

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 Unified Code of Corrections is amended by
5 changing Sections 5-4-1 and 5-8-8 as follows:

6 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

7 Sec. 5-4-1. Sentencing Hearing.

8 (a) Except when the death penalty is sought under hearing
9 procedures otherwise specified, after a determination of
10 guilt, a hearing shall be held to impose the sentence. However,
11 prior to the imposition of sentence on an individual being
12 sentenced for an offense based upon a charge for a violation of
13 Section 11-501 of the Illinois Vehicle Code or a similar
14 provision of a local ordinance, the individual must undergo a
15 professional evaluation to determine if an alcohol or other
16 drug abuse problem exists and the extent of such a problem.
17 Programs conducting these evaluations shall be licensed by the
18 Department of Human Services. However, if the individual is not
19 a resident of Illinois, the court may, in its discretion,
20 accept an evaluation from a program in the state of such
21 individual's residence. The court may in its sentencing order
22 approve an eligible defendant for placement in a Department of
23 Corrections impact incarceration program as provided in

1 Section 5-8-1.1 or 5-8-1.3. The court may in its sentencing
2 order recommend a defendant for placement in a Department of
3 Corrections substance abuse treatment program as provided in
4 paragraph (a) of subsection (1) of Section 3-2-2 conditioned
5 upon the defendant being accepted in a program by the
6 Department of Corrections. At the hearing the court shall:

7 (1) consider the evidence, if any, received upon the
8 trial;

9 (2) consider any presentence reports;

10 (3) consider the financial impact of incarceration
11 based on the financial impact statement filed with the
12 clerk of the court by the Department of Corrections;

13 (4) consider evidence and information offered by the
14 parties in aggravation and mitigation;

15 (4.5) consider substance abuse treatment, eligibility
16 screening, and an assessment, if any, of the defendant by
17 an agent designated by the State of Illinois to provide
18 assessment services for the Illinois courts;

19 (5) hear arguments as to sentencing alternatives;

20 (6) afford the defendant the opportunity to make a
21 statement in his own behalf;

22 (7) afford the victim of a violent crime or a violation
23 of Section 11-501 of the Illinois Vehicle Code, or a
24 similar provision of a local ordinance, or a qualified
25 individual affected by: (i) a violation of Section 405,
26 405.1, 405.2, or 407 of the Illinois Controlled Substances

1 Act or a violation of Section 55 or Section 65 of the
2 Methamphetamine Control and Community Protection Act, or
3 (ii) a Class 4 felony violation of Section 11-14, 11-14.3
4 except as described in subdivisions (a)(2)(A) and
5 (a)(2)(B), 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the
6 Criminal Code of 1961 or the Criminal Code of 2012,
7 committed by the defendant the opportunity to make a
8 statement concerning the impact on the victim and to offer
9 evidence in aggravation or mitigation; provided that the
10 statement and evidence offered in aggravation or
11 mitigation must first be prepared in writing in conjunction
12 with the State's Attorney before it may be presented orally
13 at the hearing. Any sworn testimony offered by the victim
14 is subject to the defendant's right to cross-examine. All
15 statements and evidence offered under this paragraph (7)
16 shall become part of the record of the court. For the
17 purpose of this paragraph (7), "qualified individual"
18 means any person who (i) lived or worked within the
19 territorial jurisdiction where the offense took place when
20 the offense took place; and (ii) is familiar with various
21 public places within the territorial jurisdiction where
22 the offense took place when the offense took place. For the
23 purposes of this paragraph (7), "qualified individual"
24 includes any peace officer, or any member of any duly
25 organized State, county, or municipal peace unit assigned
26 to the territorial jurisdiction where the offense took

1 place when the offense took place;

2 (8) in cases of reckless homicide afford the victim's
3 spouse, guardians, parents or other immediate family
4 members an opportunity to make oral statements;

5 (9) in cases involving a felony sex offense as defined
6 under the Sex Offender Management Board Act, consider the
7 results of the sex offender evaluation conducted pursuant
8 to Section 5-3-2 of this Act; and

9 (10) make a finding of whether a motor vehicle was used
10 in the commission of the offense for which the defendant is
11 being sentenced.

12 (b) All sentences shall be imposed by the judge based upon
13 his independent assessment of the elements specified above and
14 any agreement as to sentence reached by the parties. The judge
15 who presided at the trial or the judge who accepted the plea of
16 guilty shall impose the sentence unless he is no longer sitting
17 as a judge in that court. Where the judge does not impose
18 sentence at the same time on all defendants who are convicted
19 as a result of being involved in the same offense, the
20 defendant or the State's Attorney may advise the sentencing
21 court of the disposition of any other defendants who have been
22 sentenced.

23 (b-1) In imposing a sentence of imprisonment or periodic
24 imprisonment for a Class 3 or Class 4 felony for which a
25 sentence of probation or conditional discharge is an available
26 sentence, if the defendant has no prior sentence of probation

1 or conditional discharge and no prior conviction for a violent
2 crime, the defendant shall not be sentenced to imprisonment
3 before review and consideration of a presentence report and
4 determination and explanation of why the particular evidence,
5 information, factor in aggravation, factual finding, or other
6 reasons support a sentencing determination that one or more of
7 the factors under subsection (a) of Section 5-6-1 of this Code
8 apply and that probation or conditional discharge is not an
9 appropriate sentence.

10 (c) In imposing a sentence for a violent crime or for an
11 offense of operating or being in physical control of a vehicle
12 while under the influence of alcohol, any other drug or any
13 combination thereof, or a similar provision of a local
14 ordinance, when such offense resulted in the personal injury to
15 someone other than the defendant, the trial judge shall specify
16 on the record the particular evidence, information, factors in
17 mitigation and aggravation or other reasons that led to his
18 sentencing determination. The full verbatim record of the
19 sentencing hearing shall be filed with the clerk of the court
20 and shall be a public record.

21 (c-1) In imposing a sentence for the offense of aggravated
22 kidnapping for ransom, home invasion, armed robbery,
23 aggravated vehicular hijacking, aggravated discharge of a
24 firearm, or armed violence with a category I weapon or category
25 II weapon, the trial judge shall make a finding as to whether
26 the conduct leading to conviction for the offense resulted in

1 great bodily harm to a victim, and shall enter that finding and
2 the basis for that finding in the record.

3 (c-2) If the defendant is sentenced to prison, other than
4 when a sentence of natural life imprisonment or a sentence of
5 death is imposed, at the time the sentence is imposed the judge
6 shall state on the record in open court the approximate period
7 of time the defendant will serve in custody according to the
8 then current statutory rules and regulations for sentence
9 credit found in Section 3-6-3 and other related provisions of
10 this Code. This statement is intended solely to inform the
11 public, has no legal effect on the defendant's actual release,
12 and may not be relied on by the defendant on appeal.

13 The judge's statement, to be given after pronouncing the
14 sentence, other than when the sentence is imposed for one of
15 the offenses enumerated in paragraph (a)(3) of Section 3-6-3,
16 shall include the following:

17 "The purpose of this statement is to inform the public of
18 the actual period of time this defendant is likely to spend in
19 prison as a result of this sentence. The actual period of
20 prison time served is determined by the statutes of Illinois as
21 applied to this sentence by the Illinois Department of
22 Corrections and the Illinois Prisoner Review Board. In this
23 case, assuming the defendant receives all of his or her
24 sentence credit, the period of estimated actual custody is ...
25 years and ... months, less up to 180 days additional sentence
26 credit for good conduct. If the defendant, because of his or

1 her own misconduct or failure to comply with the institutional
2 regulations, does not receive those credits, the actual time
3 served in prison will be longer. The defendant may also receive
4 an additional one-half day sentence credit for each day of
5 participation in vocational, industry, substance abuse, and
6 educational programs as provided for by Illinois statute."

7 When the sentence is imposed for one of the offenses
8 enumerated in paragraph (a)(3) of Section 3-6-3, other than
9 when the sentence is imposed for one of the offenses enumerated
10 in paragraph (a)(2) of Section 3-6-3 committed on or after June
11 19, 1998, and other than when the sentence is imposed for
12 reckless homicide as defined in subsection (e) of Section 9-3
13 of the Criminal Code of 1961 or the Criminal Code of 2012 if
14 the offense was committed on or after January 1, 1999, and
15 other than when the sentence is imposed for aggravated arson if
16 the offense was committed on or after July 27, 2001 (the
17 effective date of Public Act 92-176), and other than when the
18 sentence is imposed for aggravated driving under the influence
19 of alcohol, other drug or drugs, or intoxicating compound or
20 compounds, or any combination thereof as defined in
21 subparagraph (C) of paragraph (1) of subsection (d) of Section
22 11-501 of the Illinois Vehicle Code committed on or after
23 January 1, 2011 (the effective date of Public Act 96-1230), the
24 judge's statement, to be given after pronouncing the sentence,
25 shall include the following:

26 "The purpose of this statement is to inform the public of

1 the actual period of time this defendant is likely to spend in
2 prison as a result of this sentence. The actual period of
3 prison time served is determined by the statutes of Illinois as
4 applied to this sentence by the Illinois Department of
5 Corrections and the Illinois Prisoner Review Board. In this
6 case, assuming the defendant receives all of his or her
7 sentence credit, the period of estimated actual custody is ...
8 years and ... months, less up to 90 days additional sentence
9 credit for good conduct. If the defendant, because of his or
10 her own misconduct or failure to comply with the institutional
11 regulations, does not receive those credits, the actual time
12 served in prison will be longer. The defendant may also receive
13 an additional one-half day sentence credit for each day of
14 participation in vocational, industry, substance abuse, and
15 educational programs as provided for by Illinois statute."

16 When the sentence is imposed for one of the offenses
17 enumerated in paragraph (a)(2) of Section 3-6-3, other than
18 first degree murder, and the offense was committed on or after
19 June 19, 1998, and when the sentence is imposed for reckless
20 homicide as defined in subsection (e) of Section 9-3 of the
21 Criminal Code of 1961 or the Criminal Code of 2012 if the
22 offense was committed on or after January 1, 1999, and when the
23 sentence is imposed for aggravated driving under the influence
24 of alcohol, other drug or drugs, or intoxicating compound or
25 compounds, or any combination thereof as defined in
26 subparagraph (F) of paragraph (1) of subsection (d) of Section

1 11-501 of the Illinois Vehicle Code, and when the sentence is
2 imposed for aggravated arson if the offense was committed on or
3 after July 27, 2001 (the effective date of Public Act 92-176),
4 and when the sentence is imposed for aggravated driving under
5 the influence of alcohol, other drug or drugs, or intoxicating
6 compound or compounds, or any combination thereof as defined in
7 subparagraph (C) of paragraph (1) of subsection (d) of Section
8 11-501 of the Illinois Vehicle Code committed on or after
9 January 1, 2011 (the effective date of Public Act 96-1230), the
10 judge's statement, to be given after pronouncing the sentence,
11 shall include the following:

12 "The purpose of this statement is to inform the public of
13 the actual period of time this defendant is likely to spend in
14 prison as a result of this sentence. The actual period of
15 prison time served is determined by the statutes of Illinois as
16 applied to this sentence by the Illinois Department of
17 Corrections and the Illinois Prisoner Review Board. In this
18 case, the defendant is entitled to no more than 4 1/2 days of
19 sentence credit for each month of his or her sentence of
20 imprisonment. Therefore, this defendant will serve at least 85%
21 of his or her sentence. Assuming the defendant receives 4 1/2
22 days credit for each month of his or her sentence, the period
23 of estimated actual custody is ... years and ... months. If the
24 defendant, because of his or her own misconduct or failure to
25 comply with the institutional regulations receives lesser
26 credit, the actual time served in prison will be longer."

1 When a sentence of imprisonment is imposed for first degree
2 murder and the offense was committed on or after June 19, 1998,
3 the judge's statement, to be given after pronouncing the
4 sentence, shall include the following:

5 "The purpose of this statement is to inform the public of
6 the actual period of time this defendant is likely to spend in
7 prison as a result of this sentence. The actual period of
8 prison time served is determined by the statutes of Illinois as
9 applied to this sentence by the Illinois Department of
10 Corrections and the Illinois Prisoner Review Board. In this
11 case, the defendant is not entitled to sentence credit.
12 Therefore, this defendant will serve 100% of his or her
13 sentence."

14 When the sentencing order recommends placement in a
15 substance abuse program for any offense that results in
16 incarceration in a Department of Corrections facility and the
17 crime was committed on or after September 1, 2003 (the
18 effective date of Public Act 93-354), the judge's statement, in
19 addition to any other judge's statement required under this
20 Section, to be given after pronouncing the sentence, shall
21 include the following:

22 "The purpose of this statement is to inform the public of
23 the actual period of time this defendant is likely to spend in
24 prison as a result of this sentence. The actual period of
25 prison time served is determined by the statutes of Illinois as
26 applied to this sentence by the Illinois Department of

1 Corrections and the Illinois Prisoner Review Board. In this
2 case, the defendant shall receive no sentence credit for good
3 conduct under clause (3) of subsection (a) of Section 3-6-3
4 until he or she participates in and completes a substance abuse
5 treatment program or receives a waiver from the Director of
6 Corrections pursuant to clause (4.5) of subsection (a) of
7 Section 3-6-3."

8 (c-4) Before the sentencing hearing and as part of the
9 presentence investigation under Section 5-3-1, the court shall
10 inquire of the defendant whether the defendant is currently
11 serving in or is a veteran of the Armed Forces of the United
12 States. If the defendant is currently serving in the Armed
13 Forces of the United States or is a veteran of the Armed Forces
14 of the United States and has been diagnosed as having a mental
15 illness by a qualified psychiatrist or clinical psychologist or
16 physician, the court may:

17 (1) order that the officer preparing the presentence
18 report consult with the United States Department of
19 Veterans Affairs, Illinois Department of Veterans'
20 Affairs, or another agency or person with suitable
21 knowledge or experience for the purpose of providing the
22 court with information regarding treatment options
23 available to the defendant, including federal, State, and
24 local programming; and

25 (2) consider the treatment recommendations of any
26 diagnosing or treating mental health professionals

1 together with the treatment options available to the
2 defendant in imposing sentence.

3 For the purposes of this subsection (c-4), "qualified
4 psychiatrist" means a reputable physician licensed in Illinois
5 to practice medicine in all its branches, who has specialized
6 in the diagnosis and treatment of mental and nervous disorders
7 for a period of not less than 5 years.

8 (c-6) In imposing a sentence, the trial judge shall
9 specify, on the record, the particular evidence and other
10 reasons which led to his or her determination that a motor
11 vehicle was used in the commission of the offense.

12 (d) When the defendant is committed to the Department of
13 Corrections, the State's Attorney shall and counsel for the
14 defendant may file a statement with the clerk of the court to
15 be transmitted to the department, agency or institution to
16 which the defendant is committed to furnish such department,
17 agency or institution with the facts and circumstances of the
18 offense for which the person was committed together with all
19 other factual information accessible to them in regard to the
20 person prior to his commitment relative to his habits,
21 associates, disposition and reputation and any other facts and
22 circumstances which may aid such department, agency or
23 institution during its custody of such person. The clerk shall
24 within 10 days after receiving any such statements transmit a
25 copy to such department, agency or institution and a copy to
26 the other party, provided, however, that this shall not be

1 cause for delay in conveying the person to the department,
2 agency or institution to which he has been committed.

3 (e) The clerk of the court shall transmit to the
4 department, agency or institution, if any, to which the
5 defendant is committed, the following:

6 (1) the sentence imposed;

7 (2) any statement by the court of the basis for
8 imposing the sentence;

9 (3) any presentence reports;

10 (3.5) any sex offender evaluations;

11 (3.6) any substance abuse treatment eligibility
12 screening and assessment of the defendant by an agent
13 designated by the State of Illinois to provide assessment
14 services for the Illinois courts;

15 (4) the number of days, if any, which the defendant has
16 been in custody and for which he is entitled to credit
17 against the sentence, which information shall be provided
18 to the clerk by the sheriff;

19 (4.1) any finding of great bodily harm made by the
20 court with respect to an offense enumerated in subsection
21 (c-1);

22 (5) all statements filed under subsection (d) of this
23 Section;

24 (6) any medical or mental health records or summaries
25 of the defendant;

26 (7) the municipality where the arrest of the offender

1 or the commission of the offense has occurred, where such
2 municipality has a population of more than 25,000 persons;

3 (8) all statements made and evidence offered under
4 paragraph (7) of subsection (a) of this Section; and

5 (9) all additional matters which the court directs the
6 clerk to transmit.

7 (f) In cases in which the court finds that a motor vehicle
8 was used in the commission of the offense for which the
9 defendant is being sentenced, the clerk of the court shall,
10 within 5 days thereafter, forward a report of such conviction
11 to the Secretary of State.

12 (Source: P.A. 96-86, eff. 1-1-10; 96-1180, eff. 1-1-11;
13 96-1230, eff. 1-1-11; 96-1551, eff. 7-1-11; 97-333, eff.
14 8-12-11; 97-697, eff. 6-22-12; 97-1150, eff. 1-25-13.)

15 (730 ILCS 5/5-8-8)

16 (Section scheduled to be repealed on December 31, 2020)

17 Sec. 5-8-8. Illinois Sentencing Policy Advisory Council.

18 (a) Creation. There is created under the jurisdiction of
19 the Governor the Illinois Sentencing Policy Advisory Council,
20 hereinafter referred to as the Council.

21 (b) Purposes and goals. The purpose of the Council is to
22 review sentencing policies and practices and examine how these
23 policies and practices impact the criminal justice system as a
24 whole in the State of Illinois. In carrying out its duties, the
25 Council shall be mindful of and aim to achieve the purposes of

1 sentencing in Illinois, which are set out in Section 1-1-2 of
2 this Code:

3 (1) prescribe sanctions proportionate to the
4 seriousness of the offenses and permit the recognition of
5 differences in rehabilitation possibilities among
6 individual offenders;

7 (2) forbid and prevent the commission of offenses;

8 (3) prevent arbitrary or oppressive treatment of
9 persons adjudicated offenders or delinquents; and

10 (4) restore offenders to useful citizenship.

11 (c) Council composition.

12 (1) The Council shall consist of the following members:

13 (A) the President of the Senate, or his or her
14 designee;

15 (B) the Minority Leader of the Senate, or his or
16 her designee;

17 (C) the Speaker of the House, or his or her
18 designee;

19 (D) the Minority Leader of the House, or his or her
20 designee;

21 (E) the Governor, or his or her designee;

22 (F) the Attorney General, or his or her designee;

23 (G) two retired judges, who may have been circuit,
24 appellate, or supreme court judges; retired judges
25 appointed prior to the effective date of this
26 amendatory Act of the 98th General Assembly shall be

1 selected by the members of the Council designated in
2 clauses (c)(1)(A) through (L), and retired judges
3 appointed on or after the effective date of this
4 amendatory Act of the 98th General Assembly shall be
5 appointed by the Chief Justice of the Illinois Supreme
6 Court;

7 (G-5) two sitting judges, who may be circuit,
8 appellate, or supreme court judges, appointed by the
9 Chief Justice of the Supreme Court; one member
10 appointed under this paragraph (G-5) shall be selected
11 from the Circuit Court of Cook County or the First
12 Judicial District, and one member appointed under this
13 paragraph (G-5) shall be selected from a judicial
14 circuit or district other than the Circuit Court of
15 Cook County or the First Judicial District;

16 (H) the Cook County State's Attorney, or his or her
17 designee;

18 (I) the Cook County Public Defender, or his or her
19 designee;

20 (J) a State's Attorney not from Cook County,
21 appointed by the State's Attorney's Appellate
22 Prosecutor;

23 (K) the State Appellate Defender, or his or her
24 designee;

25 (L) the Director of the Administrative Office of
26 the Illinois Courts, or his or her designee;

1 (M) a victim of a violent felony or a
2 representative of a crime victims' organization,
3 selected by the members of the Council designated in
4 clauses (c) (1) (A) through (L);

5 (N) a representative of a community-based
6 organization, selected by the members of the Council
7 designated in clauses (c) (1) (A) through (L);

8 (O) a criminal justice academic researcher, to be
9 selected by the members of the Council designated in
10 clauses (c) (1) (A) through (L);

11 (P) a representative of law enforcement from a unit
12 of local government to be selected by the members of
13 the Council designated in clauses (c) (1) (A) through
14 (L);

15 (Q) a sheriff selected by the members of the
16 Council designated in clauses (c) (1) (A) through (L);
17 and

18 (R) ex-officio members shall include:

19 (i) the Director of Corrections, or his or her
20 designee;

21 (ii) the Chair of the Prisoner Review Board, or
22 his or her designee;

23 (iii) the Director of the Illinois State
24 Police, or his or her designee; and

25 (iv) the Director of the Illinois Criminal
26 Justice Information Authority, or his or her

1 designee.

2 (1.5) The Chair and Vice Chair shall be elected from
3 among its members by a majority of the members of the
4 Council.

5 (2) Members of the Council who serve because of their
6 public office or position, or those who are designated as
7 members by such officials, shall serve only as long as they
8 hold such office or position.

9 (3) Council members shall serve without compensation
10 but shall be reimbursed for travel and per diem expenses
11 incurred in their work for the Council.

12 (4) The Council may exercise any power, perform any
13 function, take any action, or do anything in furtherance of
14 its purposes and goals upon the appointment of a quorum of
15 its members. The term of office of each member of the
16 Council ends on the date of repeal of this amendatory Act
17 of the 96th General Assembly.

18 (d) Duties. The Council shall perform, as resources permit,
19 duties including:

20 (1) Collect and analyze information including
21 sentencing data, crime trends, and existing correctional
22 resources to support legislative and executive action
23 affecting the use of correctional resources on the State
24 and local levels.

25 (2) Prepare criminal justice population projections
26 annually, including correctional and community-based

1 supervision populations.

2 (3) Analyze data relevant to proposed sentencing
3 legislation and its effect on current policies or
4 practices, and provide information to support
5 evidence-based sentencing.

6 (4) Ensure that adequate resources and facilities are
7 available for carrying out sentences imposed on offenders
8 and that rational priorities are established for the use of
9 those resources. To do so, the Council shall prepare
10 criminal justice resource statements, identifying the
11 fiscal and practical effects of proposed criminal
12 sentencing legislation, including, but not limited to, the
13 correctional population, court processes, and county or
14 local government resources.

15 (5) Perform such other studies or tasks pertaining to
16 sentencing policies as may be requested by the Governor or
17 the Illinois General Assembly.

18 (6) Perform such other functions as may be required by
19 law or as are necessary to carry out the purposes and goals
20 of the Council prescribed in subsection (b).

21 (7) Publish a report on the trends in sentencing for
22 offenders described in subsection (b-1) of Section 5-4-1 of
23 this Code, the impact of the trends on the prison and
24 probation populations, and any changes in the racial
25 composition of the prison and probation populations that
26 can be attributed to the changes made by adding subsection

1 (b-1) of Section 5-4-1 to this Code by this amendatory Act
2 of the 99th General Assembly.

3 (e) Authority.

4 (1) The Council shall have the power to perform the
5 functions necessary to carry out its duties, purposes and
6 goals under this Act. In so doing, the Council shall
7 utilize information and analysis developed by the Illinois
8 Criminal Justice Information Authority, the Administrative
9 Office of the Illinois Courts, and the Illinois Department
10 of Corrections.

11 (2) Upon request from the Council, each executive
12 agency and department of State and local government shall
13 provide information and records to the Council in the
14 execution of its duties.

15 (f) Report. The Council shall report in writing annually to
16 the General Assembly, the Illinois Supreme Court, and the
17 Governor.

18 (g) This Section is repealed on December 31, 2020.

19 (Source: P.A. 98-65, eff. 7-15-13; 99-101, eff. 7-22-15.)