (ii) a specified sum of
4 money owed to the municipality, the county, the Cook County
5 Forest Preserve District, the Chicago Park District, the
6 Metropolitan Water Reclamation District, the Chicago
7 Transit Authority, or the housing authority pursuant to a
8 court order or order of an administrative hearing officer
9 after the exhaustion of, or the failure to exhaust,
10 judicial review;

11 20. The board is encouraged to employ a sufficient
12 number of certified school counselors to maintain a
13 student/counselor ratio of 250 to 1 by July 1, 1990. Each
14 counselor shall spend at least 75% of his work time in
15 direct contact with students and shall maintain a record of
16 such time;

17 21. To make available to students vocational and career
18 counseling and to establish 5 special career counseling
19 days for students and parents. On these days
20 representatives of local businesses and industries shall
21 be invited to the school campus and shall inform students
22 of career opportunities available to them in the various
23 businesses and industries. Special consideration shall be
24 given to counseling minority students as to career
25 opportunities available to them in various fields. For the
26 purposes of this paragraph, minority student means a person

1 who is:

2 (a) Black (a person having origins in any of the
3 black racial groups in Africa);

4 (b) Hispanic (a person of Spanish or Portuguese
5 culture with origins in Mexico, South or Central
6 America, or the Caribbean islands, regardless of
7 race);

8 (c) Asian American (a person having origins in any
9 of the original peoples of the Far East, Southeast
10 Asia, the Indian Subcontinent or the Pacific Islands);
11 or

12 (d) American Indian or Alaskan Native (a person
13 having origins in any of the original peoples of North
14 America).

15 Counseling days shall not be in lieu of regular school
16 days;

17 22. To report to the State Board of Education the
18 annual student dropout rate and number of students who
19 graduate from, transfer from or otherwise leave bilingual
20 programs;

21 23. Except as otherwise provided in the Abused and
22 Neglected Child Reporting Act or other applicable State or
23 federal law, to permit school officials to withhold, from
24 any person, information on the whereabouts of any child
25 removed from school premises when the child has been taken
26 into protective custody as a victim of suspected child

1 abuse. School officials shall direct such person to the
2 Department of Children and Family Services, or to the local
3 law enforcement agency if appropriate;

4 24. To develop a policy, based on the current state of
5 existing school facilities, projected enrollment and
6 efficient utilization of available resources, for capital
7 improvement of schools and school buildings within the
8 district, addressing in that policy both the relative
9 priority for major repairs, renovations and additions to
10 school facilities, and the advisability or necessity of
11 building new school facilities or closing existing schools
12 to meet current or projected demographic patterns within
13 the district;

14 25. To make available to the students in every high
15 school attendance center the ability to take all courses
16 necessary to comply with the Board of Higher Education's
17 college entrance criteria effective in 1993;

18 26. To encourage mid-career changes into the teaching
19 profession, whereby qualified professionals become
20 certified teachers, by allowing credit for professional
21 employment in related fields when determining point of
22 entry on teacher pay scale;

23 27. To provide or contract out training programs for
24 administrative personnel and principals with revised or
25 expanded duties pursuant to this Act in order to assure
26 they have the knowledge and skills to perform their duties;

1 28. To establish a fund for the prioritized special
2 needs programs, and to allocate such funds and other lump
3 sum amounts to each attendance center in a manner
4 consistent with the provisions of part 4 of Section 34-2.3.
5 Nothing in this paragraph shall be construed to require any
6 additional appropriations of State funds for this purpose;

7 29. (Blank);

8 30. Notwithstanding any other provision of this Act or
9 any other law to the contrary, to contract with third
10 parties for services otherwise performed by employees,
11 including those in a bargaining unit, and to layoff those
12 employees upon 14 days written notice to the affected
13 employees. Those contracts may be for a period not to
14 exceed 5 years and may be awarded on a system-wide basis.
15 The board may not operate more than 30 contract schools,
16 provided that the board may operate an additional 5
17 contract turnaround schools pursuant to item (5.5) of
18 subsection (d) of Section 34-8.3 of this Code;

19 31. To promulgate rules establishing procedures
20 governing the layoff or reduction in force of employees and
21 the recall of such employees, including, but not limited
22 to, criteria for such layoffs, reductions in force or
23 recall rights of such employees and the weight to be given
24 to any particular criterion. Such criteria shall take into
25 account factors including, but not be limited to,
26 qualifications, certifications, experience, performance

1 ratings or evaluations, and any other factors relating to
2 an employee's job performance;

3 32. To develop a policy to prevent nepotism in the
4 hiring of personnel or the selection of contractors;

5 33. To enter into a partnership agreement, as required
6 by Section 34-3.5 of this Code, and, notwithstanding any
7 other provision of law to the contrary, to promulgate
8 policies, enter into contracts, and take any other action
9 necessary to accomplish the objectives and implement the
10 requirements of that agreement; and

11 34. To establish a Labor Management Council to the
12 board comprised of representatives of the board, the chief
13 executive officer, and those labor organizations that are
14 the exclusive representatives of employees of the board and
15 to promulgate policies and procedures for the operation of
16 the Council.

17 The specifications of the powers herein granted are not to
18 be construed as exclusive but the board shall also exercise all
19 other powers that they may be requisite or proper for the
20 maintenance and the development of a public school system, not
21 inconsistent with the other provisions of this Article or
22 provisions of this Code which apply to all school districts.

23 In addition to the powers herein granted and authorized to
24 be exercised by the board, it shall be the duty of the board to
25 review or to direct independent reviews of special education
26 expenditures and services. The board shall file a report of

1 such review with the General Assembly on or before May 1, 1990.
2 (Source: P.A. 96-105, eff. 7-30-09.)

3 Section 65. The State Universities Civil Service Act is
4 amended by changing Section 36s as follows:

5 (110 ILCS 70/36s) (from Ch. 24 1/2, par. 38b18)

6 Sec. 36s. Supported employees.

7 (a) The Merit Board shall develop and implement a supported
8 employment program. It shall be the goal of the program to
9 appoint a minimum of 10 supported employees to State University
10 civil service positions before June 30, 1992.

11 (b) The Merit Board shall designate a liaison to work with
12 State agencies and departments, any funder or provider or both,
13 and State universities in the implementation of a supported
14 employment program.

15 (c) As used in this Section:

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

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

24 (B) has one or more physical or mental disabilities

1 resulting from amputation; arthritis; blindness;
2 cancer; cerebral palsy; cystic fibrosis; deafness;
3 heart disease; hemiplegia; respiratory or pulmonary
4 dysfunction; an intellectual disability ~~mental~~
5 ~~retardation~~; mental illness; multiple sclerosis;
6 muscular dystrophy; musculoskeletal disorders;
7 neurological disorders, including stroke and epilepsy;
8 paraplegia; quadriplegia and other spinal cord
9 conditions; sickle cell anemia; and end-stage renal
10 disease; or another disability or combination of
11 disabilities determined on the basis of an evaluation
12 of rehabilitation potential to cause comparable
13 substantial functional limitation.

14 (2) "Supported employment" means competitive work in
15 integrated work settings:

16 (A) for individuals with severe handicaps for whom
17 competitive employment has not traditionally occurred,
18 or

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

25 (3) "Participation in a supported employee program"
26 means participation as a supported employee that is not

1 based on the expectation that an individual will have the
2 skills to perform all the duties in a job class, but on the
3 assumption that with support and adaptation, or both, a job
4 can be designed to take advantage of the supported
5 employee's special strengths.

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

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

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

20 (e) The Merit Board shall maintain a record of all
21 individuals hired as supported employees. The record shall
22 include:

23 (1) the number of supported employees initially
24 appointed;

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

1 (3) the number of permanent targeted positions by
2 titles.

3 (f) The Merit Board shall submit an annual report to the
4 General Assembly regarding the employment progress of
5 supported employees, with recommendations for legislative
6 action.

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

8 Section 66. The Specialized Care for Children Act is
9 amended by changing Section 1 as follows:

10 (110 ILCS 345/1) (from Ch. 144, par. 67.1)

11 Sec. 1. The University of Illinois is hereby designated as
12 the agency to receive, administer, and to hold in its own
13 treasury federal funds and aid in relation to the
14 administration of its Division of Specialized Care for
15 Children. The Board of Trustees of the University of Illinois
16 shall have a charge upon all claims, demands and causes of
17 action for injuries to an applicant for or recipient of
18 financial aid for the total amount of medical assistance
19 provided the recipient by the Division from the time of injury
20 to the date of recovery upon such claim, demand or cause of
21 action. The Board of Trustees of the University of Illinois may
22 cooperate with the United States Children's Bureau of the
23 Department of Health, Education and Welfare, or with any
24 successor or other federal agency, in the administration of the

1 Division of Specialized Care for Children, and shall have full
2 responsibility for the expenditure of federal and state funds,
3 or monies recovered as the result of a judgment or settlement
4 of a lawsuit or from an insurance or personal settlement
5 arising from a claim relating to a recipient child's medical
6 condition, as well as any aid which may be made available to
7 the Board of Trustees for administering, through the Division
8 of Specialized Care for Children, a program of services for
9 children who are physically disabled ~~crippled~~ or suffering from
10 conditions which may lead to a physical disability ~~crippling~~,
11 including medical, surgical, corrective and other services and
12 care, and facilities for diagnosis, hospitalization and
13 aftercare of such children.

14 (Source: P.A. 87-203.)

15 Section 67. The Alternative Health Care Delivery Act is
16 amended by changing Section 15 as follows:

17 (210 ILCS 3/15)

18 Sec. 15. License required. No health care facility or
19 program that meets the definition and scope of an alternative
20 health care model shall operate as such unless it is a
21 participant in a demonstration program under this Act and
22 licensed by the Department as an alternative health care model.
23 The provisions of this Section as they relate to subacute care
24 hospitals shall not apply to hospitals licensed under the

1 Illinois Hospital Licensing Act or skilled nursing facilities
2 licensed under the Illinois Nursing Home Care Act or the ID/DD
3 ~~MR/DD~~ Community Care Act; provided, however, that the
4 facilities shall not hold themselves out to the public as
5 subacute care hospitals. The provisions of this Act concerning
6 children's respite care centers shall not apply to any facility
7 licensed under the Hospital Licensing Act, the Nursing Home
8 Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or the University
9 of Illinois Hospital Act that provides respite care services to
10 children.

11 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

12 Section 68. The Ambulatory Surgical Treatment Center Act is
13 amended by changing Section 3 as follows:

14 (210 ILCS 5/3) (from Ch. 111 1/2, par. 157-8.3)

15 Sec. 3. As used in this Act, unless the context otherwise
16 requires, the following words and phrases shall have the
17 meanings ascribed to them:

18 (A) "Ambulatory surgical treatment center" means any
19 institution, place or building devoted primarily to the
20 maintenance and operation of facilities for the performance of
21 surgical procedures or any facility in which a medical or
22 surgical procedure is utilized to terminate a pregnancy,
23 irrespective of whether the facility is devoted primarily to
24 this purpose. Such facility shall not provide beds or other

1 accommodations for the overnight stay of patients; however,
2 facilities devoted exclusively to the treatment of children may
3 provide accommodations and beds for their patients for up to 23
4 hours following admission. Individual patients shall be
5 discharged in an ambulatory condition without danger to the
6 continued well being of the patients or shall be transferred to
7 a hospital.

8 The term "ambulatory surgical treatment center" does not
9 include any of the following:

10 (1) Any institution, place, building or agency
11 required to be licensed pursuant to the "Hospital Licensing
12 Act", approved July 1, 1953, as amended.

13 (2) Any person or institution required to be licensed
14 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~
15 Community Care Act.

16 (3) Hospitals or ambulatory surgical treatment centers
17 maintained by the State or any department or agency
18 thereof, where such department or agency has authority
19 under law to establish and enforce standards for the
20 hospitals or ambulatory surgical treatment centers under
21 its management and control.

22 (4) Hospitals or ambulatory surgical treatment centers
23 maintained by the Federal Government or agencies thereof.

24 (5) Any place, agency, clinic, or practice, public or
25 private, whether organized for profit or not, devoted
26 exclusively to the performance of dental or oral surgical

1 procedures.

2 (B) "Person" means any individual, firm, partnership,
3 corporation, company, association, or joint stock association,
4 or the legal successor thereof.

5 (C) "Department" means the Department of Public Health of
6 the State of Illinois.

7 (D) "Director" means the Director of the Department of
8 Public Health of the State of Illinois.

9 (E) "Physician" means a person licensed to practice
10 medicine in all of its branches in the State of Illinois.

11 (F) "Dentist" means a person licensed to practice dentistry
12 under the Illinois Dental Practice Act.

13 (G) "Podiatrist" means a person licensed to practice
14 podiatry under the Podiatric Medical Practice Act of 1987.

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

16 Section 69. The Assisted Living and Shared Housing Act is
17 amended by changing Sections 10, 35, 55, and 145 as follows:

18 (210 ILCS 9/10)

19 Sec. 10. Definitions. For purposes of this Act:

20 "Activities of daily living" means eating, dressing,
21 bathing, toileting, transferring, or personal hygiene.

22 "Assisted living establishment" or "establishment" means a
23 home, building, residence, or any other place where sleeping
24 accommodations are provided for at least 3 unrelated adults, at

1 least 80% of whom are 55 years of age or older and where the
2 following are provided consistent with the purposes of this
3 Act:

4 (1) services consistent with a social model that is
5 based on the premise that the resident's unit in assisted
6 living and shared housing is his or her own home;

7 (2) community-based residential care for persons who
8 need assistance with activities of daily living, including
9 personal, supportive, and intermittent health-related
10 services available 24 hours per day, if needed, to meet the
11 scheduled and unscheduled needs of a resident;

12 (3) mandatory services, whether provided directly by
13 the establishment or by another entity arranged for by the
14 establishment, with the consent of the resident or
15 resident's representative; and

16 (4) a physical environment that is a homelike setting
17 that includes the following and such other elements as
18 established by the Department: individual living units
19 each of which shall accommodate small kitchen appliances
20 and contain private bathing, washing, and toilet
21 facilities, or private washing and toilet facilities with a
22 common bathing room readily accessible to each resident.
23 Units shall be maintained for single occupancy except in
24 cases in which 2 residents choose to share a unit.
25 Sufficient common space shall exist to permit individual
26 and group activities.

1 "Assisted living establishment" or "establishment" does
2 not mean any of the following:

3 (1) A home, institution, or similar place operated by
4 the federal government or the State of Illinois.

5 (2) A long term care facility licensed under the
6 Nursing Home Care Act or a facility licensed under the
7 ID/DD ~~MR/DD~~ Community Care Act. However, a facility
8 licensed under either of those Acts may convert distinct
9 parts of the facility to assisted living. If the facility
10 elects to do so, the facility shall retain the Certificate
11 of Need for its nursing and sheltered care beds that were
12 converted.

13 (3) A hospital, sanitarium, or other institution, the
14 principal activity or business of which is the diagnosis,
15 care, and treatment of human illness and that is required
16 to be licensed under the Hospital Licensing Act.

17 (4) A facility for child care as defined in the Child
18 Care Act of 1969.

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

21 (6) A nursing home or sanitarium operated solely by and
22 for persons who rely exclusively upon treatment by
23 spiritual means through prayer in accordance with the creed
24 or tenants of a well-recognized church or religious
25 denomination.

26 (7) A facility licensed by the Department of Human

1 Services as a community-integrated living arrangement as
2 defined in the Community-Integrated Living Arrangements
3 Licensure and Certification Act.

4 (8) A supportive residence licensed under the
5 Supportive Residences Licensing Act.

6 (9) The portion of a life care facility as defined in
7 the Life Care Facilities Act not licensed as an assisted
8 living establishment under this Act; a life care facility
9 may apply under this Act to convert sections of the
10 community to assisted living.

11 (10) A free-standing hospice facility licensed under
12 the Hospice Program Licensing Act.

13 (11) A shared housing establishment.

14 (12) A supportive living facility as described in
15 Section 5-5.01a of the Illinois Public Aid Code.

16 "Department" means the Department of Public Health.

17 "Director" means the Director of Public Health.

18 "Emergency situation" means imminent danger of death or
19 serious physical harm to a resident of an establishment.

20 "License" means any of the following types of licenses
21 issued to an applicant or licensee by the Department:

22 (1) "Probationary license" means a license issued to an
23 applicant or licensee that has not held a license under
24 this Act prior to its application or pursuant to a license
25 transfer in accordance with Section 50 of this Act.

26 (2) "Regular license" means a license issued by the

1 Department to an applicant or licensee that is in
2 substantial compliance with this Act and any rules
3 promulgated under this Act.

4 "Licensee" means a person, agency, association,
5 corporation, partnership, or organization that has been issued
6 a license to operate an assisted living or shared housing
7 establishment.

8 "Licensed health care professional" means a registered
9 professional nurse, an advanced practice nurse, a physician
10 assistant, and a licensed practical nurse.

11 "Mandatory services" include the following:

12 (1) 3 meals per day available to the residents prepared
13 by the establishment or an outside contractor;

14 (2) housekeeping services including, but not limited
15 to, vacuuming, dusting, and cleaning the resident's unit;

16 (3) personal laundry and linen services available to
17 the residents provided or arranged for by the
18 establishment;

19 (4) security provided 24 hours each day including, but
20 not limited to, locked entrances or building or contract
21 security personnel;

22 (5) an emergency communication response system, which
23 is a procedure in place 24 hours each day by which a
24 resident can notify building management, an emergency
25 response vendor, or others able to respond to his or her
26 need for assistance; and

1 (6) assistance with activities of daily living as
2 required by each resident.

3 "Negotiated risk" is the process by which a resident, or
4 his or her representative, may formally negotiate with
5 providers what risks each are willing and unwilling to assume
6 in service provision and the resident's living environment. The
7 provider assures that the resident and the resident's
8 representative, if any, are informed of the risks of these
9 decisions and of the potential consequences of assuming these
10 risks.

11 "Owner" means the individual, partnership, corporation,
12 association, or other person who owns an assisted living or
13 shared housing establishment. In the event an assisted living
14 or shared housing establishment is operated by a person who
15 leases or manages the physical plant, which is owned by another
16 person, "owner" means the person who operates the assisted
17 living or shared housing establishment, except that if the
18 person who owns the physical plant is an affiliate of the
19 person who operates the assisted living or shared housing
20 establishment and has significant control over the day to day
21 operations of the assisted living or shared housing
22 establishment, the person who owns the physical plant shall
23 incur jointly and severally with the owner all liabilities
24 imposed on an owner under this Act.

25 "Physician" means a person licensed under the Medical
26 Practice Act of 1987 to practice medicine in all of its

1 branches.

2 "Resident" means a person residing in an assisted living or
3 shared housing establishment.

4 "Resident's representative" means a person, other than the
5 owner, agent, or employee of an establishment or of the health
6 care provider unless related to the resident, designated in
7 writing by a resident to be his or her representative. This
8 designation may be accomplished through the Illinois Power of
9 Attorney Act, pursuant to the guardianship process under the
10 Probate Act of 1975, or pursuant to an executed designation of
11 representative form specified by the Department.

12 "Self" means the individual or the individual's designated
13 representative.

14 "Shared housing establishment" or "establishment" means a
15 publicly or privately operated free-standing residence for 16
16 or fewer persons, at least 80% of whom are 55 years of age or
17 older and who are unrelated to the owners and one manager of
18 the residence, where the following are provided:

19 (1) services consistent with a social model that is
20 based on the premise that the resident's unit is his or her
21 own home;

22 (2) community-based residential care for persons who
23 need assistance with activities of daily living, including
24 housing and personal, supportive, and intermittent
25 health-related services available 24 hours per day, if
26 needed, to meet the scheduled and unscheduled needs of a

1 resident; and

2 (3) mandatory services, whether provided directly by
3 the establishment or by another entity arranged for by the
4 establishment, with the consent of the resident or the
5 resident's representative.

6 "Shared housing establishment" or "establishment" does not
7 mean any of the following:

8 (1) A home, institution, or similar place operated by
9 the federal government or the State of Illinois.

10 (2) A long term care facility licensed under the
11 Nursing Home Care Act or a facility licensed under the
12 ID/DD ~~MR/DD~~ Community Care Act. A facility licensed under
13 either of those Acts may, however, convert sections of the
14 facility to assisted living. If the facility elects to do
15 so, the facility shall retain the Certificate of Need for
16 its nursing beds that were converted.

17 (3) A hospital, sanitarium, or other institution, the
18 principal activity or business of which is the diagnosis,
19 care, and treatment of human illness and that is required
20 to be licensed under the Hospital Licensing Act.

21 (4) A facility for child care as defined in the Child
22 Care Act of 1969.

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

25 (6) A nursing home or sanitarium operated solely by and
26 for persons who rely exclusively upon treatment by

1 spiritual means through prayer in accordance with the creed
2 or tenants of a well-recognized church or religious
3 denomination.

4 (7) A facility licensed by the Department of Human
5 Services as a community-integrated living arrangement as
6 defined in the Community-Integrated Living Arrangements
7 Licensure and Certification Act.

8 (8) A supportive residence licensed under the
9 Supportive Residences Licensing Act.

10 (9) A life care facility as defined in the Life Care
11 Facilities Act; a life care facility may apply under this
12 Act to convert sections of the community to assisted
13 living.

14 (10) A free-standing hospice facility licensed under
15 the Hospice Program Licensing Act.

16 (11) An assisted living establishment.

17 (12) A supportive living facility as described in
18 Section 5-5.01a of the Illinois Public Aid Code.

19 "Total assistance" means that staff or another individual
20 performs the entire activity of daily living without
21 participation by the resident.

22 (Source: P.A. 95-216, eff. 8-16-07; 96-339, eff. 7-1-10;
23 96-975, eff. 7-2-10.)

24 (210 ILCS 9/35)

25 Sec. 35. Issuance of license.

1 (a) Upon receipt and review of an application for a license
2 and review of the applicant establishment, the Director may
3 issue a license if he or she finds:

4 (1) that the individual applicant, or the corporation,
5 partnership, or other entity if the applicant is not an
6 individual, is a person responsible and suitable to operate
7 or to direct or participate in the operation of an
8 establishment by virtue of financial capacity, appropriate
9 business or professional experience, a record of lawful
10 compliance with lawful orders of the Department and lack of
11 revocation of a license issued under this Act, the Nursing
12 Home Care Act, or the ID/DD ~~MR/DD~~ Community Care Act during
13 the previous 5 years;

14 (2) that the establishment is under the supervision of
15 a full-time director who is at least 21 years of age and
16 has a high school diploma or equivalent plus either:

17 (A) 2 years of management experience or 2 years of
18 experience in positions of progressive responsibility
19 in health care, housing with services, or adult day
20 care or providing similar services to the elderly; or

21 (B) 2 years of management experience or 2 years of
22 experience in positions of progressive responsibility
23 in hospitality and training in health care and housing
24 with services management as defined by rule;

25 (3) that the establishment has staff sufficient in
26 number with qualifications, adequate skills, education,

1 and experience to meet the 24 hour scheduled and
2 unscheduled needs of residents and who participate in
3 ongoing training to serve the resident population;

4 (4) that all employees who are subject to the Health
5 Care Worker Background Check Act meet the requirements of
6 that Act;

7 (5) that the applicant is in substantial compliance
8 with this Act and such other requirements for a license as
9 the Department by rule may establish under this Act;

10 (6) that the applicant pays all required fees;

11 (7) that the applicant has provided to the Department
12 an accurate disclosure document in accordance with the
13 Alzheimer's Disease and Related Dementias Special Care
14 Disclosure Act and in substantial compliance with Section
15 150 of this Act.

16 In addition to any other requirements set forth in this
17 Act, as a condition of licensure under this Act, the director
18 of an establishment must participate in at least 20 hours of
19 training every 2 years to assist him or her in better meeting
20 the needs of the residents of the establishment and managing
21 the operation of the establishment.

22 Any license issued by the Director shall state the physical
23 location of the establishment, the date the license was issued,
24 and the expiration date. All licenses shall be valid for one
25 year, except as provided in Sections 40 and 45. Each license
26 shall be issued only for the premises and persons named in the

1 application, and shall not be transferable or assignable.

2 (Source: P.A. 95-79, eff. 8-13-07; 95-590, eff. 9-10-07;
3 95-628, eff. 9-25-07; 95-876, eff. 8-21-08; 96-339, eff.
4 7-1-10; 96-990, eff. 7-2-10.)

5 (210 ILCS 9/55)

6 Sec. 55. Grounds for denial of a license. An application
7 for a license may be denied for any of the following reasons:

8 (1) failure to meet any of the standards set forth in
9 this Act or by rules adopted by the Department under this
10 Act;

11 (2) conviction of the applicant, or if the applicant is
12 a firm, partnership, or association, of any of its members,
13 or if a corporation, the conviction of the corporation or
14 any of its officers or stockholders, or of the person
15 designated to manage or supervise the establishment, of a
16 felony or of 2 or more misdemeanors involving moral
17 turpitude during the previous 5 years as shown by a
18 certified copy of the record of the court of conviction;

19 (3) personnel insufficient in number or unqualified by
20 training or experience to properly care for the residents;

21 (4) insufficient financial or other resources to
22 operate and conduct the establishment in accordance with
23 standards adopted by the Department under this Act;

24 (5) revocation of a license during the previous 5
25 years, if such prior license was issued to the individual

1 applicant, a controlling owner or controlling combination
2 of owners of the applicant; or any affiliate of the
3 individual applicant or controlling owner of the applicant
4 and such individual applicant, controlling owner of the
5 applicant or affiliate of the applicant was a controlling
6 owner of the prior license; provided, however, that the
7 denial of an application for a license pursuant to this
8 Section must be supported by evidence that the prior
9 revocation renders the applicant unqualified or incapable
10 of meeting or maintaining an establishment in accordance
11 with the standards and rules adopted by the Department
12 under this Act; or

13 (6) the establishment is not under the direct
14 supervision of a full-time director, as defined by rule.

15 The Department shall deny an application for a license if 6
16 months after submitting its initial application the applicant
17 has not provided the Department with all of the information
18 required for review and approval or the applicant is not
19 actively pursuing the processing of its application. In
20 addition, the Department shall determine whether the applicant
21 has violated any provision of the Nursing Home Care Act or the
22 ID/DD ~~MR/DD~~ Community Care Act.

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

24 (210 ILCS 9/145)

25 Sec. 145. Conversion of facilities. Entities licensed as

1 facilities under the Nursing Home Care Act or the ID/DD ~~MR/DD~~
2 Community Care Act may elect to convert to a license under this
3 Act. Any facility that chooses to convert, in whole or in part,
4 shall follow the requirements in the Nursing Home Care Act or
5 the ID/DD ~~MR/DD~~ Community Care Act, as applicable, and rules
6 promulgated under those Acts regarding voluntary closure and
7 notice to residents. Any conversion of existing beds licensed
8 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community
9 Care Act to licensure under this Act is exempt from review by
10 the Health Facilities and Services Review Board.

11 (Source: P.A. 96-31, eff. 6-30-09; 96-339, eff. 7-1-10;
12 96-1000, eff. 7-2-10.)

13 Section 70. The Abuse Prevention Review Team Act is amended
14 by changing Sections 10 and 50 as follows:

15 (210 ILCS 28/10)

16 Sec. 10. Definitions. As used in this Act, unless the
17 context requires otherwise:

18 "Department" means the Department of Public Health.

19 "Director" means the Director of Public Health.

20 "Executive Council" means the Illinois Residential Health
21 Care Facility Resident Sexual Assault and Death Review Teams
22 Executive Council.

23 "Resident" means a person residing in and receiving
24 personal care from a facility licensed under the Nursing Home

1 Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

2 "Review team" means a residential health care facility
3 resident sexual assault and death review team appointed under
4 this Act.

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

6 (210 ILCS 28/50)

7 Sec. 50. Funding. Notwithstanding any other provision of
8 law, to the extent permitted by federal law, the Department
9 shall use moneys from fines paid by facilities licensed under
10 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act
11 for violating requirements for certification under Titles
12 XVIII and XIX of the Social Security Act to implement the
13 provisions of this Act. The Department shall use moneys
14 deposited in the Long Term Care Monitor/Receiver Fund to pay
15 the costs of implementing this Act that cannot be met by the
16 use of federal civil monetary penalties.

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

18 Section 71. The Abused and Neglected Long Term Care
19 Facility Residents Reporting Act is amended by changing
20 Sections 3, 4, and 6 as follows:

21 (210 ILCS 30/3) (from Ch. 111 1/2, par. 4163)

22 Sec. 3. As used in this Act unless the context otherwise
23 requires:

1 a. "Department" means the Department of Public Health of
2 the State of Illinois.

3 b. "Resident" means a person residing in and receiving
4 personal care from a long term care facility, or residing in a
5 mental health facility or developmental disability facility as
6 defined in the Mental Health and Developmental Disabilities
7 Code.

8 c. "Long term care facility" has the same meaning ascribed
9 to such term in the Nursing Home Care Act, except that the term
10 as used in this Act shall include any mental health facility or
11 developmental disability facility as defined in the Mental
12 Health and Developmental Disabilities Code. The term also
13 includes any facility licensed under the ID/DD ~~MR/DD~~ Community
14 Care Act.

15 d. "Abuse" means any physical injury, sexual abuse or
16 mental injury inflicted on a resident other than by accidental
17 means.

18 e. "Neglect" means a failure in a long term care facility
19 to provide adequate medical or personal care or maintenance,
20 which failure results in physical or mental injury to a
21 resident or in the deterioration of a resident's physical or
22 mental condition.

23 f. "Protective services" means services provided to a
24 resident who has been abused or neglected, which may include,
25 but are not limited to alternative temporary institutional
26 placement, nursing care, counseling, other social services

1 provided at the nursing home where the resident resides or at
2 some other facility, personal care and such protective services
3 of voluntary agencies as are available.

4 g. Unless the context otherwise requires, direct or
5 indirect references in this Act to the programs, personnel,
6 facilities, services, service providers, or service recipients
7 of the Department of Human Services shall be construed to refer
8 only to those programs, personnel, facilities, services,
9 service providers, or service recipients that pertain to the
10 Department of Human Services' mental health and developmental
11 disabilities functions.

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

13 (210 ILCS 30/4) (from Ch. 111 1/2, par. 4164)

14 Sec. 4. Any long term care facility administrator, agent or
15 employee or any physician, hospital, surgeon, dentist,
16 osteopath, chiropractor, podiatrist, accredited religious
17 practitioner who provides treatment by spiritual means alone
18 through prayer in accordance with the tenets and practices of
19 the accrediting church, coroner, social worker, social
20 services administrator, registered nurse, law enforcement
21 officer, field personnel of the Department of Healthcare and
22 Family Services, field personnel of the Illinois Department of
23 Public Health and County or Municipal Health Departments,
24 personnel of the Department of Human Services (acting as the
25 successor to the Department of Mental Health and Developmental

1 Disabilities or the Department of Public Aid), personnel of the
2 Guardianship and Advocacy Commission, personnel of the State
3 Fire Marshal, local fire department inspectors or other
4 personnel, or personnel of the Illinois Department on Aging, or
5 its subsidiary Agencies on Aging, or employee of a facility
6 licensed under the Assisted Living and Shared Housing Act,
7 having reasonable cause to believe any resident with whom they
8 have direct contact has been subjected to abuse or neglect
9 shall immediately report or cause a report to be made to the
10 Department. Persons required to make reports or cause reports
11 to be made under this Section include all employees of the
12 State of Illinois who are involved in providing services to
13 residents, including professionals providing medical or
14 rehabilitation services and all other persons having direct
15 contact with residents; and further include all employees of
16 community service agencies who provide services to a resident
17 of a public or private long term care facility outside of that
18 facility. Any long term care surveyor of the Illinois
19 Department of Public Health who has reasonable cause to believe
20 in the course of a survey that a resident has been abused or
21 neglected and initiates an investigation while on site at the
22 facility shall be exempt from making a report under this
23 Section but the results of any such investigation shall be
24 forwarded to the central register in a manner and form
25 described by the Department.

26 The requirement of this Act shall not relieve any long term

1 care facility administrator, agent or employee of
2 responsibility to report the abuse or neglect of a resident
3 under Section 3-610 of the Nursing Home Care Act or under
4 Section 3-610 of the ID/DD ~~MR/DD~~ Community Care Act.

5 In addition to the above persons required to report
6 suspected resident abuse and neglect, any other person may make
7 a report to the Department, or to any law enforcement officer,
8 if such person has reasonable cause to suspect a resident has
9 been abused or neglected.

10 This Section also applies to residents whose death occurs
11 from suspected abuse or neglect before being found or brought
12 to a hospital.

13 A person required to make reports or cause reports to be
14 made under this Section who fails to comply with the
15 requirements of this Section is guilty of a Class A
16 misdemeanor.

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

18 (210 ILCS 30/6) (from Ch. 111 1/2, par. 4166)

19 Sec. 6. All reports of suspected abuse or neglect made
20 under this Act shall be made immediately by telephone to the
21 Department's central register established under Section 14 on
22 the single, State-wide, toll-free telephone number established
23 under Section 13, or in person or by telephone through the
24 nearest Department office. No long term care facility
25 administrator, agent or employee, or any other person, shall

1 screen reports or otherwise withhold any reports from the
2 Department, and no long term care facility, department of State
3 government, or other agency shall establish any rules,
4 criteria, standards or guidelines to the contrary. Every long
5 term care facility, department of State government and other
6 agency whose employees are required to make or cause to be made
7 reports under Section 4 shall notify its employees of the
8 provisions of that Section and of this Section, and provide to
9 the Department documentation that such notification has been
10 given. The Department of Human Services shall train all of its
11 mental health and developmental disabilities employees in the
12 detection and reporting of suspected abuse and neglect of
13 residents. Reports made to the central register through the
14 State-wide, toll-free telephone number shall be transmitted to
15 appropriate Department offices and municipal health
16 departments that have responsibility for licensing long term
17 care facilities under the Nursing Home Care Act or the ID/DD
18 ~~MR/DD~~ Community Care Act. All reports received through offices
19 of the Department shall be forwarded to the central register,
20 in a manner and form described by the Department. The
21 Department shall be capable of receiving reports of suspected
22 abuse and neglect 24 hours a day, 7 days a week. Reports shall
23 also be made in writing deposited in the U.S. mail, postage
24 prepaid, within 24 hours after having reasonable cause to
25 believe that the condition of the resident resulted from abuse
26 or neglect. Such reports may in addition be made to the local

1 law enforcement agency in the same manner. However, in the
2 event a report is made to the local law enforcement agency, the
3 reporter also shall immediately so inform the Department. The
4 Department shall initiate an investigation of each report of
5 resident abuse and neglect under this Act, whether oral or
6 written, as provided for in Section 3-702 of the Nursing Home
7 Care Act or Section 3-702 of the ID/DD ~~MR/DD~~ Community Care
8 Act, except that reports of abuse which indicate that a
9 resident's life or safety is in imminent danger shall be
10 investigated within 24 hours of such report. The Department may
11 delegate to law enforcement officials or other public agencies
12 the duty to perform such investigation.

13 With respect to investigations of reports of suspected
14 abuse or neglect of residents of mental health and
15 developmental disabilities institutions under the jurisdiction
16 of the Department of Human Services, the Department shall
17 transmit copies of such reports to the Department of State
18 Police, the Department of Human Services, and the Inspector
19 General appointed under Section 1-17 of the Department of Human
20 Services Act. If the Department receives a report of suspected
21 abuse or neglect of a recipient of services as defined in
22 Section 1-123 of the Mental Health and Developmental
23 Disabilities Code, the Department shall transmit copies of such
24 report to the Inspector General and the Directors of the
25 Guardianship and Advocacy Commission and the agency designated
26 by the Governor pursuant to the Protection and Advocacy for

1 Developmentally Disabled Persons Act. When requested by the
2 Director of the Guardianship and Advocacy Commission, the
3 agency designated by the Governor pursuant to the Protection
4 and Advocacy for Developmentally Disabled Persons Act, or the
5 Department of Financial and Professional Regulation, the
6 Department, the Department of Human Services and the Department
7 of State Police shall make available a copy of the final
8 investigative report regarding investigations conducted by
9 their respective agencies on incidents of suspected abuse or
10 neglect of residents of mental health and developmental
11 disabilities institutions or individuals receiving services at
12 community agencies under the jurisdiction of the Department of
13 Human Services. Such final investigative report shall not
14 contain witness statements, investigation notes, draft
15 summaries, results of lie detector tests, investigative files
16 or other raw data which was used to compile the final
17 investigative report. Specifically, the final investigative
18 report of the Department of State Police shall mean the
19 Director's final transmittal letter. The Department of Human
20 Services shall also make available a copy of the results of
21 disciplinary proceedings of employees involved in incidents of
22 abuse or neglect to the Directors. All identifiable information
23 in reports provided shall not be further disclosed except as
24 provided by the Mental Health and Developmental Disabilities
25 Confidentiality Act. Nothing in this Section is intended to
26 limit or construe the power or authority granted to the agency

1 designated by the Governor pursuant to the Protection and
2 Advocacy for Developmentally Disabled Persons Act, pursuant to
3 any other State or federal statute.

4 With respect to investigations of reported resident abuse
5 or neglect, the Department shall effect with appropriate law
6 enforcement agencies formal agreements concerning methods and
7 procedures for the conduct of investigations into the criminal
8 histories of any administrator, staff assistant or employee of
9 the nursing home or other person responsible for the residents
10 care, as well as for other residents in the nursing home who
11 may be in a position to abuse, neglect or exploit the patient.
12 Pursuant to the formal agreements entered into with appropriate
13 law enforcement agencies, the Department may request
14 information with respect to whether the person or persons set
15 forth in this paragraph have ever been charged with a crime and
16 if so, the disposition of those charges. Unless the criminal
17 histories of the subjects involved crimes of violence or
18 resident abuse or neglect, the Department shall be entitled
19 only to information limited in scope to charges and their
20 dispositions. In cases where prior crimes of violence or
21 resident abuse or neglect are involved, a more detailed report
22 can be made available to authorized representatives of the
23 Department, pursuant to the agreements entered into with
24 appropriate law enforcement agencies. Any criminal charges and
25 their disposition information obtained by the Department shall
26 be confidential and may not be transmitted outside the

1 Department, except as required herein, to authorized
2 representatives or delegates of the Department, and may not be
3 transmitted to anyone within the Department who is not duly
4 authorized to handle resident abuse or neglect investigations.

5 The Department shall effect formal agreements with
6 appropriate law enforcement agencies in the various counties
7 and communities to encourage cooperation and coordination in
8 the handling of resident abuse or neglect cases pursuant to
9 this Act. The Department shall adopt and implement methods and
10 procedures to promote statewide uniformity in the handling of
11 reports of abuse and neglect under this Act, and those methods
12 and procedures shall be adhered to by personnel of the
13 Department involved in such investigations and reporting. The
14 Department shall also make information required by this Act
15 available to authorized personnel within the Department, as
16 well as its authorized representatives.

17 The Department shall keep a continuing record of all
18 reports made pursuant to this Act, including indications of the
19 final determination of any investigation and the final
20 disposition of all reports.

21 The Department shall report annually to the General
22 Assembly on the incidence of abuse and neglect of long term
23 care facility residents, with special attention to residents
24 who are mentally disabled. The report shall include but not be
25 limited to data on the number and source of reports of
26 suspected abuse or neglect filed under this Act, the nature of

1 any injuries to residents, the final determination of
2 investigations, the type and number of cases where abuse or
3 neglect is determined to exist, and the final disposition of
4 cases.

5 (Source: P.A. 95-545, eff. 8-28-07; 96-339, eff. 7-1-10.)

6 Section 72. The Nursing Home Care Act is amended by
7 changing Sections 1-113 and 3-202.5 as follows:

8 (210 ILCS 45/1-113) (from Ch. 111 1/2, par. 4151-113)

9 Sec. 1-113. "Facility" or "long-term care facility" means a
10 private home, institution, building, residence, or any other
11 place, whether operated for profit or not, or a county home for
12 the infirm and chronically ill operated pursuant to Division
13 5-21 or 5-22 of the Counties Code, or any similar institution
14 operated by a political subdivision of the State of Illinois,
15 which provides, through its ownership or management, personal
16 care, sheltered care or nursing for 3 or more persons, not
17 related to the applicant or owner by blood or marriage. It
18 includes skilled nursing facilities and intermediate care
19 facilities as those terms are defined in Title XVIII and Title
20 XIX of the Federal Social Security Act. It also includes homes,
21 institutions, or other places operated by or under the
22 authority of the Illinois Department of Veterans' Affairs.

23 "Facility" does not include the following:

24 (1) A home, institution, or other place operated by the

1 federal government or agency thereof, or by the State of
2 Illinois, other than homes, institutions, or other places
3 operated by or under the authority of the Illinois
4 Department of Veterans' Affairs;

5 (2) A hospital, sanitarium, or other institution whose
6 principal activity or business is the diagnosis, care, and
7 treatment of human illness through the maintenance and
8 operation as organized facilities therefor, which is
9 required to be licensed under the Hospital Licensing Act;

10 (3) Any "facility for child care" as defined in the
11 Child Care Act of 1969;

12 (4) Any "Community Living Facility" as defined in the
13 Community Living Facilities Licensing Act;

14 (5) Any "community residential alternative" as defined
15 in the Community Residential Alternatives Licensing Act;

16 (6) Any nursing home or sanatorium operated solely by
17 and for persons who rely exclusively upon treatment by
18 spiritual means through prayer, in accordance with the
19 creed or tenets of any well-recognized church or religious
20 denomination. However, such nursing home or sanatorium
21 shall comply with all local laws and rules relating to
22 sanitation and safety;

23 (7) Any 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) Any "Supportive Residence" licensed under the
2 Supportive Residences Licensing Act;

3 (9) Any "supportive living facility" in good standing
4 with the program established under Section 5-5.01a of the
5 Illinois Public Aid Code, except only for purposes of the
6 employment of persons in accordance with Section 3-206.01;

7 (10) Any assisted living or shared housing
8 establishment licensed under the Assisted Living and
9 Shared Housing Act, except only for purposes of the
10 employment of persons in accordance with Section 3-206.01;

11 (11) An Alzheimer's disease management center
12 alternative health care model licensed under the
13 Alternative Health Care Delivery Act; or

14 (12) A facility licensed under the ID/DD ~~MR/DD~~
15 Community Care Act.

16 (Source: P.A. 95-380, eff. 8-23-07; 96-339, eff. 7-1-10.)

17 (210 ILCS 45/3-202.5)

18 Sec. 3-202.5. Facility plan review; fees.

19 (a) Before commencing construction of a new facility or
20 specified types of alteration or additions to an existing long
21 term care facility involving major construction, as defined by
22 rule by the Department, with an estimated cost greater than
23 \$100,000, architectural drawings and specifications for the
24 facility shall be submitted to the Department for review and
25 approval. A facility may submit architectural drawings and

1 specifications for other construction projects for Department
2 review according to subsection (b) that shall not be subject to
3 fees under subsection (d). Review of drawings and
4 specifications shall be conducted by an employee of the
5 Department meeting the qualifications established by the
6 Department of Central Management Services class specifications
7 for such an individual's position or by a person contracting
8 with the Department who meets those class specifications. Final
9 approval of the drawings and specifications for compliance with
10 design and construction standards shall be obtained from the
11 Department before the alteration, addition, or new
12 construction is begun.

13 (b) The Department shall inform an applicant in writing
14 within 10 working days after receiving drawings and
15 specifications and the required fee, if any, from the applicant
16 whether the applicant's submission is complete or incomplete.
17 Failure to provide the applicant with this notice within 10
18 working days shall result in the submission being deemed
19 complete for purposes of initiating the 60-day review period
20 under this Section. If the submission is incomplete, the
21 Department shall inform the applicant of the deficiencies with
22 the submission in writing. If the submission is complete the
23 required fee, if any, has been paid, the Department shall
24 approve or disapprove drawings and specifications submitted to
25 the Department no later than 60 days following receipt by the
26 Department. The drawings and specifications shall be of

1 sufficient detail, as provided by Department rule, to enable
2 the Department to render a determination of compliance with
3 design and construction standards under this Act. If the
4 Department finds that the drawings are not of sufficient detail
5 for it to render a determination of compliance, the plans shall
6 be determined to be incomplete and shall not be considered for
7 purposes of initiating the 60 day review period. If a
8 submission of drawings and specifications is incomplete, the
9 applicant may submit additional information. The 60-day review
10 period shall not commence until the Department determines that
11 a submission of drawings and specifications is complete or the
12 submission is deemed complete. If the Department has not
13 approved or disapproved the drawings and specifications within
14 60 days, the construction, major alteration, or addition shall
15 be deemed approved. If the drawings and specifications are
16 disapproved, the Department shall state in writing, with
17 specificity, the reasons for the disapproval. The entity
18 submitting the drawings and specifications may submit
19 additional information in response to the written comments from
20 the Department or request a reconsideration of the disapproval.
21 A final decision of approval or disapproval shall be made
22 within 45 days of the receipt of the additional information or
23 reconsideration request. If denied, the Department shall state
24 the specific reasons for the denial.

25 (c) The Department shall provide written approval for
26 occupancy pursuant to subsection (g) and shall not issue a

1 violation to a facility as a result of a licensure or complaint
2 survey based upon the facility's physical structure if:

3 (1) the Department reviewed and approved or deemed
4 approved the drawings and specifications for compliance
5 with design and construction standards;

6 (2) the construction, major alteration, or addition
7 was built as submitted;

8 (3) the law or rules have not been amended since the
9 original approval; and

10 (4) the conditions at the facility indicate that there
11 is a reasonable degree of safety provided for the
12 residents.

13 (d) The Department shall charge the following fees in
14 connection with its reviews conducted before June 30, 2004
15 under this Section:

16 (1) (Blank).

17 (2) (Blank).

18 (3) If the estimated dollar value of the alteration,
19 addition, or new construction is \$100,000 or more but less
20 than \$500,000, the fee shall be the greater of \$2,400 or
21 1.2% of that value.

22 (4) If the estimated dollar value of the alteration,
23 addition, or new construction is \$500,000 or more but less
24 than \$1,000,000, the fee shall be the greater of \$6,000 or
25 0.96% of that value.

26 (5) If the estimated dollar value of the alteration,

1 addition, or new construction is \$1,000,000 or more but
2 less than \$5,000,000, the fee shall be the greater of
3 \$9,600 or 0.22% of that value.

4 (6) If the estimated dollar value of the alteration,
5 addition, or new construction is \$5,000,000 or more, the
6 fee shall be the greater of \$11,000 or 0.11% of that value,
7 but shall not exceed \$40,000.

8 The fees provided in this subsection (d) shall not apply to
9 major construction projects involving facility changes that
10 are required by Department rule amendments.

11 The fees provided in this subsection (d) shall also not
12 apply to major construction projects if 51% or more of the
13 estimated cost of the project is attributed to capital
14 equipment. For major construction projects where 51% or more of
15 the estimated cost of the project is attributed to capital
16 equipment, the Department shall by rule establish a fee that is
17 reasonably related to the cost of reviewing the project.

18 The Department shall not commence the facility plan review
19 process under this Section until the applicable fee has been
20 paid.

21 (e) All fees received by the Department under this Section
22 shall be deposited into the Health Facility Plan Review Fund, a
23 special fund created in the State Treasury. All fees paid by
24 long-term care facilities under subsection (d) shall be used
25 only to cover the costs relating to the Department's review of
26 long-term care facility projects under this Section. Moneys

1 shall be appropriated from that Fund to the Department only to
2 pay the costs of conducting reviews under this Section or under
3 Section 3-202.5 of the ID/DD ~~MR/DD~~ Community Care Act. None of
4 the moneys in the Health Facility Plan Review Fund shall be
5 used to reduce the amount of General Revenue Fund moneys
6 appropriated to the Department for facility plan reviews
7 conducted pursuant to this Section.

8 (f) (1) The provisions of this amendatory Act of 1997
9 concerning drawings and specifications shall apply only to
10 drawings and specifications submitted to the Department on
11 or after October 1, 1997.

12 (2) On and after the effective date of this amendatory
13 Act of 1997 and before October 1, 1997, an applicant may
14 submit or resubmit drawings and specifications to the
15 Department and pay the fees provided in subsection (d). If
16 an applicant pays the fees provided in subsection (d) under
17 this paragraph (2), the provisions of subsection (b) shall
18 apply with regard to those drawings and specifications.

19 (g) The Department shall conduct an on-site inspection of
20 the completed project no later than 30 days after notification
21 from the applicant that the project has been completed and all
22 certifications required by the Department have been received
23 and accepted by the Department. The Department shall provide
24 written approval for occupancy to the applicant within 5
25 working days of the Department's final inspection, provided the
26 applicant has demonstrated substantial compliance as defined

1 by Department rule. Occupancy of new major construction is
2 prohibited until Department approval is received, unless the
3 Department has not acted within the time frames provided in
4 this subsection (g), in which case the construction shall be
5 deemed approved. Occupancy shall be authorized after any
6 required health inspection by the Department has been
7 conducted.

8 (h) The Department shall establish, by rule, a procedure to
9 conduct interim on-site review of large or complex construction
10 projects.

11 (i) The Department shall establish, by rule, an expedited
12 process for emergency repairs or replacement of like equipment.

13 (j) Nothing in this Section shall be construed to apply to
14 maintenance, upkeep, or renovation that does not affect the
15 structural integrity of the building, does not add beds or
16 services over the number for which the long-term care facility
17 is licensed, and provides a reasonable degree of safety for the
18 residents.

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

20 Section 73. The MR/DD Community Care Act is amended by
21 changing Sections 1-101 and 1-113 as follows:

22 (210 ILCS 47/1-101)

23 Sec. 1-101. Short title. This Act may be cited as the ID/DD
24 ~~MR/DD~~ Community Care Act.

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

2 (210 ILCS 47/1-113)

3 Sec. 1-113. Facility. "ID/DDMR/DD facility" or "facility"
4 means an intermediate care facility for the developmentally
5 disabled or a long-term care for under age 22 facility, whether
6 operated for profit or not, which provides, through its
7 ownership or management, personal care or nursing for 3 or more
8 persons not related to the applicant or owner by blood or
9 marriage. It includes intermediate care facilities for the
10 intellectually disabled ~~mentally retarded~~ as the term is
11 defined in Title XVIII and Title XIX of the federal Social
12 Security Act.

13 "Facility" does not include the following:

14 (1) A home, institution, or other place operated by the
15 federal government or agency thereof, or by the State of
16 Illinois, other than homes, institutions, or other places
17 operated by or under the authority of the Illinois
18 Department of Veterans' Affairs;

19 (2) A hospital, sanitarium, or other institution whose
20 principal activity or business is the diagnosis, care, and
21 treatment of human illness through the maintenance and
22 operation as organized facilities therefore, which is
23 required to be licensed under the Hospital Licensing Act;

24 (3) Any "facility for child care" as defined in the
25 Child Care Act of 1969;

1 (4) Any "community living facility" as defined in the
2 Community Living Facilities Licensing Act;

3 (5) Any "community residential alternative" as defined
4 in the Community Residential Alternatives Licensing Act;

5 (6) Any nursing home or sanatorium operated solely by
6 and for persons who rely exclusively upon treatment by
7 spiritual means through prayer, in accordance with the
8 creed or tenets of any well recognized church or religious
9 denomination. However, such nursing home or sanatorium
10 shall comply with all local laws and rules relating to
11 sanitation and safety;

12 (7) Any facility licensed by the Department of Human
13 Services as a community-integrated living arrangement as
14 defined in the Community-Integrated Living Arrangements
15 Licensure and Certification Act;

16 (8) Any "supportive residence" licensed under the
17 Supportive Residences Licensing Act;

18 (9) Any "supportive living facility" in good standing
19 with the program established under Section 5-5.01a of the
20 Illinois Public Aid Code, except only for purposes of the
21 employment of persons in accordance with Section 3-206.01;

22 (10) Any assisted living or shared housing
23 establishment licensed under the Assisted Living and
24 Shared Housing Act, except only for purposes of the
25 employment of persons in accordance with Section 3-206.01;

26 (11) An Alzheimer's disease management center

1 alternative health care model licensed under the
2 Alternative Health Care Delivery Act; or

3 (12) A home, institution, or other place operated by or
4 under the authority of the Illinois Department of Veterans'
5 Affairs.

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

7 Section 74. The Home Health, Home Services, and Home
8 Nursing Agency Licensing Act is amended by changing Section
9 2.08 as follows:

10 (210 ILCS 55/2.08)

11 Sec. 2.08. "Home services agency" means an agency that
12 provides services directly, or acts as a placement agency, for
13 the purpose of placing individuals as workers providing home
14 services for consumers in their personal residences. "Home
15 services agency" does not include agencies licensed under the
16 Nurse Agency Licensing Act, the Hospital Licensing Act, the
17 Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act, or
18 the Assisted Living and Shared Housing Act and does not include
19 an agency that limits its business exclusively to providing
20 housecleaning services. Programs providing services
21 exclusively through the Community Care Program of the Illinois
22 Department on Aging, the Department of Human Services Office of
23 Rehabilitation Services, or the United States Department of
24 Veterans Affairs are not considered to be a home services

1 agency under this Act.

2 (Source: P.A. 96-339, eff. 7-1-10; 96-577, eff. 8-18-09;
3 96-1000, eff. 7-2-10.)

4 Section 75. The Hospice Program Licensing Act is amended by
5 changing Sections 3 and 4 as follows:

6 (210 ILCS 60/3) (from Ch. 111 1/2, par. 6103)

7 Sec. 3. Definitions. As used in this Act, unless the
8 context otherwise requires:

9 (a) "Bereavement" means the period of time during which the
10 hospice patient's family experiences and adjusts to the death
11 of the hospice patient.

12 (a-5) "Bereavement services" means counseling services
13 provided to an individual's family after the individual's
14 death.

15 (a-10) "Attending physician" means a physician who:

16 (1) is a doctor of medicine or osteopathy; and

17 (2) is identified by an individual, at the time the
18 individual elects to receive hospice care, as having the
19 most significant role in the determination and delivery of
20 the individual's medical care.

21 (b) "Department" means the Illinois Department of Public
22 Health.

23 (c) "Director" means the Director of the Illinois
24 Department of Public Health.

1 (d) "Hospice care" means a program of palliative care that
2 provides for the physical, emotional, and spiritual care needs
3 of a terminally ill patient and his or her family. The goal of
4 such care is to achieve the highest quality of life as defined
5 by the patient and his or her family through the relief of
6 suffering and control of symptoms.

7 (e) "Hospice care team" means an interdisciplinary group or
8 groups composed of individuals who provide or supervise the
9 care and services offered by the hospice.

10 (f) "Hospice patient" means a terminally ill person
11 receiving hospice services.

12 (g) "Hospice patient's family" means a hospice patient's
13 immediate family consisting of a spouse, sibling, child, parent
14 and those individuals designated as such by the patient for the
15 purposes of this Act.

16 (g-1) "Hospice residence" means a separately licensed
17 home, apartment building, or similar building providing living
18 quarters:

19 (1) that is owned or operated by a person licensed to
20 operate as a comprehensive hospice; and

21 (2) at which hospice services are provided to facility
22 residents.

23 A building that is licensed under the Hospital Licensing
24 Act, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~ Community
25 Care Act is not a hospice residence.

26 (h) "Hospice services" means a range of professional and

1 other supportive services provided to a hospice patient and his
2 or her family. These services may include, but are not limited
3 to, physician services, nursing services, medical social work
4 services, spiritual counseling services, bereavement services,
5 and volunteer services.

6 (h-5) "Hospice program" means a licensed public agency or
7 private organization, or a subdivision of either of those, that
8 is primarily engaged in providing care to terminally ill
9 individuals through a program of home care or inpatient care,
10 or both home care and inpatient care, utilizing a medically
11 directed interdisciplinary hospice care team of professionals
12 or volunteers, or both professionals and volunteers. A hospice
13 program may be licensed as a comprehensive hospice program or a
14 volunteer hospice program.

15 (h-10) "Comprehensive hospice" means a program that
16 provides hospice services and meets the minimum standards for
17 certification under the Medicare program set forth in the
18 Conditions of Participation in 42 CFR Part 418 but is not
19 required to be Medicare-certified.

20 (i) "Palliative care" means the management of pain and
21 other distressing symptoms that incorporates medical, nursing,
22 psychosocial, and spiritual care according to the needs,
23 values, beliefs, and culture or cultures of the patient and his
24 or her family. The evaluation and treatment is
25 patient-centered, with a focus on the central role of the
26 family unit in decision-making.

1 (j) "Hospice service plan" means a plan detailing the
2 specific hospice services offered by a comprehensive or
3 volunteer hospice program, and the administrative and direct
4 care personnel responsible for those services. The plan shall
5 include but not be limited to:

6 (1) Identification of the person or persons
7 administratively responsible for the program.

8 (2) The estimated average monthly patient census.

9 (3) The proposed geographic area the hospice will
10 serve.

11 (4) A listing of those hospice services provided
12 directly by the hospice, and those hospice services
13 provided indirectly through a contractual agreement.

14 (5) The name and qualifications of those persons or
15 entities under contract to provide indirect hospice
16 services.

17 (6) The name and qualifications of those persons
18 providing direct hospice services, with the exception of
19 volunteers.

20 (7) A description of how the hospice plans to utilize
21 volunteers in the provision of hospice services.

22 (8) A description of the program's record keeping
23 system.

24 (k) "Terminally ill" means a medical prognosis by a
25 physician licensed to practice medicine in all of its branches
26 that a patient has an anticipated life expectancy of one year

1 or less.

2 (1) "Volunteer" means a person who offers his or her
3 services to a hospice without compensation. Reimbursement for a
4 volunteer's expenses in providing hospice service shall not be
5 considered compensation.

6 (1-5) "Employee" means a paid or unpaid member of the staff
7 of a hospice program, or, if the hospice program is a
8 subdivision of an agency or organization, of the agency or
9 organization, who is appropriately trained and assigned to the
10 hospice program. "Employee" also means a volunteer whose duties
11 are prescribed by the hospice program and whose performance of
12 those duties is supervised by the hospice program.

13 (1-10) "Representative" means an individual who has been
14 authorized under State law to terminate an individual's medical
15 care or to elect or revoke the election of hospice care on
16 behalf of a terminally ill individual who is mentally or
17 physically incapacitated.

18 (m) "Volunteer hospice" means a program which provides
19 hospice services to patients regardless of their ability to
20 pay, with emphasis on the utilization of volunteers to provide
21 services, under the administration of a not-for-profit agency.
22 This definition does not prohibit the employment of staff.

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

24 (210 ILCS 60/4) (from Ch. 111 1/2, par. 6104)

25 Sec. 4. License.

1 (a) No person shall establish, conduct or maintain a
2 comprehensive or volunteer hospice program without first
3 obtaining a license from the Department. A hospice residence
4 may be operated only at the locations listed on the license. A
5 comprehensive hospice program owning or operating a hospice
6 residence is not subject to the provisions of the Nursing Home
7 Care Act or the ID/DD ~~MR/DD~~ Community Care Act in owning or
8 operating a hospice residence.

9 (b) No public or private agency shall advertise or present
10 itself to the public as a comprehensive or volunteer hospice
11 program which provides hospice services without meeting the
12 provisions of subsection (a).

13 (c) The license shall be valid only in the possession of
14 the hospice to which it was originally issued and shall not be
15 transferred or assigned to any other person, agency, or
16 corporation.

17 (d) The license shall be renewed annually.

18 (e) The license shall be displayed in a conspicuous place
19 inside the hospice program office.

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

21 Section 76. The Hospital Licensing Act is amended by
22 changing Sections 3, 6.09, and 6.11 as follows:

23 (210 ILCS 85/3)

24 Sec. 3. As used in this Act:

1 (A) "Hospital" means any institution, place, building,
2 buildings on a campus, or agency, public or private, whether
3 organized for profit or not, devoted primarily to the
4 maintenance and operation of facilities for the diagnosis and
5 treatment or care of 2 or more unrelated persons admitted for
6 overnight stay or longer in order to obtain medical, including
7 obstetric, psychiatric and nursing, care of illness, disease,
8 injury, infirmity, or deformity.

9 The term "hospital", without regard to length of stay,
10 shall also include:

11 (a) any facility which is devoted primarily to
12 providing psychiatric and related services and programs
13 for the diagnosis and treatment or care of 2 or more
14 unrelated persons suffering from emotional or nervous
15 diseases;

16 (b) all places where pregnant females are received,
17 cared for, or treated during delivery irrespective of the
18 number of patients received.

19 The term "hospital" includes general and specialized
20 hospitals, tuberculosis sanitarium, mental or psychiatric
21 hospitals and sanitarium, and includes maternity homes,
22 lying-in homes, and homes for unwed mothers in which care is
23 given during delivery.

24 The term "hospital" does not include:

25 (1) any person or institution required to be licensed
26 pursuant to the Nursing Home Care Act or the ID/DD ~~MR/DD~~

1 Community Care Act;

2 (2) hospitalization or care facilities maintained by
3 the State or any department or agency thereof, where such
4 department or agency has authority under law to establish
5 and enforce standards for the hospitalization or care
6 facilities under its management and control;

7 (3) hospitalization or care facilities maintained by
8 the federal government or agencies thereof;

9 (4) hospitalization or care facilities maintained by
10 any university or college established under the laws of
11 this State and supported principally by public funds raised
12 by taxation;

13 (5) any person or facility required to be licensed
14 pursuant to the Alcoholism and Other Drug Abuse and
15 Dependency Act;

16 (6) any facility operated solely by and for persons who
17 rely exclusively upon treatment by spiritual means through
18 prayer, in accordance with the creed or tenets of any
19 well-recognized church or religious denomination;

20 (7) an Alzheimer's disease management center
21 alternative health care model licensed under the
22 Alternative Health Care Delivery Act; or

23 (8) any veterinary hospital or clinic operated by a
24 veterinarian or veterinarians licensed under the
25 Veterinary Medicine and Surgery Practice Act of 2004 or
26 maintained by a State-supported or publicly funded

1 university or college.

2 (B) "Person" means the State, and any political subdivision
3 or municipal corporation, individual, firm, partnership,
4 corporation, company, association, or joint stock association,
5 or the legal successor thereof.

6 (C) "Department" means the Department of Public Health of
7 the State of Illinois.

8 (D) "Director" means the Director of Public Health of the
9 State of Illinois.

10 (E) "Perinatal" means the period of time between the
11 conception of an infant and the end of the first month after
12 birth.

13 (F) "Federally designated organ procurement agency" means
14 the organ procurement agency designated by the Secretary of the
15 U.S. Department of Health and Human Services for the service
16 area in which a hospital is located; except that in the case of
17 a hospital located in a county adjacent to Wisconsin which
18 currently contracts with an organ procurement agency located in
19 Wisconsin that is not the organ procurement agency designated
20 by the U.S. Secretary of Health and Human Services for the
21 service area in which the hospital is located, if the hospital
22 applies for a waiver pursuant to 42 USC 1320b-8(a), it may
23 designate an organ procurement agency located in Wisconsin to
24 be thereafter deemed its federally designated organ
25 procurement agency for the purposes of this Act.

26 (G) "Tissue bank" means any facility or program operating

1 in Illinois that is certified by the American Association of
2 Tissue Banks or the Eye Bank Association of America and is
3 involved in procuring, furnishing, donating, or distributing
4 corneas, bones, or other human tissue for the purpose of
5 injecting, transfusing, or transplanting any of them into the
6 human body. "Tissue bank" does not include a licensed blood
7 bank. For the purposes of this Act, "tissue" does not include
8 organs.

9 (H) "Campus", as this terms applies to operations, has the
10 same meaning as the term "campus" as set forth in federal
11 Medicare regulations, 42 CFR 413.65.

12 (Source: P.A. 96-219, eff. 8-10-09; 96-339, eff. 7-1-10;
13 96-1000, eff. 7-2-10; 96-1515, eff. 2-4-11.)

14 (210 ILCS 85/6.09) (from Ch. 111 1/2, par. 147.09)

15 Sec. 6.09. (a) In order to facilitate the orderly
16 transition of aged and disabled patients from hospitals to
17 post-hospital care, whenever a patient who qualifies for the
18 federal Medicare program is hospitalized, the patient shall be
19 notified of discharge at least 24 hours prior to discharge from
20 the hospital. With regard to pending discharges to a skilled
21 nursing facility, the hospital must notify the case
22 coordination unit, as defined in 89 Ill. Adm. Code 240.260, at
23 least 24 hours prior to discharge or, if home health services
24 are ordered, the hospital must inform its designated case
25 coordination unit, as defined in 89 Ill. Adm. Code 240.260, of

1 the pending discharge and must provide the patient with the
2 case coordination unit's telephone number and other contact
3 information.

4 (b) Every hospital shall develop procedures for a physician
5 with medical staff privileges at the hospital or any
6 appropriate medical staff member to provide the discharge
7 notice prescribed in subsection (a) of this Section. The
8 procedures must include prohibitions against discharging or
9 referring a patient to any of the following if unlicensed,
10 uncertified, or unregistered: (i) a board and care facility, as
11 defined in the Board and Care Home Act; (ii) an assisted living
12 and shared housing establishment, as defined in the Assisted
13 Living and Shared Housing Act; (iii) a facility licensed under
14 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care
15 Act; (iv) a supportive living facility, as defined in Section
16 5-5.01a of the Illinois Public Aid Code; or (v) a free-standing
17 hospice facility licensed under the Hospice Program Licensing
18 Act if licensure, certification, or registration is required.
19 The Department of Public Health shall annually provide
20 hospitals with a list of licensed, certified, or registered
21 board and care facilities, assisted living and shared housing
22 establishments, nursing homes, supportive living facilities,
23 facilities licensed under the ID/DD ~~MR/DD~~ Community Care Act,
24 and hospice facilities. Reliance upon this list by a hospital
25 shall satisfy compliance with this requirement. The procedure
26 may also include a waiver for any case in which a discharge

1 notice is not feasible due to a short length of stay in the
2 hospital by the patient, or for any case in which the patient
3 voluntarily desires to leave the hospital before the expiration
4 of the 24 hour period.

5 (c) At least 24 hours prior to discharge from the hospital,
6 the patient shall receive written information on the patient's
7 right to appeal the discharge pursuant to the federal Medicare
8 program, including the steps to follow to appeal the discharge
9 and the appropriate telephone number to call in case the
10 patient intends to appeal the discharge.

11 (d) Before transfer of a patient to a long term care
12 facility licensed under the Nursing Home Care Act where elderly
13 persons reside, a hospital shall as soon as practicable
14 initiate a name-based criminal history background check by
15 electronic submission to the Department of State Police for all
16 persons between the ages of 18 and 70 years; provided, however,
17 that a hospital shall be required to initiate such a background
18 check only with respect to patients who:

19 (1) are transferring to a long term care facility for
20 the first time;

21 (2) have been in the hospital more than 5 days;

22 (3) are reasonably expected to remain at the long term
23 care facility for more than 30 days;

24 (4) have a known history of serious mental illness or
25 substance abuse; and

26 (5) are independently ambulatory or mobile for more

1 than a temporary period of time.

2 A hospital may also request a criminal history background
3 check for a patient who does not meet any of the criteria set
4 forth in items (1) through (5).

5 A hospital shall notify a long term care facility if the
6 hospital has initiated a criminal history background check on a
7 patient being discharged to that facility. In all circumstances
8 in which the hospital is required by this subsection to
9 initiate the criminal history background check, the transfer to
10 the long term care facility may proceed regardless of the
11 availability of criminal history results. Upon receipt of the
12 results, the hospital shall promptly forward the results to the
13 appropriate long term care facility. If the results of the
14 background check are inconclusive, the hospital shall have no
15 additional duty or obligation to seek additional information
16 from, or about, the patient.

17 (Source: P.A. 95-80, eff. 8-13-07; 95-651, eff. 10-11-07;
18 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-1372, eff.
19 7-29-10.)

20 (210 ILCS 85/6.11) (from Ch. 111 1/2, par. 147.11)

21 Sec. 6.11. In licensing any hospital which provides for the
22 diagnosis, care or treatment for persons suffering from mental
23 or emotional disorders or for intellectually disabled ~~mentally~~
24 ~~retarded~~ persons, the Department shall consult with the
25 Department of Human Services in developing standards for and

1 evaluating the psychiatric programs of such hospitals.

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

3 Section 77. The Language Assistance Services Act is amended
4 by changing Section 10 as follows:

5 (210 ILCS 87/10)

6 Sec. 10. Definitions. As used in this Act:

7 "Department" means the Department of Public Health.

8 "Interpreter" means a person fluent in English and in the
9 necessary language of the patient who can accurately speak,
10 read, and readily interpret the necessary second language, or a
11 person who can accurately sign and read sign language.
12 Interpreters shall have the ability to translate the names of
13 body parts and to describe completely symptoms and injuries in
14 both languages. Interpreters may include members of the medical
15 or professional staff.

16 "Language or communication barriers" means either of the
17 following:

18 (1) With respect to spoken language, barriers that are
19 experienced by limited-English-speaking or
20 non-English-speaking individuals who speak the same
21 primary language, if those individuals constitute at least
22 5% of the patients served by the health facility annually.

23 (2) With respect to sign language, barriers that are
24 experienced by individuals who are deaf and whose primary

1 language is sign language.

2 "Health facility" means a hospital licensed under the
3 Hospital Licensing Act, a long-term care facility licensed
4 under the Nursing Home Care Act, or a facility licensed under
5 the ID/DD ~~MR/DD~~ Community Care Act.

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

7 Section 78. Community-Integrated Living Arrangements
8 Licensure and Certification Act is amended by changing Section
9 4 as follows:

10 (210 ILCS 135/4) (from Ch. 91 1/2, par. 1704)

11 Sec. 4. (a) Any community mental health or developmental
12 services agency who wishes to develop and support a variety of
13 community-integrated living arrangements may do so pursuant to
14 a license issued by the Department under this Act. However,
15 programs established under or otherwise subject to the Child
16 Care Act of 1969, the Nursing Home Care Act, or the ID/DD ~~MR/DD~~
17 Community Care Act, as now or hereafter amended, shall remain
18 subject thereto, and this Act shall not be construed to limit
19 the application of those Acts.

20 (b) The system of licensure established under this Act
21 shall be for the purposes of:

22 (1) Insuring that all recipients residing in
23 community-integrated living arrangements are receiving
24 appropriate community-based services, including treatment,

1 training and habilitation or rehabilitation;

2 (2) Insuring that recipients' rights are protected and
3 that all programs provided to and placements arranged for
4 recipients comply with this Act, the Mental Health and
5 Developmental Disabilities Code, and applicable Department
6 rules and regulations;

7 (3) Maintaining the integrity of communities by
8 requiring regular monitoring and inspection of placements
9 and other services provided in community-integrated living
10 arrangements.

11 The licensure system shall be administered by a quality
12 assurance unit within the Department which shall be
13 administratively independent of units responsible for funding
14 of agencies or community services.

15 (c) As a condition of being licensed by the Department as a
16 community mental health or developmental services agency under
17 this Act, the agency shall certify to the Department that:

18 (1) All recipients residing in community-integrated
19 living arrangements are receiving appropriate
20 community-based services, including treatment, training
21 and habilitation or rehabilitation;

22 (2) All programs provided to and placements arranged
23 for recipients are supervised by the agency; and

24 (3) All programs provided to and placements arranged
25 for recipients comply with this Act, the Mental Health and
26 Developmental Disabilities Code, and applicable Department

1 rules and regulations.

2 (d) An applicant for licensure as a community mental health
3 or developmental services agency under this Act shall submit an
4 application pursuant to the application process established by
5 the Department by rule and shall pay an application fee in an
6 amount established by the Department, which amount shall not be
7 more than \$200.

8 (e) If an applicant meets the requirements established by
9 the Department to be licensed as a community mental health or
10 developmental services agency under this Act, after payment of
11 the licensing fee, the Department shall issue a license valid
12 for 3 years from the date thereof unless suspended or revoked
13 by the Department or voluntarily surrendered by the agency.

14 (f) Upon application to the Department, the Department may
15 issue a temporary permit to an applicant for a 6-month period
16 to allow the holder of such permit reasonable time to become
17 eligible for a license under this Act.

18 (g) (1) The Department may conduct site visits to an agency
19 licensed under this Act, or to any program or placement
20 certified by the agency, and inspect the records or premises,
21 or both, of such agency, program or placement as it deems
22 appropriate, for the purpose of determining compliance with
23 this Act, the Mental Health and Developmental Disabilities
24 Code, and applicable Department rules and regulations.

25 (2) If the Department determines that an agency licensed
26 under this Act is not in compliance with this Act or the rules

1 and regulations promulgated under this Act, the Department
2 shall serve a notice of violation upon the licensee. Each
3 notice of violation shall be prepared in writing and shall
4 specify the nature of the violation, the statutory provision or
5 rule alleged to have been violated, and that the licensee
6 submit a plan of correction to the Department if required. The
7 notice shall also inform the licensee of any other action which
8 the Department might take pursuant to this Act and of the right
9 to a hearing.

10 (h) Upon the expiration of any license issued under this
11 Act, a license renewal application shall be required of and a
12 license renewal fee in an amount established by the Department
13 shall be charged to a community mental health or developmental
14 services agency, provided that such fee shall not be more than
15 \$200.

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

17 Section 79. The Child Care Act of 1969 is amended by
18 changing Sections 2.06 and 7 as follows:

19 (225 ILCS 10/2.06) (from Ch. 23, par. 2212.06)

20 Sec. 2.06. "Child care institution" means a child care
21 facility where more than 7 children are received and maintained
22 for the purpose of providing them with care or training or
23 both. The term "child care institution" includes residential
24 schools, primarily serving ambulatory handicapped children,

1 and those operating a full calendar year, but does not include:

2 (a) Any State-operated institution for child care
3 established by legislative action;

4 (b) Any juvenile detention or shelter care home established
5 and operated by any county or child protection district
6 established under the "Child Protection Act";

7 (c) Any institution, home, place or facility operating
8 under a license pursuant to the Nursing Home Care Act or the
9 ID/DD ~~MR/DD~~ Community Care Act;

10 (d) Any bona fide boarding school in which children are
11 primarily taught branches of education corresponding to those
12 taught in public schools, grades one through 12, or taught in
13 public elementary schools, high schools, or both elementary and
14 high schools, and which operates on a regular academic school
15 year basis; or

16 (e) Any facility licensed as a "group home" as defined in
17 this Act.

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

19 (225 ILCS 10/7) (from Ch. 23, par. 2217)

20 Sec. 7. (a) The Department must prescribe and publish
21 minimum standards for licensing that apply to the various types
22 of facilities for child care defined in this Act and that are
23 equally applicable to like institutions under the control of
24 the Department and to foster family homes used by and under the
25 direct supervision of the Department. The Department shall seek

1 the advice and assistance of persons representative of the
2 various types of child care facilities in establishing such
3 standards. The standards prescribed and published under this
4 Act take effect as provided in the Illinois Administrative
5 Procedure Act, and are restricted to regulations pertaining to
6 the following matters and to any rules and regulations required
7 or permitted by any other Section of this Act:

8 (1) The operation and conduct of the facility and
9 responsibility it assumes for child care;

10 (2) The character, suitability and qualifications of
11 the applicant and other persons directly responsible for
12 the care and welfare of children served. All child day care
13 center licensees and employees who are required to report
14 child abuse or neglect under the Abused and Neglected Child
15 Reporting Act shall be required to attend training on
16 recognizing child abuse and neglect, as prescribed by
17 Department rules;

18 (3) The general financial ability and competence of the
19 applicant to provide necessary care for children and to
20 maintain prescribed standards;

21 (4) The number of individuals or staff required to
22 insure adequate supervision and care of the children
23 received. The standards shall provide that each child care
24 institution, maternity center, day care center, group
25 home, day care home, and group day care home shall have on
26 its premises during its hours of operation at least one

1 staff member certified in first aid, in the Heimlich
2 maneuver and in cardiopulmonary resuscitation by the
3 American Red Cross or other organization approved by rule
4 of the Department. Child welfare agencies shall not be
5 subject to such a staffing requirement. The Department may
6 offer, or arrange for the offering, on a periodic basis in
7 each community in this State in cooperation with the
8 American Red Cross, the American Heart Association or other
9 appropriate organization, voluntary programs to train
10 operators of foster family homes and day care homes in
11 first aid and cardiopulmonary resuscitation;

12 (5) The appropriateness, safety, cleanliness and
13 general adequacy of the premises, including maintenance of
14 adequate fire prevention and health standards conforming
15 to State laws and municipal codes to provide for the
16 physical comfort, care and well-being of children
17 received;

18 (6) Provisions for food, clothing, educational
19 opportunities, program, equipment and individual supplies
20 to assure the healthy physical, mental and spiritual
21 development of children served;

22 (7) Provisions to safeguard the legal rights of
23 children served;

24 (8) Maintenance of records pertaining to the
25 admission, progress, health and discharge of children,
26 including, for day care centers and day care homes, records

1 indicating each child has been immunized as required by
2 State regulations. The Department shall require proof that
3 children enrolled in a facility have been immunized against
4 Haemophilus Influenzae B (HIB);

5 (9) Filing of reports with the Department;

6 (10) Discipline of children;

7 (11) Protection and fostering of the particular
8 religious faith of the children served;

9 (12) Provisions prohibiting firearms on day care
10 center premises except in the possession of peace officers;

11 (13) Provisions prohibiting handguns on day care home
12 premises except in the possession of peace officers or
13 other adults who must possess a handgun as a condition of
14 employment and who reside on the premises of a day care
15 home;

16 (14) Provisions requiring that any firearm permitted
17 on day care home premises, except handguns in the
18 possession of peace officers, shall be kept in a
19 disassembled state, without ammunition, in locked storage,
20 inaccessible to children and that ammunition permitted on
21 day care home premises shall be kept in locked storage
22 separate from that of disassembled firearms, inaccessible
23 to children;

24 (15) Provisions requiring notification of parents or
25 guardians enrolling children at a day care home of the
26 presence in the day care home of any firearms and

1 ammunition and of the arrangements for the separate, locked
2 storage of such firearms and ammunition.

3 (b) If, in a facility for general child care, there are
4 children diagnosed as mentally ill, intellectually disabled
5 ~~mentally retarded~~ or physically handicapped, who are
6 determined to be in need of special mental treatment or of
7 nursing care, or both mental treatment and nursing care, the
8 Department shall seek the advice and recommendation of the
9 Department of Human Services, the Department of Public Health,
10 or both Departments regarding the residential treatment and
11 nursing care provided by the institution.

12 (c) The Department shall investigate any person applying to
13 be licensed as a foster parent to determine whether there is
14 any evidence of current drug or alcohol abuse in the
15 prospective foster family. The Department shall not license a
16 person as a foster parent if drug or alcohol abuse has been
17 identified in the foster family or if a reasonable suspicion of
18 such abuse exists, except that the Department may grant a
19 foster parent license to an applicant identified with an
20 alcohol or drug problem if the applicant has successfully
21 participated in an alcohol or drug treatment program, self-help
22 group, or other suitable activities.

23 (d) The Department, in applying standards prescribed and
24 published, as herein provided, shall offer consultation
25 through employed staff or other qualified persons to assist
26 applicants and licensees in meeting and maintaining minimum

1 requirements for a license and to help them otherwise to
2 achieve programs of excellence related to the care of children
3 served. Such consultation shall include providing information
4 concerning education and training in early childhood
5 development to providers of day care home services. The
6 Department may provide or arrange for such education and
7 training for those providers who request such assistance.

8 (e) The Department shall distribute copies of licensing
9 standards to all licensees and applicants for a license. Each
10 licensee or holder of a permit shall distribute copies of the
11 appropriate licensing standards and any other information
12 required by the Department to child care facilities under its
13 supervision. Each licensee or holder of a permit shall maintain
14 appropriate documentation of the distribution of the
15 standards. Such documentation shall be part of the records of
16 the facility and subject to inspection by authorized
17 representatives of the Department.

18 (f) The Department shall prepare summaries of day care
19 licensing standards. Each licensee or holder of a permit for a
20 day care facility shall distribute a copy of the appropriate
21 summary and any other information required by the Department,
22 to the legal guardian of each child cared for in that facility
23 at the time when the child is enrolled or initially placed in
24 the facility. The licensee or holder of a permit for a day care
25 facility shall secure appropriate documentation of the
26 distribution of the summary and brochure. Such documentation

1 shall be a part of the records of the facility and subject to
2 inspection by an authorized representative of the Department.

3 (g) The Department shall distribute to each licensee and
4 holder of a permit copies of the licensing or permit standards
5 applicable to such person's facility. Each licensee or holder
6 of a permit shall make available by posting at all times in a
7 common or otherwise accessible area a complete and current set
8 of licensing standards in order that all employees of the
9 facility may have unrestricted access to such standards. All
10 employees of the facility shall have reviewed the standards and
11 any subsequent changes. Each licensee or holder of a permit
12 shall maintain appropriate documentation of the current review
13 of licensing standards by all employees. Such records shall be
14 part of the records of the facility and subject to inspection
15 by authorized representatives of the Department.

16 (h) Any standards involving physical examinations,
17 immunization, or medical treatment shall include appropriate
18 exemptions for children whose parents object thereto on the
19 grounds that they conflict with the tenets and practices of a
20 recognized church or religious organization, of which the
21 parent is an adherent or member, and for children who should
22 not be subjected to immunization for clinical reasons.

23 (i) The Department, in cooperation with the Department of
24 Public Health, shall work to increase immunization awareness
25 and participation among parents of children enrolled in day
26 care centers and day care homes by publishing on the

1 Department's website information about the benefits of annual
2 immunization against influenza for children 6 months of age to
3 5 years of age. The Department shall work with day care centers
4 and day care homes licensed under this Act to ensure that the
5 information is annually distributed to parents in August or
6 September.

7 (Source: P.A. 96-391, eff. 8-13-09.)

8 Section 80. The Health Care Worker Background Check Act is
9 amended by changing Section 15 as follows:

10 (225 ILCS 46/15)

11 Sec. 15. Definitions. In this Act:

12 "Applicant" means an individual seeking employment with a
13 health care employer who has received a bona fide conditional
14 offer of employment.

15 "Conditional offer of employment" means a bona fide offer
16 of employment by a health care employer to an applicant, which
17 is contingent upon the receipt of a report from the Department
18 of Public Health indicating that the applicant does not have a
19 record of conviction of any of the criminal offenses enumerated
20 in Section 25.

21 "Direct care" means the provision of nursing care or
22 assistance with feeding, dressing, movement, bathing,
23 toileting, or other personal needs, including home services as
24 defined in the Home Health, Home Services, and Home Nursing

1 Agency Licensing Act. The entity responsible for inspecting and
2 licensing, certifying, or registering the health care employer
3 may, by administrative rule, prescribe guidelines for
4 interpreting this definition with regard to the health care
5 employers that it licenses.

6 "Disqualifying offenses" means those offenses set forth in
7 Section 25 of this Act.

8 "Employee" means any individual hired, employed, or
9 retained to which this Act applies.

10 "Fingerprint-based criminal history records check" means a
11 livescan fingerprint-based criminal history records check
12 submitted as a fee applicant inquiry in the form and manner
13 prescribed by the Department of State Police.

14 "Health care employer" means:

15 (1) the owner or licensee of any of the following:

16 (i) a community living facility, as defined in the
17 Community Living Facilities Act;

18 (ii) a life care facility, as defined in the Life
19 Care Facilities Act;

20 (iii) a long-term care facility;

21 (iv) a home health agency, home services agency, or
22 home nursing agency as defined in the Home Health, Home
23 Services, and Home Nursing Agency Licensing Act;

24 (v) a hospice care program or volunteer hospice
25 program, as defined in the Hospice Program Licensing
26 Act;

1 (vi) a hospital, as defined in the Hospital
2 Licensing Act;

3 (vii) (blank);

4 (viii) a nurse agency, as defined in the Nurse
5 Agency Licensing Act;

6 (ix) a respite care provider, as defined in the
7 Respite Program Act;

8 (ix-a) an establishment licensed under the
9 Assisted Living and Shared Housing Act;

10 (x) a supportive living program, as defined in the
11 Illinois Public Aid Code;

12 (xi) early childhood intervention programs as
13 described in 59 Ill. Adm. Code 121;

14 (xii) the University of Illinois Hospital,
15 Chicago;

16 (xiii) programs funded by the Department on Aging
17 through the Community Care Program;

18 (xiv) programs certified to participate in the
19 Supportive Living Program authorized pursuant to
20 Section 5-5.01a of the Illinois Public Aid Code;

21 (xv) programs listed by the Emergency Medical
22 Services (EMS) Systems Act as Freestanding Emergency
23 Centers;

24 (xvi) locations licensed under the Alternative
25 Health Care Delivery Act;

26 (2) a day training program certified by the Department

1 of Human Services;

2 (3) a community integrated living arrangement operated
3 by a community mental health and developmental service
4 agency, as defined in the Community-Integrated Living
5 Arrangements Licensing and Certification Act; or

6 (4) the State Long Term Care Ombudsman Program,
7 including any regional long term care ombudsman programs
8 under Section 4.04 of the Illinois Act on the Aging, only
9 for the purpose of securing background checks.

10 "Initiate" means obtaining from a student, applicant, or
11 employee his or her social security number, demographics, a
12 disclosure statement, and an authorization for the Department
13 of Public Health or its designee to request a fingerprint-based
14 criminal history records check; transmitting this information
15 electronically to the Department of Public Health; conducting
16 Internet searches on certain web sites, including without
17 limitation the Illinois Sex Offender Registry, the Department
18 of Corrections' Sex Offender Search Engine, the Department of
19 Corrections' Inmate Search Engine, the Department of
20 Corrections Wanted Fugitives Search Engine, the National Sex
21 Offender Public Registry, and the website of the Health and
22 Human Services Office of Inspector General to determine if the
23 applicant has been adjudicated a sex offender, has been a
24 prison inmate, or has committed Medicare or Medicaid fraud, or
25 conducting similar searches as defined by rule; and having the
26 student, applicant, or employee's fingerprints collected and

1 transmitted electronically to the Department of State Police.

2 "Livescan vendor" means an entity whose equipment has been
3 certified by the Department of State Police to collect an
4 individual's demographics and inkless fingerprints and, in a
5 manner prescribed by the Department of State Police and the
6 Department of Public Health, electronically transmit the
7 fingerprints and required data to the Department of State
8 Police and a daily file of required data to the Department of
9 Public Health. The Department of Public Health shall negotiate
10 a contract with one or more vendors that effectively
11 demonstrate that the vendor has 2 or more years of experience
12 transmitting fingerprints electronically to the Department of
13 State Police and that the vendor can successfully transmit the
14 required data in a manner prescribed by the Department of
15 Public Health. Vendor authorization may be further defined by
16 administrative rule.

17 "Long-term care facility" means a facility licensed by the
18 State or certified under federal law as a long-term care
19 facility, including without limitation facilities licensed
20 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community
21 Care Act, a supportive living facility, an assisted living
22 establishment, or a shared housing establishment or registered
23 as a board and care home.

24 (Source: P.A. 95-120, eff. 8-13-07; 95-331, eff. 8-21-07;
25 96-339, eff. 7-1-10.)

1 Section 81. The Nursing Home Administrators Licensing and
2 Disciplinary Act is amended by changing Sections 4 and 17 as
3 follows:

4 (225 ILCS 70/4) (from Ch. 111, par. 3654)

5 (Section scheduled to be repealed on January 1, 2018)

6 Sec. 4. Definitions. For purposes of this Act, the
7 following definitions shall have the following meanings,
8 except where the context requires otherwise:

9 (1) "Act" means the Nursing Home Administrators
10 Licensing and Disciplinary Act.

11 (2) "Department" means the Department of Financial and
12 Professional Regulation.

13 (3) "Secretary" means the Secretary of Financial and
14 Professional Regulation.

15 (4) "Board" means the Nursing Home Administrators
16 Licensing and Disciplinary Board appointed by the
17 Governor.

18 (5) "Nursing home administrator" means the individual
19 licensed under this Act and directly responsible for
20 planning, organizing, directing and supervising the
21 operation of a nursing home, or who in fact performs such
22 functions, whether or not such functions are delegated to
23 one or more other persons.

24 (6) "Nursing home" or "facility" means any entity that
25 is required to be licensed by the Department of Public

1 Health under the Nursing Home Care Act, as amended, other
2 than a sheltered care home as defined thereunder, and
3 includes private homes, institutions, buildings,
4 residences, or other places, whether operated for profit or
5 not, irrespective of the names attributed to them, county
6 homes for the infirm and chronically ill operated pursuant
7 to the County Nursing Home Act, as amended, and any similar
8 institutions operated by a political subdivision of the
9 State of Illinois that provide, though their ownership or
10 management, maintenance, personal care, and nursing for 3
11 or more persons, not related to the owner by blood or
12 marriage, or any similar facilities in which maintenance is
13 provided to 3 or more persons who by reason of illness of
14 physical infirmity require personal care and nursing. The
15 term also means any facility licensed under the ID/DD ~~MR/DD~~
16 Community Care Act.

17 (7) "Maintenance" means food, shelter and laundry.

18 (8) "Personal care" means assistance with meals,
19 dressing, movement, bathing, or other personal needs, or
20 general supervision of the physical and mental well-being
21 of an individual who because of age, physical, or mental
22 disability, emotion or behavior disorder, or an
23 intellectual disability ~~mental retardation~~ is incapable of
24 managing his or her person, whether or not a guardian has
25 been appointed for such individual. For the purposes of
26 this Act, this definition does not include the professional

1 services of a nurse.

2 (9) "Nursing" means professional nursing or practical
3 nursing, as those terms are defined in the Nurse Practice
4 Act, for sick or infirm persons who are under the care and
5 supervision of licensed physicians or dentists.

6 (10) "Disciplinary action" means revocation,
7 suspension, probation, supervision, reprimand, required
8 education, fines or any other action taken by the
9 Department against a person holding a license.

10 (11) "Impaired" means the inability to practice with
11 reasonable skill and safety due to physical or mental
12 disabilities as evidenced by a written determination or
13 written consent based on clinical evidence including
14 deterioration through the aging process or loss of motor
15 skill, or abuse of drugs or alcohol, of sufficient degree
16 to diminish a person's ability to administer a nursing
17 home.

18 (12) "Address of record" means the designated address
19 recorded by the Department in the applicant's or licensee's
20 application file or license file maintained by the
21 Department's licensure maintenance unit. It is the duty of
22 the applicant or licensee to inform the Department of any
23 change of address, and such changes must be made either
24 through the Department's website or by contacting the
25 Department's licensure maintenance unit.

26 (Source: P.A. 95-639, eff. 10-5-07; 95-703, eff. 12-31-07;

1 96-328, eff. 8-11-09; 96-339, eff. 7-1-10.)

2 (225 ILCS 70/17) (from Ch. 111, par. 3667)

3 (Section scheduled to be repealed on January 1, 2018)

4 Sec. 17. Grounds for disciplinary action.

5 (a) The Department may impose fines not to exceed \$10,000
6 or may refuse to issue or to renew, or may revoke, suspend,
7 place on probation, censure, reprimand or take other
8 disciplinary or non-disciplinary action with regard to the
9 license of any person, for any one or combination of the
10 following causes:

11 (1) Intentional material misstatement in furnishing
12 information to the Department.

13 (2) Conviction of or entry of a plea of guilty or nolo
14 contendere to any crime that is a felony under the laws of
15 the United States or any state or territory thereof or a
16 misdemeanor of which an essential element is dishonesty or
17 that is directly related to the practice of the profession
18 of nursing home administration.

19 (3) Making any misrepresentation for the purpose of
20 obtaining a license, or violating any provision of this
21 Act.

22 (4) Immoral conduct in the commission of any act, such
23 as sexual abuse or sexual misconduct, related to the
24 licensee's practice.

25 (5) Failing to respond within 30 days, to a written

1 request made by the Department for information.

2 (6) Engaging in dishonorable, unethical or
3 unprofessional conduct of a character likely to deceive,
4 defraud or harm the public.

5 (7) Habitual use or addiction to alcohol, narcotics,
6 stimulants, or any other chemical agent or drug which
7 results in the inability to practice with reasonable
8 judgment, skill or safety.

9 (8) Discipline by another U.S. jurisdiction if at least
10 one of the grounds for the discipline is the same or
11 substantially equivalent to those set forth herein.

12 (9) A finding by the Department that the licensee,
13 after having his or her license placed on probationary
14 status has violated the terms of probation.

15 (10) Willfully making or filing false records or
16 reports in his or her practice, including but not limited
17 to false records filed with State agencies or departments.

18 (11) Physical illness, mental illness, or other
19 impairment or disability, including, but not limited to,
20 deterioration through the aging process, or loss of motor
21 skill that results in the inability to practice the
22 profession with reasonable judgment, skill or safety.

23 (12) Disregard or violation of this Act or of any rule
24 issued pursuant to this Act.

25 (13) Aiding or abetting another in the violation of
26 this Act or any rule or regulation issued pursuant to this

1 Act.

2 (14) Allowing one's license to be used by an unlicensed
3 person.

4 (15) (Blank).

5 (16) Professional incompetence in the practice of
6 nursing home administration.

7 (17) Conviction of a violation of Section 12-19 of the
8 Criminal Code of 1961 for the abuse and gross neglect of a
9 long term care facility resident.

10 (18) Violation of the Nursing Home Care Act or the
11 ID/DD ~~MR/DD~~ Community Care Act or of any rule issued under
12 the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care
13 Act. A final adjudication of a Type "AA" violation of the
14 Nursing Home Care Act made by the Illinois Department of
15 Public Health, as identified by rule, relating to the
16 hiring, training, planning, organizing, directing, or
17 supervising the operation of a nursing home and a
18 licensee's failure to comply with this Act or the rules
19 adopted under this Act, shall create a rebuttable
20 presumption of a violation of this subsection.

21 (19) Failure to report to the Department any adverse
22 final action taken against the licensee by a licensing
23 authority of another state, territory of the United States,
24 or foreign country; or by any governmental or law
25 enforcement agency; or by any court for acts or conduct
26 similar to acts or conduct that would constitute grounds

1 for disciplinary action under this Section.

2 (20) Failure to report to the Department the surrender
3 of a license or authorization to practice as a nursing home
4 administrator in another state or jurisdiction for acts or
5 conduct similar to acts or conduct that would constitute
6 grounds for disciplinary action under this Section.

7 (21) Failure to report to the Department any adverse
8 judgment, settlement, or award arising from a liability
9 claim related to acts or conduct similar to acts or conduct
10 that would constitute grounds for disciplinary action
11 under this Section.

12 All proceedings to suspend, revoke, place on probationary
13 status, or take any other disciplinary action as the Department
14 may deem proper, with regard to a license on any of the
15 foregoing grounds, must be commenced within 5 years next after
16 receipt by the Department of (i) a complaint alleging the
17 commission of or notice of the conviction order for any of the
18 acts described herein or (ii) a referral for investigation
19 under Section 3-108 of the Nursing Home Care Act.

20 The entry of an order or judgment by any circuit court
21 establishing that any person holding a license under this Act
22 is a person in need of mental treatment operates as a
23 suspension of that license. That person may resume their
24 practice only upon the entry of a Department order based upon a
25 finding by the Board that they have been determined to be
26 recovered from mental illness by the court and upon the Board's

1 recommendation that they be permitted to resume their practice.

2 The Department, upon the recommendation of the Board, may
3 adopt rules which set forth standards to be used in determining
4 what constitutes:

5 (i) when a person will be deemed sufficiently
6 rehabilitated to warrant the public trust;

7 (ii) dishonorable, unethical or unprofessional conduct
8 of a character likely to deceive, defraud, or harm the
9 public;

10 (iii) immoral conduct in the commission of any act
11 related to the licensee's practice; and

12 (iv) professional incompetence in the practice of
13 nursing home administration.

14 However, no such rule shall be admissible into evidence in
15 any civil action except for review of a licensing or other
16 disciplinary action under this Act.

17 In enforcing this Section, the Department or Board, upon a
18 showing of a possible violation, may compel any individual
19 licensed to practice under this Act, or who has applied for
20 licensure pursuant to this Act, to submit to a mental or
21 physical examination, or both, as required by and at the
22 expense of the Department. The examining physician or
23 physicians shall be those specifically designated by the
24 Department or Board. The Department or Board may order the
25 examining physician to present testimony concerning this
26 mental or physical examination of the licensee or applicant. No

1 information shall be excluded by reason of any common law or
2 statutory privilege relating to communications between the
3 licensee or applicant and the examining physician. The
4 individual to be examined may have, at his or her own expense,
5 another physician of his or her choice present during all
6 aspects of the examination. Failure of any individual to submit
7 to mental or physical examination, when directed, shall be
8 grounds for suspension of his or her license until such time as
9 the individual submits to the examination if the Department
10 finds, after notice and hearing, that the refusal to submit to
11 the examination was without reasonable cause.

12 If the Department or Board finds an individual unable to
13 practice because of the reasons set forth in this Section, the
14 Department or Board shall require such individual to submit to
15 care, counseling, or treatment by physicians approved or
16 designated by the Department or Board, as a condition, term, or
17 restriction for continued, reinstated, or renewed licensure to
18 practice; or in lieu of care, counseling, or treatment, the
19 Department may file, or the Board may recommend to the
20 Department to file, a complaint to immediately suspend, revoke,
21 or otherwise discipline the license of the individual. Any
22 individual whose license was granted pursuant to this Act or
23 continued, reinstated, renewed, disciplined or supervised,
24 subject to such terms, conditions or restrictions who shall
25 fail to comply with such terms, conditions or restrictions
26 shall be referred to the Secretary for a determination as to

1 whether the licensee shall have his or her license suspended
2 immediately, pending a hearing by the Department. In instances
3 in which the Secretary immediately suspends a license under
4 this Section, a hearing upon such person's license must be
5 convened by the Board within 30 days after such suspension and
6 completed without appreciable delay. The Department and Board
7 shall have the authority to review the subject administrator's
8 record of treatment and counseling regarding the impairment, to
9 the extent permitted by applicable federal statutes and
10 regulations safeguarding the confidentiality of medical
11 records.

12 An individual licensed under this Act, affected under this
13 Section, shall be afforded an opportunity to demonstrate to the
14 Department or Board that he or she can resume practice in
15 compliance with acceptable and prevailing standards under the
16 provisions of his or her license.

17 (b) Any individual or organization acting in good faith,
18 and not in a wilful and wanton manner, in complying with this
19 Act by providing any report or other information to the
20 Department, or assisting in the investigation or preparation of
21 such information, or by participating in proceedings of the
22 Department, or by serving as a member of the Board, shall not,
23 as a result of such actions, be subject to criminal prosecution
24 or civil damages.

25 (c) Members of the Board, and persons retained under
26 contract to assist and advise in an investigation, shall be

1 indemnified by the State for any actions occurring within the
2 scope of services on or for the Board, done in good faith and
3 not wilful and wanton in nature. The Attorney General shall
4 defend all such actions unless he or she determines either that
5 there would be a conflict of interest in such representation or
6 that the actions complained of were not in good faith or were
7 wilful and wanton.

8 Should the Attorney General decline representation, a
9 person entitled to indemnification under this Section shall
10 have the right to employ counsel of his or her choice, whose
11 fees shall be provided by the State, after approval by the
12 Attorney General, unless there is a determination by a court
13 that the member's actions were not in good faith or were wilful
14 and wanton.

15 A person entitled to indemnification under this Section
16 must notify the Attorney General within 7 days of receipt of
17 notice of the initiation of any action involving services of
18 the Board. Failure to so notify the Attorney General shall
19 constitute an absolute waiver of the right to a defense and
20 indemnification.

21 The Attorney General shall determine within 7 days after
22 receiving such notice, whether he or she will undertake to
23 represent a person entitled to indemnification under this
24 Section.

25 (d) The determination by a circuit court that a licensee is
26 subject to involuntary admission or judicial admission as

1 provided in the Mental Health and Developmental Disabilities
2 Code, as amended, operates as an automatic suspension. Such
3 suspension will end only upon a finding by a court that the
4 patient is no longer subject to involuntary admission or
5 judicial admission and issues an order so finding and
6 discharging the patient; and upon the recommendation of the
7 Board to the Secretary that the licensee be allowed to resume
8 his or her practice.

9 (e) The Department may refuse to issue or may suspend the
10 license of any person who fails to file a return, or to pay the
11 tax, penalty or interest shown in a filed return, or to pay any
12 final assessment of tax, penalty or interest, as required by
13 any tax Act administered by the Department of Revenue, until
14 such time as the requirements of any such tax Act are
15 satisfied.

16 (f) The Department of Public Health shall transmit to the
17 Department a list of those facilities which receive an "A"
18 violation as defined in Section 1-129 of the Nursing Home Care
19 Act.

20 (Source: P.A. 95-703, eff. 12-31-07; 96-339, eff. 7-1-10;
21 96-1372, eff. 7-29-10.)

22 Section 82. The Pharmacy Practice Act is amended by
23 changing Section 3 as follows:

24 (225 ILCS 85/3)

1 (Section scheduled to be repealed on January 1, 2018)

2 Sec. 3. Definitions. For the purpose of this Act, except
3 where otherwise limited therein:

4 (a) "Pharmacy" or "drugstore" means and includes every
5 store, shop, pharmacy department, or other place where
6 pharmacist care is provided by a pharmacist (1) where drugs,
7 medicines, or poisons are dispensed, sold or offered for sale
8 at retail, or displayed for sale at retail; or (2) where
9 prescriptions of physicians, dentists, advanced practice
10 nurses, physician assistants, veterinarians, podiatrists, or
11 optometrists, within the limits of their licenses, are
12 compounded, filled, or dispensed; or (3) which has upon it or
13 displayed within it, or affixed to or used in connection with
14 it, a sign bearing the word or words "Pharmacist", "Druggist",
15 "Pharmacy", "Pharmaceutical Care", "Apothecary", "Drugstore",
16 "Medicine Store", "Prescriptions", "Drugs", "Dispensary",
17 "Medicines", or any word or words of similar or like import,
18 either in the English language or any other language; or (4)
19 where the characteristic prescription sign (Rx) or similar
20 design is exhibited; or (5) any store, or shop, or other place
21 with respect to which any of the above words, objects, signs or
22 designs are used in any advertisement.

23 (b) "Drugs" means and includes (1) articles recognized in
24 the official United States Pharmacopoeia/National Formulary
25 (USP/NF), or any supplement thereto and being intended for and
26 having for their main use the diagnosis, cure, mitigation,

1 treatment or prevention of disease in man or other animals, as
2 approved by the United States Food and Drug Administration, but
3 does not include devices or their components, parts, or
4 accessories; and (2) all other articles intended for and having
5 for their main use the diagnosis, cure, mitigation, treatment
6 or prevention of disease in man or other animals, as approved
7 by the United States Food and Drug Administration, but does not
8 include devices or their components, parts, or accessories; and
9 (3) articles (other than food) having for their main use and
10 intended to affect the structure or any function of the body of
11 man or other animals; and (4) articles having for their main
12 use and intended for use as a component or any articles
13 specified in clause (1), (2) or (3); but does not include
14 devices or their components, parts or accessories.

15 (c) "Medicines" means and includes all drugs intended for
16 human or veterinary use approved by the United States Food and
17 Drug Administration.

18 (d) "Practice of pharmacy" means (1) the interpretation and
19 the provision of assistance in the monitoring, evaluation, and
20 implementation of prescription drug orders; (2) the dispensing
21 of prescription drug orders; (3) participation in drug and
22 device selection; (4) drug administration limited to the
23 administration of oral, topical, injectable, and inhalation as
24 follows: in the context of patient education on the proper use
25 or delivery of medications; vaccination of patients 14 years of
26 age and older pursuant to a valid prescription or standing

1 order, by a physician licensed to practice medicine in all its
2 branches, upon completion of appropriate training, including
3 how to address contraindications and adverse reactions set
4 forth by rule, with notification to the patient's physician and
5 appropriate record retention, or pursuant to hospital pharmacy
6 and therapeutics committee policies and procedures; (5) drug
7 regimen review; (6) drug or drug-related research; (7) the
8 provision of patient counseling; (8) the practice of
9 telepharmacy; (9) the provision of those acts or services
10 necessary to provide pharmacist care; (10) medication therapy
11 management; and (11) the responsibility for compounding and
12 labeling of drugs and devices (except labeling by a
13 manufacturer, repackager, or distributor of non-prescription
14 drugs and commercially packaged legend drugs and devices),
15 proper and safe storage of drugs and devices, and maintenance
16 of required records. A pharmacist who performs any of the acts
17 defined as the practice of pharmacy in this State must be
18 actively licensed as a pharmacist under this Act.

19 (e) "Prescription" means and includes any written, oral,
20 facsimile, or electronically transmitted order for drugs or
21 medical devices, issued by a physician licensed to practice
22 medicine in all its branches, dentist, veterinarian, or
23 podiatrist, or optometrist, within the limits of their
24 licenses, by a physician assistant in accordance with
25 subsection (f) of Section 4, or by an advanced practice nurse
26 in accordance with subsection (g) of Section 4, containing the

1 following: (1) name of the patient; (2) date when prescription
2 was issued; (3) name and strength of drug or description of the
3 medical device prescribed; and (4) quantity; (5) directions for
4 use; (6) prescriber's name, address, and signature; and (7) DEA
5 number where required, for controlled substances. The
6 prescription may, but is not required to, list the illness,
7 disease, or condition for which the drug or device is being
8 prescribed. DEA numbers shall not be required on inpatient drug
9 orders.

10 (f) "Person" means and includes a natural person,
11 copartnership, association, corporation, government entity, or
12 any other legal entity.

13 (g) "Department" means the Department of Financial and
14 Professional Regulation.

15 (h) "Board of Pharmacy" or "Board" means the State Board of
16 Pharmacy of the Department of Financial and Professional
17 Regulation.

18 (i) "Secretary" means the Secretary of Financial and
19 Professional Regulation.

20 (j) "Drug product selection" means the interchange for a
21 prescribed pharmaceutical product in accordance with Section
22 25 of this Act and Section 3.14 of the Illinois Food, Drug and
23 Cosmetic Act.

24 (k) "Inpatient drug order" means an order issued by an
25 authorized prescriber for a resident or patient of a facility
26 licensed under the Nursing Home Care Act, the ID/DD ~~MR/DD~~

1 Community Care Act, or the Hospital Licensing Act, or "An Act
2 in relation to the founding and operation of the University of
3 Illinois Hospital and the conduct of University of Illinois
4 health care programs", approved July 3, 1931, as amended, or a
5 facility which is operated by the Department of Human Services
6 (as successor to the Department of Mental Health and
7 Developmental Disabilities) or the Department of Corrections.

8 (k-5) "Pharmacist" means an individual health care
9 professional and provider currently licensed by this State to
10 engage in the practice of pharmacy.

11 (l) "Pharmacist in charge" means the licensed pharmacist
12 whose name appears on a pharmacy license and who is responsible
13 for all aspects of the operation related to the practice of
14 pharmacy.

15 (m) "Dispense" or "dispensing" means the interpretation,
16 evaluation, and implementation of a prescription drug order,
17 including the preparation and delivery of a drug or device to a
18 patient or patient's agent in a suitable container
19 appropriately labeled for subsequent administration to or use
20 by a patient in accordance with applicable State and federal
21 laws and regulations. "Dispense" or "dispensing" does not mean
22 the physical delivery to a patient or a patient's
23 representative in a home or institution by a designee of a
24 pharmacist or by common carrier. "Dispense" or "dispensing"
25 also does not mean the physical delivery of a drug or medical
26 device to a patient or patient's representative by a

1 pharmacist's designee within a pharmacy or drugstore while the
2 pharmacist is on duty and the pharmacy is open.

3 (n) "Nonresident pharmacy" means a pharmacy that is located
4 in a state, commonwealth, or territory of the United States,
5 other than Illinois, that delivers, dispenses, or distributes,
6 through the United States Postal Service, commercially
7 acceptable parcel delivery service, or other common carrier, to
8 Illinois residents, any substance which requires a
9 prescription.

10 (o) "Compounding" means the preparation and mixing of
11 components, excluding flavorings, (1) as the result of a
12 prescriber's prescription drug order or initiative based on the
13 prescriber-patient-pharmacist relationship in the course of
14 professional practice or (2) for the purpose of, or incident
15 to, research, teaching, or chemical analysis and not for sale
16 or dispensing. "Compounding" includes the preparation of drugs
17 or devices in anticipation of receiving prescription drug
18 orders based on routine, regularly observed dispensing
19 patterns. Commercially available products may be compounded
20 for dispensing to individual patients only if all of the
21 following conditions are met: (i) the commercial product is not
22 reasonably available from normal distribution channels in a
23 timely manner to meet the patient's needs and (ii) the
24 prescribing practitioner has requested that the drug be
25 compounded.

26 (p) (Blank).

1 (q) (Blank).

2 (r) "Patient counseling" means the communication between a
3 pharmacist or a student pharmacist under the supervision of a
4 pharmacist and a patient or the patient's representative about
5 the patient's medication or device for the purpose of
6 optimizing proper use of prescription medications or devices.
7 "Patient counseling" may include without limitation (1)
8 obtaining a medication history; (2) acquiring a patient's
9 allergies and health conditions; (3) facilitation of the
10 patient's understanding of the intended use of the medication;
11 (4) proper directions for use; (5) significant potential
12 adverse events; (6) potential food-drug interactions; and (7)
13 the need to be compliant with the medication therapy. A
14 pharmacy technician may only participate in the following
15 aspects of patient counseling under the supervision of a
16 pharmacist: (1) obtaining medication history; (2) providing
17 the offer for counseling by a pharmacist or student pharmacist;
18 and (3) acquiring a patient's allergies and health conditions.

19 (s) "Patient profiles" or "patient drug therapy record"
20 means the obtaining, recording, and maintenance of patient
21 prescription information, including prescriptions for
22 controlled substances, and personal information.

23 (t) (Blank).

24 (u) "Medical device" means an instrument, apparatus,
25 implement, machine, contrivance, implant, in vitro reagent, or
26 other similar or related article, including any component part

1 or accessory, required under federal law to bear the label
2 "Caution: Federal law requires dispensing by or on the order of
3 a physician". A seller of goods and services who, only for the
4 purpose of retail sales, compounds, sells, rents, or leases
5 medical devices shall not, by reasons thereof, be required to
6 be a licensed pharmacy.

7 (v) "Unique identifier" means an electronic signature,
8 handwritten signature or initials, thumb print, or other
9 acceptable biometric or electronic identification process as
10 approved by the Department.

11 (w) "Current usual and customary retail price" means the
12 price that a pharmacy charges to a non-third-party payor.

13 (x) "Automated pharmacy system" means a mechanical system
14 located within the confines of the pharmacy or remote location
15 that performs operations or activities, other than compounding
16 or administration, relative to storage, packaging, dispensing,
17 or distribution of medication, and which collects, controls,
18 and maintains all transaction information.

19 (y) "Drug regimen review" means and includes the evaluation
20 of prescription drug orders and patient records for (1) known
21 allergies; (2) drug or potential therapy contraindications;
22 (3) reasonable dose, duration of use, and route of
23 administration, taking into consideration factors such as age,
24 gender, and contraindications; (4) reasonable directions for
25 use; (5) potential or actual adverse drug reactions; (6)
26 drug-drug interactions; (7) drug-food interactions; (8)

1 drug-disease contraindications; (9) therapeutic duplication;
2 (10) patient laboratory values when authorized and available;
3 (11) proper utilization (including over or under utilization)
4 and optimum therapeutic outcomes; and (12) abuse and misuse.

5 (z) "Electronic transmission prescription" means any
6 prescription order for which a facsimile or electronic image of
7 the order is electronically transmitted from a licensed
8 prescriber to a pharmacy. "Electronic transmission
9 prescription" includes both data and image prescriptions.

10 (aa) "Medication therapy management services" means a
11 distinct service or group of services offered by licensed
12 pharmacists, physicians licensed to practice medicine in all
13 its branches, advanced practice nurses authorized in a written
14 agreement with a physician licensed to practice medicine in all
15 its branches, or physician assistants authorized in guidelines
16 by a supervising physician that optimize therapeutic outcomes
17 for individual patients through improved medication use. In a
18 retail or other non-hospital pharmacy, medication therapy
19 management services shall consist of the evaluation of
20 prescription drug orders and patient medication records to
21 resolve conflicts with the following:

22 (1) known allergies;

23 (2) drug or potential therapy contraindications;

24 (3) reasonable dose, duration of use, and route of
25 administration, taking into consideration factors such as
26 age, gender, and contraindications;

- 1 (4) reasonable directions for use;
- 2 (5) potential or actual adverse drug reactions;
- 3 (6) drug-drug interactions;
- 4 (7) drug-food interactions;
- 5 (8) drug-disease contraindications;
- 6 (9) identification of therapeutic duplication;
- 7 (10) patient laboratory values when authorized and
- 8 available;
- 9 (11) proper utilization (including over or under
- 10 utilization) and optimum therapeutic outcomes; and
- 11 (12) drug abuse and misuse.

12 "Medication therapy management services" includes the
13 following:

- 14 (1) documenting the services delivered and
- 15 communicating the information provided to patients'
- 16 prescribers within an appropriate time frame, not to exceed
- 17 48 hours;
- 18 (2) providing patient counseling designed to enhance a
- 19 patient's understanding and the appropriate use of his or
- 20 her medications; and
- 21 (3) providing information, support services, and
- 22 resources designed to enhance a patient's adherence with
- 23 his or her prescribed therapeutic regimens.

24 "Medication therapy management services" may also include
25 patient care functions authorized by a physician licensed to
26 practice medicine in all its branches for his or her identified

1 patient or groups of patients under specified conditions or
2 limitations in a standing order from the physician.

3 "Medication therapy management services" in a licensed
4 hospital may also include the following:

5 (1) reviewing assessments of the patient's health
6 status; and

7 (2) following protocols of a hospital pharmacy and
8 therapeutics committee with respect to the fulfillment of
9 medication orders.

10 (bb) "Pharmacist care" means the provision by a pharmacist
11 of medication therapy management services, with or without the
12 dispensing of drugs or devices, intended to achieve outcomes
13 that improve patient health, quality of life, and comfort and
14 enhance patient safety.

15 (cc) "Protected health information" means individually
16 identifiable health information that, except as otherwise
17 provided, is:

18 (1) transmitted by electronic media;

19 (2) maintained in any medium set forth in the
20 definition of "electronic media" in the federal Health
21 Insurance Portability and Accountability Act; or

22 (3) transmitted or maintained in any other form or
23 medium.

24 "Protected health information" does not include individually
25 identifiable health information found in:

26 (1) education records covered by the federal Family

1 Educational Right and Privacy Act; or

2 (2) employment records held by a licensee in its role
3 as an employer.

4 (dd) "Standing order" means a specific order for a patient
5 or group of patients issued by a physician licensed to practice
6 medicine in all its branches in Illinois.

7 (ee) "Address of record" means the address recorded by the
8 Department in the applicant's or licensee's application file or
9 license file, as maintained by the Department's licensure
10 maintenance unit.

11 (ff) "Home pharmacy" means the location of a pharmacy's
12 primary operations.

13 (Source: P.A. 95-689, eff. 10-29-07; 96-339, eff. 7-1-10;
14 96-673, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1353, eff.
15 7-28-10.)

16 Section 83. The Nurse Agency Licensing Act is amended by
17 changing Section 3 as follows:

18 (225 ILCS 510/3) (from Ch. 111, par. 953)

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

20 (a) "Certified nurse aide" means an individual certified as
21 defined in Section 3-206 of the Nursing Home Care Act or
22 Section 3-206 of the ID/DD ~~MR/DD~~ Community Care Act, as now or
23 hereafter amended.

24 (b) "Department" means the Department of Labor.

1 (c) "Director" means the Director of Labor.

2 (d) "Health care facility" is defined as in Section 3 of
3 the Illinois Health Facilities Planning Act, as now or
4 hereafter amended.

5 (e) "Licensee" means any nursing agency which is properly
6 licensed under this Act.

7 (f) "Nurse" means a registered nurse or a licensed
8 practical nurse as defined in the Nurse Practice Act.

9 (g) "Nurse agency" means any individual, firm,
10 corporation, partnership or other legal entity that employs,
11 assigns or refers nurses or certified nurse aides to a health
12 care facility for a fee. The term "nurse agency" includes
13 nurses registries. The term "nurse agency" does not include
14 services provided by home health agencies licensed and operated
15 under the Home Health, Home Services, and Home Nursing Agency
16 Licensing Act or a licensed or certified individual who
17 provides his or her own services as a regular employee of a
18 health care facility, nor does it apply to a health care
19 facility's organizing nonsalaried employees to provide
20 services only in that facility.

21 (Source: P.A. 95-639, eff. 10-5-07; 96-339, eff. 7-1-10.)

22 Section 85. The Illinois Public Aid Code is amended by
23 changing Sections 5-1.1, 5-5.4, 5-5.7, 5-5.17, 5-6, 5-13, 5B-1,
24 5C-1, 5E-5, 8A-11, and 11-4.1 and by changing and renumbering
25 Section 12-4.40 as added by Public Act 96-1405 as follows:

1 (305 ILCS 5/5-1.1) (from Ch. 23, par. 5-1.1)

2 Sec. 5-1.1. Definitions. The terms defined in this Section
3 shall have the meanings ascribed to them, except when the
4 context otherwise requires.

5 (a) "Nursing facility" means a facility, licensed by the
6 Department of Public Health under the Nursing Home Care Act,
7 that provides nursing facility services within the meaning of
8 Title XIX of the federal Social Security Act.

9 (b) "Intermediate care facility for the developmentally
10 disabled" or "ICF/DD" means a facility, licensed by the
11 Department of Public Health under the ID/DD ~~MR/DD~~ Community
12 Care Act, that is an intermediate care facility for the
13 mentally retarded within the meaning of Title XIX of the
14 federal Social Security Act.

15 (c) "Standard services" means those services required for
16 the care of all patients in the facility and shall, as a
17 minimum, include the following: (1) administration; (2)
18 dietary (standard); (3) housekeeping; (4) laundry and linen;
19 (5) maintenance of property and equipment, including
20 utilities; (6) medical records; (7) training of employees; (8)
21 utilization review; (9) activities services; (10) social
22 services; (11) disability services; and all other similar
23 services required by either the laws of the State of Illinois
24 or one of its political subdivisions or municipalities or by
25 Title XIX of the Social Security Act.

1 (d) "Patient services" means those which vary with the
2 number of personnel; professional and para-professional skills
3 of the personnel; specialized equipment, and reflect the
4 intensity of the medical and psycho-social needs of the
5 patients. Patient services shall as a minimum include: (1)
6 physical services; (2) nursing services, including restorative
7 nursing; (3) medical direction and patient care planning; (4)
8 health related supportive and habilitative services and all
9 similar services required by either the laws of the State of
10 Illinois or one of its political subdivisions or municipalities
11 or by Title XIX of the Social Security Act.

12 (e) "Ancillary services" means those services which
13 require a specific physician's order and defined as under the
14 medical assistance program as not being routine in nature for
15 skilled nursing facilities and ICF/DDs. Such services
16 generally must be authorized prior to delivery and payment as
17 provided for under the rules of the Department of Healthcare
18 and Family Services.

19 (f) "Capital" means the investment in a facility's assets
20 for both debt and non-debt funds. Non-debt capital is the
21 difference between an adjusted replacement value of the assets
22 and the actual amount of debt capital.

23 (g) "Profit" means the amount which shall accrue to a
24 facility as a result of its revenues exceeding its expenses as
25 determined in accordance with generally accepted accounting
26 principles.

1 (h) "Non-institutional services" means those services
2 provided under paragraph (f) of Section 3 of the Disabled
3 Persons Rehabilitation Act and those services provided under
4 Section 4.02 of the Illinois Act on the Aging.

5 (i) "Exceptional medical care" means the level of medical
6 care required by persons who are medically stable for discharge
7 from a hospital but who require acute intensity hospital level
8 care for physician, nurse and ancillary specialist services,
9 including persons with acquired immunodeficiency syndrome
10 (AIDS) or a related condition. Such care shall consist of those
11 services which the Department shall determine by rule.

12 (j) "Institutionalized person" means an individual who is
13 an inpatient in an ICF/DD or nursing facility, or who is an
14 inpatient in a medical institution receiving a level of care
15 equivalent to that of an ICF/DD or nursing facility, or who is
16 receiving services under Section 1915(c) of the Social Security
17 Act.

18 (k) "Institutionalized spouse" means an institutionalized
19 person who is expected to receive services at the same level of
20 care for at least 30 days and is married to a spouse who is not
21 an institutionalized person.

22 (l) "Community spouse" is the spouse of an
23 institutionalized spouse.

24 (Source: P.A. 95-331, eff. 8-21-07; 96-1530, eff. 2-16-11.)

25 (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

1 Sec. 5-5.4. Standards of Payment - Department of Healthcare
2 and Family Services. The Department of Healthcare and Family
3 Services shall develop standards of payment of nursing facility
4 and ICF/DD services in facilities providing such services under
5 this Article which:

6 (1) Provide for the determination of a facility's payment
7 for nursing facility or ICF/DD services on a prospective basis.
8 The amount of the payment rate for all nursing facilities
9 certified by the Department of Public Health under the ID/DD
10 ~~MR/DD~~ Community Care Act or the Nursing Home Care Act as
11 Intermediate Care for the Developmentally Disabled facilities,
12 Long Term Care for Under Age 22 facilities, Skilled Nursing
13 facilities, or Intermediate Care facilities under the medical
14 assistance program shall be prospectively established annually
15 on the basis of historical, financial, and statistical data
16 reflecting actual costs from prior years, which shall be
17 applied to the current rate year and updated for inflation,
18 except that the capital cost element for newly constructed
19 facilities shall be based upon projected budgets. The annually
20 established payment rate shall take effect on July 1 in 1984
21 and subsequent years. No rate increase and no update for
22 inflation shall be provided on or after July 1, 1994 and before
23 July 1, 2012, unless specifically provided for in this Section.
24 The changes made by Public Act 93-841 extending the duration of
25 the prohibition against a rate increase or update for inflation
26 are effective retroactive to July 1, 2004.

1 For facilities licensed by the Department of Public Health
2 under the Nursing Home Care Act as Intermediate Care for the
3 Developmentally Disabled facilities or Long Term Care for Under
4 Age 22 facilities, the rates taking effect on July 1, 1998
5 shall include an increase of 3%. For facilities licensed by the
6 Department of Public Health under the Nursing Home Care Act as
7 Skilled Nursing facilities or Intermediate Care facilities,
8 the rates taking effect on July 1, 1998 shall include an
9 increase of 3% plus \$1.10 per resident-day, as defined by the
10 Department. For facilities licensed by the Department of Public
11 Health under the Nursing Home Care Act as Intermediate Care
12 Facilities for the Developmentally Disabled or Long Term Care
13 for Under Age 22 facilities, the rates taking effect on January
14 1, 2006 shall include an increase of 3%. For facilities
15 licensed by the Department of Public Health under the Nursing
16 Home Care Act as Intermediate Care Facilities for the
17 Developmentally Disabled or Long Term Care for Under Age 22
18 facilities, the rates taking effect on January 1, 2009 shall
19 include an increase sufficient to provide a \$0.50 per hour wage
20 increase for non-executive staff.

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 July 1, 1999
25 shall include an increase of 1.6% plus \$3.00 per resident-day,
26 as defined by the Department. For facilities licensed by the

1 Department of Public Health under the Nursing Home Care Act as
2 Skilled Nursing facilities or Intermediate Care facilities,
3 the rates taking effect on July 1, 1999 shall include an
4 increase of 1.6% and, for services provided on or after October
5 1, 1999, shall be increased by \$4.00 per resident-day, as
6 defined by the Department.

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 Long Term Care for Under
10 Age 22 facilities, the rates taking effect on July 1, 2000
11 shall include an increase of 2.5% per resident-day, as defined
12 by the Department. For facilities licensed by the Department of
13 Public Health under the Nursing Home Care Act as Skilled
14 Nursing facilities or Intermediate Care facilities, the rates
15 taking effect on July 1, 2000 shall include an increase of 2.5%
16 per resident-day, 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, a new payment methodology must
20 be implemented for the nursing component of the rate effective
21 July 1, 2003. The Department of Public Aid (now Healthcare and
22 Family Services) shall develop the new payment methodology
23 using the Minimum Data Set (MDS) as the instrument to collect
24 information concerning nursing home resident condition
25 necessary to compute the rate. The Department shall develop the
26 new payment methodology to meet the unique needs of Illinois

1 nursing home residents while remaining subject to the
2 appropriations provided by the General Assembly. A transition
3 period from the payment methodology in effect on June 30, 2003
4 to the payment methodology in effect on July 1, 2003 shall be
5 provided for a period not exceeding 3 years and 184 days after
6 implementation of the new payment methodology as follows:

7 (A) For a facility that would receive a lower nursing
8 component rate per patient day under the new system than
9 the facility received effective on the date immediately
10 preceding the date that the Department implements the new
11 payment methodology, the nursing component rate per
12 patient day for the facility shall be held at the level in
13 effect on the date immediately preceding the date that the
14 Department implements the new payment methodology until a
15 higher nursing component rate of reimbursement is achieved
16 by that facility.

17 (B) For a facility that would receive a higher nursing
18 component rate per patient day under the payment
19 methodology in effect on July 1, 2003 than the facility
20 received effective on the date immediately preceding the
21 date that the Department implements the new payment
22 methodology, the nursing component rate per patient day for
23 the facility shall be adjusted.

24 (C) Notwithstanding paragraphs (A) and (B), the
25 nursing component rate per patient day for the facility
26 shall be adjusted subject to appropriations provided by the

1 General Assembly.

2 For facilities licensed by the Department of Public Health
3 under the Nursing Home Care Act as Intermediate Care for the
4 Developmentally Disabled facilities or Long Term Care for Under
5 Age 22 facilities, the rates taking effect on March 1, 2001
6 shall include a statewide increase of 7.85%, as defined by the
7 Department.

8 Notwithstanding any other provision of this Section, for
9 facilities licensed by the Department of Public Health under
10 the Nursing Home Care Act as skilled nursing facilities or
11 intermediate care facilities, except facilities participating
12 in the Department's demonstration program pursuant to the
13 provisions of Title 77, Part 300, Subpart T of the Illinois
14 Administrative Code, the numerator of the ratio used by the
15 Department of Healthcare and Family Services to compute the
16 rate payable under this Section using the Minimum Data Set
17 (MDS) methodology shall incorporate the following annual
18 amounts as the additional funds appropriated to the Department
19 specifically to pay for rates based on the MDS nursing
20 component methodology in excess of the funding in effect on
21 December 31, 2006:

22 (i) For rates taking effect January 1, 2007,
23 \$60,000,000.

24 (ii) For rates taking effect January 1, 2008,
25 \$110,000,000.

26 (iii) For rates taking effect January 1, 2009,

1 \$194,000,000.

2 (iv) For rates taking effect April 1, 2011, or the
3 first day of the month that begins at least 45 days after
4 the effective date of this amendatory Act of the 96th
5 General Assembly, \$416,500,000 or an amount as may be
6 necessary to complete the transition to the MDS methodology
7 for the nursing component of the rate.

8 Notwithstanding any other provision of this Section, for
9 facilities licensed by the Department of Public Health under
10 the Nursing Home Care Act as skilled nursing facilities or
11 intermediate care facilities, the support component of the
12 rates taking effect on January 1, 2008 shall be computed using
13 the most recent cost reports on file with the Department of
14 Healthcare and Family Services no later than April 1, 2005,
15 updated for inflation to January 1, 2006.

16 For facilities licensed by the Department of Public Health
17 under the Nursing Home Care Act as Intermediate Care for the
18 Developmentally Disabled facilities or Long Term Care for Under
19 Age 22 facilities, the rates taking effect on April 1, 2002
20 shall include a statewide increase of 2.0%, as defined by the
21 Department. This increase terminates on July 1, 2002; beginning
22 July 1, 2002 these rates are reduced to the level of the rates
23 in effect on March 31, 2002, as defined by the Department.

24 For facilities licensed by the Department of Public Health
25 under the Nursing Home Care Act as skilled nursing facilities
26 or intermediate care facilities, the rates taking effect on

1 July 1, 2001 shall be computed using the most recent cost
2 reports on file with the Department of Public Aid no later than
3 April 1, 2000, updated for inflation to January 1, 2001. For
4 rates effective July 1, 2001 only, rates shall be the greater
5 of the rate computed for July 1, 2001 or the rate effective on
6 June 30, 2001.

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, the Illinois Department shall
11 determine by rule the rates taking effect on July 1, 2002,
12 which shall be 5.9% less than the rates in effect on June 30,
13 2002.

14 Notwithstanding any other provision of this Section, for
15 facilities licensed by the Department of Public Health under
16 the Nursing Home Care Act as skilled nursing facilities or
17 intermediate care facilities, if the payment methodologies
18 required under Section 5A-12 and the waiver granted under 42
19 CFR 433.68 are approved by the United States Centers for
20 Medicare and Medicaid Services, the rates taking effect on July
21 1, 2004 shall be 3.0% greater than the rates in effect on June
22 30, 2004. These rates shall take effect only upon approval and
23 implementation of the payment methodologies required under
24 Section 5A-12.

25 Notwithstanding any other provisions of this Section, for
26 facilities licensed by the Department of Public Health under

1 the Nursing Home Care Act as skilled nursing facilities or
2 intermediate care facilities, the rates taking effect on
3 January 1, 2005 shall be 3% more than the rates in effect on
4 December 31, 2004.

5 Notwithstanding any other provision of this Section, for
6 facilities licensed by the Department of Public Health under
7 the Nursing Home Care Act as skilled nursing facilities or
8 intermediate care facilities, effective January 1, 2009, the
9 per diem support component of the rates effective on January 1,
10 2008, computed using the most recent cost reports on file with
11 the Department of Healthcare and Family Services no later than
12 April 1, 2005, updated for inflation to January 1, 2006, shall
13 be increased to the amount that would have been derived using
14 standard Department of Healthcare and Family Services methods,
15 procedures, and inflators.

16 Notwithstanding any other provisions of this Section, for
17 facilities licensed by the Department of Public Health under
18 the Nursing Home Care Act as intermediate care facilities that
19 are federally defined as Institutions for Mental Disease, a
20 socio-development component rate equal to 6.6% of the
21 facility's nursing component rate as of January 1, 2006 shall
22 be established and paid effective July 1, 2006. The
23 socio-development component of the rate shall be increased by a
24 factor of 2.53 on the first day of the month that begins at
25 least 45 days after January 11, 2008 (the effective date of
26 Public Act 95-707). As of August 1, 2008, the socio-development

1 component rate shall be equal to 6.6% of the facility's nursing
2 component rate as of January 1, 2006, multiplied by a factor of
3 3.53. For services provided on or after April 1, 2011, or the
4 first day of the month that begins at least 45 days after the
5 effective date of this amendatory Act of the 96th General
6 Assembly, whichever is later, the Illinois Department may by
7 rule adjust these socio-development component rates, and may
8 use different adjustment methodologies for those facilities
9 participating, and those not participating, in the Illinois
10 Department's demonstration program pursuant to the provisions
11 of Title 77, Part 300, Subpart T of the Illinois Administrative
12 Code, but in no case may such rates be diminished below those
13 in effect on August 1, 2008.

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 as long-term care
17 facilities for residents under 22 years of age, the rates
18 taking effect on July 1, 2003 shall include a statewide
19 increase of 4%, as defined by the Department.

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 the first day of
24 the month that begins at least 45 days after the effective date
25 of this amendatory Act of the 95th General Assembly shall
26 include a statewide increase of 2.5%, as defined by the

1 Department.

2 Notwithstanding any other provision of this Section, for
3 facilities licensed by the Department of Public Health under
4 the Nursing Home Care Act as skilled nursing facilities or
5 intermediate care facilities, effective January 1, 2005,
6 facility rates shall be increased by the difference between (i)
7 a facility's per diem property, liability, and malpractice
8 insurance costs as reported in the cost report filed with the
9 Department of Public Aid and used to establish rates effective
10 July 1, 2001 and (ii) those same costs as reported in the
11 facility's 2002 cost report. These costs shall be passed
12 through to the facility without caps or limitations, except for
13 adjustments required under normal auditing procedures.

14 Rates established effective each July 1 shall govern
15 payment for services rendered throughout that fiscal year,
16 except that rates established on July 1, 1996 shall be
17 increased by 6.8% for services provided on or after January 1,
18 1997. Such rates will be based upon the rates calculated for
19 the year beginning July 1, 1990, and for subsequent years
20 thereafter until June 30, 2001 shall be based on the facility
21 cost reports for the facility fiscal year ending at any point
22 in time during the previous calendar year, updated to the
23 midpoint of the rate year. The cost report shall be on file
24 with the Department no later than April 1 of the current rate
25 year. Should the cost report not be on file by April 1, the
26 Department shall base the rate on the latest cost report filed

1 by each skilled care facility and intermediate care facility,
2 updated to the midpoint of the current rate year. In
3 determining rates for services rendered on and after July 1,
4 1985, fixed time shall not be computed at less than zero. The
5 Department shall not make any alterations of regulations which
6 would reduce any component of the Medicaid rate to a level
7 below what that component would have been utilizing in the rate
8 effective on July 1, 1984.

9 (2) Shall take into account the actual costs incurred by
10 facilities in providing services for recipients of skilled
11 nursing and intermediate care services under the medical
12 assistance program.

13 (3) Shall take into account the medical and psycho-social
14 characteristics and needs of the patients.

15 (4) Shall take into account the actual costs incurred by
16 facilities in meeting licensing and certification standards
17 imposed and prescribed by the State of Illinois, any of its
18 political subdivisions or municipalities and by the U.S.
19 Department of Health and Human Services pursuant to Title XIX
20 of the Social Security Act.

21 The Department of Healthcare and Family Services shall
22 develop precise standards for payments to reimburse nursing
23 facilities for any utilization of appropriate rehabilitative
24 personnel for the provision of rehabilitative services which is
25 authorized by federal regulations, including reimbursement for
26 services provided by qualified therapists or qualified

1 assistants, and which is in accordance with accepted
2 professional practices. Reimbursement also may be made for
3 utilization of other supportive personnel under appropriate
4 supervision.

5 The Department shall develop enhanced payments to offset
6 the additional costs incurred by a facility serving exceptional
7 need residents and shall allocate at least \$8,000,000 of the
8 funds collected from the assessment established by Section 5B-2
9 of this Code for such payments. For the purpose of this
10 Section, "exceptional needs" means, but need not be limited to,
11 ventilator care, tracheotomy care, bariatric care, complex
12 wound care, and traumatic brain injury care.

13 (5) Beginning July 1, 2012 the methodologies for
14 reimbursement of nursing facility services as provided under
15 this Section 5-5.4 shall no longer be applicable for bills
16 payable for State fiscal years 2012 and thereafter.

17 (Source: P.A. 95-12, eff. 7-2-07; 95-331, eff. 8-21-07; 95-707,
18 eff. 1-11-08; 95-744, eff. 7-18-08; 96-45, eff. 7-15-09;
19 96-339, eff. 7-1-10; 96-959, eff. 7-1-10; 96-1000, eff. 7-2-10;
20 96-1530, eff. 2-16-11.)

21 (305 ILCS 5/5-5.7) (from Ch. 23, par. 5-5.7)

22 Sec. 5-5.7. Cost Reports - Audits. The Department of
23 Healthcare and Family Services shall work with the Department
24 of Public Health to use cost report information currently being
25 collected under provisions of the Nursing Home Care Act and the

1 ID/DD ~~MR/DD~~ Community Care Act. The Department of Healthcare
2 and Family Services may, in conjunction with the Department of
3 Public Health, develop in accordance with generally accepted
4 accounting principles a uniform chart of accounts which each
5 facility providing services under the medical assistance
6 program shall adopt, after a reasonable period.

7 Nursing homes licensed under the Nursing Home Care Act or
8 the ID/DD ~~MR/DD~~ Community Care Act and providers of adult
9 developmental training services certified by the Department of
10 Human Services pursuant to Section 15.2 of the Mental Health
11 and Developmental Disabilities Administrative Act which
12 provide services to clients eligible for medical assistance
13 under this Article are responsible for submitting the required
14 annual cost report to the Department of Healthcare and Family
15 Services.

16 The Department of Healthcare and Family Services shall
17 audit the financial and statistical records of each provider
18 participating in the medical assistance program as a nursing
19 facility or ICF/DD over a 3 year period, beginning with the
20 close of the first cost reporting year. Following the end of
21 this 3-year term, audits of the financial and statistical
22 records will be performed each year in at least 20% of the
23 facilities participating in the medical assistance program
24 with at least 10% being selected on a random sample basis, and
25 the remainder selected on the basis of exceptional profiles.
26 All audits shall be conducted in accordance with generally

1 accepted auditing standards.

2 The Department of Healthcare and Family Services shall
3 establish prospective payment rates for categories of service
4 needed within the nursing facility or ICF/DD levels of
5 services, in order to more appropriately recognize the
6 individual needs of patients in nursing facilities.

7 The Department of Healthcare and Family Services shall
8 provide, during the process of establishing the payment rate
9 for nursing facility or ICF/DD services, or when a substantial
10 change in rates is proposed, an opportunity for public review
11 and comment on the proposed rates prior to their becoming
12 effective.

13 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10;
14 96-1530, eff. 2-16-11.)

15 (305 ILCS 5/5-5.17) (from Ch. 23, par. 5-5.17)

16 Sec. 5-5.17. Separate reimbursement rate. The Illinois
17 Department may by rule establish a separate reimbursement rate
18 to be paid to long term care facilities for adult developmental
19 training services as defined in Section 15.2 of the Mental
20 Health and Developmental Disabilities Administrative Act which
21 are provided to intellectually disabled ~~mentally retarded~~
22 residents of such facilities who receive aid under this
23 Article. Any such reimbursement shall be based upon cost
24 reports submitted by the providers of such services and shall
25 be paid by the long term care facility to the provider within

1 such time as the Illinois Department shall prescribe by rule,
2 but in no case less than 3 business days after receipt of the
3 reimbursement by such facility from the Illinois Department.
4 The Illinois Department may impose a penalty upon a facility
5 which does not make payment to the provider of adult
6 developmental training services within the time so prescribed,
7 up to the amount of payment not made to the provider.

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

9 (305 ILCS 5/5-6) (from Ch. 23, par. 5-6)

10 Sec. 5-6. Obligations incurred prior to death of a
11 recipient. Obligations incurred but not paid for at the time of
12 a recipient's death for services authorized under Section 5-5,
13 including medical and other care in group care facilities as
14 defined in the Nursing Home Care Act or the ID/DD ~~MR/DD~~
15 Community Care Act, or in like facilities not required to be
16 licensed under that Act, may be paid, subject to the rules and
17 regulations of the Illinois Department, after the death of the
18 recipient.

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

20 (305 ILCS 5/5-13) (from Ch. 23, par. 5-13)

21 Sec. 5-13. Claim against estate of recipients. To the
22 extent permitted under the federal Social Security Act, the
23 amount expended under this Article (1) for a person of any age
24 who is an inpatient in a nursing facility, an intermediate care

1 facility for the intellectually disabled ~~mentally retarded~~, or
2 other medical institution, or (2) for a person aged 55 or more,
3 shall be a claim against the person's estate or a claim against
4 the estate of the person's spouse, regardless of the order of
5 death, but no recovery may be had thereon until after the death
6 of the surviving spouse, if any, and then only at such time
7 when there is no surviving child who is under age 21, or blind,
8 or permanently and totally disabled. This Section, however,
9 shall not bar recovery at the death of the person of amounts of
10 medical assistance paid to or in his behalf to which he was not
11 entitled; provided that such recovery shall not be enforced
12 against any real estate while it is occupied as a homestead by
13 the surviving spouse or other dependent, if no claims by other
14 creditors have been filed against the estate, or if such claims
15 have been filed, they remain dormant for failure of prosecution
16 or failure of the claimant to compel administration of the
17 estate for the purpose of payment. The term "estate", as used
18 in this Section, with respect to a deceased person, means all
19 real and personal property and other assets included within the
20 person's estate, as that term is used in the Probate Act of
21 1975; however, in the case of a deceased person who has
22 received (or is entitled to receive) benefits under a long-term
23 care insurance policy in connection with which assets or
24 resources are disregarded to the extent that payments are made
25 or because the deceased person received (or was entitled to
26 receive) benefits under a long-term care insurance policy,

1 "estate" also includes any other real and personal property and
2 other assets in which the deceased person had any legal title
3 or interest at the time of his or her death (to the extent of
4 that interest), including assets conveyed to a survivor, heir,
5 or assignee of the deceased person through joint tenancy,
6 tenancy in common, survivorship, life estate, living trust, or
7 other arrangement. The term "homestead", as used in this
8 Section, means the dwelling house and contiguous real estate
9 occupied by a surviving spouse or relative, as defined by the
10 rules and regulations of the Illinois Department, regardless of
11 the value of the property.

12 A claim arising under this Section against assets conveyed
13 to a survivor, heir, or assignee of the deceased person through
14 joint tenancy, tenancy in common, survivorship, life estate,
15 living trust, or other arrangement is not effective until the
16 claim is recorded or filed in the manner provided for a notice
17 of lien in Section 3-10.2. The claim is subject to the same
18 requirements and conditions to which liens on real property
19 interests are subject under Sections 3-10.1 through 3-10.10. A
20 claim arising under this Section attaches to interests owned or
21 subsequently acquired by the estate of a recipient or the
22 estate of a recipient's surviving spouse. The transfer or
23 conveyance of any real or personal property of the estate as
24 defined in this Section shall be subject to the fraudulent
25 transfer conditions that apply to real property in Section 3-11
26 of this Code.

1 The provisions of this Section shall not affect the
2 validity of claims against estates for medical assistance
3 provided prior to January 1, 1966 to aged, blind, or disabled
4 persons receiving aid under Articles V, VII and VII-A of the
5 1949 Code.

6 (Source: P.A. 88-85; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95;
7 89-437, eff. 12-15-95; 89-686, eff. 12-31-96.)

8 (305 ILCS 5/5B-1) (from Ch. 23, par. 5B-1)

9 Sec. 5B-1. Definitions. As used in this Article, unless the
10 context requires otherwise:

11 "Fund" means the Long-Term Care Provider Fund.

12 "Long-term care facility" means (i) a nursing facility,
13 whether public or private and whether organized for profit or
14 not-for-profit, that is subject to licensure by the Illinois
15 Department of Public Health under the Nursing Home Care Act or
16 the ID/DD ~~MR/DD~~ Community Care Act, including a county nursing
17 home directed and maintained under Section 5-1005 of the
18 Counties Code, and (ii) a part of a hospital in which skilled
19 or intermediate long-term care services within the meaning of
20 Title XVIII or XIX of the Social Security Act are provided;
21 except that the term "long-term care facility" does not include
22 a facility operated by a State agency, a facility participating
23 in the Illinois Department's demonstration program pursuant to
24 the provisions of Title 77, Part 300, Subpart T of the Illinois
25 Administrative Code, or operated solely as an intermediate care

1 facility for the mentally retarded within the meaning of Title
2 XIX of the Social Security Act.

3 "Long-term care provider" means (i) a person licensed by
4 the Department of Public Health to operate and maintain a
5 skilled nursing or intermediate long-term care facility or (ii)
6 a hospital provider that provides skilled or intermediate
7 long-term care services within the meaning of Title XVIII or
8 XIX of the Social Security Act. For purposes of this paragraph,
9 "person" means any political subdivision of the State,
10 municipal corporation, individual, firm, partnership,
11 corporation, company, limited liability company, association,
12 joint stock association, or trust, or a receiver, executor,
13 trustee, guardian, or other representative appointed by order
14 of any court. "Hospital provider" means a person licensed by
15 the Department of Public Health to conduct, operate, or
16 maintain a hospital.

17 "Occupied bed days" shall be computed separately for each
18 long-term care facility operated or maintained by a long-term
19 care provider, and means the sum for all beds of the number of
20 days during the month on which each bed was occupied by a
21 resident, other than a resident for whom Medicare Part A is the
22 primary payer.

23 (Source: P.A. 96-339, eff. 7-1-10; 96-1530, eff. 2-16-11.)

24 (305 ILCS 5/5C-1) (from Ch. 23, par. 5C-1)

25 Sec. 5C-1. Definitions. As used in this Article, unless the

1 context requires otherwise:

2 "Fund" means the Developmentally Disabled Care Provider
3 Fund.

4 "Developmentally disabled care facility" means an
5 intermediate care facility for the intellectually disabled
6 ~~mentally retarded~~ within the meaning of Title XIX of the Social
7 Security Act, whether public or private and whether organized
8 for profit or not-for-profit, but shall not include any
9 facility operated by the State.

10 "Developmentally disabled care provider" means a person
11 conducting, operating, or maintaining a developmentally
12 disabled care facility. For this purpose, "person" means any
13 political subdivision of the State, municipal corporation,
14 individual, firm, partnership, corporation, company, limited
15 liability company, association, joint stock association, or
16 trust, or a receiver, executor, trustee, guardian or other
17 representative appointed by order of any court.

18 "Adjusted gross developmentally disabled care revenue"
19 shall be computed separately for each developmentally disabled
20 care facility conducted, operated, or maintained by a
21 developmentally disabled care provider, and means the
22 developmentally disabled care provider's total revenue for
23 inpatient residential services less contractual allowances and
24 discounts on patients' accounts, but does not include
25 non-patient revenue from sources such as contributions,
26 donations or bequests, investments, day training services,

1 television and telephone service, and rental of facility space.

2 (Source: P.A. 87-861.)

3 (305 ILCS 5/5E-5)

4 Sec. 5E-5. Definitions. As used in this Article, unless the
5 context requires otherwise:

6 "Nursing home" means (i) a skilled nursing or intermediate
7 long-term care facility, whether public or private and whether
8 organized for profit or not-for-profit, that is subject to
9 licensure by the Illinois Department of Public Health under the
10 Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act,
11 including a county nursing home directed and maintained under
12 Section 5-1005 of the Counties Code, and (ii) a part of a
13 hospital in which skilled or intermediate long-term care
14 services within the meaning of Title XVIII or XIX of the Social
15 Security Act are provided; except that the term "nursing home"
16 does not include a facility operated solely as an intermediate
17 care facility for the intellectually disabled ~~mentally~~
18 ~~retarded~~ within the meaning of Title XIX of the Social Security
19 Act.

20 "Nursing home provider" means (i) a person licensed by the
21 Department of Public Health to operate and maintain a skilled
22 nursing or intermediate long-term care facility which charges
23 its residents, a third party payor, Medicaid, or Medicare for
24 skilled nursing or intermediate long-term care services, or
25 (ii) a hospital provider that provides skilled or intermediate

1 long-term care services within the meaning of Title XVIII or
2 XIX of the Social Security Act. For purposes of this paragraph,
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. "Hospital provider" means a person licensed by
9 the Department of Public Health to conduct, operate, or
10 maintain a hospital.

11 "Licensed bed days" shall be computed separately for each
12 nursing home operated or maintained by a nursing home provider
13 and means, with respect to a nursing home provider, the sum for
14 all nursing home beds of the number of days during a calendar
15 quarter on which each bed is covered by a license issued to
16 that provider under the Nursing Home Care Act or the Hospital
17 Licensing Act.

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

19 (305 ILCS 5/8A-11) (from Ch. 23, par. 8A-11)

20 Sec. 8A-11. (a) No person shall:

21 (1) Knowingly charge a resident of a nursing home for
22 any services provided pursuant to Article V of the Illinois
23 Public Aid Code, money or other consideration at a rate in
24 excess of the rates established for covered services by the
25 Illinois Department pursuant to Article V of The Illinois

1 Public Aid Code; or

2 (2) Knowingly charge, solicit, accept or receive, in
3 addition to any amount otherwise authorized or required to
4 be paid pursuant to Article V of The Illinois Public Aid
5 Code, any gift, money, donation or other consideration:

6 (i) As a precondition to admitting or expediting
7 the admission of a recipient or applicant, pursuant to
8 Article V of The Illinois Public Aid Code, to a
9 long-term care facility as defined in Section 1-113 of
10 the Nursing Home Care Act or a facility as defined in
11 Section 1-113 of the ID/DD ~~MR/DD~~ Community Care Act;
12 and

13 (ii) As a requirement for the recipient's or
14 applicant's continued stay in such facility when the
15 cost of the services provided therein to the recipient
16 is paid for, in whole or in part, pursuant to Article V
17 of The Illinois Public Aid Code.

18 (b) Nothing herein shall prohibit a person from making a
19 voluntary contribution, gift or donation to a long-term care
20 facility.

21 (c) This paragraph shall not apply to agreements to provide
22 continuing care or life care between a life care facility as
23 defined by the Life Care Facilities Act, and a person
24 financially eligible for benefits pursuant to Article V of The
25 Illinois Public Aid Code.

26 (d) Any person who violates this Section shall be guilty of

1 a business offense and fined not less than \$5,000 nor more than
2 \$25,000.

3 (e) "Person", as used in this Section, means an individual,
4 corporation, partnership, or unincorporated association.

5 (f) The State's Attorney of the county in which the
6 facility is located and the Attorney General shall be notified
7 by the Illinois Department of any alleged violations of this
8 Section known to the Department.

9 (g) The Illinois Department shall adopt rules and
10 regulations to carry out the provisions of this Section.

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

12 (305 ILCS 5/11-4.1)

13 Sec. 11-4.1. Medical providers assisting with applications
14 for medical assistance. A provider enrolled to provide medical
15 assistance services may, upon the request of an individual,
16 accompany, represent, and assist the individual in applying for
17 medical assistance under Article V of this Code. If an
18 individual is unable to request such assistance due to
19 incapacity or mental incompetence and has no other
20 representative willing or able to assist in the application
21 process, a facility licensed under the Nursing Home Care Act or
22 the ID/DD ~~MR/DD~~ Community Care Act or certified under this Code
23 is authorized to assist the individual in applying for
24 long-term care services. Subject to the provisions of the Free
25 Healthcare Benefits Application Assistance Act, nothing in

1 this Section shall be construed as prohibiting any individual
2 or entity from assisting another individual in applying for
3 medical assistance under Article V of this Code.

4 (Source: P.A. 96-1439, eff. 8-20-10.)

5 (305 ILCS 5/12-4.42)

6 Sec. 12-4.42 ~~12-4.40~~. Medicaid Revenue Maximization.

7 (a) Purpose. The General Assembly finds that there is a
8 need to make changes to the administration of services provided
9 by State and local governments in order to maximize federal
10 financial participation.

11 (b) Definitions. As used in this Section:

12 "Community Medicaid mental health services" means all
13 mental health services outlined in Section 132 of Title 59 of
14 the Illinois Administrative Code that are funded through DHS,
15 eligible for federal financial participation, and provided by a
16 community-based provider.

17 "Community-based provider" means an entity enrolled as a
18 provider pursuant to Sections 140.11 and 140.12 of Title 89 of
19 the Illinois Administrative Code and certified to provide
20 community Medicaid mental health services in accordance with
21 Section 132 of Title 59 of the Illinois Administrative Code.

22 "DCFS" means the Department of Children and Family
23 Services.

24 "Department" means the Illinois Department of Healthcare
25 and Family Services.

1 "Developmentally disabled care facility" means an
2 intermediate care facility for the intellectually disabled
3 ~~mentally retarded~~ within the meaning of Title XIX of the Social
4 Security Act, whether public or private and whether organized
5 for profit or not-for-profit, but shall not include any
6 facility operated by the State.

7 "Developmentally disabled care provider" means a person
8 conducting, operating, or maintaining a developmentally
9 disabled care facility. For purposes of this definition,
10 "person" means any political subdivision of the State,
11 municipal corporation, individual, firm, partnership,
12 corporation, company, limited liability company, association,
13 joint stock association, or trust, or a receiver, executor,
14 trustee, guardian, or other representative appointed by order
15 of any court.

16 "DHS" means the Illinois Department of Human Services.

17 "Hospital" means an institution, place, building, or
18 agency located in this State that is licensed as a general
19 acute hospital by the Illinois Department of Public Health
20 under the Hospital Licensing Act, whether public or private and
21 whether organized for profit or not-for-profit.

22 "Long term care facility" means (i) a skilled nursing or
23 intermediate long term care facility, whether public or private
24 and whether organized for profit or not-for-profit, that is
25 subject to licensure by the Illinois Department of Public
26 Health under the Nursing Home Care Act, including a county

1 nursing home directed and maintained under Section 5-1005 of
2 the Counties Code, and (ii) a part of a hospital in which
3 skilled or intermediate long term care services within the
4 meaning of Title XVIII or XIX of the Social Security Act are
5 provided; except that the term "long term care facility" does
6 not include a facility operated solely as an intermediate care
7 facility for the intellectually disabled ~~mentally-retarded~~
8 within the meaning of Title XIX of the Social Security Act.

9 "Long term care provider" means (i) a person licensed by
10 the Department of Public Health to operate and maintain a
11 skilled nursing or intermediate long term care facility or (ii)
12 a hospital provider that provides skilled or intermediate long
13 term care services within the meaning of Title XVIII or XIX of
14 the Social Security Act. For purposes of this definition,
15 "person" means any political subdivision of the State,
16 municipal corporation, individual, firm, partnership,
17 corporation, company, limited liability company, association,
18 joint stock association, or trust, or a receiver, executor,
19 trustee, guardian, or other representative appointed by order
20 of any court.

21 "State-operated developmentally disabled care facility"
22 means an intermediate care facility for the intellectually
23 disabled ~~mentally-retarded~~ within the meaning of Title XIX of
24 the Social Security Act operated by the State.

25 (c) Administration and deposit of Revenues. The Department
26 shall coordinate the implementation of changes required by this

1 amendatory Act of the 96th General Assembly amongst the various
2 State and local government bodies that administer programs
3 referred to in this Section.

4 Revenues generated by program changes mandated by any
5 provision in this Section, less reasonable administrative
6 costs associated with the implementation of these program
7 changes, shall be deposited into the Healthcare Provider Relief
8 Fund.

9 The Department shall issue a report to the General Assembly
10 detailing the implementation progress of this amendatory Act of
11 the 96th General Assembly as a part of the Department's Medical
12 Programs annual report for fiscal years 2010 and 2011.

13 (d) Acceleration of payment vouchers. To the extent
14 practicable and permissible under federal law, the Department
15 shall create all vouchers for long term care facilities and
16 developmentally disabled care facilities for dates of service
17 in the month in which the enhanced federal medical assistance
18 percentage (FMAP) originally set forth in the American Recovery
19 and Reinvestment Act (ARRA) expires and for dates of service in
20 the month prior to that month and shall, no later than the 15th
21 of the month in which the enhanced FMAP expires, submit these
22 vouchers to the Comptroller for payment.

23 The Department of Human Services shall create the necessary
24 documentation for State-operated developmentally disabled care
25 facilities so that the necessary data for all dates of service
26 before the expiration of the enhanced FMAP originally set forth

1 in the ARRA can be adjudicated by the Department no later than
2 the 15th of the month in which the enhanced FMAP expires.

3 (e) Billing of DHS community Medicaid mental health
4 services. No later than July 1, 2011, community Medicaid mental
5 health services provided by a community-based provider must be
6 billed directly to the Department.

7 (f) DCFS Medicaid services. The Department shall work with
8 DCFS to identify existing programs, pending qualifying
9 services, that can be converted in an economically feasible
10 manner to Medicaid in order to secure federal financial
11 revenue.

12 (g) Third Party Liability recoveries. The Department shall
13 contract with a vendor to support the Department in
14 coordinating benefits for Medicaid enrollees. The scope of work
15 shall include, at a minimum, the identification of other
16 insurance for Medicaid enrollees and the recovery of funds paid
17 by the Department when another payer was liable. The vendor may
18 be paid a percentage of actual cash recovered when practical
19 and subject to federal law.

20 (h) Public health departments. The Department shall
21 identify unreimbursed costs for persons covered by Medicaid who
22 are served by the Chicago Department of Public Health.

23 The Department shall assist the Chicago Department of
24 Public Health in determining total unreimbursed costs
25 associated with the provision of healthcare services to
26 Medicaid enrollees.

1 The Department shall determine and draw the maximum
2 allowable federal matching dollars associated with the cost of
3 Chicago Department of Public Health services provided to
4 Medicaid enrollees.

5 (i) Acceleration of hospital-based payments. The
6 Department shall, by the 10th day of the month in which the
7 enhanced FMAP originally set forth in the ARRA expires, create
8 vouchers for all State fiscal year 2011 hospital payments
9 exempt from the prompt payment requirements of the ARRA. The
10 Department shall submit these vouchers to the Comptroller for
11 payment.

12 (Source: P.A. 96-1405, eff. 7-29-10; revised 9-9-10.)

13 Section 90. The Medicaid Revenue Act is amended by changing
14 Section 1-2 as follows:

15 (305 ILCS 35/1-2) (from Ch. 23, par. 7051-2)

16 Sec. 1-2. Legislative finding and declaration. The General
17 Assembly hereby finds, determines, and declares:

18 (1) It is in the public interest and it is the public
19 policy of this State to provide for and improve the basic
20 medical care and long-term health care services of its
21 indigent, most vulnerable citizens.

22 (2) Preservation of health, alleviation of sickness,
23 and correction of handicapping conditions for persons
24 requiring maintenance support are essential if those

1 persons are to have an opportunity to become
2 self-supporting or to attain a greater capacity for
3 self-care.

4 (3) For persons who are medically indigent but
5 otherwise able to provide themselves a livelihood, it is of
6 special importance to maintain their incentives for
7 continued independence and preserve their limited
8 resources for ordinary maintenance needed to prevent their
9 total or substantial dependence on public support.

10 (4) The State has historically provided for care and
11 services, in conjunction with the federal government,
12 through the establishment and funding of a medical
13 assistance program administered by the Department of
14 Healthcare and Family Services (formerly Department of
15 Public Aid) and approved by the Secretary of Health and
16 Human Services under Title XIX of the federal Social
17 Security Act, that program being commonly referred to as
18 "Medicaid".

19 (5) The Medicaid program is a funding partnership
20 between the State of Illinois and the federal government,
21 with the Department of Healthcare and Family Services being
22 designated as the single State agency responsible for the
23 administration of the program, but with the State
24 historically receiving 50% of the amounts expended as
25 medical assistance under the Medicaid program from the
26 federal government.

1 (6) To raise a portion of Illinois' share of the
2 Medicaid funds after July 1, 1991, the General Assembly
3 enacted Public Act 87-13 to provide for the collection of
4 provider participation fees from designated health care
5 providers receiving Medicaid payments.

6 (7) On September 12, 1991, the Secretary of Health and
7 Human Services proposed regulations that could have
8 reduced the federal matching of Medicaid expenditures
9 incurred on or after January 1, 1992 by the portion of the
10 expenditures paid from funds raised through the provider
11 participation fees.

12 (8) To prevent the Secretary from enacting those
13 regulations but at the same time to impose certain
14 statutory limitations on the means by which states may
15 raise Medicaid funds eligible for federal matching,
16 Congress enacted the Medicaid Voluntary Contribution and
17 Provider-Specific Tax Amendments of 1991, Public Law
18 102-234.

19 (9) Public Law 102-234 provides for a state's share of
20 Medicaid funding eligible for federal matching to be raised
21 through "broad-based health care related taxes", meaning,
22 generally, a tax imposed with respect to a class of health
23 care items or services (or providers thereof) specified
24 therein, which (i) is imposed on all items or services or
25 providers in the class in the state, except federal or
26 public providers, and (ii) is imposed uniformly on all

1 providers in the class at the same rate with respect to the
2 same base.

3 (10) The separate classes of health care items and
4 services established by P.L. 102-234 include inpatient and
5 outpatient hospital services, nursing facility services,
6 and services of intermediate care facilities for the
7 intellectually disabled ~~mentally retarded~~.

8 (11) The provider participation fees imposed under
9 P.A. 87-13 may not meet the standards under P.L. 102-234.

10 (12) The resulting hospital Medicaid reimbursement
11 reductions may force the closure of some hospitals now
12 serving a disproportionately high number of the needy, who
13 would then have to be cared for by remaining hospitals at
14 substantial cost to those remaining hospitals.

15 (13) The hospitals in the State are all part of and
16 benefit from a hospital system linked together in a number
17 of ways, including common licensing and regulation, health
18 care standards, education, research and disease control
19 reporting, patient transfers for specialist care, and
20 organ donor networks.

21 (14) Each hospital's patient population demographics,
22 including the proportion of patients whose care is paid by
23 Medicaid, is subject to change over time.

24 (15) Hospitals in the State have a special interest in
25 the payment of adequate reimbursement levels for hospital
26 care by Medicaid.

1 (16) Most hospitals are exempt from payment of most
2 federal, State, and local income, sales, property, and
3 other taxes.

4 (17) The hospital assessment enacted by this Act under
5 the guidelines of P.L. 102-234 is the most efficient means
6 of raising the federally matchable funds needed for
7 hospital care reimbursement.

8 (18) Cook County Hospital and Oak Forest Hospital are
9 public hospitals owned and operated by Cook County with
10 unique fiscal problems, including a patient population
11 that is primarily Medicaid or altogether nonpaying, that
12 make an intergovernmental transfer payment arrangement a
13 more appropriate means of financing than the regular
14 hospital assessment and reimbursement provisions.

15 (19) Sole community hospitals provide access to
16 essential care that would otherwise not be reasonably
17 available in the community they serve, such that imposition
18 of assessments on them in their precarious financial
19 circumstances may force their closure and have the effect
20 of reducing access to health care.

21 (20) Each nursing home's resident population
22 demographics, including the proportion of residents whose
23 care is paid by Medicaid, is subject to change over time in
24 that, among other things, residents currently able to pay
25 the cost of nursing home care may become dependent on
26 Medicaid support for continued care and services as

1 resources are depleted.

2 (21) As the citizens of the State age, increased
3 pressures will be placed on limited facilities to provide
4 reasonable levels of care for a greater number of geriatric
5 residents, and all involved in the nursing home industry,
6 providers and residents, have a special interest in the
7 maintenance of adequate Medicaid support for all nursing
8 facilities.

9 (22) The assessments on nursing homes enacted by this
10 Act under the guidelines of P.L. 102-234 are the most
11 efficient means of raising the federally matchable funds
12 needed for nursing home care reimbursement.

13 (23) All intermediate care facilities for persons with
14 developmental disabilities receive a high degree of
15 Medicaid support and benefits and therefore have a special
16 interest in the maintenance of adequate Medicaid support.

17 (24) The assessments on intermediate care facilities
18 for persons with developmental disabilities enacted by
19 this Act under the guidelines of P.L. 102-234 are the most
20 efficient means of raising the federally matchable funds
21 needed for reimbursement of providers of intermediate care
22 for persons with developmental disabilities.

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

24 Section 91. The Nursing Home Grant Assistance Act is
25 amended by changing Section 5 as follows:

1 (305 ILCS 40/5) (from Ch. 23, par. 7100-5)

2 Sec. 5. Definitions. As used in this Act, unless the
3 context requires otherwise:

4 "Applicant" means an eligible individual who makes a
5 payment of at least \$1 in a quarter to a nursing home.

6 "Application" means the receipt by a nursing home of at
7 least \$1 from an eligible individual that is a resident of the
8 home.

9 "Department" means the Department of Revenue.

10 "Director" means the Director of the Department of Revenue.

11 "Distribution agent" means a nursing home that is residence
12 to one or more eligible individuals, which receives an
13 application from one or more applicants for participation in
14 the Nursing Home Grant Assistance Program provided for by this
15 Act, and is thereby designated as distributing agent by such
16 applicant or applicants, and which is thereby authorized by
17 virtue of its license to receive from the Department and
18 distribute to eligible individuals residing in the nursing home
19 Nursing Home Grant Assistance payments under this Act.

20 "Qualified distribution agent" means a distribution agent
21 that the Department of Public Health has certified to the
22 Department of Revenue to be a licensed nursing home in good
23 standing.

24 "Eligible individual" means an individual eligible for a
25 nursing home grant assistance payment because he or she meets

1 each of the following requirements:

2 (1) The individual resides, after June 30, 1992, in a
3 nursing home as defined in this Act.

4 (2) For each day for which nursing home grant
5 assistance is sought, the individual's nursing home care
6 was not paid for, in whole or in part, by a federal, State,
7 or combined federal-State medical care program; the
8 receipt of Medicare Part B benefits does not make a person
9 ineligible for nursing home grant assistance.

10 (3) The individual's annual adjusted gross income,
11 after payment of any expenses for nursing home care, does
12 not exceed 250% of the federal poverty guidelines for an
13 individual as published annually by the U.S. Department of
14 Health and Human Services for purposes of determining
15 Medicaid eligibility.

16 "Fund" means the Nursing Home Grant Assistance Fund.

17 "Nursing home" means a skilled nursing or intermediate long
18 term care facility that is subject to licensure by the Illinois
19 Department of Public Health under the Nursing Home Care Act or
20 the ID/DD ~~MR/DD~~ Community Care Act.

21 "Occupied bed days" means the sum for all beds of the
22 number of days during a quarter for which grant assistance is
23 sought under this Act on which a bed is occupied by an
24 individual.

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

1 Section 92. The Elder Abuse and Neglect Act is amended by
2 changing Section 2 as follows:

3 (320 ILCS 20/2) (from Ch. 23, par. 6602)

4 Sec. 2. Definitions. As used in this Act, unless the
5 context requires otherwise:

6 (a) "Abuse" means causing any physical, mental or sexual
7 injury to an eligible adult, including exploitation of such
8 adult's financial resources.

9 Nothing in this Act shall be construed to mean that an
10 eligible adult is a victim of abuse, neglect, or self-neglect
11 for the sole reason that he or she is being furnished with or
12 relies upon treatment by spiritual means through prayer alone,
13 in accordance with the tenets and practices of a recognized
14 church or religious denomination.

15 Nothing in this Act shall be construed to mean that an
16 eligible adult is a victim of abuse because of health care
17 services provided or not provided by licensed health care
18 professionals.

19 (a-5) "Abuser" means a person who abuses, neglects, or
20 financially exploits an eligible adult.

21 (a-7) "Caregiver" means a person who either as a result of
22 a family relationship, voluntarily, or in exchange for
23 compensation has assumed responsibility for all or a portion of
24 the care of an eligible adult who needs assistance with
25 activities of daily living.

1 (b) "Department" means the Department on Aging of the State
2 of Illinois.

3 (c) "Director" means the Director of the Department.

4 (d) "Domestic living situation" means a residence where the
5 eligible adult lives alone or with his or her family or a
6 caregiver, or others, or a board and care home or other
7 community-based unlicensed facility, but is not:

8 (1) A licensed facility as defined in Section 1-113 of
9 the Nursing Home Care Act;

10 (1.5) A facility licensed under the ID/DD ~~MR/DD~~
11 Community Care Act;

12 (2) A "life care facility" as defined in the Life Care
13 Facilities Act;

14 (3) A home, institution, or other place operated by the
15 federal government or agency thereof or by the State of
16 Illinois;

17 (4) A hospital, sanitarium, or other institution, the
18 principal activity or business of which is the diagnosis,
19 care, and treatment of human illness through the
20 maintenance and operation of organized facilities
21 therefor, which is required to be licensed under the
22 Hospital Licensing Act;

23 (5) A "community living facility" as defined in the
24 Community Living Facilities Licensing Act;

25 (6) (Blank);

26 (7) A "community-integrated living arrangement" as

1 defined in the Community-Integrated Living Arrangements
2 Licensure and Certification Act;

3 (8) An assisted living or shared housing establishment
4 as defined in the Assisted Living and Shared Housing Act;
5 or

6 (9) A supportive living facility as described in
7 Section 5-5.01a of the Illinois Public Aid Code.

8 (e) "Eligible adult" means a person 60 years of age or
9 older who resides in a domestic living situation and is, or is
10 alleged to be, abused, neglected, or financially exploited by
11 another individual or who neglects himself or herself.

12 (f) "Emergency" means a situation in which an eligible
13 adult is living in conditions presenting a risk of death or
14 physical, mental or sexual injury and the provider agency has
15 reason to believe the eligible adult is unable to consent to
16 services which would alleviate that risk.

17 (f-5) "Mandated reporter" means any of the following
18 persons while engaged in carrying out their professional
19 duties:

20 (1) a professional or professional's delegate while
21 engaged in: (i) social services, (ii) law enforcement,
22 (iii) education, (iv) the care of an eligible adult or
23 eligible adults, or (v) any of the occupations required to
24 be licensed under the Clinical Psychologist Licensing Act,
25 the Clinical Social Work and Social Work Practice Act, the
26 Illinois Dental Practice Act, the Dietetic and Nutrition

1 Services Practice Act, the Marriage and Family Therapy
2 Licensing Act, the Medical Practice Act of 1987, the
3 Naprapathic Practice Act, the Nurse Practice Act, the
4 Nursing Home Administrators Licensing and Disciplinary
5 Act, the Illinois Occupational Therapy Practice Act, the
6 Illinois Optometric Practice Act of 1987, the Pharmacy
7 Practice Act, the Illinois Physical Therapy Act, the
8 Physician Assistant Practice Act of 1987, the Podiatric
9 Medical Practice Act of 1987, the Respiratory Care Practice
10 Act, the Professional Counselor and Clinical Professional
11 Counselor Licensing Act, the Illinois Speech-Language
12 Pathology and Audiology Practice Act, the Veterinary
13 Medicine and Surgery Practice Act of 2004, and the Illinois
14 Public Accounting Act;

15 (2) an employee of a vocational rehabilitation
16 facility prescribed or supervised by the Department of
17 Human Services;

18 (3) an administrator, employee, or person providing
19 services in or through an unlicensed community based
20 facility;

21 (4) any religious practitioner who provides treatment
22 by prayer or spiritual means alone in accordance with the
23 tenets and practices of a recognized church or religious
24 denomination, except as to information received in any
25 confession or sacred communication enjoined by the
26 discipline of the religious denomination to be held

1 confidential;

2 (5) field personnel of the Department of Healthcare and
3 Family Services, Department of Public Health, and
4 Department of Human Services, and any county or municipal
5 health department;

6 (6) personnel of the Department of Human Services, the
7 Guardianship and Advocacy Commission, the State Fire
8 Marshal, local fire departments, the Department on Aging
9 and its subsidiary Area Agencies on Aging and provider
10 agencies, and the Office of State Long Term Care Ombudsman;

11 (7) any employee of the State of Illinois not otherwise
12 specified herein who is involved in providing services to
13 eligible adults, including professionals providing medical
14 or rehabilitation services and all other persons having
15 direct contact with eligible adults;

16 (8) a person who performs the duties of a coroner or
17 medical examiner; or

18 (9) a person who performs the duties of a paramedic or
19 an emergency medical technician.

20 (g) "Neglect" means another individual's failure to
21 provide an eligible adult with or willful withholding from an
22 eligible adult the necessities of life including, but not
23 limited to, food, clothing, shelter or health care. This
24 subsection does not create any new affirmative duty to provide
25 support to eligible adults. Nothing in this Act shall be
26 construed to mean that an eligible adult is a victim of neglect

1 because of health care services provided or not provided by
2 licensed health care professionals.

3 (h) "Provider agency" means any public or nonprofit agency
4 in a planning and service area appointed by the regional
5 administrative agency with prior approval by the Department on
6 Aging to receive and assess reports of alleged or suspected
7 abuse, neglect, or financial exploitation.

8 (i) "Regional administrative agency" means any public or
9 nonprofit agency in a planning and service area so designated
10 by the Department, provided that the designated Area Agency on
11 Aging shall be designated the regional administrative agency if
12 it so requests. The Department shall assume the functions of
13 the regional administrative agency for any planning and service
14 area where another agency is not so designated.

15 (i-5) "Self-neglect" means a condition that is the result
16 of an eligible adult's inability, due to physical or mental
17 impairments, or both, or a diminished capacity, to perform
18 essential self-care tasks that substantially threaten his or
19 her own health, including: providing essential food, clothing,
20 shelter, and health care; and obtaining goods and services
21 necessary to maintain physical health, mental health,
22 emotional well-being, and general safety. The term includes
23 compulsive hoarding, which is characterized by the acquisition
24 and retention of large quantities of items and materials that
25 produce an extensively cluttered living space, which
26 significantly impairs the performance of essential self-care

1 tasks or otherwise substantially threatens life or safety.

2 (j) "Substantiated case" means a reported case of alleged
3 or suspected abuse, neglect, financial exploitation, or
4 self-neglect in which a provider agency, after assessment,
5 determines that there is reason to believe abuse, neglect, or
6 financial exploitation has occurred.

7 (Source: P.A. 95-639, eff. 10-5-07; 95-689, eff. 10-29-07;
8 95-876, eff. 8-21-08; 96-339, eff. 7-1-10; 96-526, eff. 1-1-10;
9 96-572, eff. 1-1-10; 96-1000, eff. 7-2-10.)

10 Section 93. The Older Adult Services Act is amended by
11 changing Section 10 as follows:

12 (320 ILCS 42/10)

13 Sec. 10. Definitions. In this Act:

14 "Advisory Committee" means the Older Adult Services
15 Advisory Committee.

16 "Certified nursing home" means any nursing home licensed
17 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community
18 Care Act and certified under Title XIX of the Social Security
19 Act to participate as a vendor in the medical assistance
20 program under Article V of the Illinois Public Aid Code.

21 "Comprehensive case management" means the assessment of
22 needs and preferences of an older adult at the direction of the
23 older adult or the older adult's designated representative and
24 the arrangement, coordination, and monitoring of an optimum

1 package of services to meet the needs of the older adult.

2 "Consumer-directed" means decisions made by an informed
3 older adult from available services and care options, which may
4 range from independently making all decisions and managing
5 services directly to limited participation in decision-making,
6 based upon the functional and cognitive level of the older
7 adult.

8 "Coordinated point of entry" means an integrated access
9 point where consumers receive information and assistance,
10 assessment of needs, care planning, referral, assistance in
11 completing applications, authorization of services where
12 permitted, and follow-up to ensure that referrals and services
13 are accessed.

14 "Department" means the Department on Aging, in
15 collaboration with the departments of Public Health and
16 Healthcare and Family Services and other relevant agencies and
17 in consultation with the Advisory Committee, except as
18 otherwise provided.

19 "Departments" means the Department on Aging, the
20 departments of Public Health and Healthcare and Family
21 Services, and other relevant agencies in collaboration with
22 each other and in consultation with the Advisory Committee,
23 except as otherwise provided.

24 "Family caregiver" means an adult family member or another
25 individual who is an uncompensated provider of home-based or
26 community-based care to an older adult.

1 "Health services" means activities that promote, maintain,
2 improve, or restore mental or physical health or that are
3 palliative in nature.

4 "Older adult" means a person age 60 or older and, if
5 appropriate, the person's family caregiver.

6 "Person-centered" means a process that builds upon an older
7 adult's strengths and capacities to engage in activities that
8 promote community life and that reflect the older adult's
9 preferences, choices, and abilities, to the extent
10 practicable.

11 "Priority service area" means an area identified by the
12 Departments as being less-served with respect to the
13 availability of and access to older adult services in Illinois.
14 The Departments shall determine by rule the criteria and
15 standards used to designate such areas.

16 "Priority service plan" means the plan developed pursuant
17 to Section 25 of this Act.

18 "Provider" means any supplier of services under this Act.

19 "Residential setting" means the place where an older adult
20 lives.

21 "Restructuring" means the transformation of Illinois'
22 comprehensive system of older adult services from funding
23 primarily a facility-based service delivery system to
24 primarily a home-based and community-based system, taking into
25 account the continuing need for 24-hour skilled nursing care
26 and congregate housing with services.

1 "Services" means the range of housing, health, financial,
2 and supportive services, other than acute health care services,
3 that are delivered to an older adult with functional or
4 cognitive limitations, or socialization needs, who requires
5 assistance to perform activities of daily living, regardless of
6 the residential setting in which the services are delivered.

7 "Supportive services" means non-medical assistance given
8 over a period of time to an older adult that is needed to
9 compensate for the older adult's functional or cognitive
10 limitations, or socialization needs, or those services
11 designed to restore, improve, or maintain the older adult's
12 functional or cognitive abilities.

13 (Source: P.A. 95-331, eff. 8-21-07; 96-339, eff. 7-1-10.)

14 Section 94. The Mental Health and Developmental
15 Disabilities Code is amended by changing Sections 1-106, 1-116,
16 1-122.4, 2-107, 3-200, 4-201, 4-201.1, 4-203, 4-209, 4-400,
17 4-500, and 4-701 and by changing the headings of Article IV of
18 Chapter IV and Article IV of Chapter V as follows:

19 (405 ILCS 5/1-106) (from Ch. 91 1/2, par. 1-106)

20 Sec. 1-106. "Developmental disability" means a disability
21 which is attributable to: (a) an intellectual disability ~~mental~~
22 ~~retardation~~, cerebral palsy, epilepsy or autism; or to (b) any
23 other condition which results in impairment similar to that
24 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. 80-1414.)

7 (405 ILCS 5/1-116) (from Ch. 91 1/2, par. 1-116)

8 Sec. 1-116. "Intellectual disability" ~~"Mental retardation"~~
9 means significantly subaverage general intellectual
10 functioning which exists concurrently with impairment in
11 adaptive behavior and which originates before the age of 18
12 years.

13 (Source: P.A. 80-1414.)

14 (405 ILCS 5/1-122.4) (from Ch. 91 1/2, par. 1-122.4)

15 Sec. 1-122.4. "Qualified intellectual disabilities ~~mental~~
16 ~~retardation~~ professional" as used in this Act means those
17 persons who meet this definition under Section 483.430 of
18 Chapter 42 of the Code of Federal Regulations, subpart G.

19 (Source: P.A. 86-1416.)

20 (405 ILCS 5/2-107) (from Ch. 91 1/2, par. 2-107)

21 Sec. 2-107. Refusal of services; informing of risks.

22 (a) An adult recipient of services or the recipient's
23 guardian, if the recipient is under guardianship, and the

1 recipient's substitute decision maker, if any, must be informed
2 of the recipient's right to refuse medication or
3 electroconvulsive therapy. The recipient and the recipient's
4 guardian or substitute decision maker shall be given the
5 opportunity to refuse generally accepted mental health or
6 developmental disability services, including but not limited
7 to medication or electroconvulsive therapy. If such services
8 are refused, they shall not be given unless such services are
9 necessary to prevent the recipient from causing serious and
10 imminent physical harm to the recipient or others and no less
11 restrictive alternative is available. The facility director
12 shall inform a recipient, guardian, or substitute decision
13 maker, if any, who refuses such services of alternate services
14 available and the risks of such alternate services, as well as
15 the possible consequences to the recipient of refusal of such
16 services.

17 (b) Psychotropic medication or electroconvulsive therapy
18 may be administered under this Section for up to 24 hours only
19 if the circumstances leading up to the need for emergency
20 treatment are set forth in writing in the recipient's record.

21 (c) Administration of medication or electroconvulsive
22 therapy may not be continued unless the need for such treatment
23 is redetermined at least every 24 hours based upon a personal
24 examination of the recipient by a physician or a nurse under
25 the supervision of a physician and the circumstances
26 demonstrating that need are set forth in writing in the

1 recipient's record.

2 (d) Neither psychotropic medication nor electroconvulsive
3 therapy may be administered under this Section for a period in
4 excess of 72 hours, excluding Saturdays, Sundays, and holidays,
5 unless a petition is filed under Section 2-107.1 and the
6 treatment continues to be necessary under subsection (a) of
7 this Section. Once the petition has been filed, treatment may
8 continue in compliance with subsections (a), (b), and (c) of
9 this Section until the final outcome of the hearing on the
10 petition.

11 (e) The Department shall issue rules designed to insure
12 that in State-operated mental health facilities psychotropic
13 medication and electroconvulsive therapy are administered in
14 accordance with this Section and only when appropriately
15 authorized and monitored by a physician or a nurse under the
16 supervision of a physician in accordance with accepted medical
17 practice. The facility director of each mental health facility
18 not operated by the State shall issue rules designed to insure
19 that in that facility psychotropic medication and
20 electroconvulsive therapy are administered in accordance with
21 this Section and only when appropriately authorized and
22 monitored by a physician or a nurse under the supervision of a
23 physician in accordance with accepted medical practice. Such
24 rules shall be available for public inspection and copying
25 during normal business hours.

26 (f) The provisions of this Section with respect to the

1 emergency administration of psychotropic medication and
2 electroconvulsive therapy do not apply to facilities licensed
3 under the Nursing Home Care Act or the ID/DD ~~MR/DD~~ Community
4 Care Act.

5 (g) Under no circumstances may long-acting psychotropic
6 medications be administered under this Section.

7 (h) Whenever psychotropic medication or electroconvulsive
8 therapy is refused pursuant to subsection (a) of this Section
9 at least once that day, the physician shall determine and state
10 in writing the reasons why the recipient did not meet the
11 criteria for administration of medication or electroconvulsive
12 therapy under subsection (a) and whether the recipient meets
13 the standard for administration of psychotropic medication or
14 electroconvulsive therapy under Section 2-107.1 of this Code.
15 If the physician determines that the recipient meets the
16 standard for administration of psychotropic medication or
17 electroconvulsive therapy under Section 2-107.1, the facility
18 director or his or her designee shall petition the court for
19 administration of psychotropic medication or electroconvulsive
20 therapy pursuant to that Section unless the facility director
21 or his or her designee states in writing in the recipient's
22 record why the filing of such a petition is not warranted. This
23 subsection (h) applies only to State-operated mental health
24 facilities.

25 (i) The Department shall conduct annual trainings for all
26 physicians and registered nurses working in State-operated

1 mental health facilities on the appropriate use of emergency
2 administration of psychotropic medication and
3 electroconvulsive therapy, standards for their use, and the
4 methods of authorization under this Section.

5 (Source: P.A. 95-172, eff. 8-14-07; 96-339, eff. 7-1-10.)

6 (405 ILCS 5/3-200) (from Ch. 91 1/2, par. 3-200)

7 Sec. 3-200. (a) A person may be admitted as an inpatient to
8 a mental health facility for treatment of mental illness only
9 as provided in this Chapter, except that a person may be
10 transferred by the Department of Corrections pursuant to the
11 Unified Code of Corrections. A person transferred by the
12 Department of Corrections in this manner may be released only
13 as provided in the Unified Code of Corrections.

14 (b) No person who is diagnosed as intellectually disabled
15 ~~mentally retarded~~ or a person with a developmental disability
16 may be admitted or transferred to a Department mental health
17 facility or, any portion thereof, except as provided in this
18 Chapter. However, the evaluation and placement of such persons
19 shall be governed by Article II of Chapter 4 of this Code.

20 (Source: P.A. 88-380.)

21 (405 ILCS 5/4-201) (from Ch. 91 1/2, par. 4-201)

22 Sec. 4-201. (a) An intellectually disabled ~~A mentally~~
23 ~~retarded~~ person shall not reside in a Department mental health
24 facility unless the person is evaluated and is determined to be

1 a person with mental illness and the facility director
2 determines that appropriate treatment and habilitation are
3 available and will be provided to such person on the unit. In
4 all such cases the Department mental health facility director
5 shall certify in writing within 30 days of the completion of
6 the evaluation and every 30 days thereafter, that the person
7 has been appropriately evaluated, that services specified in
8 the treatment and habilitation plan are being provided, that
9 the setting in which services are being provided is appropriate
10 to the person's needs, and that provision of such services
11 fully complies with all applicable federal statutes and
12 regulations concerning the provision of services to persons
13 with a developmental disability. Those regulations shall
14 include, but not be limited to the regulations which govern the
15 provision of services to persons with a developmental
16 disability in facilities certified under the Social Security
17 Act for federal financial participation, whether or not the
18 facility or portion thereof in which the recipient has been
19 placed is presently certified under the Social Security Act or
20 would be eligible for such certification under applicable
21 federal regulations. The certifications shall be filed in the
22 recipient's record and with the office of the Secretary of the
23 Department. A copy of the certification shall be given to the
24 person, an attorney or advocate who is representing the person
25 and the person's guardian.

26 (b) Any person admitted to a Department mental health

1 facility who is reasonably suspected of being mildly or
2 moderately intellectually disabled ~~mentally retarded~~,
3 including those who also have a mental illness, shall be
4 evaluated by a multidisciplinary team which includes a
5 qualified intellectual disabilities ~~mental retardation~~
6 professional designated by the Department facility director.
7 The evaluation shall be consistent with Section 4-300 of
8 Article III in this Chapter, and shall include: (1) a written
9 assessment of whether the person needs a habilitation plan and,
10 if so, (2) a written habilitation plan consistent with Section
11 4-309, and (3) a written determination whether the admitting
12 facility is capable of providing the specified habilitation
13 services. This evaluation shall occur within a reasonable
14 period of time, but in no case shall that period exceed 14 days
15 after admission. In all events, a treatment plan shall be
16 prepared for the person within 3 days of admission, and
17 reviewed and updated every 30 days, consistent with Section
18 3-209 of this Code.

19 (c) Any person admitted to a Department mental health
20 facility with an admitting diagnosis of a severe or profound
21 intellectual disability ~~mental retardation~~ shall be
22 transferred to an appropriate facility or unit for persons with
23 a developmental disability within 72 hours of admission unless
24 transfer is contraindicated by the person's medical condition
25 documented by appropriate medical personnel. Any person
26 diagnosed as severely or profoundly intellectually disabled

1 ~~mentally retarded~~ while in a Department mental health facility
2 shall be transferred to an appropriate facility or unit for
3 persons with a developmental disability within 72 hours of such
4 diagnosis unless transfer is contraindicated by the person's
5 medical condition documented by appropriate medical personnel.

6 (d) The Secretary of the Department shall designate a
7 qualified intellectual disabilities ~~mental retardation~~
8 professional in each of its mental health facilities who has
9 responsibility for insuring compliance with the provisions of
10 Sections 4-201 and 4-201.1.

11 (Source: P.A. 88-380; 89-439, eff. 6-1-96; 89-507, eff.
12 7-1-97.)

13 (405 ILCS 5/4-201.1) (from Ch. 91 1/2, par. 4-201.1)

14 Sec. 4-201.1. (a) A person residing in a Department mental
15 health facility who is evaluated as being mildly or moderately
16 intellectually disabled ~~mentally retarded~~, an attorney or
17 advocate representing the person, or a guardian of such person
18 may object to the Department facility director's certification
19 required in Section 4-201, the treatment and habilitation plan,
20 or appropriateness of setting, and obtain an administrative
21 decision requiring revision of a treatment or habilitation plan
22 or change of setting, by utilization review as provided in
23 Sections 3-207 and 4-209 of this Code. As part of this
24 utilization review, the Committee shall include as one of its
25 members a qualified intellectual disabilities ~~mental~~

1 ~~retardation~~ professional.

2 (b) The mental health facility director shall give written
3 notice to each person evaluated as being mildly or moderately
4 intellectually disabled ~~mentally retarded~~, the person's
5 attorney and guardian, if any, or in the case of a minor, to
6 his or her attorney, to the parent, guardian or person in loco
7 parentis and to the minor if 12 years of age or older, of the
8 person's right to request a review of the facility director's
9 initial or subsequent determination that such person is
10 appropriately placed or is receiving appropriate services. The
11 notice shall also provide the address and phone number of the
12 Legal Advocacy Service of the Guardianship and Advocacy
13 Commission, which the person or guardian can contact for legal
14 assistance. If requested, the facility director shall assist
15 the person or guardian in contacting the Legal Advocacy
16 Service. This notice shall be given within 24 hours of
17 Department's evaluation that the person is mildly or moderately
18 intellectually disabled ~~mentally retarded~~.

19 (c) Any recipient of services who successfully challenges a
20 final decision of the Secretary of the Department (or his or
21 her designee) reviewing an objection to the certification
22 required under Section 4-201, the treatment and habilitation
23 plan, or the appropriateness of the setting shall be entitled
24 to recover reasonable attorney's fees incurred in that
25 challenge, unless the Department's position was substantially
26 justified.

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

2 (405 ILCS 5/4-203) (from Ch. 91 1/2, par. 4-203)

3 Sec. 4-203. (a) Every developmental disabilities facility
4 shall maintain adequate records which shall include the Section
5 of this Act under which the client was admitted, any subsequent
6 change in the client's status, and requisite documentation for
7 such admission and status.

8 (b) The Department shall ensure that a monthly report is
9 maintained for each Department mental health facility, and each
10 unit of a Department developmental disability facility for
11 dually diagnosed persons, which lists (1) initials of persons
12 admitted to, residing at, or discharged from a Department
13 mental health facility or unit for dually diagnosed persons of
14 Department developmental disability facility during that month
15 with a primary or secondary diagnosis of intellectual
16 disability ~~mental retardation~~, (2) the date and facility and
17 unit of admission or continuing, care, (3) the legal admission
18 status, (4) the recipient's diagnosis, (5) the date and
19 facility and unit of transfer or discharge, (6) whether or not
20 there is a public or private guardian, (7) whether the facility
21 director has certified that appropriate treatment and
22 habilitation are available for and being provided to such
23 person pursuant to Section 4-203 of this Chapter, and (8)
24 whether the person or a guardian has requested review as
25 provided in Section 4-209 of this Chapter and, if so, the

1 outcome of the review. The Secretary of the Department shall
2 furnish a copy of each monthly report upon request to the
3 Guardianship and Advocacy Commission and the agency designated
4 by the Governor under Section 1 of "An Act in relation to the
5 protection and advocacy of the rights of persons with
6 developmental disabilities, and amending certain Acts therein
7 named", approved September 20, 1985, and under Section 1 of "An
8 Act for the protection and advocacy of mentally ill persons",
9 approved September 20, 1987.

10 (c) Nothing contained in this Chapter shall be construed to
11 limit or otherwise affect the power of any developmental
12 disabilities facility to determine the qualifications of
13 persons permitted to admit clients to such facility. This
14 subsection shall not affect or limit the powers of any court to
15 order admission to a developmental disabilities facility as set
16 forth in this Chapter.

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

18 (405 ILCS 5/4-209) (from Ch. 91 1/2, par. 4-209)

19 Sec. 4-209. (a) Hearings under Sections 4-201.1, 4-312,
20 4-704 and 4-709 of this Chapter shall be conducted by a
21 utilization review committee. The Secretary shall appoint a
22 utilization review committee at each Department facility. Each
23 such committee shall consist of multi-disciplinary
24 professional staff members who are trained and equipped to deal
25 with the habilitation needs of clients. At least one member of

1 the committee shall be a qualified intellectual disabilities
2 ~~mental retardation~~ professional. The client and the objector
3 may be represented by persons of their choice.

4 (b) The utilization review committee shall not be bound by
5 rules of evidence or procedure but shall conduct the
6 proceedings in a manner intended to ensure a fair hearing. The
7 committee may make such investigation as it deems necessary. It
8 may administer oaths and compel by subpoena testimony and the
9 production of records. A stenographic or audio recording of the
10 proceedings shall be made and shall be kept in the client's
11 record. Within 3 days of conclusion of the hearing, the
12 committee shall submit to the facility director its written
13 recommendations which include its factual findings and
14 conclusions. A copy of the recommendations shall be given to
15 the client and the objector.

16 (c) Within 7 days of receipt of the recommendations, the
17 facility director shall give written notice to the client and
18 objector of his acceptance or rejection of the recommendations
19 and his reason therefor. If the facility director rejects the
20 recommendations or if the client or objector requests review of
21 the facility director's decision, the facility director shall
22 promptly forward a copy of his decision, the recommendations,
23 and the record of the hearing to the Secretary of the
24 Department for final review. The review of the facility
25 director's decision shall be decided by the Secretary or his or
26 her designee within 30 days of the receipt of a request for

1 final review. The decision of the facility director, or the
2 decision of the Secretary (or his or her designee) if review
3 was requested, shall be considered a final administrative
4 decision, and shall be subject to review under and in
5 accordance with Article III of the Code of Civil Procedure. The
6 decision of the facility director, or the decision of the
7 Secretary (or his or her designee) if review was requested,
8 shall be considered a final administrative decision.

9 (Source: P.A. 91-357, eff. 7-29-99.)

10 (405 ILCS 5/Ch. IV Art. IV heading)

11 ARTICLE IV. EMERGENCY ADMISSION

12 OF THE INTELLECTUALLY DISABLED ~~MENTALLY RETARDED~~

13 (405 ILCS 5/4-400) (from Ch. 91 1/2, par. 4-400)

14 Sec. 4-400. (a) A person 18 years of age or older may be
15 admitted on an emergency basis to a facility under this Article
16 if the facility director of the facility determines: (1) that
17 he is intellectually disabled ~~mentally retarded~~; (2) that he is
18 reasonably expected to inflict serious physical harm upon
19 himself or another in the near future; and (3) that immediate
20 admission is necessary to prevent such harm.

21 (b) Persons with a developmental disability under 18 years
22 of age and persons with a developmental disability 18 years of
23 age or over who are under guardianship or who are seeking
24 admission on their own behalf may be admitted for emergency

1 care under Section 4-311.

2 (Source: P.A. 88-380.)

3 (405 ILCS 5/Ch. IV Art. V heading)

4 ARTICLE V. JUDICIAL ADMISSION FOR THE INTELLECTUALLY DISABLED
5 ~~MENTALLY RETARDED~~

6 (405 ILCS 5/4-500) (from Ch. 91 1/2, par. 4-500)

7 Sec. 4-500. A person 18 years of age or older may be
8 admitted to a facility upon court order under this Article if
9 the court determines: (1) that he is intellectually disabled
10 ~~mentally retarded~~; and (2) that he is reasonably expected to
11 inflict serious physical harm upon himself or another in the
12 near future.

13 (Source: P.A. 80-1414.)

14 (405 ILCS 5/4-701) (from Ch. 91 1/2, par. 4-701)

15 Sec. 4-701. (a) Any client admitted to a developmental
16 disabilities facility under this Chapter may be discharged
17 whenever the facility director determines that he is suitable
18 for discharge.

19 (b) Any client admitted to a facility or program of
20 nonresidential services upon court order under Article V of
21 this Chapter or admitted upon court order as intellectually
22 disabled ~~mentally retarded~~ or mentally deficient under any
23 prior statute shall be discharged whenever the facility

1 director determines that he no longer meets the standard for
2 judicial admission. When the facility director believes that
3 continued residence is advisable for such a client, he shall
4 inform the client and his guardian, if any, that the client may
5 remain at the facility on administrative admission status. When
6 a facility director discharges or changes the status of such
7 client, he shall promptly notify the clerk of the court who
8 shall note the action in the court record.

9 (c) When the facility director discharges a client pursuant
10 to subsection (b) of this Section, he shall promptly notify the
11 State's Attorney of the county in which the client resided
12 immediately prior to his admission to a development
13 disabilities facility. Upon receipt of such notice, the State's
14 Attorney may notify such peace officers that he deems
15 appropriate.

16 (d) The facility director may grant a temporary release to
17 any client when such release is appropriate and consistent with
18 the habilitation needs of the client.

19 (Source: P.A. 80-1414.)

20 Section 95. The Community Mental Health Act is amended by
21 changing Section 3e as follows:

22 (405 ILCS 20/3e) (from Ch. 91 1/2, par. 303e)

23 Sec. 3e. Board's powers and duties.

24 (1) Every community mental health board shall, immediately

1 after appointment, meet and organize, by the election of one of
2 its number as president and one as secretary and such other
3 officers as it may deem necessary. It shall make rules and
4 regulations concerning the rendition or operation of services
5 and facilities which it directs, supervises or funds, not
6 inconsistent with the provisions of this Act. It shall:

7 (a) Hold a meeting prior to July 1 of each year at
8 which officers shall be elected for the ensuing year
9 beginning July 1;

10 (b) Hold meetings at least quarterly;

11 (c) Hold special meetings upon a written request signed
12 by at least 2 members and filed with the secretary;

13 (d) Review and evaluate community mental health
14 services and facilities, including services and facilities
15 for the treatment of alcoholism, drug addiction,
16 developmental disabilities, and intellectual disabilities
17 ~~mental retardation~~;

18 (e) Authorize the disbursement of money from the
19 community mental health fund for payment for the ordinary
20 and contingent expenses of the board;

21 (f) Submit to the appointing officer and the members of
22 the governing body a written plan for a program of
23 community mental health services and facilities for
24 persons with a mental illness, a developmental disability,
25 or a substance use disorder. Such plan shall be for the
26 ensuing 12 month period. In addition, a plan shall be

1 developed for the ensuing 3 year period and such plan shall
2 be reviewed at the end of every 12 month period and shall
3 be modified as deemed advisable.

4 (g) Within amounts appropriated therefor, execute such
5 programs and maintain such services and facilities as may
6 be authorized under such appropriations, including amounts
7 appropriated under bond issues, if any;

8 (h) Publish the annual budget and report within 120
9 days after the end of the fiscal year in a newspaper
10 distributed within the jurisdiction of the board, or, if no
11 newspaper is published within the jurisdiction of the
12 board, then one published in the county, or, if no
13 newspaper is published in the county, then in a newspaper
14 having general circulation within the jurisdiction of the
15 board. The report shall show the condition of its trust of
16 that year, the sums of money received from all sources,
17 giving the name of any donor, how all monies have been
18 expended and for what purpose, and such other statistics
19 and program information in regard to the work of the board
20 as it may deem of general interest. A copy of the budget
21 and the annual report shall be made available to the
22 Department of Human Services and to members of the General
23 Assembly whose districts include any part of the
24 jurisdiction of such board. The names of all employees,
25 consultants, and other personnel shall be set forth along
26 with the amounts of money received;

1 (i) Consult with other appropriate private and public
2 agencies in the development of local plans for the most
3 efficient delivery of mental health, developmental
4 disabilities, and substance use disorder services. The
5 Board is authorized to join and to participate in the
6 activities of associations organized for the purpose of
7 promoting more efficient and effective services and
8 programs;

9 (j) Have the authority to review and comment on all
10 applications for grants by any person, corporation, or
11 governmental unit providing services within the
12 geographical area of the board which provides mental health
13 facilities and services, including services for the person
14 with a mental illness, a developmental disability, or a
15 substance use disorder. The board may require funding
16 applicants to send a copy of their funding application to
17 the board at the time such application is submitted to the
18 Department of Human Services or to any other local, State
19 or federal funding source or governmental agency. Within 60
20 days of the receipt of any application, the board shall
21 submit its review and comments to the Department of Human
22 Services or to any other appropriate local, State or
23 federal funding source or governmental agency. A copy of
24 the review and comments shall be submitted to the funding
25 applicant. Within 60 days thereafter, the Department of
26 Human Services or any other appropriate local or State

1 governmental agency shall issue a written response to the
2 board and the funding applicant. The Department of Human
3 Services shall supply any community mental health board
4 such information about purchase-of-care funds, State
5 facility utilization, and costs in its geographical area as
6 the board may request provided that the information
7 requested is for the purpose of the Community Mental Health
8 Board complying with the requirements of Section 3f,
9 subsection (f) of this Act;

10 (k) Perform such other acts as may be necessary or
11 proper to carry out the purposes of this Act.

12 (2) The community mental health board has the following
13 powers:

14 (a) The board may enter into multiple-year contracts
15 for rendition or operation of services, facilities and
16 educational programs.

17 (b) The board may arrange through intergovernmental
18 agreements or intragovernmental agreements or both for the
19 rendition of services and operation of facilities by other
20 agencies or departments of the governmental unit or county
21 in which the governmental unit is located with the approval
22 of the governing body.

23 (c) To employ, establish compensation for, and set
24 policies for its personnel, including legal counsel, as may
25 be necessary to carry out the purposes of this Act and
26 prescribe the duties thereof. The board may enter into

1 multiple-year employment contracts as may be necessary for
2 the recruitment and retention of personnel and the proper
3 functioning of the board.

4 (d) The board may enter into multiple-year joint
5 agreements, which shall be written, with other mental
6 health boards and boards of health to provide jointly
7 agreed upon community mental health facilities and
8 services and to pool such funds as may be deemed necessary
9 and available for this purpose.

10 (e) The board may organize a not-for-profit
11 corporation for the purpose of providing direct recipient
12 services. Such corporations shall have, in addition to all
13 other lawful powers, the power to contract with persons to
14 furnish services for recipients of the corporation's
15 facilities, including psychiatrists and other physicians
16 licensed in this State to practice medicine in all of its
17 branches. Such physicians shall be considered independent
18 contractors, and liability for any malpractice shall not
19 extend to such corporation, nor to the community mental
20 health board, except for gross negligence in entering into
21 such a contract.

22 (f) The board shall not operate any direct recipient
23 services for more than a 2-year period when such services
24 are being provided in the governmental unit, but shall
25 encourage, by financial support, the development of
26 private agencies to deliver such needed services, pursuant

1 to regulations of the board.

2 (g) Where there are multiple boards within the same
3 planning area, as established by the Department of Human
4 Services, services may be purchased through a single
5 delivery system. In such areas, a coordinating body with
6 representation from each board shall be established to
7 carry out the service functions of this Act. In the event
8 any such coordinating body purchases or improves real
9 property, such body shall first obtain the approval of the
10 governing bodies of the governmental units in which the
11 coordinating body is located.

12 (h) The board may enter into multiple-year joint
13 agreements with other governmental units located within
14 the geographical area of the board. Such agreements shall
15 be written and shall provide for the rendition of services
16 by the board to the residents of such governmental units.

17 (i) The board may enter into multiple-year joint
18 agreements with federal, State, and local governments,
19 including the Department of Human Services, whereby the
20 board will provide certain services. All such joint
21 agreements must provide for the exchange of relevant data.
22 However, nothing in this Act shall be construed to permit
23 the abridgement of the confidentiality of patient records.

24 (j) The board may receive gifts from private sources
25 for purposes not inconsistent with the provisions of this
26 Act.

1 (k) The board may receive Federal, State and local
2 funds for purposes not inconsistent with the provisions of
3 this Act.

4 (l) The board may establish scholarship programs. Such
5 programs shall require equivalent service or reimbursement
6 pursuant to regulations of the board.

7 (m) The board may sell, rent, or lease real property
8 for purposes consistent with this Act.

9 (n) The board may: (i) own real property, lease real
10 property as lessee, or acquire real property by purchase,
11 construction, lease-purchase agreement, or otherwise; (ii)
12 take title to the property in the board's name; (iii)
13 borrow money and issue debt instruments, mortgages,
14 purchase-money mortgages, and other security instruments
15 with respect to the property; and (iv) maintain, repair,
16 remodel, or improve the property. All of these activities
17 must be for purposes consistent with this Act as may be
18 reasonably necessary for the housing and proper
19 functioning of the board. The board may use moneys in the
20 Community Mental Health Fund for these purposes.

21 (o) The board may organize a not-for-profit
22 corporation (i) for the purpose of raising money to be
23 distributed by the board for providing community mental
24 health services and facilities for the treatment of
25 alcoholism, drug addiction, developmental disabilities,
26 and intellectual disabilities ~~mental retardation~~ or (ii)

1 for other purposes not inconsistent with this Act.

2 (Source: P.A. 95-336, eff. 8-21-07.)

3 Section 100. The Specialized Living Centers Act is amended
4 by changing Section 2.03 as follows:

5 (405 ILCS 25/2.03) (from Ch. 91 1/2, par. 602.03)

6 Sec. 2.03. "Person with a developmental disability" means
7 individuals whose disability is attributable to an
8 intellectual disability ~~mental retardation~~, cerebral palsy,
9 epilepsy or other neurological condition which generally
10 originates before such individuals attain age 18 which had
11 continued or can be expected to continue indefinitely and which
12 constitutes a substantial handicap to such individuals.

13 (Source: P.A. 88-380.)

14 Section 101. The Protection and Advocacy for
15 Developmentally Disabled Persons Act is amended by changing
16 Section 1 as follows:

17 (405 ILCS 40/1) (from Ch. 91 1/2, par. 1151)

18 Sec. 1. The Governor may designate a private not-for-profit
19 corporation as the agency to administer a State plan to protect
20 and advocate the rights of persons with developmental
21 disabilities pursuant to the requirements of the federal
22 Developmental Disabilities Assistance and Bill of Rights Act,

1 42 U.S.C. 6001 to 6081, as now or hereafter amended. The
2 designated agency may pursue legal, administrative, and other
3 appropriate remedies to ensure the protection of the rights of
4 such persons who are receiving treatment, services or
5 habilitation within this State. The agency designated by the
6 Governor shall be independent of any agency which provides
7 treatment, services, guardianship, or habilitation to persons
8 with developmental disabilities, and such agency shall not be
9 administered by the Governor's Planning Council on
10 Developmental Disabilities or any successor State Planning
11 Council organized pursuant to federal law.

12 The designated agency may receive and expend funds to
13 protect and advocate the rights of persons with developmental
14 disabilities. In order to properly exercise its powers and
15 duties, such agency shall have access to developmental
16 disability facilities and mental health facilities, as defined
17 under Sections 1-107 and 1-114 of the Mental Health and
18 Developmental Disabilities Code, and facilities as defined in
19 Section 1-113 of the Nursing Home Care Act or Section 1-113 of
20 the ID/DD ~~MR/DD~~ Community Care Act. Such access shall be
21 granted for the purposes of meeting with residents and staff,
22 informing them of services available from the agency,
23 distributing written information about the agency and the
24 rights of persons with developmental disabilities, conducting
25 scheduled and unscheduled visits, and performing other
26 activities designed to protect the rights of persons with

1 developmental disabilities. The agency also shall have access,
2 for the purpose of inspection and copying, to the records of a
3 person with developmental disabilities who resides in any such
4 facility subject to the limitations of this Act, the Mental
5 Health and Developmental Disabilities Confidentiality Act, the
6 Nursing Home Care Act, and the ID/DD ~~MR/DD~~ Community Care Act.
7 The agency also shall have access, for the purpose of
8 inspection and copying, to the records of a person with
9 developmental disabilities who resides in any such facility if
10 (1) a complaint is received by the agency from or on behalf of
11 the person with a developmental disability, and (2) such person
12 does not have a legal guardian or the State or the designee of
13 the State is the legal guardian of such person. The designated
14 agency shall provide written notice to the person with
15 developmental disabilities and the State guardian of the nature
16 of the complaint based upon which the designated agency has
17 gained access to the records. No record or the contents of any
18 record shall be redisclosed by the designated agency unless the
19 person with developmental disabilities and the State guardian
20 are provided 7 days advance written notice, except in emergency
21 situations, of the designated agency's intent to redisclose
22 such record, during which time the person with developmental
23 disabilities or the State guardian may seek to judicially
24 enjoin the designated agency's redisclosure of such record on
25 the grounds that such redisclosure is contrary to the interests
26 of the person with developmental disabilities. Any person who

1 in good faith complains to the designated agency on behalf of a
2 person with developmental disabilities, or provides
3 information or participates in the investigation of any such
4 complaint shall have immunity from any liability, civil,
5 criminal or otherwise, and shall not be subject to any
6 penalties, sanctions, restrictions or retaliation as a
7 consequence of making such complaint, providing such
8 information or participating in such investigation.

9 Upon request, the designated agency shall be entitled to
10 inspect and copy any records or other materials which may
11 further the agency's investigation of problems affecting
12 numbers of persons with developmental disabilities. When
13 required by law any personally identifiable information of
14 persons with developmental disabilities shall be removed from
15 the records. However, the designated agency may not inspect or
16 copy any records or other materials when the removal of
17 personally identifiable information imposes an unreasonable
18 burden on mental health and developmental disabilities
19 facilities pursuant to the Mental Health and Developmental
20 Disabilities Code or facilities as defined in the Nursing Home
21 Care Act or the ID/DD ~~MR/DD~~ Community Care Act.

22 The Governor shall not redesignate the agency to administer
23 the State plan to protect and advocate the rights of persons
24 with developmental disabilities unless there is good cause for
25 the redesignation and unless notice of the intent to make such
26 redesignation is given to persons with developmental

1 disabilities or their representatives, the federal Secretary
2 of Health and Human Services, and the General Assembly at least
3 60 days prior thereto.

4 As used in this Act, the term "developmental disability"
5 means a severe, chronic disability of a person which:

6 (A) is attributable to a mental or physical impairment
7 or combination of mental and physical impairments;

8 (B) is manifested before the person attains age 22;

9 (C) is likely to continue indefinitely;

10 (D) results in substantial functional limitations in 3
11 or more of the following areas of major life activity: (i)
12 self-care, (ii) receptive and expressive language, (iii)
13 learning, (iv) mobility, (v) self-direction, (vi) capacity
14 for independent living, and (vii) economic
15 self-sufficiency; and

16 (E) reflects the person's need for combination and
17 sequence of special, interdisciplinary or generic care,
18 treatment or other services which are of lifelong or
19 extended duration and are individually planned and
20 coordinated.

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

22 Section 102. The Protection and Advocacy for Mentally Ill
23 Persons Act is amended by changing Section 3 as follows:

24 (405 ILCS 45/3) (from Ch. 91 1/2, par. 1353)

1 Sec. 3. Powers and Duties.

2 (A) In order to properly exercise its powers and duties,
3 the agency shall have the authority to:

4 (1) Investigate incidents of abuse and neglect of
5 mentally ill persons if the incidents are reported to the
6 agency or if there is probable cause to believe that the
7 incidents occurred. In case of conflict with provisions of
8 the Abused and Neglected Child Reporting Act or the Nursing
9 Home Care Act, the provisions of those Acts shall apply.

10 (2) Pursue administrative, legal and other appropriate
11 remedies to ensure the protection of the rights of mentally
12 ill persons who are receiving care and treatment in this
13 State.

14 (3) Pursue administrative, legal and other remedies on
15 behalf of an individual who:

16 (a) was a mentally ill individual; and

17 (b) is a resident of this State, but only with
18 respect to matters which occur within 90 days after the
19 date of the discharge of such individual from a
20 facility providing care and treatment.

21 (4) Establish a board which shall:

22 (a) advise the protection and advocacy system on
23 policies and priorities to be carried out in protecting
24 and advocating the rights of mentally ill individuals;
25 and

26 (b) include attorneys, mental health

1 professionals, individuals from the public who are
2 knowledgeable about mental illness, a provider of
3 mental health services, individuals who have received
4 or are receiving mental health services and family
5 members of such individuals. At least one-half the
6 members of the board shall be individuals who have
7 received or are receiving mental health services or who
8 are family members of such individuals.

9 (5) On January 1, 1988, and on January 1 of each
10 succeeding year, prepare and transmit to the Secretary of
11 the United States Department of Health and Human Services
12 and to the Illinois Secretary of Human Services a report
13 describing the activities, accomplishments and
14 expenditures of the protection and advocacy system during
15 the most recently completed fiscal year.

16 (B) The agency shall have access to all mental health
17 facilities as defined in Sections 1-107 and 1-114 of the Mental
18 Health and Developmental Disabilities Code, all facilities as
19 defined in Section 1-113 of the Nursing Home Care Act, all
20 facilities as defined in Section 1-113 of the ID/DD ~~MR/DD~~
21 Community Care Act, all facilities as defined in Section 2.06
22 of the Child Care Act of 1969, as now or hereafter amended, and
23 all other facilities providing care or treatment to mentally
24 ill persons. Such access shall be granted for the purposes of
25 meeting with residents and staff, informing them of services
26 available from the agency, distributing written information

1 about the agency and the rights of persons who are mentally
2 ill, conducting scheduled and unscheduled visits, and
3 performing other activities designed to protect the rights of
4 mentally ill persons.

5 (C) The agency shall have access to all records of mentally
6 ill persons who are receiving care or treatment from a
7 facility, subject to the limitations of this Act, the Mental
8 Health and Developmental Disabilities Confidentiality Act, the
9 Nursing Home Care Act and the Child Care Act of 1969, as now or
10 hereafter amended. If the mentally ill person has a legal
11 guardian other than the State or a designee of the State, the
12 facility director shall disclose the guardian's name, address
13 and telephone number to the agency upon its request. In cases
14 of conflict with provisions of the Abused and Neglected Child
15 Reporting Act and the Nursing Home Care Act, the provisions of
16 the Abused and Neglected Child Reporting Act and the Nursing
17 Home Care Act shall apply. The agency shall also have access,
18 for the purpose of inspection and copying, to the records of a
19 mentally ill person (i) who by reason of his or her mental or
20 physical condition is unable to authorize the agency to have
21 such access; (ii) who does not have a legal guardian or for
22 whom the State or a designee of the State is the legal
23 guardian; and (iii) with respect to whom a complaint has been
24 received by the agency or with respect to whom there is
25 probable cause to believe that such person has been subjected
26 to abuse or neglect.

1 The agency shall provide written notice to the mentally ill
2 person and the State guardian of the nature of the complaint
3 based upon which the agency has gained access to the records.
4 No record or the contents of the record shall be redisclosed by
5 the agency unless the person who is mentally ill and the State
6 guardian are provided 7 days advance written notice, except in
7 emergency situations, of the agency's intent to redisclose such
8 record. Within such 7-day period, the mentally ill person or
9 the State guardian may seek an injunction prohibiting the
10 agency's redisclosure of such record on the grounds that such
11 redisclosure is contrary to the interests of the mentally ill
12 person.

13 Upon request, the authorized agency shall be entitled to
14 inspect and copy any clinical or trust fund records of mentally
15 ill persons which may further the agency's investigation of
16 alleged problems affecting numbers of mentally ill persons.
17 When required by law, any personally identifiable information
18 of mentally ill persons shall be removed from the records.
19 However, the agency may not inspect or copy any records or
20 other materials when the removal of personally identifiable
21 information imposes an unreasonable burden on any facility as
22 defined by the Mental Health and Developmental Disabilities
23 Code, the Nursing Home Care Act or the Child Care Act of 1969,
24 or any other facility providing care or treatment to mentally
25 ill persons.

26 (D) Prior to instituting any legal action in a federal or

1 State court on behalf of a mentally ill individual, an eligible
2 protection and advocacy system, or a State agency or nonprofit
3 organization which entered into a contract with such an
4 eligible system under Section 104(a) of the federal Protection
5 and Advocacy for Mentally Ill Individuals Act of 1986, shall
6 exhaust in a timely manner all administrative remedies where
7 appropriate. If, in pursuing administrative remedies, the
8 system, State agency or organization determines that any matter
9 with respect to such individual will not be resolved within a
10 reasonable time, the system, State agency or organization may
11 pursue alternative remedies, including the initiation of
12 appropriate legal action.

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

14 Section 105. The Developmental Disability and Mental
15 Disability Services Act is amended by changing Sections 2-3,
16 2-5, 2-17, 3-3, 3-5, 5-1, 5-4, and 6-1 as follows:

17 (405 ILCS 80/2-3) (from Ch. 91 1/2, par. 1802-3)

18 Sec. 2-3. As used in this Article, unless the context
19 requires otherwise:

20 (a) "Agency" means an agency or entity licensed by the
21 Department pursuant to this Article or pursuant to the
22 Community Residential Alternatives Licensing Act.

23 (b) "Department" means the Department of Human Services, as
24 successor to the Department of Mental Health and Developmental

1 Disabilities.

2 (c) "Home-based services" means services provided to a
3 mentally disabled adult who lives in his or her own home. These
4 services include but are not limited to:

5 (1) home health services;

6 (2) case management;

7 (3) crisis management;

8 (4) training and assistance in self-care;

9 (5) personal care services;

10 (6) habilitation and rehabilitation services;

11 (7) employment-related services;

12 (8) respite care; and

13 (9) other skill training that enables a person to
14 become self-supporting.

15 (d) "Legal guardian" means a person appointed by a court of
16 competent jurisdiction to exercise certain powers on behalf of
17 a mentally disabled adult.

18 (e) "Mentally disabled adult" means a person over the age
19 of 18 years who lives in his or her own home; who needs
20 home-based services, but does not require 24-hour-a-day
21 supervision; and who has one of the following conditions:
22 severe autism, severe mental illness, a severe or profound
23 intellectual disability ~~mental retardation~~, or severe and
24 multiple impairments.

25 (f) In one's "own home" means that a mentally disabled
26 adult lives alone; or that a mentally disabled adult is in

1 full-time residence with his or her parents, legal guardian, or
2 other relatives; or that a mentally disabled adult is in
3 full-time residence in a setting not subject to licensure under
4 the Nursing Home Care Act, the ID/DD ~~MR/DD~~ Community Care Act,
5 or the Child Care Act of 1969, as now or hereafter amended,
6 with 3 or fewer other adults unrelated to the mentally disabled
7 adult who do not provide home-based services to the mentally
8 disabled adult.

9 (g) "Parent" means the biological or adoptive parent of a
10 mentally disabled adult, or a person licensed as a foster
11 parent under the laws of this State who acts as a mentally
12 disabled adult's foster parent.

13 (h) "Relative" means any of the following relationships by
14 blood, marriage or adoption: parent, son, daughter, brother,
15 sister, grandparent, uncle, aunt, nephew, niece, great
16 grandparent, great uncle, great aunt, stepbrother, stepsister,
17 stepson, stepdaughter, stepparent or first cousin.

18 (i) "Severe autism" means a lifelong developmental
19 disability which is typically manifested before 30 months of
20 age and is characterized by severe disturbances in reciprocal
21 social interactions; verbal and nonverbal communication and
22 imaginative activity; and repertoire of activities and
23 interests. A person shall be determined severely autistic, for
24 purposes of this Article, if both of the following are present:

- 25 (1) Diagnosis consistent with the criteria for
26 autistic disorder in the current edition of the Diagnostic

1 and Statistical Manual of Mental Disorders.

2 (2) Severe disturbances in reciprocal social
3 interactions; verbal and nonverbal communication and
4 imaginative activity; repertoire of activities and
5 interests. A determination of severe autism shall be based
6 upon a comprehensive, documented assessment with an
7 evaluation by a licensed clinical psychologist or
8 psychiatrist. A determination of severe autism shall not be
9 based solely on behaviors relating to environmental,
10 cultural or economic differences.

11 (j) "Severe mental illness" means the manifestation of all
12 of the following characteristics:

13 (1) A primary diagnosis of one of the major mental
14 disorders in the current edition of the Diagnostic and
15 Statistical Manual of Mental Disorders listed below:

- 16 (A) Schizophrenia disorder.
17 (B) Delusional disorder.
18 (C) Schizo-affective disorder.
19 (D) Bipolar affective disorder.
20 (E) Atypical psychosis.
21 (F) Major depression, recurrent.

22 (2) The individual's mental illness must substantially
23 impair his or her functioning in at least 2 of the
24 following areas:

- 25 (A) Self-maintenance.
26 (B) Social functioning.

1 (C) Activities of community living.

2 (D) Work skills.

3 (3) Disability must be present or expected to be
4 present for at least one year.

5 A determination of severe mental illness shall be based
6 upon a comprehensive, documented assessment with an evaluation
7 by a licensed clinical psychologist or psychiatrist, and shall
8 not be based solely on behaviors relating to environmental,
9 cultural or economic differences.

10 (k) "Severe or profound intellectual disability ~~mental~~
11 ~~retardation~~" means a manifestation of all of the following
12 characteristics:

13 (1) A diagnosis which meets Classification in Mental
14 Retardation or criteria in the current edition of the
15 Diagnostic and Statistical Manual of Mental Disorders for
16 severe or profound mental retardation (an IQ of 40 or
17 below). This must be measured by a standardized instrument
18 for general intellectual functioning.

19 (2) A severe or profound level of disturbed adaptive
20 behavior. This must be measured by a standardized adaptive
21 behavior scale or informal appraisal by the professional in
22 keeping with illustrations in Classification in Mental
23 Retardation, 1983.

24 (3) Disability diagnosed before age of 18.

25 A determination of a severe or profound intellectual
26 disability ~~mental—retardation~~ shall be based upon a

1 comprehensive, documented assessment with an evaluation by a
2 licensed clinical psychologist or certified school
3 psychologist or a psychiatrist, and shall not be based solely
4 on behaviors relating to environmental, cultural or economic
5 differences.

6 (1) "Severe and multiple impairments" means the
7 manifestation of all of the following characteristics:

8 (1) The evaluation determines the presence of a
9 developmental disability which is expected to continue
10 indefinitely, constitutes a substantial handicap and is
11 attributable to any of the following:

12 (A) Intellectually disability ~~Mental retardation~~,
13 which is defined as general intellectual functioning
14 that is 2 or more standard deviations below the mean
15 concurrent with impairment of adaptive behavior which
16 is 2 or more standard deviations below the mean.
17 Assessment of the individual's intellectual
18 functioning must be measured by a standardized
19 instrument for general intellectual functioning.

20 (B) Cerebral palsy.

21 (C) Epilepsy.

22 (D) Autism.

23 (E) Any other condition which results in
24 impairment similar to that caused by an intellectual
25 disability ~~mental retardation~~ and which requires
26 services similar to those required by intellectually

1 disabled ~~mentally-retarded~~ persons.

2 (2) The evaluation determines multiple handicaps in
3 physical, sensory, behavioral or cognitive functioning
4 which constitute a severe or profound impairment
5 attributable to one or more of the following:

6 (A) Physical functioning, which severely impairs
7 the individual's motor performance that may be due to:

8 (i) Neurological, psychological or physical
9 involvement resulting in a variety of disabling
10 conditions such as hemiplegia, quadriplegia or
11 ataxia,

12 (ii) Severe organ systems involvement such as
13 congenital heart defect,

14 (iii) Physical abnormalities resulting in the
15 individual being non-mobile and non-ambulatory or
16 confined to bed and receiving assistance in
17 transferring, or

18 (iv) The need for regular medical or nursing
19 supervision such as gastrostomy care and feeding.

20 Assessment of physical functioning must be based
21 on clinical medical assessment by a physician licensed
22 to practice medicine in all its branches, using the
23 appropriate instruments, techniques and standards of
24 measurement required by the professional.

25 (B) Sensory, which involves severe restriction due
26 to hearing or visual impairment limiting the

1 individual's movement and creating dependence in
2 completing most daily activities. Hearing impairment
3 is defined as a loss of 70 decibels aided or speech
4 discrimination of less than 50% aided. Visual
5 impairment is defined as 20/200 corrected in the better
6 eye or a visual field of 20 degrees or less. Sensory
7 functioning must be based on clinical medical
8 assessment by a physician licensed to practice
9 medicine in all its branches using the appropriate
10 instruments, techniques and standards of measurement
11 required by the professional.

12 (C) Behavioral, which involves behavior that is
13 maladaptive and presents a danger to self or others, is
14 destructive to property by deliberately breaking,
15 destroying or defacing objects, is disruptive by
16 fighting, or has other socially offensive behaviors in
17 sufficient frequency or severity to seriously limit
18 social integration. Assessment of behavioral
19 functioning may be measured by a standardized scale or
20 informal appraisal by a clinical psychologist or
21 psychiatrist.

22 (D) 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 (3) The evaluation determines that development is

1 substantially less than expected for the age in cognitive,
2 affective or psychomotor behavior as follows:

3 (A) Cognitive, which involves intellectual
4 functioning at a measured IQ of 70 or below. Assessment
5 of cognitive functioning must be measured by a
6 standardized instrument for general intelligence.

7 (B) Affective behavior, which involves over and
8 under responding to stimuli in the environment and may
9 be observed in mood, attention to awareness, or in
10 behaviors such as euphoria, anger or sadness that
11 seriously limit integration into society. Affective
12 behavior must be based on clinical assessment using the
13 appropriate instruments, techniques and standards of
14 measurement required by the professional.

15 (C) Psychomotor, which includes a severe
16 developmental delay in fine or gross motor skills so
17 that development in self-care, social interaction,
18 communication or physical activity will be greatly
19 delayed or restricted.

20 (4) A determination that the disability originated
21 before the age of 18 years.

22 A determination of severe and multiple impairments shall be
23 based upon a comprehensive, documented assessment with an
24 evaluation by a licensed clinical psychologist or
25 psychiatrist.

26 If the examiner is a licensed clinical psychologist,

1 ancillary evaluation of physical impairment, cerebral palsy or
2 epilepsy must be made by a physician licensed to practice
3 medicine in all its branches.

4 Regardless of the discipline of the examiner, ancillary
5 evaluation of visual impairment must be made by an
6 ophthalmologist or a licensed optometrist.

7 Regardless of the discipline of the examiner, ancillary
8 evaluation of hearing impairment must be made by an
9 otolaryngologist or an audiologist with a certificate of
10 clinical competency.

11 The only exception to the above is in the case of a person
12 with cerebral palsy or epilepsy who, according to the
13 eligibility criteria listed below, has multiple impairments
14 which are only physical and sensory. In such a case, a
15 physician licensed to practice medicine in all its branches may
16 serve as the examiner.

17 (m) "Twenty-four-hour-a-day supervision" means
18 24-hour-a-day care by a trained mental health or developmental
19 disability professional on an ongoing basis.

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

21 (405 ILCS 80/2-5) (from Ch. 91 1/2, par. 1802-5)

22 Sec. 2-5. The Department shall establish eligibility
23 standards for the Program, taking into consideration the
24 disability levels and service needs of the target population.
25 The Department shall create application forms which shall be

1 used to determine the eligibility of mentally disabled adults
2 to participate in the Program. The forms shall be made
3 available by the Department and shall require at least the
4 following items of information which constitute eligibility
5 criteria for participation in the Program:

6 (a) A statement that the mentally disabled adult
7 resides in the State of Illinois and is over the age of 18
8 years.

9 (b) Verification that the mentally disabled adult has
10 one of the following conditions: severe autism, severe
11 mental illness, a severe or profound intellectual
12 disability ~~mental retardation~~, or severe and multiple
13 impairments.

14 (c) Verification that the mentally disabled adult has
15 applied and is eligible for federal Supplemental Security
16 Income or federal Social Security Disability Income
17 benefits.

18 (d) Verification that the mentally disabled adult
19 resides full-time in his or her own home or that, within 2
20 months of receipt of services under this Article, he or she
21 will reside full-time in his or her own home.

22 The Department may by rule adopt provisions establishing
23 liability of responsible relatives of a recipient of services
24 under this Article for the payment of sums representing charges
25 for services to such recipient. Such rules shall be
26 substantially similar to the provisions for such liability

1 contained in Chapter 5 of the Mental Health and Developmental
2 Disabilities Code, as now or hereafter amended, and rules
3 adopted pursuant thereto.

4 (Source: P.A. 86-921; 87-447.)

5 (405 ILCS 80/2-17)

6 Sec. 2-17. Transition from special education.

7 (a) If a person receiving special educational services
8 under Article 14 of the School Code at a school in this State
9 has severe autism, severe mental illness, a severe or profound
10 intellectual disability ~~mental retardation~~, or severe and
11 multiple impairments and is not over 18 years of age but is
12 otherwise eligible to participate in the Program, the person
13 shall be determined eligible to participate in the Program,
14 subject to the availability of funds appropriated for this
15 purpose, when he or she becomes an adult and no longer receives
16 special educational services.

17 (b) The Department shall implement this Section for fiscal
18 years beginning July 1, 1996 and thereafter.

19 (Source: P.A. 89-425, eff. 6-1-96.)

20 (405 ILCS 80/3-3) (from Ch. 91 1/2, par. 1803-3)

21 Sec. 3-3. As used in this Article, unless the context
22 requires otherwise:

23 (a) "Agency" means an agency or entity licensed by the
24 Department pursuant to this Article or pursuant to the

1 Community Residential Alternatives Licensing Act.

2 (b) "Department" means the Department of Human Services, as
3 successor to the Department of Mental Health and Developmental
4 Disabilities.

5 (c) "Department-funded out-of-home placement services"
6 means those services for which the Department pays the partial
7 or full cost of care of the residential placement.

8 (d) "Family" or "families" means a family member or members
9 and his, her or their parents or legal guardians.

10 (e) "Family member" means a child 17 years old or younger
11 who has one of the following conditions: severe autism, severe
12 emotional disturbance, a severe or profound intellectual
13 disability ~~mental retardation~~, or severe and multiple
14 impairments.

15 (f) "Legal guardian" means a person appointed by a court of
16 competent jurisdiction to exercise certain powers on behalf of
17 a family member and with whom the family member resides.

18 (g) "Parent" means a biological or adoptive parent with
19 whom the family member resides, or a person licensed as a
20 foster parent under the laws of this State, acting as a family
21 member's foster parent, and with whom the family member
22 resides.

23 (h) "Severe autism" means a lifelong developmental
24 disability which is typically manifested before 30 months of
25 age and is characterized by severe disturbances in reciprocal
26 social interactions; verbal and nonverbal communication and

1 imaginative activity; and repertoire of activities and
2 interests. A person shall be determined severely autistic, for
3 purposes of this Article, if both of the following are present:

4 (1) Diagnosis consistent with the criteria for
5 autistic disorder in the current edition of the Diagnostic
6 and Statistical Manual of Mental Disorders;

7 (2) Severe disturbances in reciprocal social
8 interactions; verbal and nonverbal communication and
9 imaginative activity; and repertoire of activities and
10 interests. A determination of severe autism shall be based
11 upon a comprehensive, documented assessment with an
12 evaluation by a licensed clinical psychologist or
13 psychiatrist. A determination of severe autism shall not be
14 based solely on behaviors relating to environmental,
15 cultural or economic differences.

16 (i) "Severe mental illness" means the manifestation of all
17 of the following characteristics:

18 (1) a severe mental illness characterized by the
19 presence of a mental disorder in children or adolescents,
20 classified in the Diagnostic and Statistical Manual of
21 Mental Disorders (Third Edition - Revised), as now or
22 hereafter revised, excluding V-codes (as that term is used
23 in the current edition of the Diagnostic and Statistical
24 Manual of Mental Disorders), adjustment disorders, the
25 presence of an intellectual disability ~~mental retardation~~
26 when no other mental disorder is present, alcohol or

1 substance abuse, or other forms of dementia based upon
2 organic or physical disorders; and

3 (2) a functional disability of an extended duration
4 which results in substantial limitations in major life
5 activities.

6 A determination of severe mental illness shall be based
7 upon a comprehensive, documented assessment with an evaluation
8 by a licensed clinical psychologist or a psychiatrist.

9 (j) "Severe or profound intellectual disability ~~mental~~
10 ~~retardation~~" means a manifestation of all of the following
11 characteristics:

12 (1) A diagnosis which meets Classification in Mental
13 Retardation or criteria in the current edition of the
14 Diagnostic and Statistical Manual of Mental Disorders for
15 severe or profound mental retardation (an IQ of 40 or
16 below). This must be measured by a standardized instrument
17 for general intellectual functioning.

18 (2) A severe or profound level of adaptive behavior.
19 This must be measured by a standardized adaptive behavior
20 scale or informal appraisal by the professional in keeping
21 with illustrations in Classification in Mental
22 Retardation, 1983.

23 (3) Disability diagnosed before age of 18.

24 A determination of a severe or profound intellectual
25 disability ~~mental—retardation~~ shall be based upon a
26 comprehensive, documented assessment with an evaluation by a

1 licensed clinical psychologist, certified school psychologist,
2 a psychiatrist or other physician licensed to practice medicine
3 in all its branches, and shall not be based solely on behaviors
4 relating to environmental, cultural or economic differences.

5 (k) "Severe and multiple impairments" means the
6 manifestation of all the following characteristics:

7 (1) The evaluation determines the presence of a
8 developmental disability which is expected to continue
9 indefinitely, constitutes a substantial handicap and is
10 attributable to any of the following:

11 (A) Intellectual disability ~~Mental retardation~~,
12 which is defined as general intellectual functioning
13 that is 2 or more standard deviations below the mean
14 concurrent with impairment of adaptive behavior which
15 is 2 or more standard deviations below the mean.
16 Assessment of the individual's intellectual
17 functioning must be measured by a standardized
18 instrument for general intellectual functioning.

19 (B) Cerebral palsy.

20 (C) Epilepsy.

21 (D) Autism.

22 (E) Any other condition which results in
23 impairment similar to that caused by an intellectual
24 disability ~~mental retardation~~ and which requires
25 services similar to those required by intellectually
26 disabled ~~mentally retarded~~ persons.

1 (2) The evaluation determines multiple handicaps in
2 physical, sensory, behavioral or cognitive functioning
3 which constitute a severe or profound impairment
4 attributable to one or more of the following:

5 (A) Physical functioning, which severely impairs
6 the individual's motor performance that may be due to:

7 (i) Neurological, psychological or physical
8 involvement resulting in a variety of disabling
9 conditions such as hemiplegia, quadriplegia or
10 ataxia,

11 (ii) Severe organ systems involvement such as
12 congenital heart defect,

13 (iii) Physical abnormalities resulting in the
14 individual being non-mobile and non-ambulatory or
15 confined to bed and receiving assistance in
16 transferring, or

17 (iv) The need for regular medical or nursing
18 supervision such as gastrostomy care and feeding.

19 Assessment of physical functioning must be based
20 on clinical medical assessment, using the appropriate
21 instruments, techniques and standards of measurement
22 required by the professional.

23 (B) Sensory, which involves severe restriction due
24 to hearing or visual impairment limiting the
25 individual's movement and creating dependence in
26 completing most daily activities. Hearing impairment

1 is defined as a loss of 70 decibels aided or speech
2 discrimination of less than 50% aided. Visual
3 impairment is defined as 20/200 corrected in the better
4 eye or a visual field of 20 degrees or less. Sensory
5 functioning must be based on clinical medical
6 assessment using the appropriate instruments,
7 techniques and standards of measurement required by
8 the professional.

9 (C) Behavioral, which involves behavior that is
10 maladaptive and presents a danger to self or others, is
11 destructive to property by deliberately breaking,
12 destroying or defacing objects, is disruptive by
13 fighting, or has other socially offensive behaviors in
14 sufficient frequency or severity to seriously limit
15 social integration. Assessment of behavioral
16 functioning may be measured by a standardized scale or
17 informal appraisal by the medical professional.

18 (D) 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 (3) The evaluation determines that development is
23 substantially less than expected for the age in cognitive,
24 affective or psychomotor behavior as follows:

25 (A) Cognitive, which involves intellectual
26 functioning at a measured IQ of 70 or below. Assessment

1 of cognitive functioning must be measured by a
2 standardized instrument for general intelligence.

3 (B) Affective behavior, which involves over and
4 under responding to stimuli in the environment and may
5 be observed in mood, attention to awareness, or in
6 behaviors such as euphoria, anger or sadness that
7 seriously limit integration into society. Affective
8 behavior must be based on clinical medical and
9 psychiatric assessment using the appropriate
10 instruments, techniques and standards of measurement
11 required by the professional.

12 (C) Psychomotor, which includes a severe
13 developmental delay in fine or gross motor skills so
14 that development in self-care, social interaction,
15 communication or physical activity will be greatly
16 delayed or restricted.

17 (4) A determination that the disability originated
18 before the age of 18 years.

19 A determination of severe and multiple impairments shall be
20 based upon a comprehensive, documented assessment with an
21 evaluation by a licensed clinical psychologist or
22 psychiatrist. If the examiner is a licensed clinical
23 psychologist, ancillary evaluation of physical impairment,
24 cerebral palsy or epilepsy must be made by a physician licensed
25 to practice medicine in all its branches.

26 Regardless of the discipline of the examiner, ancillary

1 evaluation of visual impairment must be made by an
2 ophthalmologist or a licensed optometrist.

3 Regardless of the discipline of the examiner, ancillary
4 evaluation of hearing impairment must be made by an
5 otolaryngologist or an audiologist with a certificate of
6 clinical competency.

7 The only exception to the above is in the case of a person
8 with cerebral palsy or epilepsy who, according to the
9 eligibility criteria listed below, has multiple impairments
10 which are only physical and sensory. In such a case, a
11 physician licensed to practice medicine in all its branches may
12 serve as the examiner.

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

14 (405 ILCS 80/3-5) (from Ch. 91 1/2, par. 1803-5)

15 Sec. 3-5. The Department shall create application forms
16 which shall be used to determine the eligibility of families
17 for the Program. The forms shall require at least the following
18 items of information which constitute the eligibility criteria
19 for participation in the Program:

20 (a) A statement that the family resides in the State of
21 Illinois.

22 (b) A statement that the family member is 17 years of age
23 or younger.

24 (c) A statement that the family member resides, or is
25 expected to reside, with his or her parent or legal guardian,

1 or that the family member resides in an out-of-home placement
2 with the expectation of residing with the parent or legal
3 guardian within 2 months of the date of the application.

4 (d) Verification that the family member has one of the
5 following conditions: severe autism, severe mental illness, a
6 severe or profound intellectual disability ~~mental retardation~~,
7 or severe and multiple impairments. Verification of the family
8 member's condition shall be:

9 (1) by the family member's local school district for
10 family members enrolled with a local school district; or

11 (2) by an entity designated by the Department.

12 (e) Verification that the taxable income for the family for
13 the year immediately preceding the date of the application did
14 not exceed an amount to be established by rule of the
15 Department, unless it can be verified that the taxable income
16 for the family for the year in which the application is made
17 will be less than such amount. The maximum taxable family
18 income set by rule of the Department may not be less than
19 \$65,000 beginning January 1, 2008.

20 (Source: P.A. 95-112, eff. 8-13-07.)

21 (405 ILCS 80/5-1) (from Ch. 91 1/2, par. 1805-1)

22 Sec. 5-1. As the mental health and developmental
23 disabilities or intellectual disabilities ~~mental retardation~~
24 authority for the State of Illinois, the Department of Human
25 Services shall have the authority to license, certify and

1 prescribe standards governing the programs and services
2 provided under this Act, as well as all other agencies or
3 programs which provide home-based or community-based services
4 to the mentally disabled, except those services, programs or
5 agencies established under or otherwise subject to the Child
6 Care Act of 1969 or the ID/DD ~~MR/DD~~ Community Care Act, as now
7 or hereafter amended, and this Act shall not be construed to
8 limit the application of those Acts.

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

10 (405 ILCS 80/5-4)

11 Sec. 5-4. Home and Community-Based Services Waivers;
12 autism spectrum disorder. A person diagnosed with an autism
13 spectrum disorder may be assessed for eligibility for services
14 under Home and Community-Based Services Waivers for persons
15 with developmental disabilities, without regard to whether
16 that person is also diagnosed with an intellectual disability
17 ~~mental retardation~~, so long as the person otherwise meets
18 applicable level-of-care criteria under those waivers. This
19 amendatory Act of the 95th General Assembly does not create any
20 new entitlement to a service, program, or benefit, but shall
21 not affect any entitlement to a service, program, or benefit
22 created by any other law.

23 (Source: P.A. 95-251, eff. 8-17-07.)

24 (405 ILCS 80/6-1)

1 Sec. 6-1. Community Residential Choices Program.

2 (a) The purpose of this Article is to promote greater
3 compatibility among individuals with developmental
4 disabilities who live together by allowing individuals with
5 developmental disabilities who meet either the emergency or
6 critical need criteria of the Department of Human Services as
7 defined under the Department's developmental disabilities
8 cross-disability database (as required by Section 10-26 of the
9 Department of Human Services Act), and who also meet the
10 Department's developmental disabilities priority population
11 criteria for residential services as defined in the
12 Department's developmental disabilities Community Services
13 Agreement and whose parents are over the age of 60, to choose
14 to live together in a community-based residential program.

15 (b) For purposes of this Article:

16 "Community-based residential program" means one of a
17 variety of living arrangements for persons with developmental
18 disabilities, including existing settings such as
19 community-integrated living arrangements, and may also include
20 newly developed settings that are consistent with this
21 definition.

22 "Developmental disability" may include an autism spectrum
23 disorder.

24 (c) A person diagnosed with an autism spectrum disorder may
25 be assessed for eligibility for services under Home and
26 Community-Based Services Waivers for persons with

1 developmental disabilities without regard to whether that
2 person is also diagnosed with an intellectual disability ~~mental~~
3 ~~retardation~~, so long as the person otherwise meets applicable
4 level-of-care criteria under those waivers. This provision
5 does not create any new entitlement to a service, program, or
6 benefit, but shall not affect any entitlement to a service,
7 program, or benefit created by any other law.

8 (Source: P.A. 95-636, eff. 10-5-07.)

9 Section 110. The Medical Patient Rights Act is amended by
10 changing Section 2.03 as follows:

11 (410 ILCS 50/2.03) (from Ch. 111 1/2, par. 5402.03)

12 Sec. 2.03. "Health care provider" means any public or
13 private facility that provides, on an inpatient or outpatient
14 basis, preventive, diagnostic, therapeutic, convalescent,
15 rehabilitation, mental health, or intellectual disability
16 ~~mental-retardation~~ services, including general or special
17 hospitals, skilled nursing homes, extended care facilities,
18 intermediate care facilities and mental health centers.

19 (Source: P.A. 81-1167.)

20 Section 115. The Newborn Metabolic Screening Act is amended
21 by changing Section 2 as follows:

22 (410 ILCS 240/2) (from Ch. 111 1/2, par. 4904)

1 Sec. 2. The Department of Public Health shall administer
2 the provisions of this Act and shall:

3 (a) Institute and carry on an intensive educational program
4 among physicians, hospitals, public health nurses and the
5 public concerning the diseases phenylketonuria,
6 hypothyroidism, galactosemia and other metabolic diseases.
7 This educational program shall include information about the
8 nature of the diseases and examinations for the detection of
9 the diseases in early infancy in order that measures may be
10 taken to prevent the intellectual disabilities ~~mental~~
11 ~~retardation~~ resulting from the diseases.

12 (a-5) Beginning July 1, 2002, provide all newborns with
13 expanded screening tests for the presence of genetic,
14 endocrine, or other metabolic disorders, including
15 phenylketonuria, galactosemia, hypothyroidism, congenital
16 adrenal hyperplasia, biotinidase deficiency, and sickling
17 disorders, as well as other amino acid disorders, organic acid
18 disorders, fatty acid oxidation disorders, and other
19 abnormalities detectable through the use of a tandem mass
20 spectrometer. If by July 1, 2002, the Department is unable to
21 provide expanded screening using the State Laboratory, it shall
22 temporarily provide such screening through an accredited
23 laboratory selected by the Department until the Department has
24 the capacity to provide screening through the State Laboratory.
25 If expanded screening is provided on a temporary basis through
26 an accredited laboratory, the Department shall substitute the

1 fee charged by the accredited laboratory, plus a 5% surcharge
2 for documentation and handling, for the fee authorized in
3 subsection (e) of this Section.

4 (a-6) In accordance with the timetable specified in this
5 subsection, provide all newborns with expanded screening tests
6 for the presence of certain Lysosomal Storage Disorders known
7 as Krabbe, Pompe, Gaucher, Fabry, and Niemann-Pick. The testing
8 shall begin within 6 months following the occurrence of all of
9 the following:

10 (i) the registration with the federal Food and Drug
11 Administration of the necessary reagents;

12 (ii) the availability of the necessary reagents from
13 the Centers for Disease Control and Prevention;

14 (iii) the availability of quality assurance testing
15 methodology for these processes; and

16 (iv) the acquisition and installment by the Department
17 of the equipment necessary to implement the expanded
18 screening tests.

19 It is the goal of this amendatory Act of the 95th General
20 Assembly that the expanded screening for the specified
21 Lysosomal Storage Disorders begins within 3 years after the
22 effective date of this Act. The Department is authorized to
23 implement an additional fee for the screening prior to
24 beginning the testing in order to accumulate the resources for
25 start-up and other costs associated with implementation of the
26 screening and thereafter to support the costs associated with

1 screening and follow-up programs for the specified Lysosomal
2 Storage Disorders.

3 (b) Maintain a registry of cases including information of
4 importance for the purpose of follow-up services to prevent
5 intellectual disabilities ~~mental retardation~~.

6 (c) Supply the necessary metabolic treatment formulas
7 where practicable for diagnosed cases of amino acid metabolism
8 disorders, including phenylketonuria, organic acid disorders,
9 and fatty acid oxidation disorders for as long as medically
10 indicated, when the product is not available through other
11 State agencies.

12 (d) Arrange for or provide public health nursing, nutrition
13 and social services and clinical consultation as indicated.

14 (e) Require that all specimens collected pursuant to this
15 Act or the rules and regulations promulgated hereunder be
16 submitted for testing to the nearest Department of Public
17 Health laboratory designated to perform such tests. The
18 Department may develop a reasonable fee structure and may levy
19 fees according to such structure to cover the cost of providing
20 this testing service. Fees collected from the provision of this
21 testing service shall be placed in a special fund in the State
22 Treasury, hereafter known as the Metabolic Screening and
23 Treatment Fund. Other State and federal funds for expenses
24 related to metabolic screening, follow-up and treatment
25 programs may also be placed in such Fund. Moneys shall be
26 appropriated from such Fund to the Department of Public Health

1 solely for the purposes of providing metabolic screening,
2 follow-up and treatment programs. Nothing in this Act shall be
3 construed to prohibit any licensed medical facility from
4 collecting additional specimens for testing for metabolic or
5 neonatal diseases or any other diseases or conditions, as it
6 deems fit. Any person violating the provisions of this
7 subsection (e) is guilty of a petty offense.

8 (Source: P.A. 95-695, eff. 11-5-07.)

9 Section 120. The Developmental Disability Prevention Act
10 is amended by changing Section 2 as follows:

11 (410 ILCS 250/2) (from Ch. 111 1/2, par. 2102)

12 Sec. 2.

13 As used in this Act:

14 a "perinatal" means the period of time between the
15 conception of an infant and the end of the first month of life;

16 b "congenital" means those intrauterine factors which
17 influence the growth, development and function of the fetus;

18 c "environmental" means those extrauterine factors which
19 influence the adaptation, well being or life of the newborn and
20 may lead to disability;

21 d "high risk" means an increased level of risk of harm or
22 mortality to the woman of childbearing age, fetus or newborn
23 from congenital and/or environmental factors;

24 e "perinatal center" means a referral facility intended to

1 care for the high risk patient before, during, or after labor
2 and delivery and characterized by sophistication and
3 availability of personnel, equipment, laboratory,
4 transportation techniques, consultation and other support
5 services;

6 f "developmental disability" means an intellectual
7 disability ~~mental retardation~~, cerebral palsy, epilepsy, or
8 other neurological handicapping conditions of an individual
9 found to be closely related to an intellectual disability
10 ~~mental retardation~~ or to require treatment similar to that
11 required by intellectually disabled ~~mentally retarded~~
12 individuals, and the disability originates before such
13 individual attains age 18, and has continued, or can be
14 expected to continue indefinitely, and constitutes a
15 substantial handicap of such individuals;

16 g "disability" means a condition characterized by
17 temporary or permanent, partial or complete impairment of
18 physical, mental or physiological function;

19 h "Department" means the Department of Public Health.

20 (Source: P.A. 78-557.)

21 Section 125. The Communicable Disease Prevention Act is
22 amended by changing Section 1 as follows:

23 (410 ILCS 315/1) (from Ch. 111 1/2, par. 22.11)

24 Sec. 1. Certain communicable diseases such as measles,

1 poliomyelitis, invasive pneumococcal disease, and tetanus, may
2 and do result in serious physical and mental disability
3 including an intellectual disability ~~mental retardation~~,
4 permanent paralysis, encephalitis, convulsions, pneumonia, and
5 not infrequently, death.

6 Most of these diseases attack young children, and if they
7 have not been immunized, may spread to other susceptible
8 children and possibly, adults, thus, posing serious threats to
9 the health of the community. Effective, safe and widely used
10 vaccines and immunization procedures have been developed and
11 are available to prevent these diseases and to limit their
12 spread. Even though such immunization procedures are
13 available, many children fail to receive this protection either
14 through parental oversight, lack of concern, knowledge or
15 interest, or lack of available facilities or funds. The
16 existence of susceptible children in the community constitutes
17 a health hazard to the individual and to the public at large by
18 serving as a focus for the spread of these communicable
19 diseases.

20 It is declared to be the public policy of this State that
21 all children shall be protected, as soon after birth as
22 medically indicated, by the appropriate vaccines and
23 immunizing procedures to prevent communicable diseases which
24 are or which may in the future become preventable by
25 immunization.

26 (Source: P.A. 95-159, eff. 8-14-07.)

1 Section 126. The Arthritis Quality of Life Initiative Act
2 is amended by changing Section 5 as follows:

3 (410 ILCS 503/5)

4 Sec. 5. Legislative findings. The General Assembly finds
5 and declares that:

6 (1) Arthritis is the most common, physically disabling
7 ~~crippling~~, and costly chronic disease in the United States;
8 it affects 14.5% of the population or more than 40,000,000
9 Americans of all ages. One in every 7 people and one in
10 every 3 families are affected by the disease.

11 (2) Arthritis is the nation's number one disabling
12 disease and disables 7,000,000 Americans. It is one of the
13 most common and disabling chronic conditions reported by
14 women and far exceeds the reporting of hypertension, heart
15 disease, diabetes, and breast, cervical, and ovarian
16 cancers.

17 (3) With an aggregate cost of about 1.1% of the gross
18 national product or an estimated \$64,800,000,000 annually
19 in medical expenses, lost wages, and associated economic
20 losses, arthritis and other rheumatic diseases have a
21 significant economic impact on the nation.

22 (4) As the leading cause of industrial absenteeism
23 after the common cold, arthritis accounts nationally for
24 500,000,000 days of restricted activity and 27,000,000

1 days lost from work each year.

2 (5) The federal Centers for Disease Control and
3 Prevention project that by the year 2020, the incidence of
4 arthritis will increase by 59% in the State and throughout
5 the country, affecting 20% of the population.

6 (6) Programs and services presently are available that
7 can dramatically impact on early diagnosis and treatment as
8 well as the quality of life of people with arthritis.

9 (7) A mechanism for broader dissemination of these
10 programs and services aimed at prevention, information,
11 and education is needed to help reduce the physical and
12 emotional impact of arthritis and its associated health
13 care and related costs.

14 (Source: P.A. 91-750, eff. 1-1-01.)

15 Section 128. The Facilities Requiring Smoke Detectors Act
16 is amended by changing Section 1 as follows:

17 (425 ILCS 10/1) (from Ch. 127 1/2, par. 821)

18 Sec. 1. For purposes of this Act, unless the context
19 requires otherwise:

20 (a) "Facility" means:

21 (1) Any long-term care facility as defined in Section
22 1-113 of the Nursing Home Care Act or any facility as
23 defined in Section 1-113 of the ID/DD ~~MR/DD~~ Community Care
24 Act, as amended;

1 (2) Any community residential alternative as defined
2 in paragraph (4) of Section 3 of the Community Residential
3 Alternatives Licensing Act, as amended; and

4 (3) Any child care facility as defined in Section 2.05
5 of the Child Care Act of 1969, as amended.

6 (b) "Approved smoke detector" or "detector" means a smoke
7 detector of the ionization or photoelectric type which complies
8 with all the requirements of the rules and regulations of the
9 Illinois State Fire Marshal.

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

11 Section 130. The Firearm Owners Identification Card Act is
12 amended by changing Sections 4 and 8 as follows:

13 (430 ILCS 65/4) (from Ch. 38, par. 83-4)

14 Sec. 4. (a) Each applicant for a Firearm Owner's
15 Identification Card must:

16 (1) Make application on blank forms prepared and
17 furnished at convenient locations throughout the State by
18 the Department of State Police, or by electronic means, if
19 and when made available by the Department of State Police;
20 and

21 (2) Submit evidence to the Department of State Police
22 that:

23 (i) He or she is 21 years of age or over, or if he
24 or she is under 21 years of age that he or she has the

1 written consent of his or her parent or legal guardian
2 to possess and acquire firearms and firearm ammunition
3 and that he or she has never been convicted of a
4 misdemeanor other than a traffic offense or adjudged
5 delinquent, provided, however, that such parent or
6 legal guardian is not an individual prohibited from
7 having a Firearm Owner's Identification Card and files
8 an affidavit with the Department as prescribed by the
9 Department stating that he or she is not an individual
10 prohibited from having a Card;

11 (ii) He or she has not been convicted of a felony
12 under the laws of this or any other jurisdiction;

13 (iii) He or she is not addicted to narcotics;

14 (iv) He or she has not been a patient in a mental
15 institution within the past 5 years and he or she has
16 not been adjudicated as a mental defective;

17 (v) He or she is not intellectually disabled
18 ~~mentally retarded~~;

19 (vi) He or she is not an alien who is unlawfully
20 present in the United States under the laws of the
21 United States;

22 (vii) He or she is not subject to an existing order
23 of protection prohibiting him or her from possessing a
24 firearm;

25 (viii) He or she has not been convicted within the
26 past 5 years of battery, assault, aggravated assault,

1 violation of an order of protection, or a substantially
2 similar offense in another jurisdiction, in which a
3 firearm was used or possessed;

4 (ix) He or she has not been convicted of domestic
5 battery or a substantially similar offense in another
6 jurisdiction committed on or after the effective date
7 of this amendatory Act of 1997;

8 (x) He or she has not been convicted within the
9 past 5 years of domestic battery or a substantially
10 similar offense in another jurisdiction committed
11 before the effective date of this amendatory Act of
12 1997;

13 (xi) He or she is not an alien who has been
14 admitted to the United States under a non-immigrant
15 visa (as that term is defined in Section 101(a)(26) of
16 the Immigration and Nationality Act (8 U.S.C.
17 1101(a)(26))), or that he or she is an alien who has
18 been lawfully admitted to the United States under a
19 non-immigrant visa if that alien is:

20 (1) admitted to the United States for lawful
21 hunting or sporting purposes;

22 (2) an official representative of a foreign
23 government who is:

24 (A) accredited to the United States
25 Government or the Government's mission to an
26 international organization having its

1 headquarters in the United States; or

2 (B) en route to or from another country to
3 which that alien is accredited;

4 (3) an official of a foreign government or
5 distinguished foreign visitor who has been so
6 designated by the Department of State;

7 (4) a foreign law enforcement officer of a
8 friendly foreign government entering the United
9 States on official business; or

10 (5) one who has received a waiver from the
11 Attorney General of the United States pursuant to
12 18 U.S.C. 922(y) (3);

13 (xii) He or she is not a minor subject to a
14 petition filed under Section 5-520 of the Juvenile
15 Court Act of 1987 alleging that the minor is a
16 delinquent minor for the commission of an offense that
17 if committed by an adult would be a felony; and

18 (xiii) He or she is not an adult who had been
19 adjudicated a delinquent minor under the Juvenile
20 Court Act of 1987 for the commission of an offense that
21 if committed by an adult would be a felony; and

22 (3) Upon request by the Department of State Police,
23 sign a release on a form prescribed by the Department of
24 State Police waiving any right to confidentiality and
25 requesting the disclosure to the Department of State Police
26 of limited mental health institution admission information

1 from another state, the District of Columbia, any other
2 territory of the United States, or a foreign nation
3 concerning the applicant for the sole purpose of
4 determining whether the applicant is or was a patient in a
5 mental health institution and disqualified because of that
6 status from receiving a Firearm Owner's Identification
7 Card. No mental health care or treatment records may be
8 requested. The information received shall be destroyed
9 within one year of receipt.

10 (a-5) Each applicant for a Firearm Owner's Identification
11 Card who is over the age of 18 shall furnish to the Department
12 of State Police either his or her driver's license number or
13 Illinois Identification Card number.

14 (a-10) Each applicant for a Firearm Owner's Identification
15 Card, who is employed as an armed security officer at a nuclear
16 energy, storage, weapons, or development facility regulated by
17 the Nuclear Regulatory Commission and who is not an Illinois
18 resident, shall furnish to the Department of State Police his
19 or her driver's license number or state identification card
20 number from his or her state of residence. The Department of
21 State Police may promulgate rules to enforce the provisions of
22 this subsection (a-10).

23 (b) Each application form shall include the following
24 statement printed in bold type: "Warning: Entering false
25 information on an application for a Firearm Owner's
26 Identification Card is punishable as a Class 2 felony in

1 accordance with subsection (d-5) of Section 14 of the Firearm
2 Owners Identification Card Act.".

3 (c) Upon such written consent, pursuant to Section 4,
4 paragraph (a)(2)(i), the parent or legal guardian giving the
5 consent shall be liable for any damages resulting from the
6 applicant's use of firearms or firearm ammunition.

7 (Source: P.A. 95-581, eff. 6-1-08.)

8 (430 ILCS 65/8) (from Ch. 38, par. 83-8)

9 Sec. 8. The Department of State Police has authority to
10 deny an application for or to revoke and seize a Firearm
11 Owner's Identification Card previously issued under this Act
12 only if the Department finds that the applicant or the person
13 to whom such card was issued is or was at the time of issuance:

14 (a) A person under 21 years of age who has been convicted
15 of a misdemeanor other than a traffic offense or adjudged
16 delinquent;

17 (b) A person under 21 years of age who does not have the
18 written consent of his parent or guardian to acquire and
19 possess firearms and firearm ammunition, or whose parent or
20 guardian has revoked such written consent, or where such parent
21 or guardian does not qualify to have a Firearm Owner's
22 Identification Card;

23 (c) A person convicted of a felony under the laws of this
24 or any other jurisdiction;

25 (d) A person addicted to narcotics;

1 (e) A person who has been a patient of a mental institution
2 within the past 5 years or has been adjudicated as a mental
3 defective;

4 (f) A person whose mental condition is of such a nature
5 that it poses a clear and present danger to the applicant, any
6 other person or persons or the community;

7 For the purposes of this Section, "mental condition" means
8 a state of mind manifested by violent, suicidal, threatening or
9 assaultive behavior.

10 (g) A person who is intellectually disabled ~~mentally~~
11 ~~retarded~~;

12 (h) A person who intentionally makes a false statement in
13 the Firearm Owner's Identification Card application;

14 (i) An alien who is unlawfully present in the United States
15 under the laws of the United States;

16 (i-5) An alien who has been admitted to the United States
17 under a non-immigrant visa (as that term is defined in Section
18 101(a)(26) of the Immigration and Nationality Act (8 U.S.C.
19 1101(a)(26))), except that this subsection (i-5) does not apply
20 to any alien who has been lawfully admitted to the United
21 States under a non-immigrant visa if that alien is:

22 (1) admitted to the United States for lawful hunting or
23 sporting purposes;

24 (2) an official representative of a foreign government
25 who is:

26 (A) accredited to the United States Government or

1 the Government's mission to an international
2 organization having its headquarters in the United
3 States; or

4 (B) en route to or from another country to which
5 that alien is accredited;

6 (3) an official of a foreign government or
7 distinguished foreign visitor who has been so designated by
8 the Department of State;

9 (4) a foreign law enforcement officer of a friendly
10 foreign government entering the United States on official
11 business; or

12 (5) one who has received a waiver from the Attorney
13 General of the United States pursuant to 18 U.S.C.
14 922(y)(3);

15 (j) (Blank);

16 (k) A person who has been convicted within the past 5 years
17 of battery, assault, aggravated assault, violation of an order
18 of protection, or a substantially similar offense in another
19 jurisdiction, in which a firearm was used or possessed;

20 (l) A person who has been convicted of domestic battery or
21 a substantially similar offense in another jurisdiction
22 committed on or after January 1, 1998;

23 (m) A person who has been convicted within the past 5 years
24 of domestic battery or a substantially similar offense in
25 another jurisdiction committed before January 1, 1998;

26 (n) A person who is prohibited from acquiring or possessing

1 firearms or firearm ammunition by any Illinois State statute or
2 by federal law;

3 (o) A minor subject to a petition filed under Section 5-520
4 of the Juvenile Court Act of 1987 alleging that the minor is a
5 delinquent minor for the commission of an offense that if
6 committed by an adult would be a felony; or

7 (p) An adult who had been adjudicated a delinquent minor
8 under the Juvenile Court Act of 1987 for the commission of an
9 offense that if committed by an adult would be a felony.

10 (Source: P.A. 95-581, eff. 6-1-08; 96-701, eff. 1-1-10.)

11 Section 135. The Criminal Code of 1961 is amended by
12 changing Sections 2-10.1, 10-1, 10-2, 10-5, 11-14.1, 11-15.1,
13 11-17.1, 11-18.1, 11-19.1, 11-19.2, 11-20.1, 11-20.3, 12-4.3,
14 12-14, 12-16, 12-19, 12-21, 17-29, 24-3, 24-3.1, and 26-1 as
15 follows:

16 (720 ILCS 5/2-10.1) (from Ch. 38, par. 2-10.1)

17 Sec. 2-10.1. "Severely or profoundly intellectually
18 disabled ~~mentally retarded~~ person" means a person (i) whose
19 intelligence quotient does not exceed 40 or (ii) whose
20 intelligence quotient does not exceed 55 and who suffers from
21 significant mental illness to the extent that the person's
22 ability to exercise rational judgment is impaired. In any
23 proceeding in which the defendant is charged with committing a
24 violation of Section 10-2, 10-5, 11-15.1, 11-19.1, 11-19.2,

1 11-20.1, 12-4.3, 12-14, or 12-16 of this Code against a victim
2 who is alleged to be a severely or profoundly intellectually
3 disabled ~~mentally retarded~~ person, any findings concerning the
4 victim's status as a severely or profoundly intellectually
5 disabled ~~mentally retarded~~ person, made by a court after a
6 judicial admission hearing concerning the victim under
7 Articles V and VI of Chapter 4 of the Mental Health and
8 Developmental Disabilities Code shall be admissible.

9 (Source: P.A. 92-434, eff. 1-1-02.)

10 (720 ILCS 5/10-1) (from Ch. 38, par. 10-1)

11 Sec. 10-1. Kidnapping.

12 (a) A person commits the offense of kidnapping when he or
13 she knowingly:

14 (1) and secretly confines another against his or her
15 will;

16 (2) by force or threat of imminent force carries
17 another from one place to another with intent secretly to
18 confine that other person against his or her will; or

19 (3) by deceit or enticement induces another to go from
20 one place to another with intent secretly to confine that
21 other person against his or her will.

22 (b) Confinement of a child under the age of 13 years, or of
23 a severely or profoundly intellectually disabled ~~mentally~~
24 ~~retarded~~ person, is against that child's or person's will
25 within the meaning of this Section if that confinement is

1 without the consent of that child's or person's parent or legal
2 guardian.

3 (c) Sentence. Kidnapping is a Class 2 felony.

4 (Source: P.A. 96-710, eff. 1-1-10.)

5 (720 ILCS 5/10-2) (from Ch. 38, par. 10-2)

6 Sec. 10-2. Aggravated kidnaping.

7 (a) A person commits the offense of aggravated kidnaping
8 when he or she commits kidnapping and:

9 (1) kidnaps with the intent to obtain ransom from the
10 person kidnaped or from any other person;

11 (2) takes as his or her victim a child under the age of
12 13 years, or a severely or profoundly intellectually
13 disabled ~~mentally retarded~~ person;

14 (3) inflicts great bodily harm, other than by the
15 discharge of a firearm, or commits another felony upon his
16 or her victim;

17 (4) wears a hood, robe, or mask or conceals his or her
18 identity;

19 (5) commits the offense of kidnaping while armed with a
20 dangerous weapon, other than a firearm, as defined in
21 Section 33A-1 of this Code;

22 (6) commits the offense of kidnaping while armed with a
23 firearm;

24 (7) during the commission of the offense of kidnaping,
25 personally discharges a firearm; or

1 (8) during the commission of the offense of kidnaping,
2 personally discharges a firearm that proximately causes
3 great bodily harm, permanent disability, permanent
4 disfigurement, or death to another person.

5 As used in this Section, "ransom" includes money, benefit,
6 or other valuable thing or concession.

7 (b) Sentence. Aggravated kidnaping in violation of
8 paragraph (1), (2), (3), (4), or (5) of subsection (a) is a
9 Class X felony. A violation of subsection (a)(6) is a Class X
10 felony for which 15 years shall be added to the term of
11 imprisonment imposed by the court. A violation of subsection
12 (a)(7) is a Class X felony for which 20 years shall be added to
13 the term of imprisonment imposed by the court. A violation of
14 subsection (a)(8) is a Class X felony for which 25 years or up
15 to a term of natural life shall be added to the term of
16 imprisonment imposed by the court.

17 A person who is convicted of a second or subsequent offense
18 of aggravated kidnaping shall be sentenced to a term of natural
19 life imprisonment; except that a sentence of natural life
20 imprisonment shall not be imposed under this Section unless the
21 second or subsequent offense was committed after conviction on
22 the first offense.

23 (Source: P.A. 96-710, eff. 1-1-10.)

24 (720 ILCS 5/10-5) (from Ch. 38, par. 10-5)

25 Sec. 10-5. Child abduction.

1 (a) For purposes of this Section, the following terms have
2 the following meanings:

3 (1) "Child" means a person who, at the time the alleged
4 violation occurred, was under the age of 18 or severely or
5 profoundly intellectually disabled ~~mentally retarded~~.

6 (2) "Detains" means taking or retaining physical
7 custody of a child, whether or not the child resists or
8 objects.

9 (3) "Lawful custodian" means a person or persons
10 granted legal custody of a child or entitled to physical
11 possession of a child pursuant to a court order. It is
12 presumed that, when the parties have never been married to
13 each other, the mother has legal custody of the child
14 unless a valid court order states otherwise. If an
15 adjudication of paternity has been completed and the father
16 has been assigned support obligations or visitation
17 rights, such a paternity order should, for the purposes of
18 this Section, be considered a valid court order granting
19 custody to the mother.

20 (4) "Putative father" means a man who has a reasonable
21 belief that he is the father of a child born of a woman who
22 is not his wife.

23 (b) A person commits the offense of child abduction when he
24 or she does any one of the following:

25 (1) Intentionally violates any terms of a valid court
26 order granting sole or joint custody, care, or possession

1 to another by concealing or detaining the child or removing
2 the child from the jurisdiction of the court.

3 (2) Intentionally violates a court order prohibiting
4 the person from concealing or detaining the child or
5 removing the child from the jurisdiction of the court.

6 (3) Intentionally conceals, detains, or removes the
7 child without the consent of the mother or lawful custodian
8 of the child if the person is a putative father and either:
9 (A) the paternity of the child has not been legally
10 established or (B) the paternity of the child has been
11 legally established but no orders relating to custody have
12 been entered. Notwithstanding the presumption created by
13 paragraph (3) of subsection (a), however, a mother commits
14 child abduction when she intentionally conceals or removes
15 a child, whom she has abandoned or relinquished custody of,
16 from an unadjudicated father who has provided sole ongoing
17 care and custody of the child in her absence.

18 (4) Intentionally conceals or removes the child from a
19 parent after filing a petition or being served with process
20 in an action affecting marriage or paternity but prior to
21 the issuance of a temporary or final order determining
22 custody.

23 (5) At the expiration of visitation rights outside the
24 State, intentionally fails or refuses to return or impedes
25 the return of the child to the lawful custodian in
26 Illinois.

1 (6) Being a parent of the child, and if the parents of
2 that child are or have been married and there has been no
3 court order of custody, knowingly conceals the child for 15
4 days, and fails to make reasonable attempts within the
5 15-day period to notify the other parent as to the specific
6 whereabouts of the child, including a means by which to
7 contact the child, or to arrange reasonable visitation or
8 contact with the child. It is not a violation of this
9 Section for a person fleeing domestic violence to take the
10 child with him or her to housing provided by a domestic
11 violence program.

12 (7) Being a parent of the child, and if the parents of
13 the child are or have been married and there has been no
14 court order of custody, knowingly conceals, detains, or
15 removes the child with physical force or threat of physical
16 force.

17 (8) Knowingly conceals, detains, or removes the child
18 for payment or promise of payment at the instruction of a
19 person who has no legal right to custody.

20 (9) Knowingly retains in this State for 30 days a child
21 removed from another state without the consent of the
22 lawful custodian or in violation of a valid court order of
23 custody.

24 (10) Intentionally lures or attempts to lure a child
25 under the age of 16 into a motor vehicle, building,
26 housetrailer, or dwelling place without the consent of the

1 child's parent or lawful custodian for other than a lawful
2 purpose. For the purposes of this item (10), the luring or
3 attempted luring of a child under the age of 16 into a
4 motor vehicle, building, housetrailer, or dwelling place
5 without the consent of the child's parent or lawful
6 custodian is prima facie evidence of other than a lawful
7 purpose.

8 (11) With the intent to obstruct or prevent efforts to
9 locate the child victim of a child abduction, knowingly
10 destroys, alters, conceals, or disguises physical evidence
11 or furnishes false information.

12 (c) It is an affirmative defense to subsections (b) (1)
13 through (b) (10) of this Section that:

14 (1) the person had custody of the child pursuant to a
15 court order granting legal custody or visitation rights
16 that existed at the time of the alleged violation;

17 (2) the person had physical custody of the child
18 pursuant to a court order granting legal custody or
19 visitation rights and failed to return the child as a
20 result of circumstances beyond his or her control, and the
21 person notified and disclosed to the other parent or legal
22 custodian the specific whereabouts of the child and a means
23 by which the child could be contacted or made a reasonable
24 attempt to notify the other parent or lawful custodian of
25 the child of those circumstances and made the disclosure
26 within 24 hours after the visitation period had expired and

1 returned the child as soon as possible;

2 (3) the person was fleeing an incidence or pattern of
3 domestic violence; or

4 (4) the person lured or attempted to lure a child under
5 the age of 16 into a motor vehicle, building, housetrailer,
6 or dwelling place for a lawful purpose in prosecutions
7 under paragraph (10) of subsection (b).

8 (d) A person convicted of child abduction under this
9 Section is guilty of a Class 4 felony. A person convicted of a
10 second or subsequent violation of paragraph (10) of subsection
11 (b) of this Section is guilty of a Class 3 felony. It is a
12 factor in aggravation under subsections (b)(1) through (b)(10)
13 of this Section for which a court may impose a more severe
14 sentence under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5
15 of Chapter V of the Unified Code of Corrections if, upon
16 sentencing, the court finds evidence of any of the following
17 aggravating factors:

18 (1) that the defendant abused or neglected the child
19 following the concealment, detention, or removal of the
20 child;

21 (2) that the defendant inflicted or threatened to
22 inflict physical harm on a parent or lawful custodian of
23 the child or on the child with intent to cause that parent
24 or lawful custodian to discontinue criminal prosecution of
25 the defendant under this Section;

26 (3) that the defendant demanded payment in exchange for

1 return of the child or demanded that he or she be relieved
2 of the financial or legal obligation to support the child
3 in exchange for return of the child;

4 (4) that the defendant has previously been convicted of
5 child abduction;

6 (5) that the defendant committed the abduction while
7 armed with a deadly weapon or the taking of the child
8 resulted in serious bodily injury to another; or

9 (6) that the defendant committed the abduction while in
10 a school, regardless of the time of day or time of year; in
11 a playground; on any conveyance owned, leased, or
12 contracted by a school to transport students to or from
13 school or a school related activity; on the real property
14 of a school; or on a public way within 1,000 feet of the
15 real property comprising any school or playground. For
16 purposes of this paragraph (6), "playground" means a piece
17 of land owned or controlled by a unit of local government
18 that is designated by the unit of local government for use
19 solely or primarily for children's recreation; and
20 "school" means a public or private elementary or secondary
21 school, community college, college, or university.

22 (e) The court may order the child to be returned to the
23 parent or lawful custodian from whom the child was concealed,
24 detained, or removed. In addition to any sentence imposed, the
25 court may assess any reasonable expense incurred in searching
26 for or returning the child against any person convicted of

1 violating this Section.

2 (f) Nothing contained in this Section shall be construed to
3 limit the court's contempt power.

4 (g) Every law enforcement officer investigating an alleged
5 incident of child abduction shall make a written police report
6 of any bona fide allegation and the disposition of that
7 investigation. Every police report completed pursuant to this
8 Section shall be compiled and recorded within the meaning of
9 Section 5.1 of the Criminal Identification Act.

10 (h) Whenever a law enforcement officer has reasons to
11 believe a child abduction has occurred, she or he shall provide
12 the lawful custodian a summary of her or his rights under this
13 Code, including the procedures and relief available to her or
14 him.

15 (i) If during the course of an investigation under this
16 Section the child is found in the physical custody of the
17 defendant or another, the law enforcement officer shall return
18 the child to the parent or lawful custodian from whom the child
19 was concealed, detained, or removed, unless there is good cause
20 for the law enforcement officer or the Department of Children
21 and Family Services to retain temporary protective custody of
22 the child pursuant to the Abused and Neglected Child Reporting
23 Act.

24 (Source: P.A. 95-1052, eff. 7-1-09; 96-710, eff. 1-1-10; ;
25 96-1000, eff. 7-2-10.)

1 (720 ILCS 5/11-14.1)

2 Sec. 11-14.1. Solicitation of a sexual act.

3 (a) Any person who offers a person not his or her spouse
4 any money, property, token, object, or article or anything of
5 value for that person or any other person not his or her spouse
6 to perform any act of sexual penetration as defined in Section
7 12-12 of this Code, or any touching or fondling of the sex
8 organs of one person by another person for the purpose of
9 sexual arousal or gratification, commits the offense of
10 solicitation of a sexual act.

11 (b) Sentence. Solicitation of a sexual act is a Class A
12 misdemeanor. Solicitation of a sexual act from a person who is
13 under the age of 18 or who is severely or profoundly
14 intellectually disabled ~~mentally retarded~~ is a Class 4 felony.

15 (b-5) It is an affirmative defense to a charge of
16 solicitation of a sexual act with a person who is under the age
17 of 18 or who is severely or profoundly intellectually disabled
18 ~~mentally retarded~~ that the accused reasonably believed the
19 person was of the age of 18 years or over or was not a severely
20 or profoundly intellectually disabled ~~mentally retarded~~ person
21 at the time of the act giving rise to the charge.

22 (Source: P.A. 96-1464, eff. 8-20-10.)

23 (720 ILCS 5/11-15.1) (from Ch. 38, par. 11-15.1)

24 Sec. 11-15.1. Soliciting for a minor engaged in
25 prostitution.

1 (a) Any person who violates any of the provisions of
2 Section 11-15(a) of this Act commits soliciting for a minor
3 engaged in prostitution where the person for whom such person
4 is soliciting is under 18 years of age or is a severely or
5 profoundly intellectually disabled ~~mentally retarded~~ person.

6 (b) It is an affirmative defense to a charge of soliciting
7 for a minor engaged in prostitution that the accused reasonably
8 believed the person was of the age of 18 years or over or was
9 not a severely or profoundly intellectually disabled ~~mentally~~
10 ~~retarded~~ person at the time of the act giving rise to the
11 charge.

12 (c) Sentence.

13 Soliciting for a minor engaged in prostitution is a Class 1
14 felony. A person convicted of a second or subsequent violation
15 of this Section, or of any combination of such number of
16 convictions under this Section and Sections 11-14, 11-14.1,
17 11-15, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1,
18 or 11-19.2 of this Code, is guilty of a Class X felony. The
19 fact of such prior conviction is not an element of the offense
20 and may not be disclosed to the jury during trial unless
21 otherwise permitted by issues properly raised during the trial.

22 (c-5) A person who violates this Section within 1,000 feet
23 of real property comprising a school commits a Class X felony.

24 (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

25 (720 ILCS 5/11-17.1) (from Ch. 38, par. 11-17.1)

1 Sec. 11-17.1. Keeping a Place of Juvenile Prostitution.

2 (a) Any person who knowingly violates any of the provisions
3 of Section 11-17 of this Act commits keeping a place of
4 juvenile prostitution when any person engaged in prostitution
5 in the place of prostitution is under 18 years of age or is a
6 severely or profoundly intellectually disabled ~~mentally~~
7 ~~retarded~~ person.

8 (b) If the accused did not have a reasonable opportunity to
9 observe the person, it is an affirmative defense to a charge of
10 keeping a place of juvenile prostitution that the accused
11 reasonably believed the person was of the age of 18 years or
12 over or was not a severely or profoundly intellectually
13 disabled ~~mentally retarded~~ person at the time of the act giving
14 rise to the charge.

15 (c) Sentence. Keeping a place of juvenile prostitution is a
16 Class 1 felony. A person convicted of a second or subsequent
17 violation of this Section, or of any combination of such number
18 of convictions under this Section and Sections 11-14, 11-14.1,
19 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1,
20 or 11-19.2 of this Code, is guilty of a Class X felony.

21 (d) Forfeiture. Any person convicted under this Section is
22 subject to the property forfeiture provisions set forth in
23 Article 124B of the Code of Criminal Procedure of 1963.

24 (Source: P.A. 95-95, eff. 1-1-08; 96-712, eff. 1-1-10; 96-1464,
25 eff. 8-20-10.)

1 (720 ILCS 5/11-18.1) (from Ch. 38, par. 11-18.1)

2 Sec. 11-18.1. Patronizing a minor engaged in prostitution.

3 (a) Any person who engages in an act of sexual penetration
4 as defined in Section 12-12 of this Code with a person engaged
5 in prostitution who is under 18 years of age or is a severely
6 or profoundly intellectually disabled ~~mentally retarded~~ person
7 commits the offense of patronizing a minor engaged in
8 prostitution.

9 (b) It is an affirmative defense to the charge of
10 patronizing a minor engaged in prostitution that the accused
11 reasonably believed that the person was of the age of 18 years
12 or over or was not a severely or profoundly intellectually
13 disabled ~~mentally retarded~~ person at the time of the act giving
14 rise to the charge.

15 (c) Sentence. A person who commits patronizing a juvenile
16 prostitute is guilty of a Class 3 felony. A person convicted of
17 a second or subsequent violation of this Section, or of any
18 combination of such number of convictions under this Section
19 and Sections 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17,
20 11-17.1, 11-18, 11-19, 11-19.1, or 11-19.2 of this Code, is
21 guilty of a Class 2 felony. The fact of such conviction is not
22 an element of the offense and may not be disclosed to the jury
23 during trial unless otherwise permitted by issues properly
24 raised during such trial. A person who violates this Section
25 within 1,000 feet of real property comprising a school commits
26 a Class 2 felony.

1 (Source: P.A. 96-1464, eff. 8-20-10.)

2 (720 ILCS 5/11-19.1) (from Ch. 38, par. 11-19.1)

3 Sec. 11-19.1. Juvenile Pimping and aggravated juvenile
4 pimping.

5 (a) A person commits the offense of juvenile pimping if the
6 person knowingly receives any form of consideration derived
7 from the practice of prostitution, in whole or in part, and

8 (1) the prostituted person was under the age of 18 at
9 the time the act of prostitution occurred; or

10 (2) the prostitute was a severely or profoundly
11 intellectually disabled ~~mentally retarded~~ person at the
12 time the act of prostitution occurred.

13 (b) A person commits the offense of aggravated juvenile
14 pimping if the person knowingly receives any form of
15 consideration derived from the practice of prostitution, in
16 whole or in part, and the prostituted person was under the age
17 of 13 at the time the act of prostitution occurred.

18 (c) If the accused did not have a reasonable opportunity to
19 observe the prostituted person, it is an affirmative defense to
20 a charge of juvenile pimping that the accused reasonably
21 believed the person was of the age of 18 years or over or was
22 not a severely or profoundly intellectually disabled ~~mentally~~
23 ~~retarded~~ person at the time of the act giving rise to the
24 charge.

25 (d) Sentence.

1 A person who commits a violation of subsection (a) is
2 guilty of a Class 1 felony. A person convicted of a second or
3 subsequent violation of this Section, or of any combination of
4 such number of convictions under this Section and Sections
5 11-14, 11-14.1, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18,
6 11-18.1, 11-19, or 11-19.2 of this Code, is guilty of a Class X
7 felony. A person who commits a violation of subsection (b) is
8 guilty of a Class X felony.

9 (e) For the purposes of this Section, "prostituted person"
10 means any person who engages in, or agrees or offers to engage
11 in, any act of sexual penetration as defined in Section 12-12
12 of this Code for any money, property, token, object, or article
13 or anything of value, or any touching or fondling of the sex
14 organs of one person by another person, for any money,
15 property, token, object, or article or anything of value, for
16 the purpose of sexual arousal or gratification.

17 (Source: P.A. 95-95, eff. 1-1-08; 96-1464, eff. 8-20-10.)

18 (720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

19 Sec. 11-19.2. Exploitation of a child.

20 (A) A person commits exploitation of a child when he or she
21 confines a child under the age of 18 or a severely or
22 profoundly intellectually disabled ~~mentally retarded~~ person
23 against his or her will by the infliction or threat of imminent
24 infliction of great bodily harm, permanent disability or
25 disfigurement or by administering to the child or severely or

1 profoundly intellectually disabled ~~mentally-retarded~~ person
2 without his or her consent or by threat or deception and for
3 other than medical purposes, any alcoholic intoxicant or a drug
4 as defined in the Illinois Controlled Substances Act or the
5 Cannabis Control Act or methamphetamine as defined in the
6 Methamphetamine Control and Community Protection Act and:

7 (1) compels the child or severely or profoundly
8 intellectually disabled ~~mentally-retarded~~ person to engage
9 in prostitution; or

10 (2) arranges a situation in which the child or severely
11 or profoundly intellectually disabled ~~mentally-retarded~~
12 person may practice prostitution; or

13 (3) receives any money, property, token, object, or
14 article or anything of value from the child or severely or
15 profoundly intellectually disabled ~~mentally-retarded~~
16 person knowing it was obtained in whole or in part from the
17 practice of prostitution.

18 (B) For purposes of this Section, administering drugs, as
19 defined in subsection (A), or an alcoholic intoxicant to a
20 child under the age of 13 or a severely or profoundly
21 intellectually disabled ~~mentally-retarded~~ person shall be
22 deemed to be without consent if such administering is done
23 without the consent of the parents or legal guardian or if such
24 administering is performed by the parents or legal guardians
25 for other than medical purposes.

26 (C) Exploitation of a child is a Class X felony, for which

1 the person shall be sentenced to a term of imprisonment of not
2 less than 6 years and not more than 60 years.

3 (D) Any person convicted under this Section is subject to
4 the property forfeiture provisions set forth in Article 124B of
5 the Code of Criminal Procedure of 1963.

6 (Source: P.A. 95-640, eff. 6-1-08; 96-712, eff. 1-1-10;
7 96-1464, eff. 8-20-10.)

8 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

9 Sec. 11-20.1. Child pornography.

10 (a) A person commits the offense of child pornography who:

11 (1) films, videotapes, photographs, or otherwise
12 depicts or portrays by means of any similar visual medium
13 or reproduction or depicts by computer any child whom he
14 knows or reasonably should know to be under the age of 18
15 or any severely or profoundly intellectually disabled
16 ~~mentally retarded~~ person where such child or severely or
17 profoundly intellectually disabled ~~mentally retarded~~
18 person is:

19 (i) actually or by simulation engaged in any act of
20 sexual penetration or sexual conduct with any person or
21 animal; or

22 (ii) actually or by simulation engaged in any act
23 of sexual penetration or sexual conduct involving the
24 sex organs of the child or severely or profoundly
25 intellectually disabled ~~mentally retarded~~ person and

1 the mouth, anus, or sex organs of another person or
2 animal; or which involves the mouth, anus or sex organs
3 of the child or severely or profoundly intellectually
4 disabled ~~mentally-retarded~~ person and the sex organs of
5 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 or severely or
2 profoundly intellectually disabled ~~mentally-retarded~~
3 person whom the person knows or reasonably should know to
4 be under the age of 18 or to be a severely or profoundly
5 intellectually disabled ~~mentally-retarded~~ person, engaged
6 in any activity described in subparagraphs (i) through
7 (vii) of paragraph (1) of this subsection; or

8 (3) with knowledge of the subject matter or theme
9 thereof, produces any stage play, live performance, film,
10 videotape or other similar visual portrayal or depiction by
11 computer which includes a child whom the person knows or
12 reasonably should know to be under the age of 18 or a
13 severely or profoundly intellectually disabled ~~mentally~~
14 ~~retarded~~ person engaged in any activity described in
15 subparagraphs (i) through (vii) of paragraph (1) of this
16 subsection; or

17 (4) solicits, uses, persuades, induces, entices, or
18 coerces any child whom he knows or reasonably should know
19 to be under the age of 18 or a severely or profoundly
20 intellectually disabled ~~mentally-retarded~~ person to appear
21 in any stage play, live presentation, film, videotape,
22 photograph or other similar visual reproduction or
23 depiction by computer in which the child or severely or
24 profoundly intellectually disabled ~~mentally-retarded~~
25 person is or will be depicted, actually or by simulation,
26 in any act, pose or setting described in subparagraphs (i)

1 through (vii) of paragraph (1) of this subsection; or

2 (5) is a parent, step-parent, legal guardian or other
3 person having care or custody of a child whom the person
4 knows or reasonably should know to be under the age of 18
5 or a severely or profoundly intellectually disabled
6 ~~mentally retarded~~ person and who knowingly permits,
7 induces, promotes, or arranges for such child or severely
8 or profoundly intellectually disabled ~~mentally retarded~~
9 person to appear in any stage play, live performance, film,
10 videotape, photograph or other similar visual
11 presentation, portrayal or simulation or depiction by
12 computer of any act or activity described in subparagraphs
13 (i) through (vii) of paragraph (1) of this subsection; or

14 (6) with knowledge of the nature or content thereof,
15 possesses any film, videotape, photograph or other similar
16 visual reproduction or depiction by computer of any child
17 or severely or profoundly intellectually disabled ~~mentally~~
18 ~~retarded~~ person whom the person knows or reasonably should
19 know to be under the age of 18 or to be a severely or
20 profoundly intellectually disabled ~~mentally retarded~~
21 person, engaged in any activity described in subparagraphs
22 (i) through (vii) of paragraph (1) of this subsection; or

23 (7) solicits, uses, persuades, induces, entices, or
24 coerces a person to provide a child under the age of 18 or
25 a severely or profoundly intellectually disabled ~~mentally~~
26 ~~retarded~~ person to appear in any videotape, photograph,

1 film, stage play, live presentation, or other similar
2 visual reproduction or depiction by computer in which the
3 child or severely or profoundly intellectually disabled
4 ~~mentally retarded~~ person will be depicted, actually or by
5 simulation, in any act, pose, or setting described in
6 subparagraphs (i) through (vii) of paragraph (1) of this
7 subsection.

8 (b) (1) It shall be an affirmative defense to a charge of
9 child pornography that the defendant reasonably believed,
10 under all of the circumstances, that the child was 18 years
11 of age or older or that the person was not a severely or
12 profoundly intellectually disabled ~~mentally retarded~~
13 person but only where, prior to the act or acts giving rise
14 to a prosecution under this Section, he took some
15 affirmative action or made a bonafide inquiry designed to
16 ascertain whether the child was 18 years of age or older or
17 that the person was not a severely or profoundly
18 intellectually disabled ~~mentally retarded~~ person and his
19 reliance upon the information so obtained was clearly
20 reasonable.

21 (2) (Blank).

22 (3) The charge of child pornography shall not apply to
23 the performance of official duties by law enforcement or
24 prosecuting officers or persons employed by law
25 enforcement or prosecuting agencies, court personnel or
26 attorneys, nor to bonafide treatment or professional

1 education programs conducted by licensed physicians,
2 psychologists or social workers.

3 (4) Possession by the defendant of more than one of the
4 same film, videotape or visual reproduction or depiction by
5 computer in which child pornography is depicted shall raise
6 a rebuttable presumption that the defendant possessed such
7 materials with the intent to disseminate them.

8 (5) The charge of child pornography does not apply to a
9 person who does not voluntarily possess a film, videotape,
10 or visual reproduction or depiction by computer in which
11 child pornography is depicted. Possession is voluntary if
12 the defendant knowingly procures or receives a film,
13 videotape, or visual reproduction or depiction for a
14 sufficient time to be able to terminate his or her
15 possession.

16 (6) Any violation of paragraph (1), (2), (3), (4), (5),
17 or (7) of subsection (a) that includes a child engaged in,
18 solicited for, depicted in, or posed in any act of sexual
19 penetration or bound, fettered, or subject to sadistic,
20 masochistic, or sadomasochistic abuse in a sexual context
21 shall be deemed a crime of violence.

22 (c) Violation of paragraph (1), (4), (5), or (7) of
23 subsection (a) is a Class 1 felony with a mandatory minimum
24 fine of \$2,000 and a maximum fine of \$100,000. Violation of
25 paragraph (3) of subsection (a) is a Class 1 felony with a
26 mandatory minimum fine of \$1500 and a maximum fine of \$100,000.

1 Violation of paragraph (2) of subsection (a) is a Class 1
2 felony with a mandatory minimum fine of \$1000 and a maximum
3 fine of \$100,000. Violation of paragraph (6) of subsection (a)
4 is a Class 3 felony with a mandatory minimum fine of \$1000 and
5 a maximum fine of \$100,000.

6 (d) If a person is convicted of a second or subsequent
7 violation of this Section within 10 years of a prior
8 conviction, the court shall order a presentence psychiatric
9 examination of the person. The examiner shall report to the
10 court whether treatment of the person is necessary.

11 (e) Any film, videotape, photograph or other similar visual
12 reproduction or depiction by computer which includes a child
13 under the age of 18 or a severely or profoundly intellectually
14 disabled ~~mentally retarded~~ person engaged in any activity
15 described in subparagraphs (i) through (vii) or paragraph 1 of
16 subsection (a), and any material or equipment used or intended
17 for use in photographing, filming, printing, producing,
18 reproducing, manufacturing, projecting, exhibiting, depiction
19 by computer, or disseminating such material shall be seized and
20 forfeited in the manner, method and procedure provided by
21 Section 36-1 of this Code for the seizure and forfeiture of
22 vessels, vehicles and aircraft.

23 In addition, any person convicted under this Section is
24 subject to the property forfeiture provisions set forth in
25 Article 124B of the Code of Criminal Procedure of 1963.

26 (e-5) Upon the conclusion of a case brought under this

1 Section, the court shall seal all evidence depicting a victim
2 or witness that is sexually explicit. The evidence may be
3 unsealed and viewed, on a motion of the party seeking to unseal
4 and view the evidence, only for good cause shown and in the
5 discretion of the court. The motion must expressly set forth
6 the purpose for viewing the material. The State's attorney and
7 the victim, if possible, shall be provided reasonable notice of
8 the hearing on the motion to unseal the evidence. Any person
9 entitled to notice of a hearing under this subsection (e-5) may
10 object to the motion.

11 (f) Definitions. For the purposes of this Section:

12 (1) "Disseminate" means (i) to sell, distribute,
13 exchange or transfer possession, whether with or without
14 consideration or (ii) to make a depiction by computer
15 available for distribution or downloading through the
16 facilities of any telecommunications network or through
17 any other means of transferring computer programs or data
18 to a computer.

19 (2) "Produce" means to direct, promote, advertise,
20 publish, manufacture, issue, present or show.

21 (3) "Reproduce" means to make a duplication or copy.

22 (4) "Depict by computer" means to generate or create,
23 or cause to be created or generated, a computer program or
24 data that, after being processed by a computer either alone
25 or in conjunction with one or more computer programs,
26 results in a visual depiction on a computer monitor,

1 screen, or display.

2 (5) "Depiction by computer" means a computer program or
3 data that, after being processed by a computer either alone
4 or in conjunction with one or more computer programs,
5 results in a visual depiction on a computer monitor,
6 screen, or display.

7 (6) "Computer", "computer program", and "data" have
8 the meanings ascribed to them in Section 16D-2 of this
9 Code.

10 (7) "Child" includes a film, videotape, photograph, or
11 other similar visual medium or reproduction or depiction by
12 computer that is, or appears to be, that of a person,
13 either in part, or in total, under the age of 18,
14 regardless of the method by which the film, videotape,
15 photograph, or other similar visual medium or reproduction
16 or depiction by computer is created, adopted, or modified
17 to appear as such. "Child" also includes a film, videotape,
18 photograph, or other similar visual medium or reproduction
19 or depiction by computer that is advertised, promoted,
20 presented, described, or distributed in such a manner that
21 conveys the impression that the film, videotape,
22 photograph, or other similar visual medium or reproduction
23 or depiction by computer is of a person under the age of
24 18.

25 (8) "Sexual penetration" and "sexual conduct" have the
26 meanings ascribed to them in Section 12-12 of this Code.

1 (g) Re-enactment; findings; purposes.

2 (1) The General Assembly finds and declares that:

3 (i) Section 50-5 of Public Act 88-680, effective
4 January 1, 1995, contained provisions amending the
5 child pornography statute, Section 11-20.1 of the
6 Criminal Code of 1961. Section 50-5 also contained
7 other provisions.

8 (ii) In addition, Public Act 88-680 was entitled
9 "AN ACT to create a Safe Neighborhoods Law". (A)
10 Article 5 was entitled JUVENILE JUSTICE and amended the
11 Juvenile Court Act of 1987. (B) Article 15 was entitled
12 GANGS and amended various provisions of the Criminal
13 Code of 1961 and the Unified Code of Corrections. (C)
14 Article 20 was entitled ALCOHOL ABUSE and amended
15 various provisions of the Illinois Vehicle Code. (D)
16 Article 25 was entitled DRUG ABUSE and amended the
17 Cannabis Control Act and the Illinois Controlled
18 Substances Act. (E) Article 30 was entitled FIREARMS
19 and amended the Criminal Code of 1961 and the Code of
20 Criminal Procedure of 1963. (F) Article 35 amended the
21 Criminal Code of 1961, the Rights of Crime Victims and
22 Witnesses Act, and the Unified Code of Corrections. (G)
23 Article 40 amended the Criminal Code of 1961 to
24 increase the penalty for compelling organization
25 membership of persons. (H) Article 45 created the
26 Secure Residential Youth Care Facility Licensing Act

1 and amended the State Finance Act, the Juvenile Court
2 Act of 1987, the Unified Code of Corrections, and the
3 Private Correctional Facility Moratorium Act. (I)
4 Article 50 amended the WIC Vendor Management Act, the
5 Firearm Owners Identification Card Act, the Juvenile
6 Court Act of 1987, the Criminal Code of 1961, the
7 Wrongs to Children Act, and the Unified Code of
8 Corrections.

9 (iii) On September 22, 1998, the Third District
10 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,
11 ruled that Public Act 88-680 violates the single
12 subject clause of the Illinois Constitution (Article
13 IV, Section 8 (d)) and was unconstitutional in its
14 entirety. As of the time this amendatory Act of 1999
15 was prepared, *People v. Dainty* was still subject to
16 appeal.

17 (iv) Child pornography is a vital concern to the
18 people of this State and the validity of future
19 prosecutions under the child pornography statute of
20 the Criminal Code of 1961 is in grave doubt.

21 (2) It is the purpose of this amendatory Act of 1999 to
22 prevent or minimize any problems relating to prosecutions
23 for child pornography that may result from challenges to
24 the constitutional validity of Public Act 88-680 by
25 re-enacting the Section relating to child pornography that
26 was included in Public Act 88-680.

1 (3) This amendatory Act of 1999 re-enacts Section
2 11-20.1 of the Criminal Code of 1961, as it has been
3 amended. This re-enactment is intended to remove any
4 question as to the validity or content of that Section; it
5 is not intended to supersede any other Public Act that
6 amends the text of the Section as set forth in this
7 amendatory Act of 1999. The material is shown as existing
8 text (i.e., without underscoring) because, as of the time
9 this amendatory Act of 1999 was prepared, People v. Dainty
10 was subject to appeal to the Illinois Supreme Court.

11 (4) The re-enactment by this amendatory Act of 1999 of
12 Section 11-20.1 of the Criminal Code of 1961 relating to
13 child pornography that was amended by Public Act 88-680 is
14 not intended, and shall not be construed, to imply that
15 Public Act 88-680 is invalid or to limit or impair any
16 legal argument concerning whether those provisions were
17 substantially re-enacted by other Public Acts.

18 (Source: P.A. ; 96-292, eff. 1-1-10; 96-712, eff. 1-1-10;
19 96-1000, eff. 7-2-10.)

20 (720 ILCS 5/11-20.3)

21 Sec. 11-20.3. Aggravated child pornography.

22 (a) A person commits the offense of aggravated child
23 pornography who:

24 (1) films, videotapes, photographs, or otherwise
25 depicts or portrays by means of any similar visual medium

1 or reproduction or depicts by computer any child whom he or
2 she knows or reasonably should know to be under the age of
3 13 years where such child is:

4 (i) actually or by simulation engaged in any act of
5 sexual penetration or sexual conduct with any person or
6 animal; or

7 (ii) actually or by simulation engaged in any act
8 of sexual penetration or sexual conduct involving the
9 sex organs of the child and the mouth, anus, or sex
10 organs of another person or animal; or which involves
11 the mouth, anus or sex organs of the child and the sex
12 organs of another person or animal; or

13 (iii) actually or by simulation engaged in any act
14 of masturbation; or

15 (iv) actually or by simulation portrayed as being
16 the object of, or otherwise engaged in, any act of lewd
17 fondling, touching, or caressing involving another
18 person or animal; or

19 (v) actually or by simulation engaged in any act of
20 excretion or urination within a sexual context; or

21 (vi) actually or by simulation portrayed or
22 depicted as bound, fettered, or subject to sadistic,
23 masochistic, or sadomasochistic abuse in any sexual
24 context; or

25 (vii) depicted or portrayed in any pose, posture or
26 setting involving a lewd exhibition of the unclothed or

1 transparently clothed genitals, pubic area, buttocks,
2 or, if such person is female, a fully or partially
3 developed breast of the child or other person; or

4 (2) with the knowledge of the nature or content
5 thereof, reproduces, disseminates, offers to disseminate,
6 exhibits or possesses with intent to disseminate any film,
7 videotape, photograph or other similar visual reproduction
8 or depiction by computer of any child whom the person knows
9 or reasonably should know to be under the age of 13 engaged
10 in any activity described in subparagraphs (i) through
11 (vii) of paragraph (1) of this subsection; or

12 (3) with knowledge of the subject matter or theme
13 thereof, produces any stage play, live performance, film,
14 videotape or other similar visual portrayal or depiction by
15 computer which includes a child whom the person knows or
16 reasonably should know to be under the age of 13 engaged in
17 any activity described in subparagraphs (i) through (vii)
18 of paragraph (1) of this subsection; or

19 (4) solicits, uses, persuades, induces, entices, or
20 coerces any child whom he or she knows or reasonably should
21 know to be under the age of 13 to appear in any stage play,
22 live presentation, film, videotape, photograph or other
23 similar visual reproduction or depiction by computer in
24 which the child or severely or profoundly intellectually
25 disabled ~~mentally retarded~~ person is or will be depicted,
26 actually or by simulation, in any act, pose or setting

1 described in subparagraphs (i) through (vii) of paragraph
2 (1) of this subsection; or

3 (5) is a parent, step-parent, legal guardian or other
4 person having care or custody of a child whom the person
5 knows or reasonably should know to be under the age of 13
6 and who knowingly permits, induces, promotes, or arranges
7 for such child to appear in any stage play, live
8 performance, film, videotape, photograph or other similar
9 visual presentation, portrayal or simulation or depiction
10 by computer of any act or activity described in
11 subparagraphs (i) through (vii) of paragraph (1) of this
12 subsection; or

13 (6) with knowledge of the nature or content thereof,
14 possesses any film, videotape, photograph or other similar
15 visual reproduction or depiction by computer of any child
16 whom the person knows or reasonably should know to be under
17 the age of 13 engaged in any activity described in
18 subparagraphs (i) through (vii) of paragraph (1) of this
19 subsection; or

20 (7) solicits, or knowingly uses, persuades, induces,
21 entices, or coerces a person to provide a child under the
22 age of 13 to appear in any videotape, photograph, film,
23 stage play, live presentation, or other similar visual
24 reproduction or depiction by computer in which the child
25 will be depicted, actually or by simulation, in any act,
26 pose, or setting described in subparagraphs (i) through

1 (vii) of paragraph (1) of this subsection.

2 (b) (1) It shall be an affirmative defense to a charge of
3 aggravated child pornography that the defendant reasonably
4 believed, under all of the circumstances, that the child was 13
5 years of age or older, but only where, prior to the act or acts
6 giving rise to a prosecution under this Section, he or she took
7 some affirmative action or made a bonafide inquiry designed to
8 ascertain whether the child was 13 years of age or older and
9 his or her reliance upon the information so obtained was
10 clearly reasonable.

11 (2) The charge of aggravated child pornography shall not
12 apply to the performance of official duties by law enforcement
13 or prosecuting officers or persons employed by law enforcement
14 or prosecuting agencies, court personnel or attorneys, nor to
15 bonafide treatment or professional education programs
16 conducted by licensed physicians, psychologists or social
17 workers.

18 (3) If the defendant possessed more than 3 of the same
19 film, videotape or visual reproduction or depiction by computer
20 in which aggravated child pornography is depicted, then the
21 trier of fact may infer that the defendant possessed such
22 materials with the intent to disseminate them.

23 (4) The charge of aggravated child pornography does not
24 apply to a person who does not voluntarily possess a film,
25 videotape, or visual reproduction or depiction by computer in
26 which aggravated child pornography is depicted. Possession is

1 voluntary if the defendant knowingly procures or receives a
2 film, videotape, or visual reproduction or depiction for a
3 sufficient time to be able to terminate his or her possession.

4 (5) Any violation of paragraph (1), (2), (3), (4), (5), or
5 (7) of subsection (a) that includes a child engaged in,
6 solicited for, depicted in, or posed in any act of sexual
7 penetration or bound, fettered, or subject to sadistic,
8 masochistic, or sadomasochistic abuse in a sexual context shall
9 be deemed a crime of violence.

10 (c) Sentence: (1) A person who commits a violation of
11 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) is
12 guilty of a Class X felony with a mandatory minimum fine of
13 \$2,000 and a maximum fine of \$100,000.

14 (2) A person who commits a violation of paragraph (6) of
15 subsection (a) is guilty of a Class 2 felony with a mandatory
16 minimum fine of \$1000 and a maximum fine of \$100,000.

17 (3) A person who commits a violation of paragraph (1), (2),
18 (3), (4), (5), or (7) of subsection (a) where the defendant has
19 previously been convicted under the laws of this State or any
20 other state of the offense of child pornography, aggravated
21 child pornography, aggravated criminal sexual abuse,
22 aggravated criminal sexual assault, predatory criminal sexual
23 assault of a child, or any of the offenses formerly known as
24 rape, deviate sexual assault, indecent liberties with a child,
25 or aggravated indecent liberties with a child where the victim
26 was under the age of 18 years or an offense that is

1 substantially equivalent to those offenses, is guilty of a
2 Class X felony for which the person shall be sentenced to a
3 term of imprisonment of not less than 9 years with a mandatory
4 minimum fine of \$2,000 and a maximum fine of \$100,000.

5 (4) A person who commits a violation of paragraph (6) of
6 subsection (a) where the defendant has previously been
7 convicted under the laws of this State or any other state of
8 the offense of child pornography, aggravated child
9 pornography, aggravated criminal sexual abuse, aggravated
10 criminal sexual assault, predatory criminal sexual assault of a
11 child, or any of the offenses formerly known as rape, deviate
12 sexual assault, indecent liberties with a child, or aggravated
13 indecent liberties with a child where the victim was under the
14 age of 18 years or an offense that is substantially equivalent
15 to those offenses, is guilty of a Class 1 felony with a
16 mandatory minimum fine of \$1000 and a maximum fine of \$100,000.

17 (d) If a person is convicted of a second or subsequent
18 violation of this Section within 10 years of a prior
19 conviction, the court shall order a presentence psychiatric
20 examination of the person. The examiner shall report to the
21 court whether treatment of the person is necessary.

22 (e) Any film, videotape, photograph or other similar visual
23 reproduction or depiction by computer which includes a child
24 under the age of 13 engaged in any activity described in
25 subparagraphs (i) through (vii) of paragraph (1) of subsection
26 (a), and any material or equipment used or intended for use in

1 photographing, filming, printing, producing, reproducing,
2 manufacturing, projecting, exhibiting, depiction by computer,
3 or disseminating such material shall be seized and forfeited in
4 the manner, method and procedure provided by Section 36-1 of
5 this Code for the seizure and forfeiture of vessels, vehicles
6 and aircraft.

7 In addition, any person convicted under this Section is
8 subject to the property forfeiture provisions set forth in
9 Article 124B of the Code of Criminal Procedure of 1963.

10 (e-5) Upon the conclusion of a case brought under this
11 Section, the court shall seal all evidence depicting a victim
12 or witness that is sexually explicit. The evidence may be
13 unsealed and viewed, on a motion of the party seeking to unseal
14 and view the evidence, only for good cause shown and in the
15 discretion of the court. The motion must expressly set forth
16 the purpose for viewing the material. The State's attorney and
17 the victim, if possible, shall be provided reasonable notice of
18 the hearing on the motion to unseal the evidence. Any person
19 entitled to notice of a hearing under this subsection (e-5) may
20 object to the motion.

21 (f) Definitions. For the purposes of this Section:

22 (1) "Disseminate" means (i) to sell, distribute,
23 exchange or transfer possession, whether with or without
24 consideration or (ii) to make a depiction by computer
25 available for distribution or downloading through the
26 facilities of any telecommunications network or through

1 any other means of transferring computer programs or data
2 to a computer.

3 (2) "Produce" means to direct, promote, advertise,
4 publish, manufacture, issue, present or show.

5 (3) "Reproduce" means to make a duplication or copy.

6 (4) "Depict by computer" means to generate or create,
7 or cause to be created or generated, a computer program or
8 data that, after being processed by a computer either alone
9 or in conjunction with one or more computer programs,
10 results in a visual depiction on a computer monitor,
11 screen, or display.

12 (5) "Depiction by computer" means a computer program or
13 data that, after being processed by a computer either alone
14 or in conjunction with one or more computer programs,
15 results in a visual depiction on a computer monitor,
16 screen, or display.

17 (6) "Computer", "computer program", and "data" have
18 the meanings ascribed to them in Section 16D-2 of this
19 Code.

20 (7) For the purposes of this Section, "child" means a
21 person, either in part or in total, under the age of 13,
22 regardless of the method by which the film, videotape,
23 photograph, or other similar visual medium or reproduction
24 or depiction by computer is created, adopted, or modified
25 to appear as such.

26 (8) "Sexual penetration" and "sexual conduct" have the

1 meanings ascribed to them in Section 12-12 of this Code.

2 (g) When a charge of aggravated child pornography is
3 brought, the age of the child is an element of the offense to
4 be resolved by the trier of fact as either exceeding or not
5 exceeding the age in question. The trier of fact can rely on
6 its own everyday observations and common experiences in making
7 this determination.

8 (Source: P.A. 95-579, eff. 6-1-08; 96-292, eff. 1-1-10; 96-712,
9 eff. 1-1-10; 96-1000, eff. 7-2-10.)

10 (720 ILCS 5/12-4.3) (from Ch. 38, par. 12-4.3)

11 Sec. 12-4.3. Aggravated battery of a child.

12 (a) Any person of the age 18 years and upwards who
13 intentionally or knowingly, and without legal justification
14 and by any means, causes great bodily harm or permanent
15 disability or disfigurement to any child under the age of 13
16 years or to any severely or profoundly intellectually disabled
17 ~~mentally retarded~~ person, commits the offense of aggravated
18 battery of a child.

19 (a-5) Any person of the age 18 years and upwards who
20 intentionally or knowingly, and without legal justification
21 and by any means, causes bodily harm or disability or
22 disfigurement to any child under the age of 13 years or to any
23 severely or profoundly intellectually disabled ~~mentally~~
24 ~~retarded~~ person, commits the offense of aggravated battery of a
25 child.

1 (b) Sentence.

2 (1) Aggravated battery of a child under subsection (a) of
3 this Section is a Class X felony, except that:

4 (A) if the person committed the offense while armed
5 with a firearm, 15 years shall be added to the term of
6 imprisonment imposed by the court;

7 (B) if, during the commission of the offense, the
8 person personally discharged a firearm, 20 years shall be
9 added to the term of imprisonment imposed by the court;

10 (C) if, during the commission of the offense, the
11 person personally discharged a firearm that proximately
12 caused great bodily harm, permanent disability, permanent
13 disfigurement, or death to another person, 25 years or up
14 to a term of natural life shall be added to the term of
15 imprisonment imposed by the court.

16 (2) Aggravated battery of a child under subsection (a-5) of
17 this Section is a Class 3 felony.

18 (Source: P.A. 95-768, eff. 1-1-09.)

19 (720 ILCS 5/12-14) (from Ch. 38, par. 12-14)

20 Sec. 12-14. Aggravated Criminal Sexual Assault.

21 (a) The accused commits aggravated criminal sexual assault
22 if he or she commits criminal sexual assault and any of the
23 following aggravating circumstances existed during, or for the
24 purposes of paragraph (7) of this subsection (a) as part of the
25 same course of conduct as, the commission of the offense:

1 (1) the accused displayed, threatened to use, or used a
2 dangerous weapon, other than a firearm, or any object
3 fashioned or utilized in such a manner as to lead the
4 victim under the circumstances reasonably to believe it to
5 be a dangerous weapon; or

6 (2) the accused caused bodily harm, except as provided
7 in subsection (a)(10), to the victim; or

8 (3) the accused acted in such a manner as to threaten
9 or endanger the life of the victim or any other person; or

10 (4) the criminal sexual assault was perpetrated during
11 the course of the commission or attempted commission of any
12 other felony by the accused; or

13 (5) the victim was 60 years of age or over when the
14 offense was committed; or

15 (6) the victim was a physically handicapped person; or

16 (7) the accused delivered (by injection, inhalation,
17 ingestion, transfer of possession, or any other means) to
18 the victim without his or her consent, or by threat or
19 deception, and for other than medical purposes, any
20 controlled substance; or

21 (8) the accused was armed with a firearm; or

22 (9) the accused personally discharged a firearm during
23 the commission of the offense; or

24 (10) the accused, during the commission of the offense,
25 personally discharged a firearm that proximately caused
26 great bodily harm, permanent disability, permanent

1 disfigurement, or death to another person.

2 (b) The accused commits aggravated criminal sexual assault
3 if the accused was under 17 years of age and (i) commits an act
4 of sexual penetration with a victim who was under 9 years of
5 age when the act was committed; or (ii) commits an act of
6 sexual penetration with a victim who was at least 9 years of
7 age but under 13 years of age when the act was committed and
8 the accused used force or threat of force to commit the act.

9 (c) The accused commits aggravated criminal sexual assault
10 if he or she commits an act of sexual penetration with a victim
11 who was a severely or profoundly intellectually disabled
12 ~~mentally retarded~~ person at the time the act was committed.

13 (d) Sentence.

14 (1) Aggravated criminal sexual assault in violation of
15 paragraph (2), (3), (4), (5), (6), or (7) of subsection (a)
16 or in violation of subsection (b) or (c) is a Class X
17 felony. A violation of subsection (a)(1) is a Class X
18 felony for which 10 years shall be added to the term of
19 imprisonment imposed by the court. A violation of
20 subsection (a)(8) is a Class X felony for which 15 years
21 shall be added to the term of imprisonment imposed by the
22 court. A violation of subsection (a)(9) is a Class X felony
23 for which 20 years shall be added to the term of
24 imprisonment imposed by the court. A violation of
25 subsection (a)(10) is a Class X felony for which 25 years
26 or up to a term of natural life imprisonment shall be added

1 to the term of imprisonment imposed by the court.

2 (2) A person who is convicted of a second or subsequent
3 offense of aggravated criminal sexual assault, or who is
4 convicted of the offense of aggravated criminal sexual
5 assault after having previously been convicted of the
6 offense of criminal sexual assault or the offense of
7 predatory criminal sexual assault of a child, or who is
8 convicted of the offense of aggravated criminal sexual
9 assault after having previously been convicted under the
10 laws of this or any other state of an offense that is
11 substantially equivalent to the offense of criminal sexual
12 assault, the offense of aggravated criminal sexual assault
13 or the offense of predatory criminal sexual assault of a
14 child, shall be sentenced to a term of natural life
15 imprisonment. The commission of the second or subsequent
16 offense is required to have been after the initial
17 conviction for this paragraph (2) to apply.

18 (Source: P.A. 91-404, eff. 1-1-00; 92-434, eff. 1-1-02; 92-502,
19 eff. 12-19-01; 92-721, eff. 1-1-03.)

20 (720 ILCS 5/12-16) (from Ch. 38, par. 12-16)

21 Sec. 12-16. Aggravated Criminal Sexual Abuse.

22 (a) The accused commits aggravated criminal sexual abuse if
23 he or she commits criminal sexual abuse as defined in
24 subsection (a) of Section 12-15 of this Code and any of the
25 following aggravating circumstances existed during, or for the

1 purposes of paragraph (7) of this subsection (a) as part of the
2 same course of conduct as, the commission of the offense:

3 (1) the accused displayed, threatened to use or used a
4 dangerous weapon or any object fashioned or utilized in
5 such a manner as to lead the victim under the circumstances
6 reasonably to believe it to be a dangerous weapon; or

7 (2) the accused caused bodily harm to the victim; or

8 (3) the victim was 60 years of age or over when the
9 offense was committed; or

10 (4) the victim was a physically handicapped person; or

11 (5) the accused acted in such a manner as to threaten
12 or endanger the life of the victim or any other person; or

13 (6) the criminal sexual abuse was perpetrated during
14 the course of the commission or attempted commission of any
15 other felony by the accused; or

16 (7) the accused delivered (by injection, inhalation,
17 ingestion, transfer of possession, or any other means) to
18 the victim without his or her consent, or by threat or
19 deception, and for other than medical purposes, any
20 controlled substance.

21 (b) The accused commits aggravated criminal sexual abuse if
22 he or she commits an act of sexual conduct with a victim who
23 was under 18 years of age when the act was committed and the
24 accused was a family member.

25 (c) The accused commits aggravated criminal sexual abuse
26 if:

1 (1) the accused was 17 years of age or over and (i)
2 commits an act of sexual conduct with a victim who was
3 under 13 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 13 years of age but under 17 years of age when the
6 act was committed and the accused used force or threat of
7 force to commit the act; or

8 (2) the accused was under 17 years of age and (i)
9 commits an act of sexual conduct with a victim who was
10 under 9 years of age when the act was committed; or (ii)
11 commits an act of sexual conduct with a victim who was at
12 least 9 years of age but under 17 years of age when the act
13 was committed and the accused used force or threat of force
14 to commit the act.

15 (d) The accused commits aggravated criminal sexual abuse if
16 he or she commits an act of sexual penetration or sexual
17 conduct with a victim who was at least 13 years of age but
18 under 17 years of age and the accused was at least 5 years
19 older than the victim.

20 (e) The accused commits aggravated criminal sexual abuse if
21 he or she commits an act of sexual conduct with a victim who
22 was a severely or profoundly intellectually disabled ~~mentally~~
23 ~~retarded~~ person at the time the act was committed.

24 (f) The accused commits aggravated criminal sexual abuse if
25 he or she commits an act of sexual conduct with a victim who
26 was at least 13 years of age but under 18 years of age when the

1 act was committed and the accused was 17 years of age or over
2 and held a position of trust, authority or supervision in
3 relation to the victim.

4 (g) Sentence. Aggravated criminal sexual abuse is a Class 2
5 felony.

6 (Source: P.A. 92-434, eff. 1-1-02.)

7 (720 ILCS 5/12-19) (from Ch. 38, par. 12-19)

8 Sec. 12-19. Abuse and Criminal Neglect of a Long Term Care
9 Facility Resident.

10 (a) Any person or any owner or licensee of a long term care
11 facility who abuses a long term care facility resident is
12 guilty of a Class 3 felony. Any person or any owner or licensee
13 of a long term care facility who criminally neglects a long
14 term care facility resident is guilty of a Class 4 felony. A
15 person whose criminal neglect of a long term care facility
16 resident results in the resident's death is guilty of a Class 3
17 felony. However, nothing herein shall be deemed to apply to a
18 physician licensed to practice medicine in all its branches or
19 a duly licensed nurse providing care within the scope of his or
20 her professional judgment and within the accepted standards of
21 care within the community.

22 (b) Notwithstanding the penalties in subsections (a) and
23 (c) and in addition thereto, if a licensee or owner of a long
24 term care facility or his or her employee has caused neglect of
25 a resident, the licensee or owner is guilty of a petty offense.

1 An owner or licensee is guilty under this subsection (b) only
2 if the owner or licensee failed to exercise reasonable care in
3 the hiring, training, supervising or providing of staff or
4 other related routine administrative responsibilities.

5 (c) Notwithstanding the penalties in subsections (a) and
6 (b) and in addition thereto, if a licensee or owner of a long
7 term care facility or his or her employee has caused gross
8 neglect of a resident, the licensee or owner is guilty of a
9 business offense for which a fine of not more than \$10,000 may
10 be imposed. An owner or licensee is guilty under this
11 subsection (c) only if the owner or licensee failed to exercise
12 reasonable care in the hiring, training, supervising or
13 providing of staff or other related routine administrative
14 responsibilities.

15 (d) For the purpose of this Section:

16 (1) "Abuse" means intentionally or knowingly causing
17 any physical or mental injury or committing any sexual
18 offense set forth in this Code.

19 (2) "Criminal neglect" means an act whereby a person
20 recklessly (i) performs acts that cause an elderly person's
21 or person with a disability's life to be endangered, health
22 to be injured, or pre-existing physical or mental condition
23 to deteriorate or that create the substantial likelihood
24 that an elderly person's or person with a disability's life
25 will be endangered, health will be injured, or pre-existing
26 physical or mental condition will deteriorate, or (ii)

1 fails to perform acts that he or she knows or reasonably
2 should know are necessary to maintain or preserve the life
3 or health of an elderly person or person with a disability,
4 and that failure causes the elderly person's or person with
5 a disability's life to be endangered, health to be injured,
6 or pre-existing physical or mental condition to
7 deteriorate or that create the substantial likelihood that
8 an elderly person's or person with a disability's life will
9 be endangered, health will be injured, or pre-existing
10 physical or mental condition will deteriorate, or (iii)
11 abandons an elderly person or person with a disability.

12 (3) "Neglect" means negligently failing to provide
13 adequate medical or personal care or maintenance, which
14 failure results in physical or mental injury or the
15 deterioration of a physical or mental condition.

16 (4) "Resident" means a person residing in a long term
17 care facility.

18 (5) "Owner" means the person who owns a long term care
19 facility as provided under the Nursing Home Care Act, a
20 facility as provided under the ID/DD ~~MR/DD~~ Community Care
21 Act, or an assisted living or shared housing establishment
22 under the Assisted Living and Shared Housing Act.

23 (6) "Licensee" means the individual or entity licensed
24 to operate a facility under the Nursing Home Care Act, the
25 MR/DD Community Care Act, or the Assisted Living and Shared
26 Housing Act.

1 (7) "Facility" or "long term care facility" means a
2 private home, institution, building, residence, or any
3 other place, whether operated for profit or not, or a
4 county home for the infirm and chronically ill operated
5 pursuant to Division 5-21 or 5-22 of the Counties Code, or
6 any similar institution operated by the State of Illinois
7 or a political subdivision thereof, which provides,
8 through its ownership or management, personal care,
9 sheltered care or nursing for 3 or more persons not related
10 to the owner by blood or marriage. The term also includes
11 skilled nursing facilities and intermediate care
12 facilities as defined in Title XVIII and Title XIX of the
13 federal Social Security Act and assisted living
14 establishments and shared housing establishments licensed
15 under the Assisted Living and Shared Housing Act.

16 (e) Nothing contained in this Section shall be deemed to
17 apply to the medical supervision, regulation or control of the
18 remedial care or treatment of residents in a facility conducted
19 for those who rely upon treatment by prayer or spiritual means
20 in accordance with the creed or tenets of any well recognized
21 church or religious denomination and which is licensed in
22 accordance with Section 3-803 of the Nursing Home Care Act or
23 Section 3-803 of the ID/DD ~~MR/DD~~ Community Care Act.

24 (Source: P.A. 96-339, eff. 7-1-10; 96-1373, eff. 7-29-10.)

25 (720 ILCS 5/12-21) (from Ch. 38, par. 12-21)

1 Sec. 12-21. Criminal abuse or neglect of an elderly person
2 or person with a disability.

3 (a) A person commits the offense of criminal abuse or
4 neglect of an elderly person or person with a disability when
5 he or she is a caregiver and he or she knowingly:

6 (1) performs acts that cause the elderly person or
7 person with a disability's life to be endangered, health to
8 be injured, or pre-existing physical or mental condition to
9 deteriorate; or

10 (2) fails to perform acts that he or she knows or
11 reasonably should know are necessary to maintain or
12 preserve the life or health of the elderly person or person
13 with a disability and such failure causes the elderly
14 person or person with a disability's life to be endangered,
15 health to be injured or pre-existing physical or mental
16 condition to deteriorate; or

17 (3) abandons the elderly person or person with a
18 disability; or

19 (4) physically abuses, harasses, intimidates, or
20 interferes with the personal liberty of the elderly person
21 or person with a disability or exposes the elderly person
22 or person with a disability to willful deprivation.

23 Criminal abuse or neglect of an elderly person or person
24 with a disability is a Class 3 felony. Criminal neglect of an
25 elderly person or person with a disability is a Class 2 felony
26 if the criminal neglect results in the death of the person

1 neglected for which the defendant, if sentenced to a term of
2 imprisonment, shall be sentenced to a term of not less than 3
3 years and not more than 14 years.

4 (b) For purposes of this Section:

5 (1) "Elderly person" means a person 60 years of age or
6 older who is incapable of adequately providing for his own
7 health and personal care.

8 (2) "Person with a disability" means a person who
9 suffers from a permanent physical or mental impairment,
10 resulting from disease, injury, functional disorder or
11 congenital condition which renders such person incapable
12 of adequately providing for his own health and personal
13 care.

14 (3) "Caregiver" means a person who has a duty to
15 provide for an elderly person or person with a disability's
16 health and personal care, at such person's place of
17 residence, including but not limited to, food and
18 nutrition, shelter, hygiene, prescribed medication and
19 medical care and treatment.

20 "Caregiver" shall include:

21 (A) a parent, spouse, adult child or other relative
22 by blood or marriage who resides with or resides in the
23 same building with or regularly visits the elderly
24 person or person with a disability, knows or reasonably
25 should know of such person's physical or mental
26 impairment and knows or reasonably should know that

1 such person is unable to adequately provide for his own
2 health and personal care;

3 (B) a person who is employed by the elderly person
4 or person with a disability or by another to reside
5 with or regularly visit the elderly person or person
6 with a disability and provide for such person's health
7 and personal care;

8 (C) a person who has agreed for consideration to
9 reside with or regularly visit the elderly person or
10 person with a disability and provide for such person's
11 health and personal care; and

12 (D) a person who has been appointed by a private or
13 public agency or by a court of competent jurisdiction
14 to provide for the elderly person or person with a
15 disability's health and personal care.

16 "Caregiver" shall not include a long-term care
17 facility licensed or certified under the Nursing Home Care
18 Act or a facility licensed or certified under the ID/DD
19 ~~MR/DD~~ Community Care Act, or any administrative, medical or
20 other personnel of such a facility, or a health care
21 provider who is licensed under the Medical Practice Act of
22 1987 and renders care in the ordinary course of his
23 profession.

24 (4) "Abandon" means to desert or knowingly forsake an
25 elderly person or person with a disability under
26 circumstances in which a reasonable person would continue

1 to provide care and custody.

2 (5) "Willful deprivation" has the meaning ascribed to
3 it in paragraph (15) of Section 103 of the Illinois
4 Domestic Violence Act of 1986.

5 (c) Nothing in this Section shall be construed to limit the
6 remedies available to the victim under the Illinois Domestic
7 Violence Act.

8 (d) Nothing in this Section shall be construed to impose
9 criminal liability on a person who has made a good faith effort
10 to provide for the health and personal care of an elderly
11 person or person with a disability, but through no fault of his
12 own has been unable to provide such care.

13 (e) Nothing in this Section shall be construed as
14 prohibiting a person from providing treatment by spiritual
15 means through prayer alone and care consistent therewith in
16 lieu of medical care and treatment in accordance with the
17 tenets and practices of any church or religious denomination of
18 which the elderly person or person with a disability is a
19 member.

20 (f) It is not a defense to criminal abuse or neglect of an
21 elderly person or person with a disability that the accused
22 reasonably believed that the victim was not an elderly person
23 or person with a disability.

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

25 (720 ILCS 5/17-29)

1 Sec. 17-29. Businesses owned by minorities, females, and
2 persons with disabilities; fraudulent contracts with
3 governmental units.

4 (a) In this Section:

5 "Minority person" means a person who is: (1) African
6 American (a person having origins in any of the black
7 racial groups in Africa); (2) Hispanic (a person of Spanish
8 or Portuguese culture with origins in Mexico, South or
9 Central America, or the Caribbean Islands, regardless of
10 race); (3) Asian American (a person having origins in any
11 of the original peoples of the Far East, Southeast Asia,
12 the Indian Subcontinent or the Pacific Islands); or (4)
13 Native American or Alaskan Native (a person having origins
14 in any of the original peoples of North America).

15 "Female" means a person who is of the female gender.

16 "Person with a disability" means a person who is a
17 person qualifying as being disabled.

18 "Disabled" means a severe physical or mental
19 disability that: (1) results from: amputation, arthritis,
20 autism, blindness, burn injury, cancer, cerebral palsy,
21 cystic fibrosis, deafness, head injury, heart disease,
22 hemiplegia, hemophilia, respiratory or pulmonary
23 dysfunction, an intellectual disability ~~mental~~
24 ~~retardation~~, mental illness, multiple sclerosis, muscular
25 dystrophy, musculoskeletal disorders, neurological
26 disorders, including stroke and epilepsy, paraplegia,

1 quadriplegia and other spinal cord conditions, sickle cell
2 anemia, specific learning disabilities, or end stage renal
3 failure disease; and (2) substantially limits one or more
4 of the person's major life activities.

5 "Minority owned business" means a business concern
6 that is at least 51% owned by one or more minority persons,
7 or in the case of a corporation, at least 51% of the stock
8 in which is owned by one or more minority persons; and the
9 management and daily business operations of which are
10 controlled by one or more of the minority individuals who
11 own it.

12 "Female owned business" means a business concern that
13 is at least 51% owned by one or more females, or, in the
14 case of a corporation, at least 51% of the stock in which
15 is owned by one or more females; and the management and
16 daily business operations of which are controlled by one or
17 more of the females who own it.

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

1 "Governmental unit" means the State, a unit of local
2 government, or school district.

3 (b) In addition to any other penalties imposed by law or by
4 an ordinance or resolution of a unit of local government or
5 school district, any individual or entity that knowingly
6 obtains, or knowingly assists another to obtain, a contract
7 with a governmental unit, or a subcontract or written
8 commitment for a subcontract under a contract with a
9 governmental unit, by falsely representing that the individual
10 or entity, or the individual or entity assisted, is a minority
11 owned business, female owned business, or business owned by a
12 person with a disability is guilty of a Class 2 felony,
13 regardless of whether the preference for awarding the contract
14 to a minority owned business, female owned business, or
15 business owned by a person with a disability was established by
16 statute or by local ordinance or resolution.

17 (c) In addition to any other penalties authorized by law,
18 the court shall order that an individual or entity convicted of
19 a violation of this Section must pay to the governmental unit
20 that awarded the contract a penalty equal to one and one-half
21 times the amount of the contract obtained because of the false
22 representation.

23 (Source: P.A. 94-126, eff. 1-1-06; 94-863, eff. 6-16-06.)

24 (720 ILCS 5/24-3) (from Ch. 38, par. 24-3)

25 Sec. 24-3. Unlawful Sale of Firearms.

1 (A) A person commits the offense of unlawful sale of
2 firearms when he or she knowingly does any of the following:

3 (a) Sells or gives any firearm of a size which may be
4 concealed upon the person to any person under 18 years of
5 age.

6 (b) Sells or gives any firearm to a person under 21
7 years of age who has been convicted of a misdemeanor other
8 than a traffic offense or adjudged delinquent.

9 (c) Sells or gives any firearm to any narcotic addict.

10 (d) Sells or gives any firearm to any person who has
11 been convicted of a felony under the laws of this or any
12 other jurisdiction.

13 (e) Sells or gives any firearm to any person who has
14 been a patient in a mental hospital within the past 5
15 years.

16 (f) Sells or gives any firearms to any person who is
17 intellectually disabled ~~mentally retarded~~.

18 (g) Delivers any firearm of a size which may be
19 concealed upon the person, incidental to a sale, without
20 withholding delivery of such firearm for at least 72 hours
21 after application for its purchase has been made, or
22 delivers any rifle, shotgun or other long gun, or a stun
23 gun or taser, incidental to a sale, without withholding
24 delivery of such rifle, shotgun or other long gun, or a
25 stun gun or taser for at least 24 hours after application
26 for its purchase has been made. However, this paragraph (g)

1 does not apply to: (1) the sale of a firearm to a law
2 enforcement officer if the seller of the firearm knows that
3 the person to whom he or she is selling the firearm is a
4 law enforcement officer or the sale of a firearm to a
5 person who desires to purchase a firearm for use in
6 promoting the public interest incident to his or her
7 employment as a bank guard, armed truck guard, or other
8 similar employment; (2) a mail order sale of a firearm to a
9 nonresident of Illinois under which the firearm is mailed
10 to a point outside the boundaries of Illinois; (3) the sale
11 of a firearm to a nonresident of Illinois while at a
12 firearm showing or display recognized by the Illinois
13 Department of State Police; or (4) the sale of a firearm to
14 a dealer licensed as a federal firearms dealer under
15 Section 923 of the federal Gun Control Act of 1968 (18
16 U.S.C. 923). For purposes of this paragraph (g),
17 "application" means when the buyer and seller reach an
18 agreement to purchase a firearm.

19 (h) While holding any license as a dealer, importer,
20 manufacturer or pawnbroker under the federal Gun Control
21 Act of 1968, manufactures, sells or delivers to any
22 unlicensed person a handgun having a barrel, slide, frame
23 or receiver which is a die casting of zinc alloy or any
24 other nonhomogeneous metal which will melt or deform at a
25 temperature of less than 800 degrees Fahrenheit. For
26 purposes of this paragraph, (1) "firearm" is defined as in

1 the Firearm Owners Identification Card Act; and (2)
2 "handgun" is defined as a firearm designed to be held and
3 fired by the use of a single hand, and includes a
4 combination of parts from which such a firearm can be
5 assembled.

6 (i) Sells or gives a firearm of any size to any person
7 under 18 years of age who does not possess a valid Firearm
8 Owner's Identification Card.

9 (j) Sells or gives a firearm while engaged in the
10 business of selling firearms at wholesale or retail without
11 being licensed as a federal firearms dealer under Section
12 923 of the federal Gun Control Act of 1968 (18 U.S.C. 923).
13 In this paragraph (j):

14 A person "engaged in the business" means a person who
15 devotes time, attention, and labor to engaging in the
16 activity as a regular course of trade or business with the
17 principal objective of livelihood and profit, but does not
18 include a person who makes occasional repairs of firearms
19 or who occasionally fits special barrels, stocks, or
20 trigger mechanisms to firearms.

21 "With the principal objective of livelihood and
22 profit" means that the intent underlying the sale or
23 disposition of firearms is predominantly one of obtaining
24 livelihood and pecuniary gain, as opposed to other intents,
25 such as improving or liquidating a personal firearms
26 collection; however, proof of profit shall not be required

1 as to a person who engages in the regular and repetitive
2 purchase and disposition of firearms for criminal purposes
3 or terrorism.

4 (k) Sells or transfers ownership of a firearm to a
5 person who does not display to the seller or transferor of
6 the firearm a currently valid Firearm Owner's
7 Identification Card that has previously been issued in the
8 transferee's name by the Department of State Police under
9 the provisions of the Firearm Owners Identification Card
10 Act. This paragraph (k) does not apply to the transfer of a
11 firearm to a person who is exempt from the requirement of
12 possessing a Firearm Owner's Identification Card under
13 Section 2 of the Firearm Owners Identification Card Act.
14 For the purposes of this Section, a currently valid Firearm
15 Owner's Identification Card means (i) a Firearm Owner's
16 Identification Card that has not expired or (ii) if the
17 transferor is licensed as a federal firearms dealer under
18 Section 923 of the federal Gun Control Act of 1968 (18
19 U.S.C. 923), an approval number issued in accordance with
20 Section 3.1 of the Firearm Owners Identification Card Act
21 shall be proof that the Firearm Owner's Identification Card
22 was valid.

23 (B) Paragraph (h) of subsection (A) does not include
24 firearms sold within 6 months after enactment of Public Act
25 78-355 (approved August 21, 1973, effective October 1, 1973),
26 nor is any firearm legally owned or possessed by any citizen or

1 purchased by any citizen within 6 months after the enactment of
2 Public Act 78-355 subject to confiscation or seizure under the
3 provisions of that Public Act. Nothing in Public Act 78-355
4 shall be construed to prohibit the gift or trade of any firearm
5 if that firearm was legally held or acquired within 6 months
6 after the enactment of that Public Act.

7 (C) Sentence.

8 (1) Any person convicted of unlawful sale of firearms
9 in violation of paragraph (c), (e), (f), (g), or (h) of
10 subsection (A) commits a Class 4 felony.

11 (2) Any person convicted of unlawful sale of firearms
12 in violation of paragraph (b) or (i) of subsection (A)
13 commits a Class 3 felony.

14 (3) Any person convicted of unlawful sale of firearms
15 in violation of paragraph (a) of subsection (A) commits a
16 Class 2 felony.

17 (4) Any person convicted of unlawful sale of firearms
18 in violation of paragraph (a), (b), or (i) of subsection
19 (A) in any school, on the real property comprising a
20 school, within 1,000 feet of the real property comprising a
21 school, at a school related activity, or on or within 1,000
22 feet of any conveyance owned, leased, or contracted by a
23 school or school district to transport students to or from
24 school or a school related activity, regardless of the time
25 of day or time of year at which the offense was committed,
26 commits a Class 1 felony. Any person convicted of a second

1 or subsequent violation of unlawful sale of firearms in
2 violation of paragraph (a), (b), or (i) of subsection (A)
3 in any school, on the real property comprising a school,
4 within 1,000 feet of the real property comprising a school,
5 at a school related activity, or on or within 1,000 feet of
6 any conveyance owned, leased, or contracted by a school or
7 school district to transport students to or from school or
8 a school related activity, regardless of the time of day or
9 time of year at which the offense was committed, commits a
10 Class 1 felony for which the sentence shall be a term of
11 imprisonment of no less than 5 years and no more than 15
12 years.

13 (5) Any person convicted of unlawful sale of firearms
14 in violation of paragraph (a) or (i) of subsection (A) in
15 residential property owned, operated, or managed by a
16 public housing agency or leased by a public housing agency
17 as part of a scattered site or mixed-income development, in
18 a public park, in a courthouse, on residential property
19 owned, operated, or managed by a public housing agency or
20 leased by a public housing agency as part of a scattered
21 site or mixed-income development, on the real property
22 comprising any public park, on the real property comprising
23 any courthouse, or on any public way within 1,000 feet of
24 the real property comprising any public park, courthouse,
25 or residential property owned, operated, or managed by a
26 public housing agency or leased by a public housing agency

1 as part of a scattered site or mixed-income development
2 commits a Class 2 felony.

3 (6) Any person convicted of unlawful sale of firearms
4 in violation of paragraph (j) of subsection (A) commits a
5 Class A misdemeanor. A second or subsequent violation is a
6 Class 4 felony.

7 (7) Any person convicted of unlawful sale of firearms
8 in violation of paragraph (k) of subsection (A) commits a
9 Class 4 felony. A third or subsequent conviction for a
10 violation of paragraph (k) of subsection (A) is a Class 1
11 felony.

12 (8) A person 18 years of age or older convicted of
13 unlawful sale of firearms in violation of paragraph (a) or
14 (i) of subsection (A), when the firearm that was sold or
15 given to another person under 18 years of age was used in
16 the commission of or attempt to commit a forcible felony,
17 shall be fined or imprisoned, or both, not to exceed the
18 maximum provided for the most serious forcible felony so
19 committed or attempted by the person under 18 years of age
20 who was sold or given the firearm.

21 (9) Any person convicted of unlawful sale of firearms
22 in violation of paragraph (d) of subsection (A) commits a
23 Class 3 felony.

24 (D) For purposes of this Section:

25 "School" means a public or private elementary or secondary
26 school, community college, college, or university.

1 "School related activity" means any sporting, social,
2 academic, or other activity for which students' attendance or
3 participation is sponsored, organized, or funded in whole or in
4 part by a school or school district.

5 (E) A prosecution for a violation of paragraph (k) of
6 subsection (A) of this Section may be commenced within 6 years
7 after the commission of the offense. A prosecution for a
8 violation of this Section other than paragraph (g) of
9 subsection (A) of this Section may be commenced within 5 years
10 after the commission of the offense defined in the particular
11 paragraph.

12 (Source: P.A. 95-331, eff. 8-21-07; 95-735, eff. 7-16-08;
13 96-190, eff. 1-1-10.)

14 (720 ILCS 5/24-3.1) (from Ch. 38, par. 24-3.1)

15 Sec. 24-3.1. Unlawful possession of firearms and firearm
16 ammunition.

17 (a) A person commits the offense of unlawful possession of
18 firearms or firearm ammunition when:

19 (1) He is under 18 years of age and has in his
20 possession any firearm of a size which may be concealed
21 upon the person; or

22 (2) He is under 21 years of age, has been convicted of
23 a misdemeanor other than a traffic offense or adjudged
24 delinquent and has any firearms or firearm ammunition in
25 his possession; or

1 (3) He is a narcotic addict and has any firearms or
2 firearm ammunition in his possession; or

3 (4) He has been a patient in a mental hospital within
4 the past 5 years and has any firearms or firearm ammunition
5 in his possession; or

6 (5) He is intellectually disabled ~~mentally retarded~~
7 and has any firearms or firearm ammunition in his
8 possession; or

9 (6) He has in his possession any explosive bullet.

10 For purposes of this paragraph "explosive bullet" means the
11 projectile portion of an ammunition cartridge which contains or
12 carries an explosive charge which will explode upon contact
13 with the flesh of a human or an animal. "Cartridge" means a
14 tubular metal case having a projectile affixed at the front
15 thereof and a cap or primer at the rear end thereof, with the
16 propellant contained in such tube between the projectile and
17 the cap.

18 (b) Sentence.

19 Unlawful possession of firearms, other than handguns, and
20 firearm ammunition is a Class A misdemeanor. Unlawful
21 possession of handguns is a Class 4 felony. The possession of
22 each firearm or firearm ammunition in violation of this Section
23 constitutes a single and separate violation.

24 (c) Nothing in paragraph (1) of subsection (a) of this
25 Section prohibits a person under 18 years of age from
26 participating in any lawful recreational activity with a

1 firearm such as, but not limited to, practice shooting at
2 targets upon established public or private target ranges or
3 hunting, trapping, or fishing in accordance with the Wildlife
4 Code or the Fish and Aquatic Life Code.

5 (Source: P.A. 94-284, eff. 7-21-05; 95-331, eff. 8-21-07.)

6 (720 ILCS 5/26-1) (from Ch. 38, par. 26-1)

7 Sec. 26-1. Elements of the Offense.

8 (a) A person commits disorderly conduct when he knowingly:

9 (1) Does any act in such unreasonable manner as to
10 alarm or disturb another and to provoke a breach of the
11 peace; or

12 (2) Transmits or causes to be transmitted in any manner
13 to the fire department of any city, town, village or fire
14 protection district a false alarm of fire, knowing at the
15 time of such transmission that there is no reasonable
16 ground for believing that such fire exists; or

17 (3) Transmits or causes to be transmitted in any manner
18 to another a false alarm to the effect that a bomb or other
19 explosive of any nature or a container holding poison gas,
20 a deadly biological or chemical contaminant, or
21 radioactive substance is concealed in such place that its
22 explosion or release would endanger human life, knowing at
23 the time of such transmission that there is no reasonable
24 ground for believing that such bomb, explosive or a
25 container holding poison gas, a deadly biological or

1 chemical contaminant, or radioactive substance is
2 concealed in such place; or

3 (4) Transmits or causes to be transmitted in any manner
4 to any peace officer, public officer or public employee a
5 report to the effect that an offense will be committed, is
6 being committed, or has been committed, knowing at the time
7 of such transmission that there is no reasonable ground for
8 believing that such an offense will be committed, is being
9 committed, or has been committed; or

10 (5) Enters upon the property of another and for a lewd
11 or unlawful purpose deliberately looks into a dwelling on
12 the property through any window or other opening in it; or

13 (6) While acting as a collection agency as defined in
14 the "Collection Agency Act" or as an employee of such
15 collection agency, and while attempting to collect an
16 alleged debt, makes a telephone call to the alleged debtor
17 which is designed to harass, annoy or intimidate the
18 alleged debtor; or

19 (7) Transmits or causes to be transmitted a false
20 report to the Department of Children and Family Services
21 under Section 4 of the "Abused and Neglected Child
22 Reporting Act"; or

23 (8) Transmits or causes to be transmitted a false
24 report to the Department of Public Health under the Nursing
25 Home Care Act or the ID/DD ~~MR/DD~~ Community Care Act; or

26 (9) Transmits or causes to be transmitted in any manner

1 to the police department or fire department of any
2 municipality or fire protection district, or any privately
3 owned and operated ambulance service, a false request for
4 an ambulance, emergency medical technician-ambulance or
5 emergency medical technician-paramedic knowing at the time
6 there is no reasonable ground for believing that such
7 assistance is required; or

8 (10) Transmits or causes to be transmitted a false
9 report under Article II of "An Act in relation to victims
10 of violence and abuse", approved September 16, 1984, as
11 amended; or

12 (11) Transmits or causes to be transmitted a false
13 report to any public safety agency without the reasonable
14 grounds necessary to believe that transmitting such a
15 report is necessary for the safety and welfare of the
16 public; or

17 (12) Calls the number "911" for the purpose of making
18 or transmitting a false alarm or complaint and reporting
19 information when, at the time the call or transmission is
20 made, the person knows there is no reasonable ground for
21 making the call or transmission and further knows that the
22 call or transmission could result in the emergency response
23 of any public safety agency; or

24 (13) Transmits or causes to be transmitted a threat of
25 destruction of a school building or school property, or a
26 threat of violence, death, or bodily harm directed against

1 persons at a school, school function, or school event,
2 whether or not school is in session.

3 (b) Sentence. A violation of subsection (a)(1) of this
4 Section is a Class C misdemeanor. A violation of subsection
5 (a)(5) or (a)(11) of this Section is a Class A misdemeanor. A
6 violation of subsection (a)(8) or (a)(10) of this Section is a
7 Class B misdemeanor. A violation of subsection (a)(2), (a)(4),
8 (a)(7), (a)(9), (a)(12), or (a)(13) of this Section is a Class
9 4 felony. A violation of subsection (a)(3) of this Section is a
10 Class 3 felony, for which a fine of not less than \$3,000 and no
11 more than \$10,000 shall be assessed in addition to any other
12 penalty imposed.

13 A violation of subsection (a)(6) of this Section is a
14 Business Offense and shall be punished by a fine not to exceed
15 \$3,000. A second or subsequent violation of subsection (a)(7)
16 or (a)(11) of this Section is a Class 4 felony. A third or
17 subsequent violation of subsection (a)(5) of this Section is a
18 Class 4 felony.

19 (c) In addition to any other sentence that may be imposed,
20 a court shall order any person convicted of disorderly conduct
21 to perform community service for not less than 30 and not more
22 than 120 hours, if community service is available in the
23 jurisdiction and is funded and approved by the county board of
24 the county where the offense was committed. In addition,
25 whenever any person is placed on supervision for an alleged
26 offense under this Section, the supervision shall be

1 conditioned upon the performance of the community service.

2 This subsection does not apply when the court imposes a
3 sentence of incarceration.

4 (d) In addition to any other sentence that may be imposed,
5 the court shall order any person convicted of disorderly
6 conduct under paragraph (3) of subsection (a) involving a false
7 alarm of a threat that a bomb or explosive device has been
8 placed in a school to reimburse the unit of government that
9 employs the emergency response officer or officers that were
10 dispatched to the school for the cost of the search for a bomb
11 or explosive device. For the purposes of this Section,
12 "emergency response" means any incident requiring a response by
13 a police officer, a firefighter, a State Fire Marshal employee,
14 or an ambulance.

15 (Source: P.A. 96-339, eff. 7-1-10; 96-413, eff. 8-13-09;
16 96-772, eff. 1-1-10; 96-1000, eff. 7-2-10; 96-1261, eff.
17 1-1-11.)

18 Section 140. The Code of Criminal Procedure of 1963 is
19 amended by changing Sections 102-23, 106B-5, 114-15, 115-10,
20 and 122-2.2 as follows:

21 (725 ILCS 5/102-23)

22 Sec. 102-23. "Moderately intellectually disabled ~~mentally~~
23 ~~retarded~~ person" means a person whose intelligence quotient is
24 between 41 and 55 and who does not suffer from significant

1 mental illness to the extent that the person's ability to
2 exercise rational judgment is impaired.

3 (Source: P.A. 92-434, eff. 1-1-02.)

4 (725 ILCS 5/106B-5)

5 Sec. 106B-5. Testimony by a victim who is a child or a
6 moderately, severely, or profoundly intellectually disabled
7 ~~mentally-retarded~~ person or a person affected by a
8 developmental disability.

9 (a) In a proceeding in the prosecution of an offense of
10 criminal sexual assault, predatory criminal sexual assault of a
11 child, aggravated criminal sexual assault, criminal sexual
12 abuse, or aggravated criminal sexual abuse, a court may order
13 that the testimony of a victim who is a child under the age of
14 18 years or a moderately, severely, or profoundly
15 intellectually disabled ~~mentally-retarded~~ person or a person
16 affected by a developmental disability be taken outside the
17 courtroom and shown in the courtroom by means of a closed
18 circuit television if:

19 (1) the testimony is taken during the proceeding; and

20 (2) the judge determines that testimony by the child
21 victim or moderately, severely, or profoundly
22 intellectually disabled ~~mentally-retarded~~ victim or victim
23 affected by a developmental disability in the courtroom
24 will result in the child or moderately, severely, or
25 profoundly intellectually disabled ~~mentally-retarded~~

1 person or person affected by a developmental disability
2 suffering serious emotional distress such that the child or
3 moderately, severely, or profoundly intellectually
4 disabled ~~mentally retarded~~ person or person affected by a
5 developmental disability cannot reasonably communicate or
6 that the child or moderately, severely, or profoundly
7 intellectually disabled ~~mentally retarded~~ person or person
8 affected by a developmental disability will suffer severe
9 emotional distress that is likely to cause the child or
10 moderately, severely, or profoundly intellectually
11 disabled ~~mentally retarded~~ person or person affected by a
12 developmental disability to suffer severe adverse effects.

13 (b) Only the prosecuting attorney, the attorney for the
14 defendant, and the judge may question the child or moderately,
15 severely, or profoundly intellectually disabled ~~mentally~~
16 ~~retarded~~ person or person affected by a developmental
17 disability.

18 (c) The operators of the closed circuit television shall
19 make every effort to be unobtrusive.

20 (d) Only the following persons may be in the room with the
21 child or moderately, severely, or profoundly intellectually
22 disabled ~~mentally retarded~~ person or person affected by a
23 developmental disability when the child or moderately,
24 severely, or profoundly intellectually disabled ~~mentally~~
25 ~~retarded~~ person or person affected by a developmental
26 disability testifies by closed circuit television:

1 (1) the prosecuting attorney;
2 (2) the attorney for the defendant;
3 (3) the judge;
4 (4) the operators of the closed circuit television
5 equipment; and

6 (5) any person or persons whose presence, in the
7 opinion of the court, contributes to the well-being of the
8 child or moderately, severely, or profoundly
9 intellectually disabled ~~mentally retarded~~ person or person
10 affected by a developmental disability, including a person
11 who has dealt with the child in a therapeutic setting
12 concerning the abuse, a parent or guardian of the child or
13 moderately, severely, or profoundly intellectually
14 disabled ~~mentally retarded~~ person or person affected by a
15 developmental disability, and court security personnel.

16 (e) During the child's or moderately, severely, or
17 profoundly intellectually disabled ~~mentally retarded~~ person's
18 or person affected by a developmental disability's testimony by
19 closed circuit television, the defendant shall be in the
20 courtroom and shall not communicate with the jury if the cause
21 is being heard before a jury.

22 (f) The defendant shall be allowed to communicate with the
23 persons in the room where the child or moderately, severely, or
24 profoundly intellectually disabled ~~mentally retarded~~ person or
25 person affected by a developmental disability is testifying by
26 any appropriate electronic method.

1 (g) The provisions of this Section do not apply if the
2 defendant represents himself pro se.

3 (h) This Section may not be interpreted to preclude, for
4 purposes of identification of a defendant, the presence of both
5 the victim and the defendant in the courtroom at the same time.

6 (i) This Section applies to prosecutions pending on or
7 commenced on or after the effective date of this amendatory Act
8 of 1994.

9 (j) For the purposes of this Section, "developmental
10 disability" includes, but is not limited to, cerebral palsy,
11 epilepsy, and autism.

12 (Source: P.A. 95-897, eff. 1-1-09.)

13 (725 ILCS 5/114-15)

14 Sec. 114-15. Intellectual disability ~~Mental retardation~~.

15 (a) In a first degree murder case in which the State seeks
16 the death penalty as an appropriate sentence, any party may
17 raise the issue of the defendant's intellectual disabilities
18 ~~mental retardation~~ by motion. A defendant wishing to raise the
19 issue of his or her intellectual disabilities ~~mental~~
20 ~~retardation~~ shall provide written notice to the State and the
21 court as soon as the defendant reasonably believes such issue
22 will be raised.

23 (b) The issue of the defendant's intellectual disabilities
24 ~~mental retardation~~ shall be determined in a pretrial hearing.
25 The court shall be the fact finder on the issue of the

1 defendant's intellectual disabilities ~~mental retardation~~ and
2 shall determine the issue by a preponderance of evidence in
3 which the moving party has the burden of proof. The court may
4 appoint an expert in the field of intellectual disabilities
5 ~~mental retardation~~. The defendant and the State may offer
6 experts from the field of intellectual disabilities ~~mental~~
7 ~~retardation~~. The court shall determine admissibility of
8 evidence and qualification as an expert.

9 (c) If after a plea of guilty to first degree murder, or a
10 finding of guilty of first degree murder in a bench trial, or a
11 verdict of guilty for first degree murder in a jury trial, or
12 on a matter remanded from the Supreme Court for sentencing for
13 first degree murder, and the State seeks the death penalty as
14 an appropriate sentence, the defendant may raise the issue of
15 defendant's intellectual disabilities ~~mental retardation~~ not
16 at eligibility but at aggravation and mitigation. The defendant
17 and the State may offer experts from the field of intellectual
18 disabilities ~~mental retardation~~. The court shall determine
19 admissibility of evidence and qualification as an expert.

20 (d) In determining whether the defendant is intellectually
21 disabled ~~mentally retarded~~, the intellectual disability ~~mental~~
22 ~~retardation~~ must have manifested itself by the age of 18. IQ
23 tests and psychometric tests administered to the defendant must
24 be the kind and type recognized by experts in the field of
25 intellectual disabilities ~~mental retardation~~. In order for the
26 defendant to be considered intellectually disabled ~~mentally~~

1 ~~retarded~~, a low IQ must be accompanied by significant deficits
2 in adaptive behavior in at least 2 of the following skill
3 areas: communication, self-care, social or interpersonal
4 skills, home living, self-direction, academics, health and
5 safety, use of community resources, and work. An intelligence
6 quotient (IQ) of 75 or below is presumptive evidence of an
7 intellectual disability ~~mental retardation~~.

8 (e) Evidence of an intellectual disability ~~mental~~
9 ~~retardation~~ that did not result in disqualifying the case as a
10 capital case, may be introduced as evidence in mitigation
11 during a capital sentencing hearing. A failure of the court to
12 determine that the defendant is intellectually disabled
13 ~~mentally retarded~~ does not preclude the court during trial from
14 allowing evidence relating to mental disability should the
15 court deem it appropriate.

16 (f) If the court determines at a pretrial hearing or after
17 remand that a capital defendant is intellectually disabled
18 ~~mentally retarded~~, and the State does not appeal pursuant to
19 Supreme Court Rule 604, the case shall no longer be considered
20 a capital case and the procedural guidelines established for
21 capital cases shall no longer be applicable to the defendant.
22 In that case, the defendant shall be sentenced under the
23 sentencing provisions of Chapter V of the Unified Code of
24 Corrections.

25 (Source: P.A. 93-605, eff. 11-19-03.)

1 (725 ILCS 5/115-10) (from Ch. 38, par. 115-10)

2 Sec. 115-10. Certain hearsay exceptions.

3 (a) In a prosecution for a physical or sexual act
4 perpetrated upon or against a child under the age of 13, or a
5 person who was a moderately, severely, or profoundly
6 intellectually disabled ~~mentally retarded~~ person as defined in
7 this Code and in Section 2-10.1 of the Criminal Code of 1961 at
8 the time the act was committed, including but not limited to
9 prosecutions for violations of Sections 12-13 through 12-16 of
10 the Criminal Code of 1961 and prosecutions for violations of
11 Sections 10-1 (kidnapping), 10-2 (aggravated kidnapping), 10-3
12 (unlawful restraint), 10-3.1 (aggravated unlawful restraint),
13 10-4 (forcible detention), 10-5 (child abduction), 10-6
14 (harboring a runaway), 10-7 (aiding or abetting child
15 abduction), 11-9 (public indecency), 11-11 (sexual relations
16 within families), 11-21 (harmful material), 12-1 (assault),
17 12-2 (aggravated assault), 12-3 (battery), 12-3.2 (domestic
18 battery), 12-4 (aggravated battery), 12-4.1 (heinous battery),
19 12-4.2 (aggravated battery with a firearm), 12-4.3 (aggravated
20 battery of a child), 12-4.7 (drug induced infliction of great
21 bodily harm), 12-5 (reckless conduct), 12-6 (intimidation),
22 12-6.1 (compelling organization membership of persons), 12-7.1
23 (hate crime), 12-7.3 (stalking), 12-7.4 (aggravated stalking),
24 12-10 (tattooing body of minor), 12-11 (home invasion), 12-21.5
25 (child abandonment), 12-21.6 (endangering the life or health of
26 a child) or 12-32 (ritual mutilation) of the Criminal Code of

1 1961 or any sex offense as defined in subsection (B) of Section
2 of the Sex Offender Registration Act, the following evidence
3 shall be admitted as an exception to the hearsay rule:

4 (1) testimony by the victim of an out of court
5 statement made by the victim that he or she complained of
6 such act to another; and

7 (2) testimony of an out of court statement made by the
8 victim describing any complaint of such act or matter or
9 detail pertaining to any act which is an element of an
10 offense which is the subject of a prosecution for a sexual
11 or physical act against that victim.

12 (b) Such testimony shall only be admitted if:

13 (1) The court finds in a hearing conducted outside the
14 presence of the jury that the time, content, and
15 circumstances of the statement provide sufficient
16 safeguards of reliability; and

17 (2) The child or moderately, severely, or profoundly
18 intellectually disabled ~~mentally retarded~~ person either:

19 (A) testifies at the proceeding; or

20 (B) is unavailable as a witness and there is
21 corroborative evidence of the act which is the subject
22 of the statement; and

23 (3) In a case involving an offense perpetrated against
24 a child under the age of 13, the out of court statement was
25 made before the victim attained 13 years of age or within 3
26 months after the commission of the offense, whichever

1 occurs later, but the statement may be admitted regardless
2 of the age of the victim at the time of the proceeding.

3 (c) If a statement is admitted pursuant to this Section,
4 the court shall instruct the jury that it is for the jury to
5 determine the weight and credibility to be given the statement
6 and that, in making the determination, it shall consider the
7 age and maturity of the child, or the intellectual capabilities
8 of the moderately, severely, or profoundly intellectually
9 disabled ~~mentally-retarded~~ person, the nature of the statement,
10 the circumstances under which the statement was made, and any
11 other relevant factor.

12 (d) The proponent of the statement shall give the adverse
13 party reasonable notice of his intention to offer the statement
14 and the particulars of the statement.

15 (e) Statements described in paragraphs (1) and (2) of
16 subsection (a) shall not be excluded on the basis that they
17 were obtained as a result of interviews conducted pursuant to a
18 protocol adopted by a Child Advocacy Advisory Board as set
19 forth in subsections (c), (d), and (e) of Section 3 of the
20 Children's Advocacy Center Act or that an interviewer or
21 witness to the interview was or is an employee, agent, or
22 investigator of a State's Attorney's office.

23 (Source: P.A. 95-892, eff. 1-1-09; 96-710, eff. 1-1-10.)

24 (725 ILCS 5/122-2.2)

25 Sec. 122-2.2. Intellectual disability ~~Mental-retardation~~

1 and post-conviction relief.

2 (a) In cases where no determination of an intellectual
3 disability ~~mental retardation~~ was made and a defendant has been
4 convicted of first-degree murder, sentenced to death, and is in
5 custody pending execution of the sentence of death, the
6 following procedures shall apply:

7 (1) Notwithstanding any other provision of law or rule
8 of court, a defendant may seek relief from the death
9 sentence through a petition for post-conviction relief
10 under this Article alleging that the defendant was
11 intellectually disabled ~~mentally retarded~~ as defined in
12 Section 114-15 at the time the offense was alleged to have
13 been committed.

14 (2) The petition must be filed within 180 days of the
15 effective date of this amendatory Act of the 93rd General
16 Assembly or within 180 days of the issuance of the mandate
17 by the Illinois Supreme Court setting the date of
18 execution, whichever is later.

19 (3) All other provisions of this Article governing
20 petitions for post-conviction relief shall apply to a petition
21 for post-conviction relief alleging an intellectual disability
22 ~~mental retardation~~.

23 (Source: P.A. 93-605, eff. 11-19-03.)

24 Section 145. The Unified Code of Corrections is amended by
25 changing Sections 5-1-8, 5-1-13, 5-2-6, and 5-5-3.1 as follows:

1 (730 ILCS 5/5-1-8) (from Ch. 38, par. 1005-1-8)

2 Sec. 5-1-8. Defendant in Need of Mental Treatment.

3 "Defendant in need of mental treatment" means any defendant
4 afflicted with a mental disorder, not including a person who is
5 intellectually disabled ~~mentally retarded~~, if that defendant,
6 as a result of such mental disorder, is reasonably expected at
7 the time of determination or within a reasonable time
8 thereafter to intentionally or unintentionally physically
9 injure himself or other persons, or is unable to care for
10 himself so as to guard himself from physical injury or to
11 provide for his own physical needs.

12 (Source: P.A. 77-2097.)

13 (730 ILCS 5/5-1-13) (from Ch. 38, par. 1005-1-13)

14 Sec. 5-1-13. Intellectually Disabled ~~Mentally Retarded~~.

15 "Intellectually disabled" ~~Mentally retarded~~ and
16 "intellectual disability ~~mental retardation~~" mean sub-average
17 general intellectual functioning generally originating during
18 the developmental period and associated with impairment in
19 adaptive behavior reflected in delayed maturation or reduced
20 learning ability or inadequate social adjustment.

21 (Source: P.A. 77-2097.)

22 (730 ILCS 5/5-2-6) (from Ch. 38, par. 1005-2-6)

23 Sec. 5-2-6. Sentencing and Treatment of Defendant Found

1 Guilty but Mentally Ill.

2 (a) After a plea or verdict of guilty but mentally ill
3 under Sections 115-2, 115-3 or 115-4 of the Code of Criminal
4 Procedure of 1963, the court shall order a presentence
5 investigation and report pursuant to Sections 5-3-1 and 5-3-2
6 of this Act, and shall set a date for a sentencing hearing. The
7 court may impose any sentence upon the defendant which could be
8 imposed pursuant to law upon a defendant who had been convicted
9 of the same offense without a finding of mental illness.

10 (b) If the court imposes a sentence of imprisonment upon a
11 defendant who has been found guilty but mentally ill, the
12 defendant shall be committed to the Department of Corrections,
13 which shall cause periodic inquiry and examination to be made
14 concerning the nature, extent, continuance, and treatment of
15 the defendant's mental illness. The Department of Corrections
16 shall provide such psychiatric, psychological, or other
17 counseling and treatment for the defendant as it determines
18 necessary.

19 (c) The Department of Corrections may transfer the
20 defendant's custody to the Department of Human Services in
21 accordance with the provisions of Section 3-8-5 of this Act.

22 (d) (1) The Department of Human Services shall return to
23 the Department of Corrections any person committed to it
24 pursuant to this Section whose sentence has not expired and
25 whom the Department of Human Services deems no longer requires
26 hospitalization for mental treatment, an intellectual

1 disability ~~mental retardation~~, or addiction.

2 (2) The Department of Corrections shall notify the
3 Secretary of Human Services of the expiration of the sentence
4 of any person transferred to the Department of Human Services
5 under this Section. If the Department of Human Services
6 determines that any such person requires further
7 hospitalization, it shall file an appropriate petition for
8 involuntary commitment pursuant to the Mental Health and
9 Developmental Disabilities Code.

10 (e) (1) All persons found guilty but mentally ill, whether
11 by plea or by verdict, who are placed on probation or sentenced
12 to a term of periodic imprisonment or a period of conditional
13 discharge shall be required to submit to a course of mental
14 treatment prescribed by the sentencing court.

15 (2) The course of treatment prescribed by the court shall
16 reasonably assure the defendant's satisfactory progress in
17 treatment or habilitation and for the safety of the defendant
18 and others. The court shall consider terms, conditions and
19 supervision which may include, but need not be limited to,
20 notification and discharge of the person to the custody of his
21 family, community adjustment programs, periodic checks with
22 legal authorities and outpatient care and utilization of local
23 mental health or developmental disabilities facilities.

24 (3) Failure to continue treatment, except by agreement with
25 the treating person or agency and the court, shall be a basis
26 for the institution of probation revocation proceedings.

1 (4) The period of probation shall be in accordance with
2 Article 4.5 of Chapter V of this Code and shall not be
3 shortened without receipt and consideration of such
4 psychiatric or psychological report or reports as the court may
5 require.

6 (Source: P.A. 95-1052, eff. 7-1-09.)

7 (730 ILCS 5/5-5-3.1) (from Ch. 38, par. 1005-5-3.1)

8 Sec. 5-5-3.1. Factors in Mitigation.

9 (a) The following grounds shall be accorded weight in favor
10 of withholding or minimizing a sentence of imprisonment:

11 (1) The defendant's criminal conduct neither caused
12 nor threatened serious physical harm to another.

13 (2) The defendant did not contemplate that his criminal
14 conduct would cause or threaten serious physical harm to
15 another.

16 (3) The defendant acted under a strong provocation.

17 (4) There were substantial grounds tending to excuse or
18 justify the defendant's criminal conduct, though failing
19 to establish a defense.

20 (5) The defendant's criminal conduct was induced or
21 facilitated by someone other than the defendant.

22 (6) The defendant has compensated or will compensate
23 the victim of his criminal conduct for the damage or injury
24 that he sustained.

25 (7) The defendant has no history of prior delinquency

1 or criminal activity or has led a law-abiding life for a
2 substantial period of time before the commission of the
3 present crime.

4 (8) The defendant's criminal conduct was the result of
5 circumstances unlikely to recur.

6 (9) The character and attitudes of the defendant
7 indicate that he is unlikely to commit another crime.

8 (10) The defendant is particularly likely to comply
9 with the terms of a period of probation.

10 (11) The imprisonment of the defendant would entail
11 excessive hardship to his dependents.

12 (12) The imprisonment of the defendant would endanger
13 his or her medical condition.

14 (13) The defendant was intellectually disabled
15 ~~mentally retarded~~ as defined in Section 5-1-13 of this
16 Code.

17 (b) If the court, having due regard for the character of
18 the offender, the nature and circumstances of the offense and
19 the public interest finds that a sentence of imprisonment is
20 the most appropriate disposition of the offender, or where
21 other provisions of this Code mandate the imprisonment of the
22 offender, the grounds listed in paragraph (a) of this
23 subsection shall be considered as factors in mitigation of the
24 term imposed.

25 (Source: P.A. 91-357, eff. 7-29-99.)

1 Section 146. The Unified Code of Corrections is amended by
2 changing Section 5-5-3.2 as follows:

3 (730 ILCS 5/5-5-3.2)

4 Sec. 5-5-3.2. Factors in Aggravation and Extended-Term
5 Sentencing.

6 (a) The following factors shall be accorded weight in favor
7 of imposing a term of imprisonment or may be considered by the
8 court as reasons to impose a more severe sentence under Section
9 5-8-1 or Article 4.5 of Chapter V:

10 (1) the defendant's conduct caused or threatened
11 serious harm;

12 (2) the defendant received compensation for committing
13 the offense;

14 (3) the defendant has a history of prior delinquency or
15 criminal activity;

16 (4) the defendant, by the duties of his office or by
17 his position, was obliged to prevent the particular offense
18 committed or to bring the offenders committing it to
19 justice;

20 (5) the defendant held public office at the time of the
21 offense, and the offense related to the conduct of that
22 office;

23 (6) the defendant utilized his professional reputation
24 or position in the community to commit the offense, or to
25 afford him an easier means of committing it;

1 (7) the sentence is necessary to deter others from
2 committing the same crime;

3 (8) the defendant committed the offense against a
4 person 60 years of age or older or such person's property;

5 (9) the defendant committed the offense against a
6 person who is physically handicapped or such person's
7 property;

8 (10) by reason of another individual's actual or
9 perceived race, color, creed, religion, ancestry, gender,
10 sexual orientation, physical or mental disability, or
11 national origin, the defendant committed the offense
12 against (i) the person or property of that individual; (ii)
13 the person or property of a person who has an association
14 with, is married to, or has a friendship with the other
15 individual; or (iii) the person or property of a relative
16 (by blood or marriage) of a person described in clause (i)
17 or (ii). For the purposes of this Section, "sexual
18 orientation" means heterosexuality, homosexuality, or
19 bisexuality;

20 (11) the offense took place in a place of worship or on
21 the grounds of a place of worship, immediately prior to,
22 during or immediately following worship services. For
23 purposes of this subparagraph, "place of worship" shall
24 mean any church, synagogue or other building, structure or
25 place used primarily for religious worship;

26 (12) the defendant was convicted of a felony committed

1 while he was released on bail or his own recognizance
2 pending trial for a prior felony and was convicted of such
3 prior felony, or the defendant was convicted of a felony
4 committed while he was serving a period of probation,
5 conditional discharge, or mandatory supervised release
6 under subsection (d) of Section 5-8-1 for a prior felony;

7 (13) the defendant committed or attempted to commit a
8 felony while he was wearing a bulletproof vest. For the
9 purposes of this paragraph (13), a bulletproof vest is any
10 device which is designed for the purpose of protecting the
11 wearer from bullets, shot or other lethal projectiles;

12 (14) the defendant held a position of trust or
13 supervision such as, but not limited to, family member as
14 defined in Section 12-12 of the Criminal Code of 1961,
15 teacher, scout leader, baby sitter, or day care worker, in
16 relation to a victim under 18 years of age, and the
17 defendant committed an offense in violation of Section
18 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
19 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
20 against that victim;

21 (15) the defendant committed an offense related to the
22 activities of an organized gang. For the purposes of this
23 factor, "organized gang" has the meaning ascribed to it in
24 Section 10 of the Streetgang Terrorism Omnibus Prevention
25 Act;

26 (16) the defendant committed an offense in violation of

1 one of the following Sections while in a school, regardless
2 of the time of day or time of year; on any conveyance
3 owned, leased, or contracted by a school to transport
4 students to or from school or a school related activity; on
5 the real property of a school; or on a public way within
6 1,000 feet of the real property comprising any school:
7 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
8 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
9 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
10 33A-2 of the Criminal Code of 1961;

11 (16.5) the defendant committed an offense in violation
12 of one of the following Sections while in a day care
13 center, regardless of the time of day or time of year; on
14 the real property of a day care center, regardless of the
15 time of day or time of year; or on a public way within
16 1,000 feet of the real property comprising any day care
17 center, regardless of the time of day or time of year:
18 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
19 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
20 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
21 33A-2 of the Criminal Code of 1961;

22 (17) the defendant committed the offense by reason of
23 any person's activity as a community policing volunteer or
24 to prevent any person from engaging in activity as a
25 community policing volunteer. For the purpose of this
26 Section, "community policing volunteer" has the meaning

1 ascribed to it in Section 2-3.5 of the Criminal Code of
2 1961;

3 (18) the defendant committed the offense in a nursing
4 home or on the real property comprising a nursing home. For
5 the purposes of this paragraph (18), "nursing home" means a
6 skilled nursing or intermediate long term care facility
7 that is subject to license by the Illinois Department of
8 Public Health under the Nursing Home Care Act or the ID/DD
9 ~~MR/DD~~ Community Care Act;

10 (19) the defendant was a federally licensed firearm
11 dealer and was previously convicted of a violation of
12 subsection (a) of Section 3 of the Firearm Owners
13 Identification Card Act and has now committed either a
14 felony violation of the Firearm Owners Identification Card
15 Act or an act of armed violence while armed with a firearm;

16 (20) the defendant (i) committed the offense of
17 reckless homicide under Section 9-3 of the Criminal Code of
18 1961 or the offense of driving under the influence of
19 alcohol, other drug or drugs, intoxicating compound or
20 compounds or any combination thereof under Section 11-501
21 of the Illinois Vehicle Code or a similar provision of a
22 local ordinance and (ii) was operating a motor vehicle in
23 excess of 20 miles per hour over the posted speed limit as
24 provided in Article VI of Chapter 11 of the Illinois
25 Vehicle Code;

26 (21) the defendant (i) committed the offense of

1 reckless driving or aggravated reckless driving under
2 Section 11-503 of the Illinois Vehicle Code and (ii) was
3 operating a motor vehicle in excess of 20 miles per hour
4 over the posted speed limit as provided in Article VI of
5 Chapter 11 of the Illinois Vehicle Code;

6 (22) the defendant committed the offense against a
7 person that the defendant knew, or reasonably should have
8 known, was a member of the Armed Forces of the United
9 States serving on active duty. For purposes of this clause
10 (22), the term "Armed Forces" means any of the Armed Forces
11 of the United States, including a member of any reserve
12 component thereof or National Guard unit called to active
13 duty;

14 (23) the defendant committed the offense against a
15 person who was elderly, disabled, or infirm by taking
16 advantage of a family or fiduciary relationship with the
17 elderly, disabled, or infirm person;

18 (24) the defendant committed any offense under Section
19 11-20.1 of the Criminal Code of 1961 and possessed 100 or
20 more images;

21 (25) the defendant committed the offense while the
22 defendant or the victim was in a train, bus, or other
23 vehicle used for public transportation; ~~or~~

24 (26) the defendant committed the offense of child
25 pornography or aggravated child pornography, specifically
26 including paragraph (1), (2), (3), (4), (5), or (7) of

1 subsection (a) of Section 11-20.1 of the Criminal Code of
2 1961 where a child engaged in, solicited for, depicted in,
3 or posed in any act of sexual penetration or bound,
4 fettered, or subject to sadistic, masochistic, or
5 sadomasochistic abuse in a sexual context and specifically
6 including paragraph (1), (2), (3), (4), (5), or (7) of
7 subsection (a) of Section 11-20.3 of the Criminal Code of
8 1961 where a child engaged in, solicited for, depicted in,
9 or posed in any act of sexual penetration or bound,
10 fettered, or subject to sadistic, masochistic, or
11 sadomasochistic abuse in a sexual context; or

12 (27) the defendant committed the offense of first
13 degree murder, assault, aggravated assault, battery,
14 aggravated battery, robbery, armed robbery, or aggravated
15 robbery against a person who was a veteran and the
16 defendant knew, or reasonably should have known, that the
17 person was a veteran performing duties as a representative
18 of a veterans' organization. For the purposes of this
19 paragraph (27), "veteran" means an Illinois resident who
20 has served as a member of the United States Armed Forces, a
21 member of the Illinois National Guard, or a member of the
22 United States Reserve Forces; and "veterans' organization"
23 means an organization comprised of members of which
24 substantially all are individuals who are veterans or
25 spouses, widows, or widowers of veterans, the primary
26 purpose of which is to promote the welfare of its members

1 and to provide assistance to the general public in such a
2 way as to confer a public benefit.

3 For the purposes of this Section:

4 "School" is defined as a public or private elementary or
5 secondary school, community college, college, or university.

6 "Day care center" means a public or private State certified
7 and licensed day care center as defined in Section 2.09 of the
8 Child Care Act of 1969 that displays a sign in plain view
9 stating that the property is a day care center.

10 "Public transportation" means the transportation or
11 conveyance of persons by means available to the general public,
12 and includes paratransit services.

13 (b) The following factors, related to all felonies, may be
14 considered by the court as reasons to impose an extended term
15 sentence under Section 5-8-2 upon any offender:

16 (1) When a defendant is convicted of any felony, after
17 having been previously convicted in Illinois or any other
18 jurisdiction of the same or similar class felony or greater
19 class felony, when such conviction has occurred within 10
20 years after the previous conviction, excluding time spent
21 in custody, and such charges are separately brought and
22 tried and arise out of different series of acts; or

23 (2) When a defendant is convicted of any felony and the
24 court finds that the offense was accompanied by
25 exceptionally brutal or heinous behavior indicative of
26 wanton cruelty; or

1 (3) When a defendant is convicted of any felony
2 committed against:

3 (i) a person under 12 years of age at the time of
4 the offense or such person's property;

5 (ii) a person 60 years of age or older at the time
6 of the offense or such person's property; or

7 (iii) a person physically handicapped at the time
8 of the offense or such person's property; or

9 (4) When a defendant is convicted of any felony and the
10 offense involved any of the following types of specific
11 misconduct committed as part of a ceremony, rite,
12 initiation, observance, performance, practice or activity
13 of any actual or ostensible religious, fraternal, or social
14 group:

15 (i) the brutalizing or torturing of humans or
16 animals;

17 (ii) the theft of human corpses;

18 (iii) the kidnapping of humans;

19 (iv) the desecration of any cemetery, religious,
20 fraternal, business, governmental, educational, or
21 other building or property; or

22 (v) ritualized abuse of a child; or

23 (5) When a defendant is convicted of a felony other
24 than conspiracy and the court finds that the felony was
25 committed under an agreement with 2 or more other persons
26 to commit that offense and the defendant, with respect to

1 the other individuals, occupied a position of organizer,
2 supervisor, financier, or any other position of management
3 or leadership, and the court further finds that the felony
4 committed was related to or in furtherance of the criminal
5 activities of an organized gang or was motivated by the
6 defendant's leadership in an organized gang; or

7 (6) When a defendant is convicted of an offense
8 committed while using a firearm with a laser sight attached
9 to it. For purposes of this paragraph, "laser sight" has
10 the meaning ascribed to it in Section 24.6-5 of the
11 Criminal Code of 1961; or

12 (7) When a defendant who was at least 17 years of age
13 at the time of the commission of the offense is convicted
14 of a felony and has been previously adjudicated a
15 delinquent minor under the Juvenile Court Act of 1987 for
16 an act that if committed by an adult would be a Class X or
17 Class 1 felony when the conviction has occurred within 10
18 years after the previous adjudication, excluding time
19 spent in custody; or

20 (8) When a defendant commits any felony and the
21 defendant used, possessed, exercised control over, or
22 otherwise directed an animal to assault a law enforcement
23 officer engaged in the execution of his or her official
24 duties or in furtherance of the criminal activities of an
25 organized gang in which the defendant is engaged.

26 (c) The following factors may be considered by the court as

1 reasons to impose an extended term sentence under Section 5-8-2
2 (730 ILCS 5/5-8-2) upon any offender for the listed offenses:

3 (1) When a defendant is convicted of first degree
4 murder, after having been previously convicted in Illinois
5 of any offense listed under paragraph (c)(2) of Section
6 5-5-3 (730 ILCS 5/5-5-3), when that conviction has occurred
7 within 10 years after the previous conviction, excluding
8 time spent in custody, and the charges are separately
9 brought and tried and arise out of different series of
10 acts.

11 (1.5) When a defendant is convicted of first degree
12 murder, after having been previously convicted of domestic
13 battery (720 ILCS 5/12-3.2) or aggravated domestic battery
14 (720 ILCS 5/12-3.3) committed on the same victim or after
15 having been previously convicted of violation of an order
16 of protection (720 ILCS 5/12-30) in which the same victim
17 was the protected person.

18 (2) When a defendant is convicted of voluntary
19 manslaughter, second degree murder, involuntary
20 manslaughter, or reckless homicide in which the defendant
21 has been convicted of causing the death of more than one
22 individual.

23 (3) When a defendant is convicted of aggravated
24 criminal sexual assault or criminal sexual assault, when
25 there is a finding that aggravated criminal sexual assault
26 or criminal sexual assault was also committed on the same

1 victim by one or more other individuals, and the defendant
2 voluntarily participated in the crime with the knowledge of
3 the participation of the others in the crime, and the
4 commission of the crime was part of a single course of
5 conduct during which there was no substantial change in the
6 nature of the criminal objective.

7 (4) If the victim was under 18 years of age at the time
8 of the commission of the offense, when a defendant is
9 convicted of aggravated criminal sexual assault or
10 predatory criminal sexual assault of a child under
11 subsection (a)(1) of Section 12-14.1 of the Criminal Code
12 of 1961 (720 ILCS 5/12-14.1).

13 (5) When a defendant is convicted of a felony violation
14 of Section 24-1 of the Criminal Code of 1961 (720 ILCS
15 5/24-1) and there is a finding that the defendant is a
16 member of an organized gang.

17 (6) When a defendant was convicted of unlawful use of
18 weapons under Section 24-1 of the Criminal Code of 1961
19 (720 ILCS 5/24-1) for possessing a weapon that is not
20 readily distinguishable as one of the weapons enumerated in
21 Section 24-1 of the Criminal Code of 1961 (720 ILCS
22 5/24-1).

23 (7) When a defendant is convicted of an offense
24 involving the illegal manufacture of a controlled
25 substance under Section 401 of the Illinois Controlled
26 Substances Act (720 ILCS 570/401), the illegal manufacture

1 of methamphetamine under Section 25 of the Methamphetamine
2 Control and Community Protection Act (720 ILCS 646/25), or
3 the illegal possession of explosives and an emergency
4 response officer in the performance of his or her duties is
5 killed or injured at the scene of the offense while
6 responding to the emergency caused by the commission of the
7 offense. In this paragraph, "emergency" means a situation
8 in which a person's life, health, or safety is in jeopardy;
9 and "emergency response officer" means a peace officer,
10 community policing volunteer, fireman, emergency medical
11 technician-ambulance, emergency medical
12 technician-intermediate, emergency medical
13 technician-paramedic, ambulance driver, other medical
14 assistance or first aid personnel, or hospital emergency
15 room personnel.

16 (d) For the purposes of this Section, "organized gang" has
17 the meaning ascribed to it in Section 10 of the Illinois
18 Streetgang Terrorism Omnibus Prevention Act.

19 (e) The court may impose an extended term sentence under
20 Article 4.5 of Chapter V upon an offender who has been
21 convicted of a felony violation of Section 12-13, 12-14,
22 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961 when the
23 victim of the offense is under 18 years of age at the time of
24 the commission of the offense and, during the commission of the
25 offense, the victim was under the influence of alcohol,
26 regardless of whether or not the alcohol was supplied by the

1 offender; and the offender, at the time of the commission of
2 the offense, knew or should have known that the victim had
3 consumed alcohol.

4 (Source: P.A. 95-85, eff. 1-1-08; 95-362, eff. 1-1-08; 95-569,
5 eff. 6-1-08; 95-876, eff. 8-21-08; 95-942, eff. 1-1-09;
6 95-1052, eff. 7-1-09; 96-41, eff. 1-1-10; 96-292, eff. 1-1-10;
7 96-328, eff. 8-11-09; 96-339, eff. 7-1-10; 96-1000, eff.
8 7-2-10; 96-1200, eff. 7-22-10; 96-1228, eff. 1-1-11; 96-1390,
9 eff. 1-1-11; revised 9-16-10.)

10 Section 147. The Secure Residential Youth Care Facility
11 Licensing Act is amended by changing Section 45-10 as follows:

12 (730 ILCS 175/45-10)

13 Sec. 45-10. Definitions. As used in this Act:

14 "Department" means the Illinois Department of Corrections.

15 "Director" means the Director of Corrections.

16 "Secure residential youth care facility" means a facility
17 (1) where youth are placed and reside for care, treatment, and
18 custody; (2) that is designed and operated so as to ensure that
19 all entrances and exits from the facility, or from a building
20 or distinct part of a building within the facility, are under
21 the exclusive control of the staff of the facility, whether or
22 not the youth has freedom of movement within the perimeter of
23 the facility or within the perimeter of a building or distinct
24 part of a building within the facility; and (3) that uses

1 physically restrictive construction including, but not limited
2 to, locks, bolts, gates, doors, bars, fences, and screen
3 barriers. This definition does not include jails, prisons,
4 detention centers, or other such correctional facilities;
5 State operated mental health facilities; or facilities
6 operating as psychiatric hospitals under a license pursuant to
7 the ID/DD ~~MR/DD~~ Community Care Act, the Nursing Home Care Act,
8 or the Hospital Licensing Act.

9 "Youth" means an adjudicated delinquent who is 18 years of
10 age or under and is transferred to the Department pursuant to
11 Section 3-10-11 of the Unified Code of Corrections.

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

13 Section 150. The Code of Civil Procedure is amended by
14 changing Sections 2-203 and 8-201 as follows:

15 (735 ILCS 5/2-203) (from Ch. 110, par. 2-203)

16 Sec. 2-203. Service on individuals.

17 (a) Except as otherwise expressly provided, service of
18 summons upon an individual defendant shall be made (1) by
19 leaving a copy of the summons with the defendant personally,
20 (2) by leaving a copy at the defendant's usual place of abode,
21 with some person of the family or a person residing there, of
22 the age of 13 years or upwards, and informing that person of
23 the contents of the summons, provided the officer or other
24 person making service shall also send a copy of the summons in

1 a sealed envelope with postage fully prepaid, addressed to the
2 defendant at his or her usual place of abode, or (3) as
3 provided in Section 1-2-9.2 of the Illinois Municipal Code with
4 respect to violation of an ordinance governing parking or
5 standing of vehicles in cities with a population over 500,000.
6 The certificate of the officer or affidavit of the person that
7 he or she has sent the copy in pursuance of this Section is
8 evidence that he or she has done so. No employee of a facility
9 licensed under the Nursing Home Care Act or the ID/DD ~~MR/DD~~
10 Community Care Act shall obstruct an officer or other person
11 making service in compliance with this Section.

12 (b) The officer, in his or her certificate or in a record
13 filed and maintained in the Sheriff's office, or other person
14 making service, in his or her affidavit or in a record filed
15 and maintained in his or her employer's office, shall (1)
16 identify as to sex, race, and approximate age the defendant or
17 other person with whom the summons was left and (2) state the
18 place where (whenever possible in terms of an exact street
19 address) and the date and time of the day when the summons was
20 left with the defendant or other person.

21 (c) Any person who knowingly sets forth in the certificate
22 or affidavit any false statement, shall be liable in civil
23 contempt. When the court holds a person in civil contempt under
24 this Section, it shall award such damages as it determines to
25 be just and, when the contempt is prosecuted by a private
26 attorney, may award reasonable attorney's fees.

1 (Source: P.A. 95-858, eff. 8-18-08; 96-339, eff. 7-1-10.)

2 (735 ILCS 5/8-201) (from Ch. 110, par. 8-201)

3 Sec. 8-201. Dead-Man's Act. In the trial of any action in
4 which any party sues or defends as the representative of a
5 deceased person or person under a legal disability, no adverse
6 party or person directly interested in the action shall be
7 allowed to testify on his or her own behalf to any conversation
8 with the deceased or person under legal disability or to any
9 event which took place in the presence of the deceased or
10 person under legal disability, except in the following
11 instances:

12 (a) If any person testifies on behalf of the representative
13 to any conversation with the deceased or person under legal
14 disability or to any event which took place in the presence of
15 the deceased or person under legal disability, any adverse
16 party or interested person, if otherwise competent, may testify
17 concerning the same conversation or event.

18 (b) If the deposition of the deceased or person under legal
19 disability is admitted in evidence on behalf of the
20 representative, any adverse party or interested person, if
21 otherwise competent, may testify concerning the same matters
22 admitted in evidence.

23 (c) Any testimony competent under Section 8-401 of this
24 Act, is not barred by this Section.

25 (d) No person shall be barred from testifying as to any

1 fact relating to the heirship of a decedent.

2 As used in this Section:

3 (a) "Person under legal disability" means any person who is
4 adjudged by the court in the pending civil action to be unable
5 to testify by reason of mental illness, an intellectual
6 disability, ~~mental retardation~~ or deterioration of mentality.

7 (b) "Representative" means an executor, administrator,
8 heir or legatee of a deceased person and any guardian or
9 trustee of any such heir or legatee, or a guardian or guardian
10 ad litem for a person under legal disability.

11 (c) "Person directly interested in the action" or
12 "interested person" does not include a person who is interested
13 solely as executor, trustee or in any other fiduciary capacity,
14 whether or not he or she receives or expects to receive
15 compensation for acting in that capacity.

16 (d) This Section applies to proceedings filed on or after
17 October 1, 1973.

18 (Source: P.A. 82-280.)

19 Section 155. The Predator Accountability Act is amended by
20 changing Section 10 as follows:

21 (740 ILCS 128/10)

22 Sec. 10. Definitions. As used in this Act:

23 "Sex trade" means any act, which if proven beyond a
24 reasonable doubt could support a conviction for a violation or

1 attempted violation of any of the following Sections of the
2 Criminal Code of 1961: 11-15 (soliciting for a prostitute);
3 11-15.1 (soliciting for a juvenile prostitute); 11-16
4 (pandering); 11-17 (keeping a place of prostitution); 11-17.1
5 (keeping a place of juvenile prostitution); 11-19 (pimping);
6 11-19.1 (juvenile pimping and aggravated juvenile pimping);
7 11-19.2 (exploitation of a child); 11-20 (obscenity); or
8 11-20.1 (child pornography); or Section 10-9 of the Criminal
9 Code of 1961 (trafficking of persons and involuntary
10 servitude).

11 "Sex trade" activity may involve adults and youth of all
12 genders and sexual orientations.

13 "Victim of the sex trade" means, for the following sex
14 trade acts, the person or persons indicated:

15 (1) soliciting for a prostitute: the prostitute who is
16 the object of the solicitation;

17 (2) soliciting for a juvenile prostitute: the juvenile
18 prostitute, or severely or profoundly intellectually
19 disabled ~~mentally retarded~~ person, who is the object of the
20 solicitation;

21 (3) pandering: the person intended or compelled to act
22 as a prostitute;

23 (4) keeping a place of prostitution: any person
24 intended or compelled to act as a prostitute, while present
25 at the place, during the time period in question;

26 (5) keeping a place of juvenile prostitution: any

1 juvenile intended or compelled to act as a prostitute,
2 while present at the place, during the time period in
3 question;

4 (6) pimping: the prostitute from whom anything of value
5 is received;

6 (7) juvenile pimping and aggravated juvenile pimping:
7 the juvenile, or severely or profoundly intellectually
8 disabled ~~mentally-retarded~~ person, from whom anything of
9 value is received for that person's act of prostitution;

10 (8) exploitation of a child: the juvenile, or severely
11 or profoundly intellectually disabled ~~mentally-retarded~~
12 person, intended or compelled to act as a prostitute or
13 from whom anything of value is received for that person's
14 act of prostitution;

15 (9) obscenity: any person who appears in or is
16 described or depicted in the offending conduct or material;

17 (10) child pornography: any child, or severely or
18 profoundly intellectually disabled ~~mentally-retarded~~
19 person, who appears in or is described or depicted in the
20 offending conduct or material; or

21 (11) trafficking of persons or involuntary servitude:
22 a "trafficking victim" as defined in Section 10-9 of the
23 Criminal Code of 1961.

24 (Source: P.A. 96-710, eff. 1-1-10.)

25 Section 160. The Sports Volunteer Immunity Act is amended

1 by changing Section 1 as follows:

2 (745 ILCS 80/1) (from Ch. 70, par. 701)

3 Sec. 1. Manager, coach, umpire or referee negligence
4 standard. (a) General rule. Except as provided otherwise in
5 this Section, no person who, without compensation and as a
6 volunteer, renders services as a manager, coach, instructor,
7 umpire or referee or who, without compensation and as a
8 volunteer, assists a manager, coach, instructor, umpire or
9 referee in a sports program of a nonprofit association, shall
10 be liable to any person for any civil damages as a result of
11 any acts or omissions in rendering such services or in
12 conducting or sponsoring such sports program, unless the
13 conduct of such person falls substantially below the standards
14 generally practiced and accepted in like circumstances by
15 similar persons rendering such services or conducting or
16 sponsoring such sports programs, and unless it is shown that
17 such person did an act or omitted the doing of an act which
18 such person was under a recognized duty to another to do,
19 knowing or having reason to know that such act or omission
20 created a substantial risk of actual harm to the person or
21 property of another. It shall be insufficient to impose
22 liability to establish only that the conduct of such person
23 fell below ordinary standards of care.

24 (b) Exceptions.

25 (1) Nothing in this Section shall be construed as affecting

1 or modifying the liability of such person or a nonprofit
2 association for any of the following:

3 (i) acts or omissions relating to the transportation of
4 participants in a sports program or others to or from a game,
5 event or practice.

6 (ii) acts or omissions relating to the care and maintenance
7 of real estate unrelated to the practice or playing areas which
8 such persons or nonprofit associations own, possess or control.

9 (2) Nothing in this Section shall be construed as affecting
10 or modifying any existing legal basis for determining the
11 liability, or any defense thereto, of any person not covered by
12 the standard of negligence established by this Section.

13 (c) Assumption of risk or comparative fault. Nothing in
14 this Section shall be construed as affecting or modifying the
15 doctrine of assumption of risk or comparative fault on the part
16 of the participant.

17 (d) Definitions. As used in this Act the following words
18 and phrases shall have the meanings given to them in this
19 subsection:

20 "Compensation" means any payment for services performed
21 but does not include reimbursement for reasonable expenses
22 actually incurred or to be incurred or, solely in the case of
23 umpires or referees, a modest honorarium.

24 "Nonprofit association" means an entity which is organized
25 as a not-for-profit corporation under the laws of this State or
26 the United States or a nonprofit unincorporated association or

1 any entity which is authorized to do business in this State as
2 a not-for-profit corporation under the laws of this State,
3 including, but not limited to, youth or athletic associations,
4 volunteer fire, ambulance, religious, charitable, fraternal,
5 veterans, civic, county fair or agricultural associations, or
6 any separately chartered auxiliary of the foregoing, if
7 organized and operated on a nonprofit basis.

8 "Sports program" means baseball (including softball),
9 football, basketball, soccer or any other competitive sport
10 formally recognized as a sport by the United States Olympic
11 Committee as specified by and under the jurisdiction of the
12 Amateur Sports Act of 1978 (36 U.S.C. 371 et seq.), the Amateur
13 Athletic Union or the National Collegiate Athletic
14 Association. The term shall be limited to a program or that
15 portion of a program that is organized for recreational
16 purposes and whose activities are substantially for such
17 purposes and which is primarily for participants who are 18
18 years of age or younger or whose 19th birthday occurs during
19 the year of participation or the competitive season, whichever
20 is longer. There shall, however, be no age limitation for
21 programs operated for the physically handicapped or
22 intellectually disabled ~~mentally retarded~~.

23 (e) Nothing in this Section is intended to bar any cause of
24 action against a nonprofit association or change the liability
25 of such an association which arises out of an act or omission
26 of any person exempt from liability under this Act.

1 (Source: P.A. 85-959.)

2 Section 165. The Adoption Act is amended by changing
3 Sections 1 and 12 as follows:

4 (750 ILCS 50/1) (from Ch. 40, par. 1501)

5 Sec. 1. Definitions. When used in this Act, unless the
6 context otherwise requires:

7 A. "Child" means a person under legal age subject to
8 adoption under this Act.

9 B. "Related child" means a child subject to adoption where
10 either or both of the adopting parents stands in any of the
11 following relationships to the child by blood or marriage:
12 parent, grand-parent, brother, sister, step-parent,
13 step-grandparent, step-brother, step-sister, uncle, aunt,
14 great-uncle, great-aunt, or cousin of first degree. A child
15 whose parent has executed a final irrevocable consent to
16 adoption or a final irrevocable surrender for purposes of
17 adoption, or whose parent has had his or her parental rights
18 terminated, is not a related child to that person, unless the
19 consent is determined to be void or is void pursuant to
20 subsection O of Section 10.

21 C. "Agency" for the purpose of this Act means a public
22 child welfare agency or a licensed child welfare agency.

23 D. "Unfit person" means any person whom the court shall
24 find to be unfit to have a child, without regard to the

1 likelihood that the child will be placed for adoption. The
2 grounds of unfitness are any one or more of the following,
3 except that a person shall not be considered an unfit person
4 for the sole reason that the person has relinquished a child in
5 accordance with the Abandoned Newborn Infant Protection Act:

6 (a) Abandonment of the child.

7 (a-1) Abandonment of a newborn infant in a hospital.

8 (a-2) Abandonment of a newborn infant in any setting
9 where the evidence suggests that the parent intended to
10 relinquish his or her parental rights.

11 (b) Failure to maintain a reasonable degree of
12 interest, concern or responsibility as to the child's
13 welfare.

14 (c) Desertion of the child for more than 3 months next
15 preceding the commencement of the Adoption proceeding.

16 (d) Substantial neglect of the child if continuous or
17 repeated.

18 (d-1) Substantial neglect, if continuous or repeated,
19 of any child residing in the household which resulted in
20 the death of that child.

21 (e) Extreme or repeated cruelty to the child.

22 (f) There is a rebuttable presumption, which can be
23 overcome only by clear and convincing evidence, that a
24 parent is unfit if:

25 (1) Two or more findings of physical abuse have
26 been entered regarding any children under Section 2-21

1 of the Juvenile Court Act of 1987, the most recent of
2 which was determined by the juvenile court hearing the
3 matter to be supported by clear and convincing
4 evidence; or

5 (2) The parent has been convicted or found not
6 guilty by reason of insanity and the conviction or
7 finding resulted from the death of any child by
8 physical abuse; or

9 (3) There is a finding of physical child abuse
10 resulting from the death of any child under Section
11 2-21 of the Juvenile Court Act of 1987.

12 No conviction or finding of delinquency pursuant
13 to Article 5 of the Juvenile Court Act of 1987 shall be
14 considered a criminal conviction for the purpose of
15 applying any presumption under this item (f).

16 (g) Failure to protect the child from conditions within
17 his environment injurious to the child's welfare.

18 (h) Other neglect of, or misconduct toward the child;
19 provided that in making a finding of unfitness the court
20 hearing the adoption proceeding shall not be bound by any
21 previous finding, order or judgment affecting or
22 determining the rights of the parents toward the child
23 sought to be adopted in any other proceeding except such
24 proceedings terminating parental rights as shall be had
25 under either this Act, the Juvenile Court Act or the
26 Juvenile Court Act of 1987.

1 (i) Depravity. Conviction of any one of the following
2 crimes shall create a presumption that a parent is deprived
3 which can be overcome only by clear and convincing
4 evidence: (1) first degree murder in violation of paragraph
5 1 or 2 of subsection (a) of Section 9-1 of the Criminal
6 Code of 1961 or conviction of second degree murder in
7 violation of subsection (a) of Section 9-2 of the Criminal
8 Code of 1961 of a parent of the child to be adopted; (2)
9 first degree murder or second degree murder of any child in
10 violation of the Criminal Code of 1961; (3) attempt or
11 conspiracy to commit first degree murder or second degree
12 murder of any child in violation of the Criminal Code of
13 1961; (4) solicitation to commit murder of any child,
14 solicitation to commit murder of any child for hire, or
15 solicitation to commit second degree murder of any child in
16 violation of the Criminal Code of 1961; (5) predatory
17 criminal sexual assault of a child in violation of Section
18 12-14.1 of the Criminal Code of 1961; (6) heinous battery
19 of any child in violation of the Criminal Code of 1961; or
20 (7) aggravated battery of any child in violation of the
21 Criminal Code of 1961.

22 There is a rebuttable presumption that a parent is
23 deprived if the parent has been criminally convicted of at
24 least 3 felonies under the laws of this State or any other
25 state, or under federal law, or the criminal laws of any
26 United States territory; and at least one of these

1 convictions took place within 5 years of the filing of the
2 petition or motion seeking termination of parental rights.

3 There is a rebuttable presumption that a parent is
4 deprived if that parent has been criminally convicted of
5 either first or second degree murder of any person as
6 defined in the Criminal Code of 1961 within 10 years of the
7 filing date of the petition or motion to terminate parental
8 rights.

9 No conviction or finding of delinquency pursuant to
10 Article 5 of the Juvenile Court Act of 1987 shall be
11 considered a criminal conviction for the purpose of
12 applying any presumption under this item (i).

13 (j) Open and notorious adultery or fornication.

14 (j-1) (Blank).

15 (k) Habitual drunkenness or addiction to drugs, other
16 than those prescribed by a physician, for at least one year
17 immediately prior to the commencement of the unfitness
18 proceeding.

19 There is a rebuttable presumption that a parent is
20 unfit under this subsection with respect to any child to
21 which that parent gives birth where there is a confirmed
22 test result that at birth the child's blood, urine, or
23 meconium contained any amount of a controlled substance as
24 defined in subsection (f) of Section 102 of the Illinois
25 Controlled Substances Act or metabolites of such
26 substances, the presence of which in the newborn infant was

1 not the result of medical treatment administered to the
2 mother or the newborn infant; and the biological mother of
3 this child is the biological mother of at least one other
4 child who was adjudicated a neglected minor under
5 subsection (c) of Section 2-3 of the Juvenile Court Act of
6 1987.

7 (l) Failure to demonstrate a reasonable degree of
8 interest, concern or responsibility as to the welfare of a
9 new born child during the first 30 days after its birth.

10 (m) Failure by a parent (i) to make reasonable efforts
11 to correct the conditions that were the basis for the
12 removal of the child from the parent, or (ii) to make
13 reasonable progress toward the return of the child to the
14 parent within 9 months after an adjudication of neglected
15 or abused minor under Section 2-3 of the Juvenile Court Act
16 of 1987 or dependent minor under Section 2-4 of that Act,
17 or (iii) to make reasonable progress toward the return of
18 the child to the parent during any 9-month period after the
19 end of the initial 9-month period following the
20 adjudication of neglected or abused minor under Section 2-3
21 of the Juvenile Court Act of 1987 or dependent minor under
22 Section 2-4 of that Act. If a service plan has been
23 established as required under Section 8.2 of the Abused and
24 Neglected Child Reporting Act to correct the conditions
25 that were the basis for the removal of the child from the
26 parent and if those services were available, then, for

1 purposes of this Act, "failure to make reasonable progress
2 toward the return of the child to the parent" includes (I)
3 the parent's failure to substantially fulfill his or her
4 obligations under the service plan and correct the
5 conditions that brought the child into care within 9 months
6 after the adjudication under Section 2-3 or 2-4 of the
7 Juvenile Court Act of 1987 and (II) the parent's failure to
8 substantially fulfill his or her obligations under the
9 service plan and correct the conditions that brought the
10 child into care during any 9-month period after the end of
11 the initial 9-month period following the adjudication
12 under Section 2-3 or 2-4 of the Juvenile Court Act of 1987.
13 Notwithstanding any other provision, when a petition or
14 motion seeks to terminate parental rights on the basis of
15 item (iii) of this subsection (m), the petitioner shall
16 file with the court and serve on the parties a pleading
17 that specifies the 9-month period or periods relied on. The
18 pleading shall be filed and served on the parties no later
19 than 3 weeks before the date set by the court for closure
20 of discovery, and the allegations in the pleading shall be
21 treated as incorporated into the petition or motion.
22 Failure of a respondent to file a written denial of the
23 allegations in the pleading shall not be treated as an
24 admission that the allegations are true.

25 (m-1) Pursuant to the Juvenile Court Act of 1987, a
26 child has been in foster care for 15 months out of any 22

1 month period which begins on or after the effective date of
2 this amendatory Act of 1998 unless the child's parent can
3 prove by a preponderance of the evidence that it is more
4 likely than not that it will be in the best interests of
5 the child to be returned to the parent within 6 months of
6 the date on which a petition for termination of parental
7 rights is filed under the Juvenile Court Act of 1987. The
8 15 month time limit is tolled during any period for which
9 there is a court finding that the appointed custodian or
10 guardian failed to make reasonable efforts to reunify the
11 child with his or her family, provided that (i) the finding
12 of no reasonable efforts is made within 60 days of the
13 period when reasonable efforts were not made or (ii) the
14 parent filed a motion requesting a finding of no reasonable
15 efforts within 60 days of the period when reasonable
16 efforts were not made. For purposes of this subdivision
17 (m-1), the date of entering foster care is the earlier of:
18 (i) the date of a judicial finding at an adjudicatory
19 hearing that the child is an abused, neglected, or
20 dependent minor; or (ii) 60 days after the date on which
21 the child is removed from his or her parent, guardian, or
22 legal custodian.

23 (n) Evidence of intent to forgo his or her parental
24 rights, whether or not the child is a ward of the court,
25 (1) as manifested by his or her failure for a period of 12
26 months: (i) to visit the child, (ii) to communicate with

1 the child or agency, although able to do so and not
2 prevented from doing so by an agency or by court order, or
3 (iii) to maintain contact with or plan for the future of
4 the child, although physically able to do so, or (2) as
5 manifested by the father's failure, where he and the mother
6 of the child were unmarried to each other at the time of
7 the child's birth, (i) to commence legal proceedings to
8 establish his paternity under the Illinois Parentage Act of
9 1984 or the law of the jurisdiction of the child's birth
10 within 30 days of being informed, pursuant to Section 12a
11 of this Act, that he is the father or the likely father of
12 the child or, after being so informed where the child is
13 not yet born, within 30 days of the child's birth, or (ii)
14 to make a good faith effort to pay a reasonable amount of
15 the expenses related to the birth of the child and to
16 provide a reasonable amount for the financial support of
17 the child, the court to consider in its determination all
18 relevant circumstances, including the financial condition
19 of both parents; provided that the ground for termination
20 provided in this subparagraph (n)(2)(ii) shall only be
21 available where the petition is brought by the mother or
22 the husband of the mother.

23 Contact or communication by a parent with his or her
24 child that does not demonstrate affection and concern does
25 not constitute reasonable contact and planning under
26 subdivision (n). In the absence of evidence to the

1 contrary, the ability to visit, communicate, maintain
2 contact, pay expenses and plan for the future shall be
3 presumed. The subjective intent of the parent, whether
4 expressed or otherwise, unsupported by evidence of the
5 foregoing parental acts manifesting that intent, shall not
6 preclude a determination that the parent has intended to
7 forgo his or her parental rights. In making this
8 determination, the court may consider but shall not require
9 a showing of diligent efforts by an authorized agency to
10 encourage the parent to perform the acts specified in
11 subdivision (n).

12 It shall be an affirmative defense to any allegation
13 under paragraph (2) of this subsection that the father's
14 failure was due to circumstances beyond his control or to
15 impediments created by the mother or any other person
16 having legal custody. Proof of that fact need only be by a
17 preponderance of the evidence.

18 (o) Repeated or continuous failure by the parents,
19 although physically and financially able, to provide the
20 child with adequate food, clothing, or shelter.

21 (p) Inability to discharge parental responsibilities
22 supported by competent evidence from a psychiatrist,
23 licensed clinical social worker, or clinical psychologist
24 of mental impairment, mental illness or an intellectual
25 disability ~~mental retardation~~ as defined in Section 1-116
26 of the Mental Health and Developmental Disabilities Code,

1 or developmental disability as defined in Section 1-106 of
2 that Code, and there is sufficient justification to believe
3 that the inability to discharge parental responsibilities
4 shall extend beyond a reasonable time period. However, this
5 subdivision (p) shall not be construed so as to permit a
6 licensed clinical social worker to conduct any medical
7 diagnosis to determine mental illness or mental
8 impairment.

9 (q) (Blank).

10 (r) The child is in the temporary custody or
11 guardianship of the Department of Children and Family
12 Services, the parent is incarcerated as a result of
13 criminal conviction at the time the petition or motion for
14 termination of parental rights is filed, prior to
15 incarceration the parent had little or no contact with the
16 child or provided little or no support for the child, and
17 the parent's incarceration will prevent the parent from
18 discharging his or her parental responsibilities for the
19 child for a period in excess of 2 years after the filing of
20 the petition or motion for termination of parental rights.

21 (s) The child is in the temporary custody or
22 guardianship of the Department of Children and Family
23 Services, the parent is incarcerated at the time the
24 petition or motion for termination of parental rights is
25 filed, the parent has been repeatedly incarcerated as a
26 result of criminal convictions, and the parent's repeated

1 incarceration has prevented the parent from discharging
2 his or her parental responsibilities for the child.

3 (t) A finding that at birth the child's blood, urine,
4 or meconium contained any amount of a controlled substance
5 as defined in subsection (f) of Section 102 of the Illinois
6 Controlled Substances Act, or a metabolite of a controlled
7 substance, with the exception of controlled substances or
8 metabolites of such substances, the presence of which in
9 the newborn infant was the result of medical treatment
10 administered to the mother or the newborn infant, and that
11 the biological mother of this child is the biological
12 mother of at least one other child who was adjudicated a
13 neglected minor under subsection (c) of Section 2-3 of the
14 Juvenile Court Act of 1987, after which the biological
15 mother had the opportunity to enroll in and participate in
16 a clinically appropriate substance abuse counseling,
17 treatment, and rehabilitation program.

18 E. "Parent" means the father or mother of a lawful child of
19 the parties or child born out of wedlock. For the purpose of
20 this Act, a person who has executed a final and irrevocable
21 consent to adoption or a final and irrevocable surrender for
22 purposes of adoption, or whose parental rights have been
23 terminated by a court, is not a parent of the child who was the
24 subject of the consent or surrender, unless the consent is void
25 pursuant to subsection O of Section 10.

26 F. A person is available for adoption when the person is:

1 (a) a child who has been surrendered for adoption to an
2 agency and to whose adoption the agency has thereafter
3 consented;

4 (b) a child to whose adoption a person authorized by
5 law, other than his parents, has consented, or to whose
6 adoption no consent is required pursuant to Section 8 of
7 this Act;

8 (c) a child who is in the custody of persons who intend
9 to adopt him through placement made by his parents;

10 (c-1) a child for whom a parent has signed a specific
11 consent pursuant to subsection O of Section 10;

12 (d) an adult who meets the conditions set forth in
13 Section 3 of this Act; or

14 (e) a child who has been relinquished as defined in
15 Section 10 of the Abandoned Newborn Infant Protection Act.

16 A person who would otherwise be available for adoption
17 shall not be deemed unavailable for adoption solely by reason
18 of his or her death.

19 G. The singular includes the plural and the plural includes
20 the singular and the "male" includes the "female", as the
21 context of this Act may require.

22 H. "Adoption disruption" occurs when an adoptive placement
23 does not prove successful and it becomes necessary for the
24 child to be removed from placement before the adoption is
25 finalized.

26 I. "Foreign placing agency" is an agency or individual

1 operating in a country or territory outside the United States
2 that is authorized by its country to place children for
3 adoption either directly with families in the United States or
4 through United States based international agencies.

5 J. "Immediate relatives" means the biological parents, the
6 parents of the biological parents and siblings of the
7 biological parents.

8 K. "Intercountry adoption" is a process by which a child
9 from a country other than the United States is adopted.

10 L. "Intercountry Adoption Coordinator" is a staff person of
11 the Department of Children and Family Services appointed by the
12 Director to coordinate the provision of services by the public
13 and private sector to prospective parents of foreign-born
14 children.

15 M. "Interstate Compact on the Placement of Children" is a
16 law enacted by most states for the purpose of establishing
17 uniform procedures for handling the interstate placement of
18 children in foster homes, adoptive homes, or other child care
19 facilities.

20 N. "Non-Compact state" means a state that has not enacted
21 the Interstate Compact on the Placement of Children.

22 O. "Preadoption requirements" are any conditions
23 established by the laws or regulations of the Federal
24 Government or of each state that must be met prior to the
25 placement of a child in an adoptive home.

26 P. "Abused child" means a child whose parent or immediate

1 family member, or any person responsible for the child's
2 welfare, or any individual residing in the same home as the
3 child, or a paramour of the child's parent:

4 (a) inflicts, causes to be inflicted, or allows to be
5 inflicted upon the child physical injury, by other than
6 accidental means, that causes death, disfigurement,
7 impairment of physical or emotional health, or loss or
8 impairment of any bodily function;

9 (b) creates a substantial risk of physical injury to
10 the child by other than accidental means which would be
11 likely to cause death, disfigurement, impairment of
12 physical or emotional health, or loss or impairment of any
13 bodily function;

14 (c) commits or allows to be committed any sex offense
15 against the child, as sex offenses are defined in the
16 Criminal Code of 1961 and extending those definitions of
17 sex offenses to include children under 18 years of age;

18 (d) commits or allows to be committed an act or acts of
19 torture upon the child; or

20 (e) inflicts excessive corporal punishment.

21 Q. "Neglected child" means any child whose parent or other
22 person responsible for the child's welfare withholds or denies
23 nourishment or medically indicated treatment including food or
24 care denied solely on the basis of the present or anticipated
25 mental or physical impairment as determined by a physician
26 acting alone or in consultation with other physicians or

1 otherwise does not provide the proper or necessary support,
2 education as required by law, or medical or other remedial care
3 recognized under State law as necessary for a child's
4 well-being, or other care necessary for his or her well-being,
5 including adequate food, clothing and shelter; or who is
6 abandoned by his or her parents or other person responsible for
7 the child's welfare.

8 A child shall not be considered neglected or abused for the
9 sole reason that the child's parent or other person responsible
10 for his or her welfare depends upon spiritual means through
11 prayer alone for the treatment or cure of disease or remedial
12 care as provided under Section 4 of the Abused and Neglected
13 Child Reporting Act. A child shall not be considered neglected
14 or abused for the sole reason that the child's parent or other
15 person responsible for the child's welfare failed to vaccinate,
16 delayed vaccination, or refused vaccination for the child due
17 to a waiver on religious or medical grounds as permitted by
18 law.

19 R. "Putative father" means a man who may be a child's
20 father, but who (1) is not married to the child's mother on or
21 before the date that the child was or is to be born and (2) has
22 not established paternity of the child in a court proceeding
23 before the filing of a petition for the adoption of the child.
24 The term includes a male who is less than 18 years of age.
25 "Putative father" does not mean a man who is the child's father
26 as a result of criminal sexual abuse or assault as defined

1 under Article 12 of the Criminal Code of 1961.

2 S. "Standby adoption" means an adoption in which a parent
3 consents to custody and termination of parental rights to
4 become effective upon the occurrence of a future event, which
5 is either the death of the parent or the request of the parent
6 for the entry of a final judgment of adoption.

7 T. (Blank).

8 (Source: P.A. 93-732, eff. 1-1-05; 94-229, eff. 1-1-06; 94-563,
9 eff. 1-1-06; 94-939, eff. 1-1-07.)

10 (750 ILCS 50/12) (from Ch. 40, par. 1514)

11 Sec. 12. Consent of child or adult. If, upon the date of
12 the entry of the judgment the person sought to be adopted is of
13 the age of 14 years or upwards, the adoption shall not be made
14 without the consent of such person. Such consent shall be in
15 writing and shall be acknowledged by such person as provided in
16 Section 10 of this Act, provided, that if such person is in
17 need of mental treatment or is intellectually disabled ~~mentally~~
18 ~~retarded~~, the court may waive the provisions of this Section.
19 No consent shall be required under this Section if the person
20 sought to be adopted has died before giving such consent.

21 (Source: P.A. 85-517.)

22 Section 170. The Probate Act of 1975 is amended by changing
23 Section 11a-1 as follows:

1 (755 ILCS 5/11a-1) (from Ch. 110 1/2, par. 11a-1)

2 Sec. 11a-1. Developmental disability defined.)
3 "Developmental disability" means a disability which is
4 attributable to: (a) an intellectual disability ~~mental~~
5 ~~retardation~~, cerebral palsy, epilepsy or autism; or to (b) any
6 other condition which results in impairment similar to that
7 caused by an intellectual disability ~~mental retardation~~ and
8 which requires services similar to those required by
9 intellectually disabled ~~mentally retarded~~ persons. Such
10 disability must originate before the age of 18 years, be
11 expected to continue indefinitely, and constitute a
12 substantial handicap.

13 (Source: P.A. 80-1415.)

14 Section 175. The Health Care Surrogate Act is amended by
15 changing Section 20 as follows:

16 (755 ILCS 40/20) (from Ch. 110 1/2, par. 851-20)

17 Sec. 20. Private decision making process. (a)
18 Decisions whether to forgo life-sustaining or any other form of
19 medical treatment involving an adult patient with decisional
20 capacity may be made by that adult patient.

21 (b) Decisions whether to forgo life-sustaining treatment
22 on behalf of a patient without decisional capacity are lawful,
23 without resort to the courts or legal process, if the patient
24 has a qualifying condition and if the decisions are made in

1 accordance with one of the following paragraphs in this
2 subsection and otherwise meet the requirements of this Act:

3 (1) Decisions whether to forgo life-sustaining
4 treatment on behalf of a minor or an adult patient who
5 lacks decisional capacity may be made by a surrogate
6 decision maker or makers in consultation with the attending
7 physician, in the order or priority provided in Section 25.
8 A surrogate decision maker shall make decisions for the
9 adult patient conforming as closely as possible to what the
10 patient would have done or intended under the
11 circumstances, taking into account evidence that includes,
12 but is not limited to, the patient's personal,
13 philosophical, religious and moral beliefs and ethical
14 values relative to the purpose of life, sickness, medical
15 procedures, suffering, and death. Where possible, the
16 surrogate shall determine how the patient would have
17 weighed the burdens and benefits of initiating or
18 continuing life-sustaining treatment against the burdens
19 and benefits of that treatment. In the event an unrevoked
20 advance directive, such as a living will, a declaration for
21 mental health treatment, or a power of attorney for health
22 care, is no longer valid due to a technical deficiency or
23 is not applicable to the patient's condition, that document
24 may be used as evidence of a patient's wishes. The absence
25 of a living will, declaration for mental health treatment,
26 or power of attorney for health care shall not give rise to

1 any presumption as to the patient's preferences regarding
2 the initiation or continuation of life-sustaining
3 procedures. If the adult patient's wishes are unknown and
4 remain unknown after reasonable efforts to discern them or
5 if the patient is a minor, the decision shall be made on
6 the basis of the patient's best interests as determined by
7 the surrogate decision maker. In determining the patient's
8 best interests, the surrogate shall weigh the burdens on
9 and benefits to the patient of initiating or continuing
10 life-sustaining treatment against the burdens and benefits
11 of that treatment and shall take into account any other
12 information, including the views of family and friends,
13 that the surrogate decision maker believes the patient
14 would have considered if able to act for herself or
15 himself.

16 (2) Decisions whether to forgo life-sustaining
17 treatment on behalf of a minor or an adult patient who
18 lacks decisional capacity, but without any surrogate
19 decision maker or guardian being available determined
20 after reasonable inquiry by the health care provider, may
21 be made by a court appointed guardian. A court appointed
22 guardian shall be treated as a surrogate for the purposes
23 of this Act.

24 (b-5) Decisions concerning medical treatment on behalf of a
25 patient without decisional capacity are lawful, without resort
26 to the courts or legal process, if the patient does not have a

1 qualifying condition and if decisions are made in accordance
2 with one of the following paragraphs in this subsection and
3 otherwise meet the requirements of this Act:

4 (1) Decisions concerning medical treatment on behalf
5 of a minor or adult patient who lacks decisional capacity
6 may be made by a surrogate decision maker or makers in
7 consultation with the attending physician, in the order of
8 priority provided in Section 25 with the exception that
9 decisions to forgo life-sustaining treatment may be made
10 only when a patient has a qualifying condition. A surrogate
11 decision maker shall make decisions for the patient
12 conforming as closely as possible to what the patient would
13 have done or intended under the circumstances, taking into
14 account evidence that includes, but is not limited to, the
15 patient's personal, philosophical, religious, and moral
16 beliefs and ethical values relative to the purpose of life,
17 sickness, medical procedures, suffering, and death. In the
18 event an unrevoked advance directive, such as a living
19 will, a declaration for mental health treatment, or a power
20 of attorney for health care, is no longer valid due to a
21 technical deficiency or is not applicable to the patient's
22 condition, that document may be used as evidence of a
23 patient's wishes. The absence of a living will, declaration
24 for mental health treatment, or power of attorney for
25 health care shall not give rise to any presumption as to
26 the patient's preferences regarding any process. If the

1 adult patient's wishes are unknown and remain unknown after
2 reasonable efforts to discern them or if the patient is a
3 minor, the decision shall be made on the basis of the
4 patient's best interests as determined by the surrogate
5 decision maker. In determining the patient's best
6 interests, the surrogate shall weigh the burdens on and
7 benefits to the patient of the treatment against the
8 burdens and benefits of that treatment and shall take into
9 account any other information, including the views of
10 family and friends, that the surrogate decision maker
11 believes the patient would have considered if able to act
12 for herself or himself.

13 (2) Decisions concerning medical treatment on behalf
14 of a minor or adult patient who lacks decisional capacity,
15 but without any surrogate decision maker or guardian being
16 available as determined after reasonable inquiry by the
17 health care provider, may be made by a court appointed
18 guardian. A court appointed guardian shall be treated as a
19 surrogate for the purposes of this Act.

20 (c) For the purposes of this Act, a patient or surrogate
21 decision maker is presumed to have decisional capacity in the
22 absence of actual notice to the contrary without regard to
23 advanced age. With respect to a patient, a diagnosis of mental
24 illness or an intellectual disability ~~mental retardation~~, of
25 itself, is not a bar to a determination of decisional capacity.
26 A determination that an adult patient lacks decisional capacity

1 shall be made by the attending physician to a reasonable degree
2 of medical certainty. The determination shall be in writing in
3 the patient's medical record and shall set forth the attending
4 physician's opinion regarding the cause, nature, and duration
5 of the patient's lack of decisional capacity. Before
6 implementation of a decision by a surrogate decision maker to
7 forgo life-sustaining treatment, at least one other qualified
8 physician must concur in the determination that an adult
9 patient lacks decisional capacity. The concurring
10 determination shall be made in writing in the patient's medical
11 record after personal examination of the patient. The attending
12 physician shall inform the patient that it has been determined
13 that the patient lacks decisional capacity and that a surrogate
14 decision maker will be making life-sustaining treatment
15 decisions on behalf of the patient. Moreover, the patient shall
16 be informed of the identity of the surrogate decision maker and
17 any decisions made by that surrogate. If the person identified
18 as the surrogate decision maker is not a court appointed
19 guardian and the patient objects to the statutory surrogate
20 decision maker or any decision made by that surrogate decision
21 maker, then the provisions of this Act shall not apply.

22 (d) A surrogate decision maker acting on behalf of the
23 patient shall express decisions to forgo life-sustaining
24 treatment to the attending physician and one adult witness who
25 is at least 18 years of age. This decision and the substance of
26 any known discussion before making the decision shall be

1 documented by the attending physician in the patient's medical
2 record and signed by the witness.

3 (e) The existence of a qualifying condition shall be
4 documented in writing in the patient's medical record by the
5 attending physician and shall include its cause and nature, if
6 known. The written concurrence of another qualified physician
7 is also required.

8 (f) Once the provisions of this Act are complied with, the
9 attending physician shall thereafter promptly implement the
10 decision to forgo life-sustaining treatment on behalf of the
11 patient unless he or she believes that the surrogate decision
12 maker is not acting in accordance with his or her
13 responsibilities under this Act, or is unable to do so for
14 reasons of conscience or other personal views or beliefs.

15 (g) In the event of a patient's death as determined by a
16 physician, all life-sustaining treatment and other medical
17 care is to be terminated, unless the patient is an organ donor,
18 in which case appropriate organ donation treatment may be
19 applied or continued temporarily.

20 (Source: P.A. 93-794, eff. 7-22-04.)

21 Section 177. The Consumer Fraud and Deceptive Business
22 Practices Act is amended by changing Section 2BBB as follows:

23 (815 ILCS 505/2BBB)

24 Sec. 2BBB. Long term care or ID/DD ~~MR/DD~~ facility; Consumer

1 Choice Information Report. A long term care facility that fails
2 to comply with Section 2-214 of the Nursing Home Care Act or a
3 facility that fails to comply with Section 2-214 of the ID/DD
4 ~~MR/DD~~ Community Care Act commits an unlawful practice within
5 the meaning of this Act.

6 (Source: P.A. 95-823, eff. 1-1-09; 96-328, eff. 8-11-09;
7 96-339, eff. 7-1-10.)".