

1 AN ACT concerning criminal law.

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

4 Section 5. The Criminal Code of 2012 is amended by changing
5 Section 11-20.1 as follows:

6 (720 ILCS 5/11-20.1) (from Ch. 38, par. 11-20.1)

7 Sec. 11-20.1. Child pornography.

8 (a) A person commits child pornography who:

9 (1) films, videotapes, photographs, or otherwise
10 depicts or portrays by means of any similar visual medium
11 or reproduction or depicts by computer any child whom he or
12 she knows or reasonably should know to be under the age of
13 18 or any severely or profoundly intellectually disabled
14 person where such child or severely or profoundly
15 intellectually disabled person is:

16 (i) actually or by simulation engaged in any act of
17 sexual penetration or sexual conduct with any person or
18 animal; or

19 (ii) actually or by simulation engaged in any act
20 of sexual penetration or sexual conduct involving the
21 sex organs of the child or severely or profoundly
22 intellectually disabled person and the mouth, anus, or
23 sex organs of another person or animal; or which

1 involves the mouth, anus or sex organs of the child or
2 severely or profoundly intellectually disabled person
3 and the sex organs of another person or animal; or

4 (iii) actually or by simulation engaged in any act
5 of masturbation; or

6 (iv) actually or by simulation portrayed as being
7 the object of, or otherwise engaged in, any act of lewd
8 fondling, touching, or caressing involving another
9 person or animal; or

10 (v) actually or by simulation engaged in any act of
11 excretion or urination within a sexual context; or

12 (vi) actually or by simulation portrayed or
13 depicted as bound, fettered, or subject to sadistic,
14 masochistic, or sadomasochistic abuse in any sexual
15 context; or

16 (vii) depicted or portrayed in any pose, posture or
17 setting involving a lewd exhibition of the unclothed or
18 transparently clothed genitals, pubic area, buttocks,
19 or, if such person is female, a fully or partially
20 developed breast of the child or other person; or

21 (2) with the knowledge of the nature or content
22 thereof, reproduces, disseminates, offers to disseminate,
23 exhibits or possesses with intent to disseminate any film,
24 videotape, photograph or other similar visual reproduction
25 or depiction by computer of any child or severely or
26 profoundly intellectually disabled person whom the person

1 knows or reasonably should know to be under the age of 18
2 or to be a severely or profoundly intellectually disabled
3 person, engaged in any activity described in subparagraphs
4 (i) through (vii) of paragraph (1) of this subsection; or

5 (3) with knowledge of the subject matter or theme
6 thereof, produces any stage play, live performance, film,
7 videotape or other similar visual portrayal or depiction by
8 computer which includes a child whom the person knows or
9 reasonably should know to be under the age of 18 or a
10 severely or profoundly intellectually disabled person
11 engaged in any activity described in subparagraphs (i)
12 through (vii) of paragraph (1) of this subsection; or

13 (4) solicits, uses, persuades, induces, entices, or
14 coerces any child whom he or she knows or reasonably should
15 know to be under the age of 18 or a severely or profoundly
16 intellectually disabled person to appear in any stage play,
17 live presentation, film, videotape, photograph or other
18 similar visual reproduction or depiction by computer in
19 which the child or severely or profoundly intellectually
20 disabled person is or will be depicted, actually or by
21 simulation, in any act, pose or setting described in
22 subparagraphs (i) through (vii) of paragraph (1) of this
23 subsection; or

24 (5) is a parent, step-parent, legal guardian or other
25 person having care or custody of a child whom the person
26 knows or reasonably should know to be under the age of 18

1 or a severely or profoundly intellectually disabled person
2 and who knowingly permits, induces, promotes, or arranges
3 for such child or severely or profoundly intellectually
4 disabled person to appear in any stage play, live
5 performance, film, videotape, photograph or other similar
6 visual presentation, portrayal or simulation or depiction
7 by computer of any act or activity described in
8 subparagraphs (i) through (vii) of paragraph (1) of this
9 subsection; or

10 (6) with knowledge of the nature or content thereof,
11 possesses any film, videotape, photograph or other similar
12 visual reproduction or depiction by computer of any child
13 or severely or profoundly intellectually disabled person
14 whom the person knows or reasonably should know to be under
15 the age of 18 or to be a severely or profoundly
16 intellectually disabled person, engaged in any activity
17 described in subparagraphs (i) through (vii) of paragraph
18 (1) of this subsection; or

19 (7) solicits, or knowingly uses, persuades, induces,
20 entices, or coerces, a person to provide a child under the
21 age of 18 or a severely or profoundly intellectually
22 disabled person to appear in any videotape, photograph,
23 film, stage play, live presentation, or other similar
24 visual reproduction or depiction by computer in which the
25 child or severely or profoundly intellectually disabled
26 person will be depicted, actually or by simulation, in any

1 act, pose, or setting described in subparagraphs (i)
2 through (vii) of paragraph (1) of this subsection.

3 (a-5) The possession of each individual film, videotape,
4 photograph, or other similar visual reproduction or depiction
5 by computer in violation of this Section constitutes a single
6 and separate violation. This subsection (a-5) does not apply to
7 multiple copies of the same film, videotape, photograph, or
8 other similar visual reproduction or depiction by computer that
9 are identical to each other.

10 (b) (1) It shall be an affirmative defense to a charge of
11 child pornography that the defendant reasonably believed,
12 under all of the circumstances, that the child was 18 years
13 of age or older or that the person was not a severely or
14 profoundly intellectually disabled person but only where,
15 prior to the act or acts giving rise to a prosecution under
16 this Section, he or she took some affirmative action or
17 made a bonafide inquiry designed to ascertain whether the
18 child was 18 years of age or older or that the person was
19 not a severely or profoundly intellectually disabled
20 person and his or her reliance upon the information so
21 obtained was clearly reasonable.

22 (1.5) Telecommunications carriers, commercial mobile
23 service providers, and providers of information services,
24 including, but not limited to, Internet service providers
25 and hosting service providers, are not liable under this
26 Section by virtue of the transmission, storage, or caching

1 of electronic communications or messages of others or by
2 virtue of the provision of other related
3 telecommunications, commercial mobile services, or
4 information services used by others in violation of this
5 Section.

6 (2) (Blank).

7 (3) The charge of child pornography shall not apply to
8 the performance of official duties by law enforcement or
9 prosecuting officers or persons employed by law
10 enforcement or prosecuting agencies, court personnel or
11 attorneys, nor to bonafide treatment or professional
12 education programs conducted by licensed physicians,
13 psychologists or social workers.

14 (4) If the defendant possessed more than one of the
15 same film, videotape or visual reproduction or depiction by
16 computer in which child pornography is depicted, then the
17 trier of fact may infer that the defendant possessed such
18 materials with the intent to disseminate them.

19 (5) The charge of child pornography does not apply to a
20 person who does not voluntarily possess a film, videotape,
21 or visual reproduction or depiction by computer in which
22 child pornography is depicted. Possession is voluntary if
23 the defendant knowingly procures or receives a film,
24 videotape, or visual reproduction or depiction for a
25 sufficient time to be able to terminate his or her
26 possession.

1 (6) Any violation of paragraph (1), (2), (3), (4), (5),
2 or (7) of subsection (a) that includes a child engaged in,
3 solicited for, depicted in, or posed in any act of sexual
4 penetration or bound, fettered, or subject to sadistic,
5 masochistic, or sadomasochistic abuse in a sexual context
6 shall be deemed a crime of violence.

7 (c) If the violation does not involve a film, videotape, or
8 other moving depiction, a violation of paragraph (1), (4), (5),
9 or (7) of subsection (a) is a Class 1 felony with a mandatory
10 minimum fine of \$2,000 and a maximum fine of \$100,000. If the
11 violation involves a film, videotape, or other moving
12 depiction, a violation of paragraph (1), (4), (5), or (7) of
13 subsection (a) is a Class X felony with a mandatory minimum
14 fine of \$2,000 and a maximum fine of \$100,000. If the violation
15 does not involve a film, videotape, or other moving depiction,
16 a violation of paragraph (3) of subsection (a) is a Class 1
17 felony with a mandatory minimum fine of \$1500 and a maximum
18 fine of \$100,000. If the violation involves a film, videotape,
19 or other moving depiction, a violation of paragraph (3) of
20 subsection (a) is a Class X felony with a mandatory minimum
21 fine of \$1500 and a maximum fine of \$100,000. If the violation
22 does not involve a film, videotape, or other moving depiction,
23 a violation of paragraph (2) of subsection (a) is a Class 1
24 felony with a mandatory minimum fine of \$1000 and a maximum
25 fine of \$100,000. If the violation involves a film, videotape,
26 or other moving depiction, a violation of paragraph (2) of

1 subsection (a) is a Class X felony with a mandatory minimum
2 fine of \$1000 and a maximum fine of \$100,000. If the violation
3 does not involve a film, videotape, or other moving depiction,
4 a violation of paragraph (6) of subsection (a) is a Class 3
5 felony with a mandatory minimum fine of \$1000 and a maximum
6 fine of \$100,000. If the violation involves a film, videotape,
7 or other moving depiction, a violation of paragraph (6) of
8 subsection (a) is a Class 2 felony with a mandatory minimum
9 fine of \$1000 and a maximum fine of \$100,000.

10 (c-5) Where the child depicted is under the age of 13, a
11 violation of paragraph (1), (2), (3), (4), (5), or (7) of
12 subsection (a) is a Class X felony with a mandatory minimum
13 fine of \$2,000 and a maximum fine of \$100,000. Where the child
14 depicted is under the age of 13, a violation of paragraph (6)
15 of subsection (a) is a Class 2 felony with a mandatory minimum
16 fine of \$1,000 and a maximum fine of \$100,000. Where the child
17 depicted is under the age of 13, a person who commits a
18 violation of paragraph (1), (2), (3), (4), (5), or (7) of
19 subsection (a) where the defendant has previously been
20 convicted under the laws of this State or any other state of
21 the offense of child pornography, aggravated child
22 pornography, aggravated criminal sexual abuse, aggravated
23 criminal sexual assault, predatory criminal sexual assault of a
24 child, or any of the offenses formerly known as rape, deviate
25 sexual assault, indecent liberties with a child, or aggravated
26 indecent liberties with a child where the victim was under the

1 age of 18 years or an offense that is substantially equivalent
2 to those offenses, is guilty of a Class X felony for which the
3 person shall be sentenced to a term of imprisonment of not less
4 than 9 years with a mandatory minimum fine of \$2,000 and a
5 maximum fine of \$100,000. Where the child depicted is under the
6 age of 13, a person who commits a violation of paragraph (6) of
7 subsection (a) where the defendant has previously been
8 convicted under the laws of this State or any other state of
9 the offense of child pornography, aggravated child
10 pornography, aggravated criminal sexual abuse, aggravated
11 criminal sexual assault, predatory criminal sexual assault of a
12 child, or any of the offenses formerly known as rape, deviate
13 sexual assault, indecent liberties with a child, or aggravated
14 indecent liberties with a child where the victim was under the
15 age of 18 years or an offense that is substantially equivalent
16 to those offenses, is guilty of a Class 1 felony with a
17 mandatory minimum fine of \$1,000 and a maximum fine of
18 \$100,000. The issue of whether the child depicted is under the
19 age of 13 is an element of the offense to be resolved by the
20 trier of fact.

21 (d) If a person is convicted of a second or subsequent
22 violation of this Section within 10 years of a prior
23 conviction, the court shall order a presentence psychiatric
24 examination of the person. The examiner shall report to the
25 court whether treatment of the person is necessary.

26 (e) Any film, videotape, photograph or other similar visual

1 reproduction or depiction by computer which includes a child
2 under the age of 18 or a severely or profoundly intellectually
3 disabled person engaged in any activity described in
4 subparagraphs (i) through (vii) or paragraph 1 of subsection
5 (a), and any material or equipment used or intended for use in
6 photographing, filming, printing, producing, reproducing,
7 manufacturing, projecting, exhibiting, depiction by computer,
8 or disseminating such material shall be seized and forfeited in
9 the manner, method and procedure provided by Section 36-1 of
10 this Code for the seizure and forfeiture of vessels, vehicles
11 and aircraft.

12 In addition, any person convicted under this Section is
13 subject to the property forfeiture provisions set forth in
14 Article 124B of the Code of Criminal Procedure of 1963.

15 (e-5) Upon the conclusion of a case brought under this
16 Section, the court shall seal all evidence depicting a victim
17 or witness that is sexually explicit. The evidence may be
18 unsealed and viewed, on a motion of the party seeking to unseal
19 and view the evidence, only for good cause shown and in the
20 discretion of the court. The motion must expressly set forth
21 the purpose for viewing the material. The State's attorney and
22 the victim, if possible, shall be provided reasonable notice of
23 the hearing on the motion to unseal the evidence. Any person
24 entitled to notice of a hearing under this subsection (e-5) may
25 object to the motion.

26 (f) Definitions. For the purposes of this Section:

1 (1) "Disseminate" means (i) to sell, distribute,
2 exchange or transfer possession, whether with or without
3 consideration or (ii) to make a depiction by computer
4 available for distribution or downloading through the
5 facilities of any telecommunications network or through
6 any other means of transferring computer programs or data
7 to a computer.

8 (2) "Produce" means to direct, promote, advertise,
9 publish, manufacture, issue, present or show.

10 (3) "Reproduce" means to make a duplication or copy.

11 (4) "Depict by computer" means to generate or create,
12 or cause to be created or generated, 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 (5) "Depiction by computer" means a computer program or
18 data that, after being processed by a computer either alone
19 or in conjunction with one or more computer programs,
20 results in a visual depiction on a computer monitor,
21 screen, or display.

22 (6) "Computer", "computer program", and "data" have
23 the meanings ascribed to them in Section 16D-2 of this
24 Code.

25 (7) For the purposes of this Section, "child
26 pornography" includes a film, videotape, photograph, or

1 other similar visual medium or reproduction or depiction by
2 computer that is, or appears to be, that of a person,
3 either in part, or in total, under the age of 18 or a
4 severely or profoundly intellectually disabled person,
5 regardless of the method by which the film, videotape,
6 photograph, or other similar visual medium or reproduction
7 or depiction by computer is created, adopted, or modified
8 to appear as such. "Child pornography" also includes a
9 film, videotape, photograph, or other similar visual
10 medium or reproduction or depiction by computer that is
11 advertised, promoted, presented, described, or distributed
12 in such a manner that conveys the impression that the film,
13 videotape, photograph, or other similar visual medium or
14 reproduction or depiction by computer is of a person under
15 the age of 18 or a severely or profoundly intellectually
16 disabled person.

17 (g) Re-enactment; findings; purposes.

18 (1) The General Assembly finds and declares that:

19 (i) Section 50-5 of Public Act 88-680, effective
20 January 1, 1995, contained provisions amending the
21 child pornography statute, Section 11-20.1 of the
22 Criminal Code of 1961. Section 50-5 also contained
23 other provisions.

24 (ii) In addition, Public Act 88-680 was entitled
25 "AN ACT to create a Safe Neighborhoods Law". (A)
26 Article 5 was entitled JUVENILE JUSTICE and amended the

1 Juvenile Court Act of 1987. (B) Article 15 was entitled
2 GANGS and amended various provisions of the Criminal
3 Code of 1961 and the Unified Code of Corrections. (C)
4 Article 20 was entitled ALCOHOL ABUSE and amended
5 various provisions of the Illinois Vehicle Code. (D)
6 Article 25 was entitled DRUG ABUSE and amended the
7 Cannabis Control Act and the Illinois Controlled
8 Substances Act. (E) Article 30 was entitled FIREARMS
9 and amended the Criminal Code of 1961 and the Code of
10 Criminal Procedure of 1963. (F) Article 35 amended the
11 Criminal Code of 1961, the Rights of Crime Victims and
12 Witnesses Act, and the Unified Code of Corrections. (G)
13 Article 40 amended the Criminal Code of 1961 to
14 increase the penalty for compelling organization
15 membership of persons. (H) Article 45 created the
16 Secure Residential Youth Care Facility Licensing Act
17 and amended the State Finance Act, the Juvenile Court
18 Act of 1987, the Unified Code of Corrections, and the
19 Private Correctional Facility Moratorium Act. (I)
20 Article 50 amended the WIC Vendor Management Act, the
21 Firearm Owners Identification Card Act, the Juvenile
22 Court Act of 1987, the Criminal Code of 1961, the
23 Wrongs to Children Act, and the Unified Code of
24 Corrections.

25 (iii) On September 22, 1998, the Third District
26 Appellate Court in *People v. Dainty*, 701 N.E. 2d 118,

1 ruled that Public Act 88-680 violates the single
2 subject clause of the Illinois Constitution (Article
3 IV, Section 8 (d)) and was unconstitutional in its
4 entirety. As of the time this amendatory Act of 1999
5 was prepared, People v. Dainty was still subject to
6 appeal.

7 (iv) Child pornography is a vital concern to the
8 people of this State and the validity of future
9 prosecutions under the child pornography statute of
10 the Criminal Code of 1961 is in grave doubt.

11 (2) It is the purpose of this amendatory Act of 1999 to
12 prevent or minimize any problems relating to prosecutions
13 for child pornography that may result from challenges to
14 the constitutional validity of Public Act 88-680 by
15 re-enacting the Section relating to child pornography that
16 was included in Public Act 88-680.

17 (3) This amendatory Act of 1999 re-enacts Section
18 11-20.1 of the Criminal Code of 1961, as it has been
19 amended. This re-enactment is intended to remove any
20 question as to the validity or content of that Section; it
21 is not intended to supersede any other Public Act that
22 amends the text of the Section as set forth in this
23 amendatory Act of 1999. The material is shown as existing
24 text (i.e., without underscoring) because, as of the time
25 this amendatory Act of 1999 was prepared, People v. Dainty
26 was subject to appeal to the Illinois Supreme Court.

1 (4) The re-enactment by this amendatory Act of 1999 of
2 Section 11-20.1 of the Criminal Code of 1961 relating to
3 child pornography that was amended by Public Act 88-680 is
4 not intended, and shall not be construed, to imply that
5 Public Act 88-680 is invalid or to limit or impair any
6 legal argument concerning whether those provisions were
7 substantially re-enacted by other Public Acts.

8 (Source: P.A. 96-292, eff. 1-1-10; 96-712, eff. 1-1-10;
9 96-1000, eff. 7-2-10; 96-1551, eff. 7-1-11; 97-157, eff.
10 1-1-12; 97-227, eff. 1-1-12; 97-995, eff. 1-1-13; 97-1109, eff.
11 1-1-13.)

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

14 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

15 Sec. 5-8-4. Concurrent and consecutive terms of
16 imprisonment.

17 (a) Concurrent terms; multiple or additional sentences.
18 When an Illinois court (i) imposes multiple sentences of
19 imprisonment on a defendant at the same time or (ii) imposes a
20 sentence of imprisonment on a defendant who is already subject
21 to a sentence of imprisonment imposed by an Illinois court, a
22 court of another state, or a federal court, then the sentences
23 shall run concurrently unless otherwise determined by the
24 Illinois court under this Section.

1 (b) Concurrent terms; misdemeanor and felony. A defendant
2 serving a sentence for a misdemeanor who is convicted of a
3 felony and sentenced to imprisonment shall be transferred to
4 the Department of Corrections, and the misdemeanor sentence
5 shall be merged in and run concurrently with the felony
6 sentence.

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

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

15 (2) If one of the offenses for which a defendant was
16 convicted was a violation of Section 32-5.2 (aggravated
17 false personation of a peace officer) of the Criminal Code
18 of 1961 (720 ILCS 5/32-5.2) or a violation of subdivision
19 (b) (5) or (b) (6) of Section 17-2 of the Criminal Code of
20 1961 or the Criminal Code of 2012 (720 ILCS 5/17-2) and the
21 offense was committed in attempting or committing a
22 forcible felony.

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

25 (1) One of the offenses for which the defendant was
26 convicted was first degree murder or a Class X or Class 1

1 felony and the defendant inflicted severe bodily injury.

2 (2) The defendant was convicted of a violation of
3 Section ~~11-20.1 (child pornography), 11-20.1B or 11-20.3~~
4 ~~(aggravated child pornography)~~, 11-1.20 or 12-13 (criminal
5 sexual assault), 11-1.30 or 12-14 (aggravated criminal
6 sexual assault), or 11-1.40 or 12-14.1 (predatory criminal
7 sexual assault of a child) of the Criminal Code of 1961 or
8 the Criminal Code of 2012 (720 ILCS 5/11-20.1, 5/11-20.1B,
9 5/11-20.3, 5/11-1.20, 5/12-13, 5/11-1.30, 5/12-14,
10 5/11-1.40, or 5/12-14.1).

11 (2.5) The defendant was convicted of a violation of
12 paragraph (1), (2), (3), (4), (5), or (7) of subsection (a)
13 of Section 11-20.1 (child pornography) or of paragraph (1),
14 (2), (3), (4), (5), or (7) of subsection (a) of Section
15 11-20.1B or 11-20.3 (aggravated child pornography) of the
16 Criminal Code of 1961 or the Criminal Code of 2012; or the
17 defendant was convicted of a violation of paragraph (6) of
18 subsection (a) of Section 11-20.1 (child pornography) or of
19 paragraph (6) of subsection (a) of Section 11-20.1B or
20 11-20.3 (aggravated child pornography) of the Criminal
21 Code of 1961 or the Criminal Code of 2012, when the child
22 depicted is under the age of 13.

23 (3) The defendant was convicted of armed violence based
24 upon the predicate offense of any of the following:
25 solicitation of murder, solicitation of murder for hire,
26 heinous battery as described in Section 12-4.1 or

1 subdivision (a)(2) of Section 12-3.05, aggravated battery
2 of a senior citizen as described in Section 12-4.6 or
3 subdivision (a)(4) of Section 12-3.05, criminal sexual
4 assault, a violation of subsection (g) of Section 5 of the
5 Cannabis Control Act (720 ILCS 550/5), cannabis
6 trafficking, a violation of subsection (a) of Section 401
7 of the Illinois Controlled Substances Act (720 ILCS
8 570/401), controlled substance trafficking involving a
9 Class X felony amount of controlled substance under Section
10 401 of the Illinois Controlled Substances Act (720 ILCS
11 570/401), a violation of the Methamphetamine Control and
12 Community Protection Act (720 ILCS 646/), calculated
13 criminal drug conspiracy, or streetgang criminal drug
14 conspiracy.

15 (4) The defendant was convicted of the offense of
16 leaving the scene of a motor vehicle accident involving
17 death or personal injuries under Section 11-401 of the
18 Illinois Vehicle Code (625 ILCS 5/11-401) and either: (A)
19 aggravated driving under the influence of alcohol, other
20 drug or drugs, or intoxicating compound or compounds, or
21 any combination thereof under Section 11-501 of the
22 Illinois Vehicle Code (625 ILCS 5/11-501), (B) reckless
23 homicide under Section 9-3 of the Criminal Code of 1961 or
24 the Criminal Code of 2012 (720 ILCS 5/9-3), or (C) both an
25 offense described in item (A) and an offense described in
26 item (B).

1 (5) The defendant was convicted of a violation of
2 Section 9-3.1 or Section 9-3.4 (concealment of homicidal
3 death) or Section 12-20.5 (dismembering a human body) of
4 the Criminal Code of 1961 or the Criminal Code of 2012 (720
5 ILCS 5/9-3.1 or 5/12-20.5).

6 (5.5) The defendant was convicted of a violation of
7 Section 24-3.7 (use of a stolen firearm in the commission
8 of an offense) of the Criminal Code of 1961 or the Criminal
9 Code of 2012.

10 (6) If the defendant was in the custody of the
11 Department of Corrections at the time of the commission of
12 the offense, the sentence shall be served consecutive to
13 the sentence under which the defendant is held by the
14 Department of Corrections. If, however, the defendant is
15 sentenced to punishment by death, the sentence shall be
16 executed at such time as the court may fix without regard
17 to the sentence under which the defendant may be held by
18 the Department.

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

23 (8) If a person charged with a felony commits a
24 separate felony while on pretrial release or in pretrial
25 detention in a county jail facility or county detention
26 facility, then the sentences imposed upon conviction of

1 these felonies shall be served consecutively regardless of
2 the order in which the judgments of conviction are entered.

3 (8.5) If a person commits a battery against a county
4 correctional officer or sheriff's employee while serving a
5 sentence or in pretrial detention in a county jail
6 facility, then the sentence imposed upon conviction of the
7 battery shall be served consecutively with the sentence
8 imposed upon conviction of the earlier misdemeanor or
9 felony, regardless of the order in which the judgments of
10 conviction are entered.

11 (9) If a person admitted to bail following conviction
12 of a felony commits a separate felony while free on bond or
13 if a person detained in a county jail facility or county
14 detention facility following conviction of a felony
15 commits a separate felony while in detention, then any
16 sentence following conviction of the separate felony shall
17 be consecutive to that of the original sentence for which
18 the defendant was on bond or detained.

19 (10) If a person is found to be in possession of an
20 item of contraband, as defined in Section 31A-0.1 of the
21 Criminal Code of 2012, while serving a sentence in a county
22 jail or while in pre-trial detention in a county jail, the
23 sentence imposed upon conviction for the offense of
24 possessing contraband in a penal institution shall be
25 served consecutively to the sentence imposed for the
26 offense in which the person is serving sentence in the

1 county jail or serving pretrial detention, regardless of
2 the order in which the judgments of conviction are entered.

3 (11) If a person is sentenced for a violation of bail
4 bond under Section 32-10 of the Criminal Code of 1961 or
5 the Criminal Code of 2012, any sentence imposed for that
6 violation shall be served consecutive to the sentence
7 imposed for the charge for which bail had been granted and
8 with respect to which the defendant has been convicted.

9 (e) Consecutive terms; subsequent non-Illinois term. If an
10 Illinois court has imposed a sentence of imprisonment on a
11 defendant and the defendant is subsequently sentenced to a term
12 of imprisonment by a court of another state or a federal court,
13 then the Illinois sentence shall run consecutively to the
14 sentence imposed by the court of the other state or the federal
15 court. That same Illinois court, however, may order that the
16 Illinois sentence run concurrently with the sentence imposed by
17 the court of the other state or the federal court, but only if
18 the defendant applies to that same Illinois court within 30
19 days after the sentence imposed by the court of the other state
20 or the federal court is finalized.

21 (f) Consecutive terms; aggregate maximums and minimums.
22 The aggregate maximum and aggregate minimum of consecutive
23 sentences shall be determined as follows:

24 (1) For sentences imposed under law in effect prior to
25 February 1, 1978, the aggregate maximum of consecutive
26 sentences shall not exceed the maximum term authorized

1 under Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of
2 Chapter V for the 2 most serious felonies involved. The
3 aggregate minimum period of consecutive sentences shall
4 not exceed the highest minimum term authorized under
5 Section 5-8-1 (730 ILCS 5/5-8-1) or Article 4.5 of Chapter
6 V for the 2 most serious felonies involved. When sentenced
7 only for misdemeanors, a defendant shall not be
8 consecutively sentenced to more than the maximum for one
9 Class A misdemeanor.

10 (2) For sentences imposed under the law in effect on or
11 after February 1, 1978, the aggregate of consecutive
12 sentences for offenses that were committed as part of a
13 single course of conduct during which there was no
14 substantial change in the nature of the criminal objective
15 shall not exceed the sum of the maximum terms authorized
16 under Article 4.5 of Chapter V for the 2 most serious
17 felonies involved, but no such limitation shall apply for
18 offenses that were not committed as part of a single course
19 of conduct during which there was no substantial change in
20 the nature of the criminal objective. When sentenced only
21 for misdemeanors, a defendant shall not be consecutively
22 sentenced to more than the maximum for one Class A
23 misdemeanor.

24 (g) Consecutive terms; manner served. In determining the
25 manner in which consecutive sentences of imprisonment, one or
26 more of which is for a felony, will be served, the Department

1 of Corrections shall treat the defendant as though he or she
2 had been committed for a single term subject to each of the
3 following:

4 (1) The maximum period of a term of imprisonment shall
5 consist of the aggregate of the maximums of the imposed
6 indeterminate terms, if any, plus the aggregate of the
7 imposed determinate sentences for felonies, plus the
8 aggregate of the imposed determinate sentences for
9 misdemeanors, subject to subsection (f) of this Section.

10 (2) The parole or mandatory supervised release term
11 shall be as provided in paragraph (e) of Section 5-4.5-50
12 (730 ILCS 5/5-4.5-50) for the most serious of the offenses
13 involved.

14 (3) The minimum period of imprisonment shall be the
15 aggregate of the minimum and determinate periods of
16 imprisonment imposed by the court, subject to subsection
17 (f) of this Section.

18 (4) The defendant shall be awarded credit against the
19 aggregate maximum term and the aggregate minimum term of
20 imprisonment for all time served in an institution since
21 the commission of the offense or offenses and as a
22 consequence thereof at the rate specified in Section 3-6-3
23 (730 ILCS 5/3-6-3).

24 (Source: P.A. 96-190, eff. 1-1-10; 96-1000, eff. 7-2-10;
25 96-1200, eff. 7-22-10; 96-1551, Article 1, Section 970, eff.
26 7-1-11; 96-1551, Article 2, Section 1065, eff. 7-1-11; 96-1551,

1 Article 10, Section 10-150, eff. 7-1-11; 97-475, eff. 8-22-11;
2 97-1108, eff. 1-1-13; 97-1109, eff. 1-1-13; 97-1150, eff.
3 1-25-13.)