



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-FOURTH GENERAL ASSEMBLY

53RD LEGISLATIVE DAY

MONDAY, MAY 30, 2005

11:58 O'CLOCK A.M.

SENATE
Daily Journal Index
53rd Legislative Day

Action	Page(s)
Committee Meeting Announcement	206
Communication	211
Introduction of Senate Bill No. 2124	200
Joint Action Motion Filed	3
Joint Action Motions Filed	200
Legislative Measure(s) Filed	3, 204
Message from the President	205
Presentation of Senate Resolution No. 257	3
Presentation of Senate Resolution No. 258	209
Presentation of Senate Resolution No. 259	212
Report from Rules Committee	205

Bill Number	Legislative Action	Page(s)
HB 3092	Posting Notice Waived	206
SB 0157	Concur in House Amendment(s)	7
SB 0251	Concur in House Amendment(s)	6
SB 0475	Concur in House Amendment(s)	226
SB 0501	Concur in House Amendment(s)	210
SB 1127	Recalled – Amendment(s)	10
SB 1127	Third Reading	18
SB 2038	Concur in House Amendment(s)	6
SR 0060	Adopted, as amended	19
SR 0208	Adopted	19
SR 0258	Committee on Rules	209
SR 0259	Adopted	212
HB 0114	Recedes from Senate Amendment No. 0001	7
HB 0369	Request First Conference Committee	10
HB 0655	Other proceedings	3
HB 0832	Other proceedings	200
HB 0881	Recalled – Amendment(s)	203
HB 0881	Third Reading	204
HB 1195	Request First Conference Committee	8
HB 1197	Recalled – Amendment(s)	214
HB 1197	Third Reading	225
HB 1316	Recedes from Senate Amendment No. 0001	8
HB 2379	Third Reading	202
HB 2500	Recedes from Senate Amendments numbered 1 and 3	9
HB 2595	Third Reading	203
HB 3092	Second Reading	214
HB 3480	Recedes from Senate Amendments numbered 2 and 3	9
HB 3761	First Reading	5
HB 3871	First Reading	6
HB 4050	Consideration Postponed	207
HB 4050	Recalled – Amendment(s)	206

The Senate met pursuant to adjournment.
Senator Rickey R. Hendon, Chicago, Illinois, presiding.
Prayer by Senator Geo-Karis.
Senator Maloney led the Senate in the Pledge of Allegiance.

Senator Hunter moved that reading and approval of the Journals of Saturday, May 28, 2005, and Sunday, May 29, 2005, be postponed, pending arrival of the printed Journals.
The motion prevailed.

JOINT ACTION MOTION FILED

The following Joint Action Motion to the House Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Recede from Senate Amendments 1 and 2 to House Bill 655

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to House Bill 806
Senate Floor Amendment No. 2 to House Bill 4050

PRESENTATION OF RESOLUTION

SENATE RESOLUTION 257

Offered by Senator D. Sullivan and all Senators:
Mourns the death of Maureen K. McCambridge of Park Ridge.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

INTRODUCTION OF BILLS

SENATE BILL NO. 2122. Introduced by Senator Sandoval, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

SENATE BILL NO. 2123. Introduced by Senator Harmon, a bill for AN ACT concerning revenue.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

REPORT FROM STANDING COMMITTEE

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendments 1 and 2 to Senate Bill 157

[May 30, 2005]

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has passed a bill of the following title, in the passage of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE BILL NO. 1009

A bill for AN ACT concerning public employee benefits.

Passed the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

The foregoing **House Bill No. 1009** was taken up, ordered printed and placed on first reading.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 31

WHEREAS, In Illinois, over 200,000 children under the age of 18 are living with and being cared for by more than 100,000 grandparents; and

WHEREAS, Grandparent caregivers, the majority of whom are single women ranging in age from 30 to 90 with an average annual income of \$15,000 to \$25,000, typically raise one to two grandchildren and have been doing so for five years or longer; and

WHEREAS, Factors contributing to the growing number of grandparents raising grandchildren include, but are not limited to, alcohol and drug abuse, neglect, abuse, abandonment, death of a parent, HIV/AIDS, divorce, unemployment, poverty, parental incarceration, teen pregnancy, and welfare reform; and

WHEREAS, Due to their assumed caregiving responsibilities, many grandparents deplete their savings and retirement income and face severe financial risk and economic strains while struggling to pay for expenses related to caring for the grandchildren, such as, but not limited to, food, diapers, clothing, child care, medical treatment, legal assistance, and housing needs; and

WHEREAS, Many grandparents take custody of and raise their grandchildren after a harmful incident has been suffered by their grandchildren that has caused the Department of Children and Family Services to designate them to be "at risk"; and

WHEREAS, Many other grandparents take preventive measures by choosing to take custody of and raise their grandchildren prior to their grandchildren suffering a harmful incident when they recognize that their grandchildren's health, safety, and welfare are at risk; and

WHEREAS, Grandparents who take custody of their grandchildren prior to the grandchildren's suffering of a harmful incident are ineligible for foster care funding and assistance from the Department of Children and Family Services; and

WHEREAS, The only financial assistance option for this group of grandparents is "child only" grants from the Department of Human Services' Temporary Assistance to Needy Families (TANF) program; and

[May 30, 2005]

WHEREAS, The Department of Children and Family Services' foster care program provides monthly financial assistance that is three to four times greater than the TANF "child only" grants, and it also provides counseling, child care support, education services, college scholarships, and health services; and

WHEREAS, Grandparents raising grandchildren who are not in the foster care program are as valuable to the grandchildren and to the State as those who are in the foster care program; and

WHEREAS, A significant function of government is to promote the health, safety, and welfare of its citizens; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that the Joint Task Force on Grandparents Raising their Grandchildren is created and shall be comprised of ten members of the Illinois General Assembly appointed as follows: 3 members of the Senate, one of whom shall be co-chairperson, appointed by the President of the Senate; 2 members of the Senate appointed by the Minority Leader of the Senate; 3 members of the House of Representatives, one of whom shall be co-chairperson, appointed by the Speaker of the House of Representatives; and 2 members of the House of Representatives appointed by the Minority Leader of the House of Representatives; all Joint Task Force members shall serve without compensation; and be it further

RESOLVED, That the Department on Aging, in collaboration with the Departments of Children and Family Services, Public Aid, and Human Services and any other relevant agencies, shall issue a report to the Joint Task Force on Grandparents Raising their Grandchildren no later than July 1, 2005 that assesses existing State and federal assistance programs that include the following:

(a) a review of all guaranteed benefits and other available support provided to grandparents through the Department of Children and Family Services' foster care program, including counseling, child care support, education services, college scholarships, and health services; KidCare and other relevant programs;

(b) a review of all guaranteed benefits and other available support provided to grandparents through the Department of Human Services' TANF program and other relevant programs;

(c) a review of all other means of grandparent-related support provided by State-funded and federally funded programs; and

(d) the estimated cost to the State if grandparents were not willing to or refused to take custody of and raise their grandchildren; and be it further

RESOLVED, That the Joint Task Force on Grandparents Raising their Grandchildren shall hold public hearings throughout the State regarding services needed by and available to grandparents raising their grandchildren; and be it further

RESOLVED, That the Joint Task Force on Grandparents Raising their Grandchildren shall issue a report to the General Assembly no later than January 1, 2006 that makes recommendations on changes that should be made to services provided to grandparents raising their grandchildren through the foster care and TANF "child only" grant programs.

Adopted by the House, May 29, 2005.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 31, was referred to the Committee on Rules.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

House Bill No. 3761, sponsored by Senator Harmon, was taken up, read by title a first time and referred to the Committee on Rules.

[May 30, 2005]

House Bill No. 3871, sponsored by Senator Sandoval, was taken up, read by title a first time and referred to the Committee on Rules.

**CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S
DESK**

On motion of Senator Demuzio, **Senate Bill No. 251**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Demuzio moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Sieben
Bomke	Geo-Karis	Munoz	Silverstein
Brady	Haine	Pankau	Sullivan, J.
Burzynski	Halvorson	Peterson	Syverson
Clayborne	Harmon	Petka	Trotter
Collins	Hendon	Radogno	Viverito
Cronin	Hunter	Raoul	Watson
Crotty	Jacobs	Rauschenberger	Wilhelmi
Cullerton	Jones, J.	Righter	Winkel
Dahl	Jones, W.	Risinger	Wojcik
del Valle	Lauzen	Ronen	Mr. President
DeLeo	Lightford	Roskam	
Demuzio	Link	Sandoval	
Dillard	Luechtefeld	Schoenberg	
Forby	Maloney	Shadid	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 251**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Lauzen, **Senate Bill No. 2038**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Lauzen moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Sieben
Bomke	Haine	Pankau	Silverstein
Brady	Halvorson	Peterson	Sullivan, J.
Burzynski	Harmon	Petka	Syverson
Collins	Hendon	Radogno	Trotter
Cronin	Hunter	Raoul	Viverito
Crotty	Jacobs	Rauschenberger	Watson
Cullerton	Jones, J.	Righter	Wilhelmi
Dahl	Jones, W.	Risinger	Winkel
del Valle	Lauzen	Ronen	Wojcik

[May 30, 2005]

DeLeo	Lightford	Roskam	Mr. President
Demuzio	Link	Rutherford	
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	

The following voted in the negative:

Clayborne

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 2038**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Schoenberg, **Senate Bill No. 157**, with House Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Schoenberg moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 53; Nays 6.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Shadid
Bomke	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jacobs	Rauschenberger	Viverito
Cullerton	Jones, J.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Mr. President
Demuzio	Luechtefeld	Rutherford	
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

The following voted in the negative:

Brady	Jones, W.	Sullivan, D.
Dillard	Petka	Wojcik

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 1 and 2 to **Senate Bill No. 157**.

Ordered that the Secretary inform the House of Representatives thereof.

CONSIDERATION OF SENATE AMENDMENTS TO HOUSE BILLS ON SECRETARY'S DESK

On motion of Senator Cullerton, **House Bill No. 114**, with Senate Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Cullerton moved that the Senate recede from its Amendment No. 1 to **House Bill No. 114**.

[May 30, 2005]

And on that motion, a call of the roll was had resulting as follows:

Yeas 54; Nays 3.

The following voted in the affirmative:

Brady	Geo-Karis	Meeks	Sieben
Burzynski	Haine	Munoz	Silverstein
Clayborne	Halvorson	Pankau	Sullivan, D.
Collins	Harmon	Peterson	Sullivan, J.
Cronin	Hendon	Raoul	Syverson
Crotty	Hunter	Rauschenberger	Trotter
Cullerton	Jacobs	Righter	Viverito
Dahl	Jones, W.	Risinger	Watson
del Valle	Lauzen	Ronen	Wilhelmi
DeLeo	Lightford	Roskam	Winkel
Demuzio	Link	Rutherford	Wojcik
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	

The following voted in the negative:

Althoff
Bomke
Jones, J.

The motion prevailed.

And the Senate receded from their Amendment No. 1 to **House Bill No. 114**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Link, **House Bill No. 1195**, with Senate Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Link moved that the Senate refuse to recede from its Amendment No. 2 to **House Bill No. 1195** and that a First Committee of Conference consisting of five members on the part of the Senate and five members on the part of the House be appointed to adjust the differences between the two Houses in regard to said amendment.

The motion prevailed.

On motion of Senator Munoz, **House Bill No. 1316**, with Senate Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Munoz moved that the Senate recede from its Amendment No. 1 to **House Bill No. 1316**.

And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan
Clayborne	Harmon	Peterson	Trotter
Collins	Hendon	Petka	Viverito
Cronin	Hunter	Radogno	Watson
Crotty	Jacobs	Raoul	Wilhelmi
Cullerton	Jones, J.	Rauschenberger	Winkel

[May 30, 2005]

Dahl	Jones, W.	Risinger	Wojcik
del Valle	Lauzen	Ronen	Mr. President
DeLeo	Lightford	Roskam	
Demuzio	Link	Rutherford	
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	

The motion prevailed.

And the Senate receded from their Amendment No. 1 to **House Bill No. 1316**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Winkel, **House Bill No. 2500**, with Senate Amendments numbered 1 and 3 on the Secretary's Desk, was taken up for immediate consideration.

Senator Winkel moved that the Senate recede from its Amendments numbered 1 and 3 to **House Bill No. 2500**.

And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Meeks	Shadid
Bomke	Haine	Munoz	Sieben
Brady	Halvorson	Pankau	Silverstein
Burzynski	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syversen
Cronin	Jacobs	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Mr. President
Dillard	Luechtefeld	Rutherford	
Forby	Maloney	Sandoval	
Garrett	Martinez	Schoenberg	

The following voted in the negative:

Dahl

The motion prevailed.

And the Senate receded from their Amendments numbered 1 and 3 to **House Bill No. 2500**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Radogno, **House Bill No. 3480**, with Senate Amendments numbered 2 and 3 on the Secretary's Desk, was taken up for immediate consideration.

Senator Radogno moved that the Senate recede from its Amendments numbered 2 and 3 to **House Bill No. 3480**.

And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays 1.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Sieben
Bomke	Haine	Pankau	Silverstein

[May 30, 2005]

Brady	Halvorson	Peterson	Sullivan, D.
Burzynski	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Raoul	Trotter
Crotty	Jones, J.	Rauschenberger	Viverito
Cullerton	Jones, W.	Righter	Watson
Dahl	Lauzen	Risinger	Wilhelmi
del Valle	Lightford	Ronen	Winkel
DeLeo	Link	Roskam	Wojcik
Demuzio	Luechtefeld	Rutherford	Mr. President
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	
Garrett	Meeks	Shadid	

The following voted in the negative:

Clayborne

The motion prevailed.

And the Senate receded from their Amendments numbered 2 and 3 to **House Bill No. 3480**.
Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Trotter, **House Bill No. 369**, with Senate Amendments numbered 1 and 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Trotter moved that the Senate refuse to recede from its Amendments numbered 1 and 2 to **House Bill No. 369** and that a First Committee of Conference consisting of five members on the part of the Senate and five members on the part of the House be appointed to adjust the differences between the two Houses in regard to said amendments.

The motion prevailed.

SENATE BILL RECALLED

On motion of Senator Cullerton, **Senate Bill No. 1127** was recalled from the order of third reading to the order of second reading.

Senator Cullerton offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE BILL 1127

AMENDMENT NO. 1. Amend Senate Bill 1127 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Vehicle Code is amended by changing Sections 6-306.5, 11-208, 11-208.3, and 11-306 and adding Section 11-208.5 as follows:

(625 ILCS 5/6-306.5) (from Ch. 95 1/2, par. 6-306.5)

Sec. 6-306.5. Failure to pay fine or penalty for standing, parking, ~~or~~ compliance, ~~or~~ automated traffic law violations; suspension of driving privileges.

(a) Upon receipt of a certified report, as prescribed by subsection (c) of this Section, from any municipality stating that the owner of a registered vehicle has: (1) failed to pay any fine or penalty due and owing as a result of 10 or more violations of a municipality's vehicular standing, parking, or compliance regulations established by ordinance pursuant to Section 11-208.3 of this Code, or (2) failed to pay any fine or penalty due and owing as a result of 5 offenses for automated traffic violations as defined in Section 11-208.5, the Secretary of State shall suspend the driving privileges of such person in accordance with the procedures set forth in this Section. The Secretary shall also suspend the driving privileges of an owner of a registered vehicle upon receipt of a certified report, as prescribed by subsection (f) of this Section, from any municipality stating that such person has failed to satisfy any fines or penalties imposed by final judgments for 5 or more automated traffic law violations or 10 or more violations of local standing, parking, or compliance regulations after exhaustion of judicial review procedures.

(b) Following receipt of the certified report of the municipality as specified in this Section, the

[May 30, 2005]

Secretary of State shall notify the person whose name appears on the certified report that the person's drivers license will be suspended at the end of a specified period of time unless the Secretary of State is presented with a notice from the municipality certifying that the fine or penalty due and owing the municipality has been paid or that inclusion of that person's name on the certified report was in error. The Secretary's notice shall state in substance the information contained in the municipality's certified report to the Secretary, and shall be effective as specified by subsection (c) of Section 6-211 of this Code.

(c) The report of the appropriate municipal official notifying the Secretary of State of unpaid fines or penalties pursuant to this Section shall be certified and shall contain the following:

(1) The name, last known address and drivers license number of the person who failed to pay the fine or penalty and the registration number of any vehicle known to be registered to such person in this State.

(2) The name of the municipality making the report pursuant to this Section.

(3) A statement that the municipality sent a notice of impending drivers license suspension as prescribed by ordinance enacted pursuant to Section 11-208.3, to the person named in the report at the address recorded with the Secretary of State; the date on which such notice was sent; and the address to which such notice was sent. In a municipality with a population of 1,000,000 or more, the report shall also include a statement that the alleged violator's State vehicle registration number and vehicle make are correct as they appear on the citations.

(d) Any municipality making a certified report to the Secretary of State pursuant to this Section shall notify the Secretary of State, in a form prescribed by the Secretary, whenever a person named in the certified report has paid the previously reported fine or penalty or whenever the municipality determines that the original report was in error. A certified copy of such notification shall also be given upon request and at no additional charge to the person named therein. Upon receipt of the municipality's notification or presentation of a certified copy of such notification, the Secretary of State shall terminate the suspension.

(e) Any municipality making a certified report to the Secretary of State pursuant to this Section shall also by ordinance establish procedures for persons to challenge the accuracy of the certified report. The ordinance shall also state the grounds for such a challenge, which may be limited to (1) the person not having been the owner or lessee of the vehicle or vehicles receiving 10 or more standing, parking, or compliance violation notices or 5 or more automated traffic law violation notices on the date or dates such notices were issued; and (2) the person having already paid the fine or penalty for the 10 or more standing, parking, or compliance violations or 5 or more automated traffic law violations indicated on the certified report.

(f) Any municipality, other than a municipality establishing vehicular standing, parking, and compliance regulations pursuant to Section 11-208.3 or automated traffic law regulations under Section 11-208.5, may also cause a suspension of a person's drivers license pursuant to this Section. Such municipality may invoke this sanction by making a certified report to the Secretary of State upon a person's failure to satisfy any fine or penalty imposed by final judgment for 10 or more violations of local standing, parking, or compliance regulations or 5 or more automated traffic law violations after exhaustion of judicial review procedures, but only if:

(1) the municipality complies with the provisions of this Section in all respects

except in regard to enacting an ordinance pursuant to Section 11-208.3;

(2) the municipality has sent a notice of impending drivers license suspension as prescribed by an ordinance enacted pursuant to subsection (g) of this Section; and

(3) in municipalities with a population of 1,000,000 or more, the municipality has verified that the alleged violator's State vehicle registration number and vehicle make are correct as they appear on the citations.

(g) Any municipality, other than a municipality establishing standing, parking, and compliance regulations pursuant to Section 11-208.3 or automated traffic law regulations under Section 11-208.5, may provide by ordinance for the sending of a notice of impending drivers license suspension to the person who has failed to satisfy any fine or penalty imposed by final judgment for 10 or more violations of local standing, parking, or compliance regulations or 5 or more automated traffic law violations after exhaustion of judicial review procedures. An ordinance so providing shall specify that the notice sent to the person liable for any fine or penalty shall state that failure to pay the fine or penalty owing within 45 days of the notice's date will result in the municipality notifying the Secretary of State that the person's drivers license is eligible for suspension pursuant to this Section. The notice of impending drivers license suspension shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State.

(h) An administrative hearing to contest an impending suspension or a suspension made pursuant to this Section may be had upon filing a written request with the Secretary of State. The filing fee for this hearing shall be \$20, to be paid at the time the request is made. A municipality which files a certified report with the Secretary of State pursuant to this Section shall reimburse the Secretary for all reasonable costs incurred by the Secretary as a result of the filing of the report, including but not limited to the costs of providing the notice required pursuant to subsection (b) and the costs incurred by the Secretary in any hearing conducted with respect to the report pursuant to this subsection and any appeal from such a hearing.

(i) The provisions of this Section shall apply on and after January 1, 1988.

(j) For purposes of this Section, the term "compliance violation" is defined as in Section 11-208.3.

(Source: P.A. 89-190, eff. 1-1-96; 90-145, eff. 1-1-98; 90-481, eff. 8-17-97.)

(625 ILCS 5/11-208) (from Ch. 95 1/2, par. 11-208)

Sec. 11-208. Powers of local authorities.

(a) The provisions of this Code shall not be deemed to prevent local authorities with respect to streets and highways under their jurisdiction and within the reasonable exercise of the police power from:

1. Regulating the standing or parking of vehicles, except as limited by Section 11-1306 of this Act;
2. Regulating traffic by means of police officers or traffic control signals;
3. Regulating or prohibiting processions or assemblages on the highways;
4. Designating particular highways as one-way highways and requiring that all vehicles thereon be moved in one specific direction;
5. Regulating the speed of vehicles in public parks subject to the limitations set forth in Section 11-604;
6. Designating any highway as a through highway, as authorized in Section 11-302, and requiring that all vehicles stop before entering or crossing the same or designating any intersection as a stop intersection or a yield right-of-way intersection and requiring all vehicles to stop or yield the right-of-way at one or more entrances to such intersections;
7. Restricting the use of highways as authorized in Chapter 15;
8. Regulating the operation of bicycles and requiring the registration and licensing of same, including the requirement of a registration fee;
9. Regulating or prohibiting the turning of vehicles or specified types of vehicles at intersections;
10. Altering the speed limits as authorized in Section 11-604;
11. Prohibiting U-turns;
12. Prohibiting pedestrian crossings at other than designated and marked crosswalks or at intersections;
13. Prohibiting parking during snow removal operation;
14. Imposing fines in accordance with Section 11-1301.3 as penalties for use of any parking place reserved for persons with disabilities, as defined by Section 1-159.1, or disabled veterans by any person using a motor vehicle not bearing registration plates specified in Section 11-1301.1 or a special decal or device as defined in Section 11-1301.2 as evidence that the vehicle is operated by or for a person with disabilities or disabled veteran;
15. Adopting such other traffic regulations as are specifically authorized by this Code; or
16. Enforcing the provisions of subsection (f) of Section 3-413 of this Code or a similar local ordinance.

(b) No ordinance or regulation enacted under subsections 1, 4, 5, 6, 7, 9, 10, 11 or 13 of paragraph (a) shall be effective until signs giving reasonable notice of such local traffic regulations are posted.

(c) The provisions of this Code shall not prevent any municipality having a population of 500,000 or more inhabitants from prohibiting any person from driving or operating any motor vehicle upon the roadways of such municipality with headlamps on high beam or bright.

(d) The provisions of this Code shall not be deemed to prevent local authorities within the reasonable exercise of their police power from prohibiting, on private property, the unauthorized use of parking spaces reserved for persons with disabilities.

(e) No unit of local government, including a home rule unit, may enact or enforce an ordinance that applies only to motorcycles if the principal purpose for that ordinance is to restrict the access of motorcycles to any highway or portion of a highway for which federal or State funds have been used for the planning, design, construction, or maintenance of that highway. No unit of local government, including a home rule unit, may enact an ordinance requiring motorcycle users to wear protective

headgear. Nothing in this subsection (e) shall affect the authority of a unit of local government to regulate motorcycles for traffic control purposes or in accordance with Section 12-602 of this Code. No unit of local government, including a home rule unit, may regulate motorcycles in a manner inconsistent with this Code. This subsection (e) is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

(f) A municipality or county may enact an ordinance providing for an automated traffic law enforcement system to enforce violations of Section 11-306 of this Code or a similar provision of a local ordinance.

(Source: P.A. 90-106, eff. 1-1-98; 90-513, eff. 8-22-97; 90-655, eff. 7-30-98; 91-519, eff. 1-1-00.)

(625 ILCS 5/11-208.3) (from Ch. 95 1/2, par. 11-208.3)

Sec. 11-208.3. Administrative adjudication of violations of traffic regulations concerning the standing, parking, or condition of vehicles and automated traffic law violations.

(a) Any municipality may provide by ordinance for a system of administrative adjudication of vehicular standing and parking violations and vehicle compliance violations as defined in this subsection, and automated traffic law violations as defined in Section 11-208.5. The administrative system shall have as its purpose the fair and efficient enforcement of municipal regulations through the administrative adjudication of automated traffic law violations and violations of municipal ordinances regulating the standing and parking of vehicles, the condition and use of vehicle equipment, and the display of municipal wheel tax licenses within the municipality's borders. The administrative system shall only have authority to adjudicate civil offenses carrying fines not in excess of \$250 that occur after the effective date of the ordinance adopting such a system under this Section. For purposes of this Section, "compliance violation" means a violation of a municipal regulation governing the condition or use of equipment on a vehicle or governing the display of a municipal wheel tax license.

(b) Any ordinance establishing a system of administrative adjudication under this Section shall provide for:

(1) A traffic compliance administrator authorized to adopt, distribute and process

parking, ~~and~~ compliance, and automated traffic law violation notices and other notices required by this Section, collect money paid as fines and penalties for violation of parking and compliance ordinances and automated traffic law violations, and operate an administrative adjudication system. The traffic compliance administrator also may make a certified report to the Secretary of State under Section 6-306.5.

(2) A parking, standing, ~~or~~ compliance, or automated traffic law violation notice that shall specify the date,

time, and place of violation of a parking, standing, ~~or~~ compliance, or automated traffic law regulation; the particular regulation violated; the fine and any penalty that may be assessed for late payment, when so provided by ordinance; except for automated traffic law violations, the vehicle make and state registration number; and the identification number of the person issuing the notice. With regard to municipalities with a population of 1 million or more, it shall be grounds for dismissal of a parking violation if the State registration number or vehicle make specified is incorrect. The violation notice shall state that the payment of the indicated fine, and of any applicable penalty for late payment, shall operate as a final disposition of the violation. The notice also shall contain information as to the availability of a hearing in which the violation may be contested on its merits. The violation notice shall specify the time and manner in which a hearing may be had.

(3) Service of the parking, standing, or compliance violation notice by affixing the original or a facsimile of the notice to an unlawfully parked vehicle or by handing the notice to the operator of a vehicle if he or she is present and service of an automated traffic law violation notice by mail to the address of the registered owner of the cited vehicle as recorded with the Secretary of State within 90 days after the violation. A person authorized by ordinance to issue and serve parking, standing, ~~and~~ compliance, or automated traffic law violation notices shall certify as to the correctness of the facts entered on the violation notice by signing his or her name to the notice at the time of service or in the case of a notice produced by a computerized device, by signing a single certificate to be kept by the traffic compliance administrator attesting to the correctness of all notices produced by the device while it was under his or her control. In the case of an automated traffic law violation, the ordinance shall require a determination by a technician employed or contracted by the municipality or county that, based on inspection of recorded images, the motor vehicle was being operated in violation of Section 11-208.5. If the technician determines that the vehicle entered the intersection as part of a funeral procession or in order to yield the right-of-way to an emergency vehicle, a citation shall not be issued. The original or a facsimile of the violation notice or, in the case of a notice produced by a

computerized device, a printed record generated by the device showing the facts entered on the notice, shall be retained by the traffic compliance administrator, and shall be a record kept in the ordinary course of business. A parking, standing, ~~or~~ compliance or automated traffic law violation notice issued, signed and served in accordance with this Section, a copy of the notice, or the computer generated record shall be prima facie correct and shall be prima facie evidence of the correctness of the facts shown on the notice. The notice, copy, or computer generated record shall be admissible in any subsequent administrative or legal proceedings.

(4) An opportunity for a hearing for the registered owner of the vehicle cited in the parking, standing, ~~or~~ compliance or automated traffic law violation notice in which the owner may contest the merits of the alleged violation, and during which formal or technical rules of evidence shall not apply; provided, however, that under Section 11-1306 of this Code the lessee of a vehicle cited in the violation notice likewise shall be provided an opportunity for a hearing of the same kind afforded the registered owner. The hearings shall be recorded, and the person conducting the hearing on behalf of the traffic compliance administrator shall be empowered to administer oaths and to secure by subpoena both the attendance and testimony of witnesses and the production of relevant books and papers. Persons appearing at a hearing under this Section may be represented by counsel at their expense. The ordinance may also provide for internal administrative review following the decision of the hearing officer.

(5) Service of additional notices, sent by first class United States mail, postage prepaid, to the address of the registered owner of the cited vehicle as recorded with the Secretary of State or, under Section 11-1306 of this Code, to the lessee of the cited vehicle at the last address known to the lessor of the cited vehicle at the time of lease. The service shall be deemed complete as of the date of deposit in the United States mail. The notices shall be in the following sequence and shall include but not be limited to the information specified herein:

(i) A second notice of parking, standing, or compliance violation. This notice shall specify the date and

location of the violation cited in the parking, standing, or compliance violation notice; ~~the~~ particular regulation violated; ~~the~~ except for automated traffic law violations, the vehicle make and state registration number; ~~the~~ fine and any penalty that may be assessed for late payment when so provided by ordinance; ~~the~~ the availability of a hearing in which the violation may be contested on its merits; ~~the~~ and the time and manner in which the hearing may be had. The notice of violation shall also state that failure either to pay the indicated fine and any applicable penalty, or to appear at a hearing on the merits in the time and manner specified, will result in a final determination of violation liability for the cited violation in the amount of the fine or penalty indicated, and that, upon the occurrence of a final determination of violation liability for the failure, and the exhaustion of, or failure to exhaust, available administrative or judicial procedures for review, any unpaid fine or penalty will constitute a debt due and owing the municipality.

(ii) A notice of final determination of parking, standing, ~~or~~ compliance or automated traffic law violation

liability. This notice shall be sent following a final determination of parking, standing, ~~or~~ compliance or automated traffic law violation liability and the conclusion of judicial review procedures taken under this Section. The notice shall state that the unpaid fine or penalty is a debt due and owing the municipality. The notice shall contain warnings that failure to pay any fine or penalty due and owing the municipality within the time specified may result in the municipality's filing of a petition in the Circuit Court to have the unpaid fine or penalty rendered a judgment as provided by this Section, or may result in suspension of the person's drivers license for failure to pay fines or penalties for 10 or more parking violations under Section 6-306.5 or 5 more automated traffic law violations under Section 11-208.5.

(6) A Notice of impending drivers license suspension. This notice shall be sent to the person liable for any fine or penalty that remains due and owing on 10 or more parking violations or 5 or more unpaid automated traffic law violations. The notice shall state that failure to pay the fine or penalty owing within 45 days of the notice's date will result in the municipality notifying the Secretary of State that the person is eligible for initiation of suspension proceedings under Section 6-306.5 of this Code. The notice shall also state that the person may obtain a photostatic copy of an original ticket imposing a fine or penalty by sending a self addressed, stamped envelope to the municipality along with a request for the photostatic copy. The notice of impending drivers license suspension shall be sent by first class United States mail, postage prepaid, to the address recorded with the Secretary of State.

(7) Final determinations of violation liability. A final determination of violation

liability shall occur following failure to pay the fine or penalty after a hearing officer's determination of violation liability and the exhaustion of or failure to exhaust any administrative review procedures provided by ordinance. Where a person fails to appear at a hearing to contest the alleged violation in the time and manner specified in a prior mailed notice, the hearing officer's determination of violation liability shall become final: (A) upon denial of a timely petition to set aside that determination, or (B) upon expiration of the period for filing the petition without a filing having been made.

(8) A petition to set aside a determination of parking, standing, ~~or compliance~~ , or automated traffic law

violation liability that may be filed by a person owing an unpaid fine or penalty. The petition shall be filed with and ruled upon by the traffic compliance administrator in the manner and within the time specified by ordinance. The grounds for the petition may be limited to: (A) the person not having been the owner or lessee of the cited vehicle on the date the violation notice was issued, (B) the person having already paid the fine or penalty for the violation in question, and (C) excusable failure to appear at or request a new date for a hearing. With regard to municipalities with a population of 1 million or more, it shall be grounds for dismissal of a parking violation if the State registration number or vehicle make specified is incorrect. After the determination of parking, standing, ~~or compliance~~ , or automated traffic law violation liability has been set aside upon a showing of just cause, the registered owner shall be provided with a hearing on the merits for that violation.

(9) Procedures for non-residents. Procedures by which persons who are not residents of the municipality may contest the merits of the alleged violation without attending a hearing.

(10) A schedule of civil fines for violations of vehicular standing, parking, ~~and compliance~~ , and automated traffic law regulations enacted by ordinance pursuant to this Section, and a schedule of penalties for late payment of the fines, provided, however, that the total amount of the fine and penalty for any one violation shall not exceed \$250.

(11) Other provisions as are necessary and proper to carry into effect the powers granted and purposes stated in this Section.

(c) Any municipality establishing vehicular standing, parking, ~~and compliance~~ , and automated traffic law regulations under this Section may also provide by ordinance for a program of vehicle immobilization for the purpose of facilitating enforcement of those regulations. The program of vehicle immobilization shall provide for immobilizing any eligible vehicle upon the public way by presence of a restraint in a manner to prevent operation of the vehicle. Any ordinance establishing a program of vehicle immobilization under this Section shall provide:

(1) Criteria for the designation of vehicles eligible for immobilization. A vehicle shall be eligible for immobilization when the registered owner of the vehicle has accumulated the number of unpaid final determinations of parking, standing, ~~or compliance~~ , or automated traffic law violation liability as determined by ordinance.

(2) A notice of impending vehicle immobilization and a right to a hearing to challenge the validity of the notice by disproving liability for the unpaid final determinations of parking, standing, ~~or compliance~~ , or automated traffic law violation liability listed on the notice.

(3) The right to a prompt hearing after a vehicle has been immobilized or subsequently towed without payment of the outstanding fines and penalties on parking, standing, ~~or compliance~~ , or automated traffic law violations for which final determinations have been issued. An order issued after the hearing is a final administrative decision within the meaning of Section 3-101 of the Code of Civil Procedure.

(4) A post immobilization and post-towing notice advising the registered owner of the vehicle of the right to a hearing to challenge the validity of the impoundment.

(d) Judicial review of final determinations of parking, standing, ~~and compliance~~ , and automated traffic law violations and final administrative decisions issued after hearings regarding vehicle immobilization and impoundment made under this Section shall be subject to the provisions of the Administrative Review Law.

(e) Any fine, penalty, or part of any fine or any penalty remaining unpaid after the exhaustion of, or the failure to exhaust, administrative remedies created under this Section and the conclusion of any judicial review procedures shall be a debt due and owing the municipality and, as such, may be collected in accordance with applicable law. Payment in full of any fine or penalty resulting from a standing, parking, ~~or compliance~~ , or automated traffic law violation shall constitute a final disposition of that violation.

(f) After the expiration of the period within which judicial review may be sought for a final determination of parking, standing, ~~or compliance~~ , or automated traffic law violation, the municipality may commence a proceeding in the Circuit Court for purposes of obtaining a judgment on the final

determination of violation. Nothing in this Section shall prevent a municipality from consolidating multiple final determinations of parking, standing, ~~or compliance~~ , or automated traffic law violations violation against a person in a proceeding. Upon commencement of the action, the municipality shall file a certified copy of the final determination of parking, standing, ~~or compliance~~ , or automated traffic law violation, which shall be accompanied by a certification that recites facts sufficient to show that the final determination of violation was issued in accordance with this Section and the applicable municipal ordinance. Service of the summons and a copy of the petition may be by any method provided by Section 2-203 of the Code of Civil Procedure or by certified mail, return receipt requested, provided that the total amount of fines and penalties for final determinations of parking, standing, ~~or compliance~~ , or automated traffic law violations does not exceed \$2500. If the court is satisfied that the final determination of parking, standing, ~~or compliance~~ , or automated traffic law violation was entered in accordance with the requirements of this Section and the applicable municipal ordinance, and that the registered owner or the lessee, as the case may be, had an opportunity for an administrative hearing and for judicial review as provided in this Section, the court shall render judgment in favor of the municipality and against the registered owner or the lessee for the amount indicated in the final determination of parking, standing, ~~or compliance~~ , or automated traffic law violation, plus costs. The judgment shall have the same effect and may be enforced in the same manner as other judgments for the recovery of money.

(Source: P.A. 92-695, eff. 1-1-03.)

(625 ILCS 5/11-208.5 new)

Sec. 11-208.5. Automated traffic law enforcement system.

(a) As used in this Section, "automated traffic law enforcement system" means a device with one or more motor vehicle sensors working in conjunction with a red light signal to produce recorded images of motor vehicles entering an intersection against a red signal indication in violation of Section 11-306 of this Code or a similar provision of a local ordinance.

An automated traffic law enforcement system is a system, in a municipality or county administered by a governmental agency, that produces a recorded image of a motor vehicle's violation of a provision of this Code or a local ordinance and is designed to obtain a clear recorded image of the vehicle and the vehicle's license plate. The recorded image must also display the time, date, and location of the violation.

(b) As used in this Section, "recorded images" means images recorded by an automated traffic law enforcement system on:

- (1) 2 or more photographs;
- (2) 2 or more microphotographs;
- (3) 2 or more electronic images; or
- (4) a videotape showing the motor vehicle and, on at least one image or portion of tape, clearly identifying the registration plate number of the motor vehicle.

(c) For each violation of a provision of this Code or a local ordinance recorded by an automatic traffic law enforcement system, the county or municipality having jurisdiction may issue a written notice of the violation to the registered owner of the vehicle as the alleged violator. The notice shall be delivered to the registered owner of the vehicle, by mail, within 90 days of the violation.

The notice shall include:

- (1) the name and address of the registered owner of the vehicle;
- (2) the registration number of the motor vehicle involved in the violation;
- (3) the violation charged;
- (4) the location where the violation occurred;
- (5) the date and time of the violation;
- (6) a copy of the recorded images;
- (7) the amount of the civil penalty imposed and the date by which the civil penalty should be paid;
- (8) a statement that recorded images are evidence of a violation of a red light signal;
- (9) a warning that failure to pay the civil penalty or to contest liability in a timely manner is an admission of liability and may result in a suspension of the driving privileges of the registered owner of the vehicle; and
- (10) a statement that the person may elect to proceed by:
 - (A) paying the fine; or
 - (B) challenging the charge.

(d) If a person charged with a traffic violation, as a result of an automated traffic law enforcement system, does not pay or successfully contest the civil penalty resulting from that violation, the Secretary of State shall suspend the driving privileges of the registered owner of the vehicle under Section 6-306.5 of this Code for failing to pay any fine or penalty due and owing as a result of 5 violations of the

automated traffic law enforcement system.

(e) Based on inspection of recorded images produced by an automated traffic law enforcement system, a notice alleging that the violation occurred shall be evidence of the facts contained in the notice and admissible in any proceeding alleging a violation under this Section.

(f) Recorded images made by an automatic traffic law enforcement system are confidential and shall be made available only to the alleged violator and governmental and law enforcement agencies for purposes of adjudicating a violation of this Section or for statistical purposes. Any recorded image evidencing a violation of this Section, however, is admissible in any proceeding resulting from the issuance of the citation when there is reasonable and sufficient proof of the accuracy of the camera or electronic instrument recording the image. There is a rebuttable presumption that the recorded image is accurate if the camera or electronic recording instrument was in good working order, as determined by the camera technician on the day of the alleged offense.

(g) The court may consider in defense of a violation:

(1) that the motor vehicle or registration plates of the motor vehicle were stolen before the violation occurred and not under the control of or in the possession of the owner at the time of the violation;

(2) that the driver of the vehicle passed through the intersection when the light was red either (i) in order to yield the right-of-way to an emergency vehicle or (ii) as part of a funeral procession; and

(3) any other evidence or issues provided by municipal or county ordinance.

(h) To demonstrate that the motor vehicle or the registration plates were stolen before the violation occurred and were not under the control or possession of the owner at the time of the violation, the owner must submit proof that a police report concerning the stolen motor vehicle or registration plates was filed in a timely manner.

(i) Unless the driver of the motor vehicle received a Uniform Traffic Citation from a police officer at the time of the violation, the motor vehicle owner is subject to a civil penalty not exceeding \$180 if the motor vehicle is recorded by an automated traffic law enforcement system. A violation for which a civil penalty is imposed under this Section is not a violation of a traffic regulation governing the movement of vehicles and may not be recorded on the driving record of the owner of the vehicle.

(j) An intersection equipped with an automated traffic law enforcement system must be posted with a sign visible to approaching traffic indicating that the intersection is being monitored by an automated traffic law enforcement system.

(k) The compensation paid for an automated traffic law enforcement system must be based on the value of the equipment or the services provided and may not be based on the number of traffic citations issued or the revenue generated by the system.

(625 ILCS 5/11-306) (from Ch. 95 1/2, par. 11-306)

Sec. 11-306. Traffic-control signal legend. Whenever traffic is controlled by traffic-control signals exhibiting different colored lights or color lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and the lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) Green indication.

1. Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Vehicular traffic, including vehicles turning right or left, shall yield the right of way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.

2. Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right of way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

3. Unless otherwise directed by a pedestrian-control signal, as provided in Section 11-307, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) Steady yellow indication.

1. Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter.

2. Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in Section 11-307, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian

shall then start to cross the roadway.

(c) Steady red indication.

1. Except as provided in paragraph 3 of this subsection (c), vehicular traffic facing a steady circular red signal alone shall stop at a clearly marked stop line, but if there is no such stop line, before entering the crosswalk on the near side of the intersection, or if there is no such crosswalk, then before entering the intersection, and shall remain standing until an indication to proceed is shown.

2. Except as provided in paragraph 3 of this subsection (c), vehicular traffic facing a steady red arrow signal shall not enter the intersection to make the movement indicated by the arrow and, unless entering the intersection to make a movement permitted by another signal, shall stop at a clearly marked stop line, but if there is no such stop line, before entering the crosswalk on the near side of the intersection, or if there is no such crosswalk, then before entering the intersection, and shall remain standing until an indication permitting the movement indicated by such red arrow is shown.

3. Except when a sign is in place prohibiting a turn and local authorities by ordinance or State authorities by rule or regulation prohibit any such turn, vehicular traffic facing any steady red signal may cautiously enter the intersection to turn right, or to turn left from a one-way street into a one-way street, after stopping as required by paragraph 1 or paragraph 2 of this subsection. After stopping, the driver shall yield the right of way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction or roadways. Such driver shall yield the right of way to pedestrians within the intersection or an adjacent crosswalk.

4. Unless otherwise directed by a pedestrian-control signal as provided in Section 11-307, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

~~5. A municipality with a population of 1,000,000 or more may enact an ordinance that provides for the use of an automated red light enforcement system to enforce violations of this subsection (c) that result in or involve a motor vehicle accident, leaving the scene of a motor vehicle accident, or reckless driving that results in bodily injury.~~

~~This paragraph 5 is subject to prosecutorial discretion that is consistent with applicable law.~~

(d) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provisions of this Section shall be applicable except as to provisions which by their nature can have no application. Any stop required shall be at a traffic sign or a marking on the pavement indicating where the stop shall be made or, in the absence of such sign or marking, the stop shall be made at the signal.

(e) The motorman of any streetcar shall obey the above signals as applicable to vehicles.
(Source: P.A. 90-86, eff. 7-10-97; 91-357, eff. 7-29-99.)

(625 ILCS 5/1-105.5 rep.)

Section 10. The Illinois Vehicle Code is amended by repealing Section 1-105.5."

The motion prevailed.

And the amendment was adopted and ordered printed.

There being no further amendments, the foregoing Amendment No. 1 was ordered engrossed, and the bill, as amended was ordered to a third reading.

READING BILLS OF THE SENATE A THIRD TIME

On motion of Senator Cullerton, **Senate Bill No. 1127**, having been transcribed and typed and all amendments adopted thereto having been printed, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the negative by the following vote:

Yeas 25; Nays 30.

The following voted in the affirmative:

Clayborne	Dillard	Martinez	Sullivan, D.
Collins	Garrett	Munoz	Trotter
Cronin	Haine	Radogno	Viverito
Crotty	Harmon	Ronen	Mr. President

[May 30, 2005]

Cullerton	Lightford	Rutherford
del Valle	Link	Schoenberg
DeLeo	Maloney	Silverstein

The following voted in the negative:

Althoff	Hendon	Peterson	Sullivan, J.
Bomke	Hunter	Petka	Syverson
Brady	Jacobs	Rauschenberger	Watson
Burzynski	Jones, J.	Righter	Wilhelmi
Dahl	Jones, W.	Risinger	Winkel
Demuzio	Lauzen	Roskam	Wojcik
Forby	Luechtefeld	Shadid	
Geo-Karis	Pankau	Sieben	

This bill, having failed to receive the vote of a constitutional majority of the members elected, was declared lost, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

CONSIDERATION OF RESOLUTIONS ON SECRETARY'S DESK

Senator Schoenberg moved that **Senate Resolution No. 60**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO SENATE RESOLUTION 60

AMENDMENT NO. 1. Amend Senate Resolution 60 on page 2, by replacing lines 8 through 13 with the following:

"RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we congratulate Rotary International on the occasion of its 100 year anniversary, and we encourage all citizens to be cognizant of the many great services this organization provides to people throughout the world; and be it further

RESOLVED, That a suitable copy of this resolution be presented to Rotary International as an expression of our respect and esteem."

The motion prevailed.

And the amendment was adopted and ordered printed.

Senator Schoenberg moved that Senate Resolution No. 60, as amended, be adopted.

The motion prevailed.

And the resolution, as amended, was adopted.

Senator Schoenberg moved that **Senate Resolution No. 208**, on the Secretary's Desk, be taken up for immediate consideration.

The motion prevailed.

Senator Schoenberg moved that Senate Resolution No. 208 be adopted.

And on that motion a call of the roll was had resulting as follows:

Yeas 54; Nays 2.

The following voted in the affirmative:

Althoff	Forby	Maloney	Shadid
Bomke	Garrett	Martinez	Sieben

[May 30, 2005]

Brady	Geo-Karis	Meeks	Silverstein
Burzynski	Haine	Munoz	Sullivan, J.
Clayborne	Halvorson	Pankau	Syverson
Collins	Harmon	Peterson	Trotter
Cronin	Hendon	Petka	Viverito
Crotty	Hunter	Raoul	Watson
Cullerton	Jacobs	Rauschenberger	Wilhelmi
Dahl	Jones, J.	Risinger	Winkel
del Valle	Jones, W.	Ronen	Wojcik
DeLeo	Lightford	Rutherford	Mr. President
Demuzio	Link	Sandoval	
Dillard	Luechtefeld	Schoenberg	

The following voted in the negative:

Lauzen
Roskam

The motion prevailed.
And the resolution was adopted.

At the hour of 1:15 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 5:45 o'clock p.m., the Senate resumed consideration of business.
Senator Halvorson, presiding.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 475

A bill for AN ACT concerning insurance.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 475

Passed the House, as amended, May 30, 2005.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 475

AMENDMENT NO. 1. Amend Senate Bill 475 by replacing everything after the enacting clause with the following:

"ARTICLE 1. FINDINGS

Section 101. Findings. The General Assembly finds as follows:

- (1) The increasing cost of medical liability insurance results in increased financial burdens on physicians and hospitals.
- (2) The increasing cost of medical liability insurance in Illinois is believed to have contributed to the reduction of the availability of medical care in portions of the State and is believed to have discouraged some medical students from choosing Illinois as the place they will receive their medical education and practice medicine.
- (3) The public would benefit from making the services of hospitals and physicians more

[May 30, 2005]

available.

(4) This health care crisis, which endangers the public health, safety, and welfare of the citizens of Illinois, requires significant reforms to the civil justice system currently endangering health care for citizens of Illinois. Limiting non-economic damages is one of these significant reforms designed to benefit the people of the State of Illinois. An increasing number of citizens or municipalities are enacting ordinances that limit damages and help maintain the health care delivery system in Illinois and protect the health, safety, and welfare of the people of Illinois.

(5) In order to preserve the public health, safety, and welfare of the people of Illinois, the current medical malpractice situation requires reforms that enhance the State's oversight of physicians and ability to discipline physicians, that increase the State's oversight of medical liability insurance carriers, that reduce the number of nonmeritorious healing art malpractice actions, that limit non-economic damages in healing art malpractice actions, that encourage physicians to provide voluntary services at free medical clinics, that encourage physicians and hospitals to continue providing health care services in Illinois, and that encourage physicians to practice in medical care shortage areas.

ARTICLE 3. AMENDATORY PROVISIONS

Section 310. The Illinois Insurance Code is amended by changing Sections 155.18, 155.19, and 1204 and by adding Section 155.18a as follows:

(215 ILCS 5/155.18) (from Ch. 73, par. 767.18)

Sec. 155.18. (a) This Section shall apply to insurance on risks based upon negligence by a physician, hospital or other health care provider, referred to herein as medical liability insurance. This Section shall not apply to contracts of reinsurance, nor to any farm, county, district or township mutual insurance company transacting business under an Act entitled "An Act relating to local mutual district, county and township insurance companies", approved March 13, 1936, as now or hereafter amended, nor to any such company operating under a special charter.

(b) The following standards shall apply to the making and use of rates pertaining to all classes of medical liability insurance:

(1) Rates shall not be excessive or inadequate, ~~as herein defined~~, nor shall they be unfairly discriminatory. ~~No rate shall be held to be excessive unless such rate is unreasonably high for the insurance provided, and a reasonable degree of competition does not exist in the area with respect to the classification to which such rate is applicable.~~

~~No rate shall be held inadequate unless it is unreasonably low for the insurance provided and continued use of it would endanger solvency of the company.~~

(2) Consideration shall be given, to the extent applicable, to past and prospective loss experience within and outside this State, to a reasonable margin for underwriting profit and contingencies, to past and prospective expenses both countrywide and those especially applicable to this State, and to all other factors, including judgment factors, deemed relevant within and outside this State.

Consideration may also be given in the making and use of rates to dividends, savings or unabsorbed premium deposits allowed or returned by companies to their policyholders, members or subscribers.

(3) The systems of expense provisions included in the rates for use by any company or group of companies may differ from those of other companies or groups of companies to reflect the operating methods of any such company or group with respect to any kind of insurance, or with respect to any subdivision or combination thereof.

(4) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any difference among risks that have a probable effect upon losses or expenses. Such classifications or modifications of classifications of risks may be established based upon size, expense, management, individual experience, location or dispersion of hazard, or any other reasonable considerations and shall apply to all risks under the same or substantially the same circumstances or conditions. The rate for an established classification should be related generally to the anticipated loss and expense factors of the class.

(c) ~~(1)~~ Every company writing medical liability insurance shall file with the Secretary of Financial and Professional Regulation ~~Director of Insurance~~ the rates and rating schedules it uses for medical liability

[May 30, 2005]

insurance. A rate shall go into effect upon filing, except as otherwise provided in this Section.

(2) If (i) 1% of a company's insureds within a specialty or 25 of the company's insureds (whichever is greater) request a public hearing, (ii) the Secretary at his or her discretion decides to convene a public hearing, or (iii) the percentage increase in a company's rate is greater than 6%, then the Secretary shall convene a public hearing in accordance with this paragraph (2). The Secretary shall notify the public of any application by an insurer for a rate increase to which this paragraph (2) applies. A public hearing under this paragraph (2) must be concluded within 90 days after the request, decision, or increase that gave rise to the hearing. The Secretary may, by order, adjust a rate or take any other appropriate action at the conclusion of the hearing.

(3) A rate ~~(1)~~ This filing shall occur upon a company's commencement of medical liability insurance business in this State at least annually and thereafter as often as the rates are changed or amended.

(4) ~~(2)~~ For the purposes of this Section, any change in premium to the company's insureds as a result of a change in the company's base rates or a change in its increased limits factors shall constitute a change in rates and shall require a filing with the Secretary Director.

(5) ~~(3)~~ It shall be certified in such filing by an officer of the company and a qualified actuary that the company's rates are based on sound actuarial principles and are not inconsistent with the company's experience. The Secretary may request any additional statistical data and other pertinent information necessary to determine the manner the company used to set the filed rates and the reasonableness of those rates. This data and information shall be made available, on a company-by-company basis, to the general public.

(d) If after a public hearing the Secretary Director finds:

(1) that any rate, rating plan or rating system violates the provisions of this Section applicable to it, he shall ~~may~~ issue an order to the company which has been the subject of the hearing specifying in what respects such violation exists and, in that order, may adjust the rate ~~stating when, within a reasonable period of time, the further use of such rate or rating system by such company in contracts of insurance made thereafter shall be prohibited;~~

(2) that the violation of any of the provisions of this Section ~~applicable to it~~ by any company which has been the subject of the hearing was wilful or that any company has repeatedly violated any provision of this Section, he may take either or both of the following actions:

(A) Suspend ~~suspend~~ or revoke, in whole or in part, the certificate of authority of such company with

respect to the class of insurance which has been the subject of the hearing.

(B) Impose a penalty of up to \$1,000 against the company for each violation. Each day during which a violation occurs constitutes a separate violation.

The burden is on the company to justify the rate or proposed rate at the public hearing.

(e) Every company writing medical liability insurance in this State shall offer to each of its medical liability insureds the option to make premium payments in quarterly installments as prescribed by and filed with the Secretary. This offer shall be included in the initial offer or in the first policy renewal occurring after the effective date of this amendatory Act of the 94th General Assembly, but no earlier than January 1, 2006.

(f) Every company writing medical liability insurance is encouraged, but not required, to offer the opportunity for participation in a plan offering deductibles to its medical liability insureds. Any plan to offer deductibles shall be filed with the Department.

(g) Every company writing medical liability insurance is encouraged, but not required, to offer their medical liability insureds a plan providing premium discounts for participation in risk management activities. Any such plan shall be reported to the Department.

(h) A company writing medical liability insurance in Illinois must give 180 days' notice before the company discontinues the writing of medical liability insurance in Illinois.

(Source: P.A. 79-1434.)

(215 ILCS 5/155.18a new)

Sec. 155.18a. Professional Liability Insurance Resource Center. The Secretary of Financial and Professional Regulation shall establish a Professional Liability Insurance Resource Center on the Department's Internet website containing the name, telephone number, and base rates of each licensed company providing medical liability insurance and the name, address, and telephone number of each producer who sells medical liability insurance and the name of each licensed company for which the producer sells medical liability insurance. Each company and producer shall submit the information to the Department on or before September 30 of each year in order to be listed on the website. Hyperlinks to company websites shall be included, if available. The publication of the information on the Department's website shall commence on January 1, 2006. The Department shall update the information

[May 30, 2005]

on the Professional Liability Insurance Resource Center at least annually.

(215 ILCS 5/155.19) (from Ch. 73, par. 767.19)

Sec. 155.19. All claims filed after December 31, 1976 with any insurer and all suits filed after December 31, 1976 in any court in this State, alleging liability on the part of any physician, hospital or other health care provider for medically related injuries, shall be reported to the Secretary of Financial and Professional Regulation ~~Director of Insurance~~ in such form and under such terms and conditions as may be prescribed by the Secretary ~~Director~~. In addition, and notwithstanding any other provision of law to the contrary, any insurer, stop loss insurer, captive insurer, risk retention group, county risk retention trust, religious or charitable risk pooling trust, surplus line insurer, or other entity authorized or permitted by law to provide medical liability insurance in this State shall report to the Secretary, in such form and under such terms and conditions as may be prescribed by the Secretary, all claims filed after December 31, 2005 and all suits filed after December 31, 2005 in any court in this State alleging liability on the part of any physician, hospital, or health care provider for medically-related injuries. Each clerk of the circuit court shall provide to the Secretary such information as the Secretary may deem necessary to verify the accuracy and completeness of reports made to the Secretary under this Section. The Secretary ~~Director~~ shall maintain complete and accurate records of all ~~such~~ claims and suits including their nature, amount, disposition (categorized by verdict, settlement, dismissal, or otherwise and including disposition of any post-trial motions and types of damages awarded, if any, including but not limited to economic damages and non-economic damages) and other information as he may deem useful or desirable in observing and reporting on health care provider liability trends in this State. Records received by the Secretary under this Section shall be available to the general public; however, the records made available to the general public shall not include the names or addresses of the parties to any claims or suits. The Secretary ~~Director~~ shall release to appropriate disciplinary and licensing agencies any such data or information which may assist such agencies in improving the quality of health care or which may be useful to such agencies for the purpose of professional discipline.

With due regard for appropriate maintenance of the confidentiality thereof, the Secretary ~~Director~~ shall ~~may~~ release , on an annual basis, from time to time to the Governor, the General Assembly and the general public statistical reports based on such data and information.

If the Secretary finds that any entity required to report information in its possession under this Section has violated any provision of this Section by filing late, incomplete, or inaccurate reports, the Secretary may fine the entity up to \$1,000 for each offense. Each day during which a violation occurs constitutes a separate offense.

The Secretary ~~Director~~ may promulgate such rules and regulations as may be necessary to carry out the provisions of this Section.

(Source: P.A. 79-1434.)

(215 ILCS 5/1204) (from Ch. 73, par. 1065.904)

Sec. 1204. (A) The Secretary ~~Director~~ shall promulgate rules and regulations which shall require each insurer licensed to write property or casualty insurance in the State and each syndicate doing business on the Illinois Insurance Exchange to record and report its loss and expense experience and other data as may be necessary to assess the relationship of insurance premiums and related income as compared to insurance costs and expenses. The Secretary ~~Director~~ may designate one or more rate service organizations or advisory organizations to gather and compile such experience and data. The Secretary ~~Director~~ shall require each insurer licensed to write property or casualty insurance in this State and each syndicate doing business on the Illinois Insurance Exchange to submit a report, on a form furnished by the Secretary ~~Director~~, showing its direct writings in this State and companywide.

(B) Such report required by subsection (A) of this Section may include, but not be limited to, the following specific types of insurance written by such insurer:

- (1) Political subdivision liability insurance reported separately in the following categories:
 - (a) municipalities;
 - (b) school districts;
 - (c) other political subdivisions;
- (2) Public official liability insurance;
- (3) Dram shop liability insurance;
- (4) Day care center liability insurance;
- (5) Labor, fraternal or religious organizations liability insurance;
- (6) Errors and omissions liability insurance;
- (7) Officers and directors liability insurance reported separately as follows:
 - (a) non-profit entities;

- (b) for-profit entities;
- (8) Products liability insurance;
- (9) Medical malpractice insurance;
- (10) Attorney malpractice insurance;
- (11) Architects and engineers malpractice insurance; and
- (12) Motor vehicle insurance reported separately for commercial and private passenger vehicles as follows:

- (a) motor vehicle physical damage insurance;
- (b) motor vehicle liability insurance.

(C) Such report may include, but need not be limited to the following data, both specific to this State and companywide, in the aggregate or by type of insurance for the previous year on a calendar year basis:

- (1) Direct premiums written;
- (2) Direct premiums earned;
- (3) Number of policies;
- (4) Net investment income, using appropriate estimates where necessary;
- (5) Losses paid;
- (6) Losses incurred;
- (7) Loss reserves:
 - (a) Losses unpaid on reported claims;
 - (b) Losses unpaid on incurred but not reported claims;
- (8) Number of claims:
 - (a) Paid claims;
 - (b) Arising claims;
- (9) Loss adjustment expenses:
 - (a) Allocated loss adjustment expenses;
 - (b) Unallocated loss adjustment expenses;
- (10) Net underwriting gain or loss;
- (11) Net operation gain or loss, including net investment income;
- (12) Any other information requested by the ~~Secretary~~ Director.

(C-5) Additional information required from medical malpractice insurers.

(1) In addition to the other requirements of this Section, the following information shall be included in the report required by subsection (A) of this Section in such form and under such terms and conditions as may be prescribed by the Secretary:

(a) paid and incurred losses by county for each of the past 10 policy years;

(b) earned exposures by ISO code, policy type, and policy year by county for each of the past 10 years; and

(c) the following actuarial information:

(i) Base class and territory equivalent exposures by report year by relative accident year.

(ii) Cumulative loss array by accident year by calendar year of development. This array will show frequency of claims in the following categories: open, closed with indemnity (CWI), closed with expense (CWE), and closed no pay (CNP); paid severity in the following categories: indemnity and allocated loss adjustment expenses (ALAE) on closed claims; and indemnity and expense reserves on pending claims.

(iii) Cumulative loss array by report year by calendar year of development. This array will show frequency of claims in the following categories: open, closed with indemnity (CWI), closed with expense (CWE), and closed no pay (CNP); paid severity in the following categories: indemnity and allocated loss adjustment expenses (ALAE) on closed claims; and indemnity and expense reserves on pending claims.

(iv) Maturity year and tail factors.

(v) Any expense, contingency ddr (death, disability, and retirement), commission, tax, and/or off-balance factors.

(2) The following information must also be annually provided to the Department:

(a) copies of the company's reserve and surplus studies; and

(b) consulting actuarial report and data supporting the company's rate filing.

(3) All information collected by the Secretary under paragraphs (1) and (2) shall be made available, on a company-by-company basis, to the General Assembly and the general public. This provision shall supersede any other provision of State law that may otherwise protect such information from public disclosure as confidential.

[May 30, 2005]

(D) In addition to the information which may be requested under subsection (C), the Secretary Director may also request on a companywide, aggregate basis, Federal Income Tax recoverable, net realized capital gain or loss, net unrealized capital gain or loss, and all other expenses not requested in subsection (C) above.

(E) Violations - Suspensions - Revocations.

(1) Any company or person subject to this Article, who willfully or repeatedly fails to observe or who otherwise violates any of the provisions of this Article or any rule or regulation promulgated by the Secretary Director under authority of this Article or any final order of the Secretary Director entered under the authority of this Article shall by civil penalty forfeit to the State of Illinois a sum not to exceed \$2,000. Each day during which a violation occurs constitutes a separate offense.

(2) No forfeiture liability under paragraph (1) of this subsection may attach unless a written notice of apparent liability has been issued by the Secretary Director and received by the respondent, or the Secretary Director sends written notice of apparent liability by registered or certified mail, return receipt requested, to the last known address of the respondent. Any respondent so notified must be granted an opportunity to request a hearing within 10 days from receipt of notice, or to show in writing, why he should not be held liable. A notice issued under this Section must set forth the date, facts and nature of the act or omission with which the respondent is charged and must specifically identify the particular provision of this Article, rule, regulation or order of which a violation is charged.

(3) No forfeiture liability under paragraph (1) of this subsection may attach for any violation occurring more than 2 years prior to the date of issuance of the notice of apparent liability and in no event may the total civil penalty forfeiture imposed for the acts or omissions set forth in any one notice of apparent liability exceed \$100,000.

(4) All administrative hearings conducted pursuant to this Article are subject to 50 Ill. Adm. Code 2402 and all administrative hearings are subject to the Administrative Review Law.

(5) The civil penalty forfeitures provided for in this Section are payable to the General Revenue Fund of the State of Illinois, and may be recovered in a civil suit in the name of the State of Illinois brought in the Circuit Court in Sangamon County or in the Circuit Court of the county where the respondent is domiciled or has its principal operating office.

(6) In any case where the Secretary Director issues a notice of apparent liability looking toward the imposition of a civil penalty forfeiture under this Section that fact may not be used in any other proceeding before the Secretary Director to the prejudice of the respondent to whom the notice was issued, unless (a) the civil penalty forfeiture has been paid, or (b) a court has ordered payment of the civil penalty forfeiture and that order has become final.

(7) When any person or company has a license or certificate of authority under this Code and knowingly fails or refuses to comply with a lawful order of the Secretary Director requiring compliance with this Article, entered after notice and hearing, within the period of time specified in the order, the Secretary Director may, in addition to any other penalty or authority provided, revoke or refuse to renew the license or certificate of authority of such person or company, or may suspend the license or certificate of authority of such person or company until compliance with such order has been obtained.

(8) When any person or company has a license or certificate of authority under this Code and knowingly fails or refuses to comply with any provisions of this Article, the Secretary Director may, after notice and hearing, in addition to any other penalty provided, revoke or refuse to renew the license or certificate of authority of such person or company, or may suspend the license or certificate of authority of such person or company, until compliance with such provision of this Article has been obtained.

(9) No suspension or revocation under this Section may become effective until 5 days from the date that the notice of suspension or revocation has been personally delivered or delivered by registered or certified mail to the company or person. A suspension or revocation under this Section is stayed upon the filing, by the company or person, of a petition for judicial review under the Administrative Review Law.

(Source: P.A. 93-32, eff. 7-1-03.)

Section 315. The Medical Practice Act of 1987 is amended by changing Sections 7, 22, 23, 24, and 36 and adding Section 24.1 as follows:

(225 ILCS 60/7) (from Ch. 111, par. 4400-7)

(Section scheduled to be repealed on January 1, 2007)

[May 30, 2005]

Sec. 7. Medical Disciplinary Board.

(A) There is hereby created the Illinois State Medical Disciplinary Board (hereinafter referred to as the "Disciplinary Board"). The Disciplinary Board shall consist of 11 ~~9~~ members, to be appointed by the Governor by and with the advice and consent of the Senate. All members shall be residents of the State, not more than 6 ~~5~~ of whom shall be members of the same political party. All members shall be voting members. Five members shall be physicians licensed to practice medicine in all of its branches in Illinois possessing the degree of doctor of medicine, and it shall be the goal that at least one of the members practice in the field of neurosurgery, one of the members practice in the field of obstetrics and gynecology, and one of the members practice in the field of cardiology. One member shall be a physician licensed to practice in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. One member shall be a physician licensed to practice in Illinois and possessing the degree of doctor of chiropractic. Four members ~~Two~~ shall be members of the public, who shall not be engaged in any way, directly or indirectly, as providers of health care. ~~The 2 public members shall act as voting members. One member shall be a physician licensed to practice in Illinois possessing the degree of doctor of osteopathy or osteopathic medicine. One member shall be a physician licensed to practice in Illinois and possessing the degree of doctor of chiropractic.~~

(B) Members of the Disciplinary Board shall be appointed for terms of 4 years. Upon the expiration of the term of any member, their successor shall be appointed for a term of 4 years by the Governor by and with the advice and consent of the Senate. The Governor shall fill any vacancy for the remainder of the unexpired term by and with the advice and consent of the Senate. Upon recommendation of the Board, any member of the Disciplinary Board may be removed by the Governor for misfeasance, malfeasance, or wilful neglect of duty, after notice, and a public hearing, unless such notice and hearing shall be expressly waived in writing. Each member shall serve on the Disciplinary Board until their successor is appointed and qualified. No member of the Disciplinary Board shall serve more than 2 consecutive 4 year terms.

In making appointments the Governor shall attempt to insure that the various social and geographic regions of the State of Illinois are properly represented.

In making the designation of persons to act for the several professions represented on the Disciplinary Board, the Governor shall give due consideration to recommendations by members of the respective professions and by organizations therein.

(C) The Disciplinary Board shall annually elect one of its voting members as chairperson and one as vice chairperson. No officer shall be elected more than twice in succession to the same office. Each officer shall serve until their successor has been elected and qualified.

(D) (Blank).

(E) ~~Six~~ Four voting members of the Disciplinary Board , at least 4 of whom are physicians, shall constitute a quorum. A vacancy in the membership of the Disciplinary Board shall not impair the right of a quorum to exercise all the rights and perform all the duties of the Disciplinary Board. Any action taken by the Disciplinary Board under this Act may be authorized by resolution at any regular or special meeting and each such resolution shall take effect immediately. The Disciplinary Board shall meet at least quarterly. The Disciplinary Board is empowered to adopt all rules and regulations necessary and incident to the powers granted to it under this Act.

(F) Each member, and member-officer, of the Disciplinary Board shall receive a per diem stipend as the ~~Secretary Director~~ of the Department, hereinafter referred to as the ~~Secretary Director~~, shall determine. The ~~Secretary Director~~ shall also determine the per diem stipend that each ex-officio member shall receive. Each member shall be paid their necessary expenses while engaged in the performance of their duties.

(G) The ~~Secretary Director~~ shall select a Chief Medical Coordinator and not less than 2 ~~a~~ Deputy Medical ~~Coordinators~~ Coordinator who shall not be members of the Disciplinary Board. Each medical coordinator shall be a physician licensed to practice medicine in all of its branches, and the ~~Secretary Director~~ shall set their rates of compensation. The ~~Secretary Director~~ shall assign at least one medical coordinator to a region composed of Cook County and such other counties as the ~~Secretary Director~~ may deem appropriate, and such medical coordinator or coordinators shall locate their office in Chicago. The ~~Secretary Director~~ shall assign at least one ~~the remaining~~ medical coordinator to a region composed of the balance of counties in the State, and such medical coordinator or coordinators shall locate their office in Springfield. Each medical coordinator shall be the chief enforcement officer of this Act in his or her ~~their~~ assigned region and shall serve at the will of the Disciplinary Board.

The ~~Secretary Director~~ shall employ, in conformity with the Personnel Code, not less than one full time investigator for every 2,500 ~~5000~~ physicians licensed in the State. Each investigator shall be a college graduate with at least 2 years' investigative experience or one year advanced medical education.

[May 30, 2005]

Upon the written request of the Disciplinary Board, the ~~Secretary~~ ~~Director~~ shall employ, in conformity with the Personnel Code, such other professional, technical, investigative, and clerical help, either on a full or part-time basis as the Disciplinary Board deems necessary for the proper performance of its duties.

(H) Upon the specific request of the Disciplinary Board, signed by either the chairman, vice chairman, or a medical coordinator of the Disciplinary Board, the Department of Human Services or the Department of State Police shall make available any and all information that they have in their possession regarding a particular case then under investigation by the Disciplinary Board.

(I) Members of the Disciplinary Board shall be immune from suit in any action based upon any disciplinary proceedings or other acts performed in good faith as members of the Disciplinary Board.

(J) The Disciplinary Board may compile and establish a statewide roster of physicians and other medical professionals, including the several medical specialties, of such physicians and medical professionals, who have agreed to serve from time to time as advisors to the medical coordinators. Such advisors shall assist the medical coordinators or the Disciplinary Board in their investigations and participation in complaints against physicians. Such advisors shall serve under contract and shall be reimbursed at a reasonable rate for the services provided, plus reasonable expenses incurred. While serving in this capacity, the advisor, for any act undertaken in good faith and in the conduct of their duties under this Section, shall be immune from civil suit.

(Source: P.A. 93-138, eff. 7-10-03.)

(225 ILCS 60/22) (from Ch. 111, par. 4400-22)

(Section scheduled to be repealed on January 1, 2007)

Sec. 22. Disciplinary action.

(A) The Department may revoke, suspend, place on probationary status, refuse to renew, or take any other disciplinary action as the Department may deem proper with regard to the license or visiting professor permit of any person issued under this Act to practice medicine, or to treat human ailments without the use of drugs and without operative surgery upon any of the following grounds:

(1) Performance of an elective abortion in any place, locale, facility, or institution other than:

(a) a facility licensed pursuant to the Ambulatory Surgical Treatment Center Act;

(b) an institution licensed under the Hospital Licensing Act; or

(c) an ambulatory surgical treatment center or hospitalization or care facility maintained by the State or any agency thereof, where such department or agency has authority under law to establish and enforce standards for the ambulatory surgical treatment centers, hospitalization, or care facilities under its management and control; or

(d) ambulatory surgical treatment centers, hospitalization or care facilities maintained by the Federal Government; or

(e) ambulatory surgical treatment centers, hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation.

(2) Performance of an abortion procedure in a wilful and wanton manner on a woman who was not pregnant at the time the abortion procedure was performed.

(3) The conviction of a felony in this or any other jurisdiction, except as otherwise provided in subsection B of this Section, whether or not related to practice under this Act, or the entry of a guilty or nolo contendere plea to a felony charge.

(4) Gross negligence in practice under this Act.

(5) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.

(6) Obtaining any fee by fraud, deceit, or misrepresentation.

(7) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances which results in the inability to practice with reasonable judgment, skill or safety.

(8) Practicing under a false or, except as provided by law, an assumed name.

(9) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(10) Making a false or misleading statement regarding their skill or the efficacy or value of the medicine, treatment, or remedy prescribed by them at their direction in the treatment of any disease or other condition of the body or mind.

(11) Allowing another person or organization to use their license, procured under this Act, to practice.

(12) Disciplinary action of another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof.

(13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Secretary ~~Director~~, after consideration of the recommendation of the Disciplinary Board.

(14) Dividing with anyone other than physicians with whom the licensee practices in a partnership, Professional Association, limited liability company, or Medical or Professional Corporation any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing medicine in partnership under a partnership agreement, including a limited liability partnership, in a limited liability company under the Limited Liability Company Act, in a corporation authorized by the Medical Corporation Act, as an association authorized by the Professional Association Act, or in a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the Board of Directors of the corporation or association. Nothing contained in this subsection prohibits 2 or more corporations authorized by the Medical Corporation Act, from forming a partnership or joint venture of such corporations, and providing medical, surgical and scientific research and knowledge by employees of these corporations if such employees are licensed under this Act, or from pooling, sharing, dividing, or apportioning the fees and monies received by the partnership or joint venture in accordance with the partnership or joint venture agreement. Nothing contained in this subsection shall abrogate the right of 2 or more persons, holding valid and current licenses under this Act, to each receive adequate compensation for concurrently rendering professional services to a patient and divide a fee; provided, the patient has full knowledge of the division, and, provided, that the division is made in proportion to the services performed and responsibility assumed by each.

(15) A finding by the Medical Disciplinary Board that the registrant after having his or her license placed on probationary status or subjected to conditions or restrictions violated the terms of the probation or failed to comply with such terms or conditions.

(16) Abandonment of a patient.

(17) Prescribing, selling, administering, distributing, giving or self-administering any drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(18) Promotion of the sale of drugs, devices, appliances or goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine, or the treating, operating or prescribing for any human condition by a method, means or procedure which the licensee refuses to divulge upon demand of the Department.

(20) Immoral conduct in the commission of any act including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice.

(21) Wilfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

(22) Wilful omission to file or record, or wilfully impeding the filing or recording, or inducing another person to omit to file or record, medical reports as required by law, or wilfully failing to report an instance of suspected abuse or neglect as required by law.

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

(25) Gross and wilful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing such false statements for collection of monies for services not rendered from the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

(26) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

- (27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill or safety.
- (28) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice under this Act with reasonable judgment, skill or safety.
- (29) Cheating on or attempt to subvert the licensing examinations administered under this Act.
- (30) Wilfully or negligently violating the confidentiality between physician and patient except as required by law.
- (31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.
- (32) Aiding and abetting an individual not licensed under this Act in the practice of a profession licensed under this Act.
- (33) Violating state or federal laws or regulations relating to controlled substances, legend drugs, or ephedra, as defined in the Ephedra Prohibition Act.
- (34) Failure to report to the Department any adverse final action taken against them by another licensing jurisdiction (any other state or any territory of the United States or any foreign state or country), by any peer review body, by any health care institution, by any professional society or association related to practice under this Act, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.
- (35) Failure to report to the Department surrender of a license or authorization to practice as a medical doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.
- (36) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.
- (37) Failure to transfer copies of medical records as required by law.
- (38) Failure to furnish the Department, its investigators or representatives, relevant information, legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.
- (39) Violating the Health Care Worker Self-Referral Act.
- (40) Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995.
- (41) Failure to establish and maintain records of patient care and treatment as required by this law.
- (42) Entering into an excessive number of written collaborative agreements with licensed advanced practice nurses resulting in an inability to adequately collaborate and provide medical direction.
- (43) Repeated failure to adequately collaborate with or provide medical direction to a licensed advanced practice nurse.

Except for actions involving the ground numbered (26), all ~~all~~ proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within ~~5~~ ~~3~~ years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9), ~~(26)~~, and (29), no action shall be commenced more than ~~10~~ ~~5~~ years after the date of the incident or act alleged to have violated this Section. For actions involving the ground numbered (26), a pattern of practice or other behavior includes all incidents alleged to be part of the pattern of practice or other behavior that occurred or a report pursuant to Section 23 of this Act received within the 10-year period preceding the filing of the complaint. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of ~~2 years~~ ~~one year~~ from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as

otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Departmental order based upon a finding by the Medical Disciplinary Board that they have been determined to be recovered from mental illness by the court and upon the Disciplinary Board's recommendation that they be permitted to resume their practice.

The Department may refuse to issue or take disciplinary action concerning the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied as determined by the Illinois Department of Revenue.

The Department, upon the recommendation of the Disciplinary Board, shall adopt rules which set forth standards to be used in determining:

- (a) when a person will be deemed sufficiently rehabilitated to warrant the public trust;
- (b) what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;
- (c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and
- (d) what constitutes gross negligence in the practice of medicine.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Medical Disciplinary Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Disciplinary Board. The Medical Disciplinary Board or the Department may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Disciplinary Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause. If the Disciplinary Board finds a physician unable to practice because of the reasons set forth in this Section, the Disciplinary Board shall require such physician to submit to care, counseling, or treatment by physicians approved or designated by the Disciplinary Board, as a condition for continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Secretary ~~Director~~ for a determination as to whether the licensee shall have their license suspended immediately, pending a hearing by the Disciplinary Board. In instances in which the Secretary ~~Director~~ immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Disciplinary Board within 15 days after such suspension and completed without appreciable delay. The Disciplinary Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Disciplinary Board that they can resume practice in compliance with acceptable and prevailing standards under the provisions of their license.

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed \$10,000 ~~\$5,000~~ for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited

in the Medical Disciplinary Fund.

(B) The Department shall revoke the license or visiting permit of any person issued under this Act to practice medicine or to treat human ailments without the use of drugs and without operative surgery, who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or visiting permit is revoked under this subsection B of Section 22 of this Act shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Medical Disciplinary Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Board's recommendation, the Department shall impose, for the first violation, a civil penalty of \$1,000 and for a second or subsequent violation, a civil penalty of \$5,000.

(Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

(225 ILCS 60/23) (from Ch. 111, par. 4400-23)

(Section scheduled to be repealed on January 1, 2007)

Sec. 23. Reports relating to professional conduct and capacity.

(A) Entities required to report.

(1) Health care institutions. The chief administrator or executive officer of any health care institution licensed by the Illinois Department of Public Health shall report to the Disciplinary Board when any person's clinical privileges are terminated or are restricted based on a final determination, in accordance with that institution's by-laws or rules and regulations, that a person has either committed an act or acts which may directly threaten patient care, and not of an administrative nature, or that a person may be mentally or physically disabled in such a manner as to endanger patients under that person's care. Such officer also shall report if a person accepts voluntary termination or restriction of clinical privileges in lieu of formal action based upon conduct related directly to patient care and not of an administrative nature, or in lieu of formal action seeking to determine whether a person may be mentally or physically disabled in such a manner as to endanger patients under that person's care. The Medical Disciplinary Board shall, by rule, provide for the reporting to it of all instances in which a person, licensed under this Act, who is impaired by reason of age, drug or alcohol abuse or physical or mental impairment, is under supervision and, where appropriate, is in a program of rehabilitation. Such reports shall be strictly confidential and may be reviewed and considered only by the members of the Disciplinary Board, or by authorized staff as provided by rules of the Disciplinary Board. Provisions shall be made for the periodic report of the status of any such person not less than twice annually in order that the Disciplinary Board shall have current information upon which to determine the status of any such person. Such initial and periodic reports of impaired physicians shall not be considered records within the meaning of The State Records Act and shall be disposed of, following a determination by the Disciplinary Board that such reports are no longer required, in a manner and at such time as the Disciplinary Board shall determine by rule. The filing of such reports shall be construed as the filing of a report for purposes of subsection (C) of this Section.

(2) Professional associations. The President or chief executive officer of any association or society, of persons licensed under this Act, operating within this State shall report to the Disciplinary Board when the association or society renders a final determination that a person has committed unprofessional conduct related directly to patient care or that a person may be mentally or physically disabled in such a manner as to endanger patients under that person's care.

(3) Professional liability insurers. Every insurance company which offers policies of professional liability insurance to persons licensed under this Act, or any other entity which seeks to indemnify the professional liability of a person licensed under this Act, shall report to the Disciplinary Board the settlement of any claim or cause of action, or final judgment rendered in any cause of action, which alleged negligence in the furnishing of medical care by such licensed person when such settlement or final judgment is in favor of the plaintiff.

(4) State's Attorneys. The State's Attorney of each county shall report to the Disciplinary Board all instances in which a person licensed under this Act is convicted or otherwise found guilty of the commission of any felony. The State's Attorney of each county may report to the Disciplinary Board through a verified complaint any instance in which the State's Attorney believes that a physician has willfully violated the notice requirements of the Parental Notice of Abortion Act

of 1995.

(5) State agencies. All agencies, boards, commissions, departments, or other instrumentalities of the government of the State of Illinois shall report to the Disciplinary Board any instance arising in connection with the operations of such agency, including the administration of any law by such agency, in which a person licensed under this Act has either committed an act or acts which may be a violation of this Act or which may constitute unprofessional conduct related directly to patient care or which indicates that a person licensed under this Act may be mentally or physically disabled in such a manner as to endanger patients under that person's care.

(B) Mandatory reporting. All reports required by items (34), (35), and (36) of subsection (A) of Section 22 and by Section 23 shall be submitted to the Disciplinary Board in a timely fashion. The reports shall be filed in writing within 60 days after a determination that a report is required under this Act. All reports shall contain the following information:

(1) The name, address and telephone number of the person making the report.

(2) The name, address and telephone number of the person who is the subject of the report.

(3) The name and date of birth or other means of identification of any patient or patients whose treatment is a subject of the report, if available, or other means of identification if such information is not available, identification of the hospital or other healthcare facility where the care at issue in the report was rendered,

provided, however, no medical records may be revealed ~~without the written consent of the patient or patients.~~

(4) A brief description of the facts which gave rise to the issuance of the report, including the dates of any occurrences deemed to necessitate the filing of the report.

(5) If court action is involved, the identity of the court in which the action is filed, along with the docket number and date of filing of the action.

(6) Any further pertinent information which the reporting party deems to be an aid in the evaluation of the report.

~~The Department shall have the right to inform patients of the right to provide written consent for the Department to obtain copies of hospital and medical records.~~ The Disciplinary Board or Department may also exercise the power under Section 38 of this Act to subpoena copies of hospital or medical records in mandatory report cases alleging death or permanent bodily injury ~~when consent to obtain records is not provided by a patient or legal representative.~~ Appropriate rules shall be adopted by the Department with the approval of the Disciplinary Board.

When the Department has received written reports concerning incidents required to be reported in items (34), (35), and (36) of subsection (A) of Section 22, the licensee's failure to report the incident to the Department under those items shall not be the sole grounds for disciplinary action.

Nothing contained in this Section shall act to in any way, waive or modify the confidentiality of medical reports and committee reports to the extent provided by law. Any information reported or disclosed shall be kept for the confidential use of the Disciplinary Board, the Medical Coordinators, the Disciplinary Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act, and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure, except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense.

(C) Immunity from prosecution. Any individual or organization acting in good faith, and not in a wilful and wanton manner, in complying with this Act by providing any report or other information to the Disciplinary Board or a peer review committee, or assisting in the investigation or preparation of such information, or by voluntarily reporting to the Disciplinary Board or a peer review committee information regarding alleged errors or negligence by a person licensed under this Act, or by participating in proceedings of the Disciplinary Board or a peer review committee, or by serving as a member of the Disciplinary Board or a peer review committee, shall not, as a result of such actions, be subject to criminal prosecution or civil damages.

(D) Indemnification. Members of the Disciplinary Board, the Medical Coordinators, the Disciplinary Board's attorneys, the medical investigative staff, physicians retained under contract to assist and advise the medical coordinators in the investigation, and authorized clerical staff shall be indemnified by the State for any actions occurring within the scope of services on the Disciplinary Board, done in good faith and not wilful and wanton in nature. The Attorney General shall defend all such actions unless he or she

determines either that there would be a conflict of interest in such representation or that the actions complained of were not in good faith or were wilful and wanton.

Should the Attorney General decline representation, the member shall have the right to employ counsel of his or her choice, whose fees shall be provided by the State, after approval by the Attorney General, unless there is a determination by a court that the member's actions were not in good faith or were wilful and wanton.

The member must notify the Attorney General within 7 days of receipt of notice of the initiation of any action involving services of the Disciplinary Board. Failure to so notify the Attorney General shall constitute an absolute waiver of the right to a defense and indemnification.

The Attorney General shall determine within 7 days after receiving such notice, whether he or she will undertake to represent the member.

(E) Deliberations of Disciplinary Board. Upon the receipt of any report called for by this Act, other than those reports of impaired persons licensed under this Act required pursuant to the rules of the Disciplinary Board, the Disciplinary Board shall notify in writing, by certified mail, the person who is the subject of the report. Such notification shall be made within 30 days of receipt by the Disciplinary Board of the report.

The notification shall include a written notice setting forth the person's right to examine the report. Included in such notification shall be the address at which the file is maintained, the name of the custodian of the reports, and the telephone number at which the custodian may be reached. The person who is the subject of the report shall submit a written statement responding, clarifying, adding to, or proposing the amending of the report previously filed. The person who is the subject of the report shall also submit with the written statement any medical records related to the report. The statement and accompanying medical records shall become a permanent part of the file and must be received by the Disciplinary Board no more than 30 60 days after the date on which the person was notified by the Disciplinary Board of the existence of the original report.

The Disciplinary Board shall review all reports received by it, together with any supporting information and responding statements submitted by persons who are the subject of reports. The review by the Disciplinary Board shall be in a timely manner but in no event, shall the Disciplinary Board's initial review of the material contained in each disciplinary file be less than 61 days nor more than 180 days after the receipt of the initial report by the Disciplinary Board.

When the Disciplinary Board makes its initial review of the materials contained within its disciplinary files, the Disciplinary Board shall, in writing, make a determination as to whether there are sufficient facts to warrant further investigation or action. Failure to make such determination within the time provided shall be deemed to be a determination that there are not sufficient facts to warrant further investigation or action.

Should the Disciplinary Board find that there are not sufficient facts to warrant further investigation, or action, the report shall be accepted for filing and the matter shall be deemed closed and so reported to the ~~Secretary Director~~. The ~~Secretary Director~~ shall then have 30 days to accept the Medical Disciplinary Board's decision or request further investigation. The ~~Secretary Director~~ shall inform the Board in writing of the decision to request further investigation, including the specific reasons for the decision. The individual or entity filing the original report or complaint and the person who is the subject of the report or complaint shall be notified in writing by the ~~Secretary Director~~ of any final action on their report or complaint.

(F) Summary reports. The Disciplinary Board shall prepare, on a timely basis, but in no event less than one every other month, a summary report of final actions taken upon disciplinary files maintained by the Disciplinary Board. The summary reports shall be sent by the Disciplinary Board to every health care facility licensed by the Illinois Department of Public Health, every professional association and society of persons licensed under this Act functioning on a statewide basis in this State, the American Medical Association, the American Osteopathic Association, the American Chiropractic Association, all insurers providing professional liability insurance to persons licensed under this Act in the State of Illinois, the Federation of State Medical Licensing Boards, and the Illinois Pharmacists Association.

(G) Any violation of this Section shall be a Class A misdemeanor.

(H) If any such person violates the provisions of this Section an action may be brought in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, for an order enjoining such violation or for an order enforcing compliance with this Section. Upon filing of a verified petition in such court, the court may issue a temporary restraining order without notice or bond and may preliminarily or permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this paragraph shall be in addition to, and not in lieu of, all other remedies and penalties provided for by

this Section.

(Source: P.A. 89-18, eff. 6-1-95; 89-702, eff. 7-1-97; 90-699, eff. 1-1-99.)

(225 ILCS 60/24) (from Ch. 111, par. 4400-24)

(Section scheduled to be repealed on January 1, 2007)

Sec. 24. Report of violations; medical associations. Any physician licensed under this Act, the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Chiropractic Society, the Illinois Prairie State Chiropractic Association, or any component societies of any of these 4 groups, and any other person, may report to the Disciplinary Board any information the physician, association, society, or person may have that appears to show that a physician is or may be in violation of any of the provisions of Section 22 of this Act.

The Department may enter into agreements with the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Prairie State Chiropractic Association, or the Illinois Chiropractic Society to allow these organizations to assist the Disciplinary Board in the review of alleged violations of this Act. Subject to the approval of the Department, any organization party to such an agreement may subcontract with other individuals or organizations to assist in review.

Any physician, association, society, or person participating in good faith in the making of a report, under this Act or participating in or assisting with an investigation or review under this Act ~~Section~~ shall have immunity from any civil, criminal, or other liability that might result by reason of those actions.

The medical information in the custody of an entity under contract with the Department participating in an investigation or review shall be privileged and confidential to the same extent as are information and reports under the provisions of Part 21 of Article VIII of the Code of Civil Procedure.

Upon request by the Department after a mandatory report has been filed with the Department, an attorney for any party seeking to recover damages for injuries or death by reason of medical, hospital, or other healing art malpractice shall provide patient records related to the physician involved in the disciplinary proceeding to the Department within 30 days of the Department's request for use by the Department in any disciplinary matter under this Act. An attorney who provides patient records to the Department in accordance with this requirement shall not be deemed to have violated any attorney-client privilege. Notwithstanding any other provision of law, consent by a patient shall not be required for the provision of patient records in accordance with this requirement.

For the purpose of any civil or criminal proceedings, the good faith of any physician, association, society or person shall be presumed. The Disciplinary Board may request the Illinois State Medical Society, the Illinois Association of Osteopathic Physicians and Surgeons, the Illinois Prairie State Chiropractic Association, or the Illinois Chiropractic Society to assist the Disciplinary Board in preparing for or conducting any medical competency examination as the Board may deem appropriate.

(Source: P.A. 88-324.)

(225 ILCS 60/24.1 new)

Sec. 24.1. Physician profile.

(a) This Section may be cited as the Patients' Right to Know Law.

(b) The Department shall make available to the public a profile of each physician. The Department shall make this information available through an Internet web site and, if requested, in writing. The physician profile shall contain the following information:

(1) the full name of the physician;

(2) a description of any criminal convictions for felonies and Class A misdemeanors, as determined by the Department, within the most recent 5 years. For the purposes of this Section, a person shall be deemed to be convicted of a crime if he or she pleaded guilty or if he was found or adjudged guilty by a court of competent jurisdiction;

(3) a description of any final Department disciplinary actions within the most recent 5 years;

(4) a description of any final disciplinary actions by licensing boards in other states within the most recent 5 years;

(5) a description of revocation or involuntary restriction of hospital privileges for reasons related to competence or character that have been taken by the hospital's governing body or any other official of the hospital after procedural due process has been afforded, or the resignation from or nonrenewal of medical staff membership or the restriction of privileges at a hospital taken in lieu of or in settlement of a pending disciplinary case related to competence or character in that hospital. Only cases which have occurred within the most recent 5 years shall be disclosed by the Department to the public;

(6) all medical malpractice court judgments and all medical malpractice arbitration awards in which a payment was awarded to a complaining party during the most recent 5 years and all settlements of medical malpractice claims in which a payment was made to a complaining party within the most recent 5 years. A medical malpractice judgment or award that has been appealed shall be identified prominently

as "Under Appeal" on the profile within 20 days of formal written notice to the Department. Information concerning all settlements shall be accompanied by the following statement: "Settlement of a claim may occur for a variety of reasons which do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim should not be construed as creating a presumption that medical malpractice has occurred." Nothing in this subdivision (6) shall be construed to limit or prevent the Disciplinary Board from providing further explanatory information regarding the significance of categories in which settlements are reported. Pending malpractice claims shall not be disclosed by the Department to the public. Nothing in this subdivision (6) shall be construed to prevent the Disciplinary Board from investigating and the Department from disciplining a physician on the basis of medical malpractice claims that are pending;

(7) names of medical schools attended, dates of attendance, and date of graduation;

(8) graduate medical education;

(9) specialty board certification. The toll-free number of the American Board of Medical Specialties shall be included to verify current board certification status;

(10) number of years in practice and locations;

(11) names of the hospitals where the physician has privileges;

(12) appointments to medical school faculties and indication as to whether a physician has a responsibility for graduate medical education within the most recent 5 years;

(13) information regarding publications in peer-reviewed medical literature within the most recent 5 years;

(14) information regarding professional or community service activities and awards;

(15) the location of the physician's primary practice setting;

(16) identification of any translating services that may be available at the physician's primary practice location;

(17) an indication of whether the physician participates in the Medicaid program.

(c) The Disciplinary Board shall provide individual physicians with a copy of their profiles prior to release to the public. A physician shall be provided 60 days to correct factual inaccuracies that appear in such profile.

(d) A physician may elect to have his or her profile omit certain information provided pursuant to subdivisions (12) through (14) of subsection (b) concerning academic appointments and teaching responsibilities, publication in peer-reviewed journals and professional and community service awards. In collecting information for such profiles and in disseminating the same, the Disciplinary Board shall inform physicians that they may choose not to provide such information required pursuant to subdivisions (12) through (14) of subsection (b).

(e) The Department shall promulgate such rules as it deems necessary to accomplish the requirements of this Section.

(225 ILCS 60/36) (from Ch. 111, par. 4400-36)

(Section scheduled to be repealed on January 1, 2007)

Sec. 36. Upon the motion of either the Department or the Disciplinary Board or upon the verified complaint in writing of any person setting forth facts which, if proven, would constitute grounds for suspension or revocation under Section 22 of this Act, the Department shall investigate the actions of any person, so accused, who holds or represents that they hold a license. Such person is hereinafter called the accused.

The Department shall, before suspending, revoking, placing on probationary status, or taking any other disciplinary action as the Department may deem proper with regard to any license at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made and the time and place for a hearing of the charges before the Disciplinary Board, direct them to file their written answer thereto to the Disciplinary Board under oath within 20 days after the service on them of such notice and inform them that if they fail to file such answer default will be taken against them and their license may be suspended, revoked, placed on probationary status, or have other disciplinary action, including limiting the scope, nature or extent of their practice, as the Department may deem proper taken with regard thereto.

Where a physician has been found, upon complaint and investigation of the Department, and after hearing, to have performed an abortion procedure in a wilful and wanton manner upon a woman who was not pregnant at the time such abortion procedure was performed, the Department shall automatically revoke the license of such physician to practice medicine in Illinois.

Such written notice and any notice in such proceedings thereafter may be served by delivery of the same, personally, to the accused person, or by mailing the same by registered or certified mail to the address last theretofore specified by the accused in their last notification to the Department.

[May 30, 2005]

All information gathered by the Department during its investigation including information subpoenaed under Section 23 or 38 of this Act and the investigative file shall be kept for the confidential use of the Secretary Director, Disciplinary Board, the Medical Coordinators, persons employed by contract to advise the Medical Coordinator or the Department, the Disciplinary Board's attorneys, the medical investigative staff, and authorized clerical staff, as provided in this Act and shall be afforded the same status as is provided information concerning medical studies in Part 21 of Article VIII of the Code of Civil Procedure except that the Department may disclose information and documents to a federal, State, or local law enforcement agency pursuant to a subpoena in an ongoing criminal investigation. Furthermore, information and documents disclosed to a federal, State, or local law enforcement agency may be used by that agency only for the investigation and prosecution of a criminal offense.
(Source: P.A. 90-699, eff. 1-1-99.)

Section 320. The Clerks of Courts Act is amended by adding Section 27.10 as follows:
(705 ILCS 105/27.10 new)

Sec. 27.10. Secretary of Financial and Professional Regulation. Each clerk of the circuit court shall provide to the Secretary of Financial and Professional Regulation such information as the Secretary of Financial and Professional Regulation requests under Section 155.19 of the Illinois Insurance Code.

Section 330. The Code of Civil Procedure is amended by reenacting and changing Sections 2-622 and 8-2501, by changing Section 8-1901, and by adding Sections 2-1704.5 and 2-1706.5 as follows:
(735 ILCS 5/2-622) (from Ch. 110, par. 2-622)

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)
Sec. 2-622. Healing art malpractice.

(a) In any action, whether in tort, contract or otherwise, in which the plaintiff seeks damages for injuries or death by reason of medical, hospital, or other healing art malpractice, the plaintiff's attorney or the plaintiff, if the plaintiff is proceeding pro se, shall file an affidavit, attached to the original and all copies of the complaint, declaring one of the following:

1. That the affiant has consulted and reviewed the facts of the case with a health

professional who the affiant reasonably believes: (i) is knowledgeable in the relevant issues involved in the particular action; (ii) practices or has practiced within the last 5 6 years or teaches or has taught within the last 5 6 years in the same area of health care or medicine that is at issue in the particular action; and (iii) meets the expert witness standards set forth in paragraphs (a) through (d) of Section 8-2501; is qualified by experience or demonstrated competence in the subject of the case; that the reviewing health professional has determined in a written report, after a review of the medical record and other relevant material involved in the particular action that there is a reasonable and meritorious cause for the filing of such action; and that the affiant has concluded on the basis of the reviewing health professional's review and consultation that there is a reasonable and meritorious cause for filing of such action. A single written report must be filed to cover each defendant in the action. As to defendants who are individuals, the IF the affidavit is filed as to a defendant who is a physician licensed to treat human ailments without the use of drugs or medicines and without operative surgery, a dentist, a podiatrist, a psychologist, or a naprapath. The written report must be from a health professional licensed in the same profession, with the same class of license, as the defendant. For written reports affidavits filed as to all other defendants, who are not individuals, the written report must be from a physician licensed to practice medicine in all its branches who is qualified by experience with the standard of care, methods, procedures and treatments relevant to the allegations at issue in the case. In either event, the written report affidavit must identify the profession of the reviewing health professional. A copy of the written report, clearly identifying the plaintiff and the reasons for the reviewing health professional's determination that a reasonable and meritorious cause for the filing of the action exists, including the reviewing health care professional's name, address, current license number, and state of licensure, must be attached to the affidavit but information which would identify the reviewing health professional may be deleted from the copy so attached. Information regarding the preparation of a written report by the reviewing health professional shall not be used to discriminate against that professional in the issuance of medical liability insurance or in the setting of that professional's medical liability insurance premium. No professional organization may discriminate against a reviewing health professional on the basis that the reviewing health professional has prepared a written report.

2. That the affiant was unable to obtain a consultation required by paragraph 1 because a statute of limitations would impair the action and the consultation required could not be obtained before the expiration of the statute of limitations. If an affidavit is executed pursuant to this paragraph,

the ~~affidavit certificate~~ and written report required by paragraph 1 shall be filed within 90 days after the filing of the complaint. No additional 90-day extensions pursuant to this paragraph shall be granted, except where there has been a withdrawal of the plaintiff's counsel. The defendant shall be excused from answering or otherwise pleading until 30 days after being served with an affidavit and a ~~report a certificate~~ required by paragraph 1.

3. That a request has been made by the plaintiff or his attorney for examination and copying of records pursuant to Part 20 of Article VIII of this Code and the party required to comply under those Sections has failed to produce such records within 60 days of the receipt of the request. If an affidavit is executed pursuant to this paragraph, the ~~affidavit certificate~~ and written report required by paragraph 1 shall be filed within 90 days following receipt of the requested records. All defendants except those whose failure to comply with Part 20 of Article VIII of this Code is the basis for an affidavit under this paragraph shall be excused from answering or otherwise pleading until 30 days after being served with the ~~affidavit and report certificate~~ required by paragraph 1.

(b) Where ~~an affidavit a certificate~~ and written report are required pursuant to this Section a separate ~~affidavit certificate~~ and written report shall be filed as to each defendant who has been named in the complaint and shall be filed as to each defendant named at a later time.

(c) Where the plaintiff intends to rely on the doctrine of "res ipsa loquitur", as defined by Section 2-1113 of this Code, the ~~affidavit certificate~~ and written report must state that, in the opinion of the reviewing health professional, negligence has occurred in the course of medical treatment. The affiant shall certify upon filing of the complaint that he is relying on the doctrine of "res ipsa loquitur".

(d) When the attorney intends to rely on the doctrine of failure to inform of the consequences of the procedure, the attorney shall certify upon the filing of the complaint that the reviewing health professional has, after reviewing the medical record and other relevant materials involved in the particular action, concluded that a reasonable health professional would have informed the patient of the consequences of the procedure.

(e) Allegations and denials in the affidavit, made without reasonable cause and found to be untrue, shall subject the party pleading them or his attorney, or both, to the payment of reasonable expenses, actually incurred by the other party by reason of the untrue pleading, together with reasonable attorneys' fees to be summarily taxed by the court upon motion made within 30 days of the judgment or dismissal. In no event shall the award for attorneys' fees and expenses exceed those actually paid by the moving party, including the insurer, if any. In proceedings under this paragraph (e), the moving party shall have the right to depose and examine any and all reviewing health professionals who prepared reports used in conjunction with an affidavit required by this Section.

(f) A reviewing health professional who in good faith prepares a report used in conjunction with an affidavit required by this Section shall have civil immunity from liability which otherwise might result from the preparation of such report.

(g) ~~The failure of the plaintiff to file an affidavit and report in compliance with to file a certificate required by~~ this Section shall be grounds for dismissal under Section 2-619.

(h) This Section does not apply to or affect any actions pending at the time of its effective date, but applies to cases filed on or after its effective date.

(i) This amendatory Act of 1997 does not apply to or affect any actions pending at the time of its effective date, but applies to cases filed on or after its effective date.

(j) The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 86-646; 90-579, eff. 5-1-98.)

(735 ILCS 5/2-1704.5 new)

Sec. 2-1704.5. Guaranteed payment of future medical expenses and costs of life care.

(a) At any time, but no later than 5 days after a verdict in the plaintiff's favor for a plaintiff's future medical expenses and costs of life care is reached, either party in a medical malpractice action may elect, or the court may enter an order, to have the payment of the plaintiff's future medical expenses and costs of life care made under this Section.

(b) In all cases in which a defendant in a medical malpractice action is found liable for the plaintiff's future medical expenses and costs of care, the trier of fact shall make the following findings based on evidence presented at trial:

(1) the present cash value of the plaintiff's future medical expenses and costs of life care;

(2) the current year annual cost of the plaintiff's future medical expenses and costs of life care; and

(3) the annual composite rate of inflation that should be applied to the costs specified in item (2).

Based upon evidence presented at trial, the trier of fact may also vary the amount of future costs under this Section from year to year to account for different annual expenditures, including the immediate

medical and life care needs of the plaintiff. The jury shall not be informed of an election to pay for future medical expenses and costs of life care by purchasing an annuity.

(c) When an election is made to pay for future medical expenses and costs of life care by purchasing an annuity, the court shall enter a judgment ordering that the defendant pay the plaintiff an amount equal to 20% of the present cash value of future medical expenses and cost of life care determined under subsection (b)(1) of this Section and ordering that the remaining future expenses and costs be paid by the purchase of an annuity by or on behalf of the defendant from a company that has itself, or is irrevocably supported financially by a company that has, at least 2 of the following 4 ratings: "A+ X" or higher from A.M. Best Company; "AA-" or higher from Standard & Poor's; "Aa3" or higher from Moody's; and "AA-" or higher from Fitch. The annuity must guarantee that the plaintiff will receive annual payments equal to 80% of the amount determined in subsection (b)(2) inflated by the rate determined in subsection (b)(3) for the life of the plaintiff.

(d) If the company providing the annuity becomes unable to pay amounts required by the annuity, the defendant shall secure a replacement annuity for the remainder of the plaintiff's life from a company that satisfies the requirements of subsection (c).

(e) A plaintiff receiving future payments by means of an annuity under this Section may seek leave of court to assign or otherwise transfer the right to receive such payments in exchange for a negotiated lump sum value of the remaining future payments or any portion of the remaining future payments under the annuity to address an unanticipated financial hardship under such terms as approved by the court.

(f) This Section applies to all causes of action accruing on or after the effective date of this amendatory Act of the 94th General Assembly.

(735 ILCS 5/2-1706.5 new)

Sec. 2-1706.5. Standards for economic and non-economic damages.

(a) In any medical malpractice action or wrongful death action based on medical malpractice in which economic and non-economic damages may be awarded, the following standards shall apply:

(1) In a case of an award against a hospital and its personnel or hospital affiliates, as defined in Section 10.8 of the Hospital Licensing Act, the total amount of non-economic damages shall not exceed \$1,000,000 awarded to all plaintiffs in any civil action arising out of the care.

(2) In a case of an award against a physician and the physician's business or corporate entity and personnel or health care professional, the total amount of non-economic damages shall not exceed \$500,000 awarded to all plaintiffs in any civil action arising out of the care.

(3) In awarding damages in a medical malpractice case, the finder of fact shall render verdicts with a specific award of damages for economic loss, if any, and a specific award of damages for non-economic loss, if any.

The trier of fact shall not be informed of the provisions of items (1) and (2) of this subsection (a).

(b) In any medical malpractice action where an individual plaintiff earns less than the annual average weekly wage, as determined by the Illinois Workers' Compensation Commission, at the time the action is filed, any award may include an amount equal to the wage the individual plaintiff earns or the annual average weekly wage.

(c) This Section applies to all causes of action accruing on or after the effective date of this amendatory Act of the 94th General Assembly.

(735 ILCS 5/8-1901) (from Ch. 110, par. 8-1901)

Sec. 8-1901. Admission of liability - Effect.

(a) The providing of, or payment for, medical, surgical, hospital, or rehabilitation services, facilities, or equipment by or on behalf of any person, or the offer to provide, or pay for, any one or more of the foregoing, shall not be construed as an admission of any liability by such person or persons. Testimony, writings, records, reports or information with respect to the foregoing shall not be admissible in evidence as an admission of any liability in any action of any kind in any court or before any commission, administrative agency, or other tribunal in this State, except at the instance of the person or persons so making any such provision, payment or offer.

(b) Any expression of grief, apology, or explanation provided by a health care provider, including, but not limited to, a statement that the health care provider is "sorry" for the outcome to a patient, the patient's family, or the patient's legal representative about an inadequate or unanticipated treatment or care outcome that is provided within 72 hours of when the provider knew or should have known of the potential cause of such outcome shall not be admissible as evidence in any action of any kind in any court or before any tribunal, board, agency, or person. The disclosure of any such information, whether proper, or improper, shall not waive or have any effect upon its confidentiality or inadmissibility. As used in this Section, a "health care provider" is any hospital, nursing home or other facility, or employee or agent thereof, a physician, or other licensed health care professional. Nothing in this Section precludes

the discovery or admissibility of any other facts regarding the patient's treatment or outcome as otherwise permitted by law.

(c) The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 82-280.)

(735 ILCS 5/8-2501) (from Ch. 110, par. 8-2501)

(Text of Section WITHOUT the changes made by P.A. 89-7, which has been held unconstitutional)

Sec. 8-2501. Expert Witness Standards. In any case in which the standard of care applicable to given by a medical ~~professional profession~~ is at issue, the court shall apply the following standards to determine if a witness qualifies as an expert witness and can testify on the issue of the appropriate standard of care.

(a) Whether the witness is board certified or board eligible, or has completed a residency, in the same or substantially similar medical specialties as the defendant and is otherwise qualified by significant experience with the standard of care, methods, procedures, and treatments relevant to the allegations against the defendant ~~Relationship of the medical specialties of the witness to the medical problem or problems and the type of treatment administered in the case;~~

(b) Whether the witness has devoted a majority substantial portion of his or her work time to the practice of medicine, teaching or University based research in relation to the medical care and type of treatment at issue which gave rise to the medical problem of which the plaintiff complains;

(c) whether the witness is licensed in the same profession with the same class of license as the defendant if the defendant is an individual; and

(d) whether, in the case against a nonspecialist, the witness can demonstrate a sufficient familiarity with the standard of care practiced in this State.

An expert shall provide evidence of active practice, teaching, or engaging in university-based research. If retired, an expert must provide evidence of attendance and completion of continuing education courses for 3 years previous to giving testimony. An expert who has not actively practiced, taught, or been engaged in university-based research, or any combination thereof, during the preceding 5 years may not be qualified as an expert witness.

The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 84-7.)

Section 340. The Good Samaritan Act is amended by changing Section 30 as follows:

(745 ILCS 49/30)

Sec. 30. Free medical clinic; exemption from civil liability for services performed without compensation.

(a) A person licensed under the Medical Practice Act of 1987, a person licensed to practice the treatment of human ailments in any other state or territory of the United States, or a health care professional, including but not limited to an advanced practice nurse, ~~retired physician~~, physician assistant, nurse, pharmacist, physical therapist, podiatrist, or social worker licensed in this State or any other state or territory of the United States, who, in good faith, provides medical treatment, diagnosis, or advice as a part of the services of an established free medical clinic providing care, including but not limited to home visits, without charge to medically indigent patients which is limited to care that does not require the services of a licensed hospital or ambulatory surgical treatment center and who receives no fee or compensation from that source shall not be liable for civil damages as a result of his or her acts or omissions in providing that medical treatment, except for willful or wanton misconduct.

(b) For purposes of this Section, a "free medical clinic" is an organized community based program providing medical care without charge to individuals ~~unable to pay for it,~~ at which the care provided does not include ~~the use of general anesthesia or require~~ an overnight stay in a health-care facility.

(c) The provisions of subsection (a) of this Section do not apply to a particular case unless the free medical clinic has posted in a conspicuous place on its premises an explanation of the exemption from civil liability provided herein.

(d) The immunity from civil damages provided under subsection (a) also applies to physicians, ~~retired physicians~~, hospitals, and other health care providers that provide further medical treatment, diagnosis, or advice, including but not limited to hospitalization, office visits, and home visits, to a patient upon referral from an established free medical clinic without fee or compensation.

(d-5) A free medical clinic may receive reimbursement from the Illinois Department of Public Aid, provided any reimbursements shall be used only to pay overhead expenses of operating the free medical clinic and may not be used, in whole or in part, to provide a fee or other compensation to any person

licensed under the Medical Practice Act of 1987 or any other health care professional who is receiving an exemption under this Section. Any health care professional receiving an exemption under this Section may not receive any fee or other compensation in connection with any services provided to, or any ownership interest in, the clinic. Medical care shall not include an overnight stay in a health care facility.

(e) Nothing in this Section prohibits a free medical clinic from accepting voluntary contributions for medical services provided to a patient who has acknowledged his or her ability and willingness to pay a portion of the value of the medical services provided.

(f) Any voluntary contribution collected for providing care at a free medical clinic shall be used only to pay overhead expenses of operating the clinic. No portion of any moneys collected shall be used to provide a fee or other compensation to any person licensed under Medical Practice Act of 1987.

(g) The changes to this Section made by this amendatory Act of the 94th General Assembly apply to causes of action accruing on or after its effective date.

(Source: P.A. 89-607, eff. 1-1-97; 90-742, eff. 8-13-98.)

ARTICLE 4. SORRY WORKS! PILOT PROGRAM ACT

Section 401. Short title. This Article 4 may be cited as the Sorry Works! Pilot Program Act, and references in this Article to "this Act" mean this Article.

Section 405. Sorry Works! pilot program. The Sorry Works! pilot program is established. During the first year of the program's operation, participation in the program shall be open to one hospital. Hospitals may participate only with the approval of the hospital administration and the hospital's organized medical staff. During the second year of the program's operation, participation in the program shall be open to one additional hospital.

The first participating hospital selected by the committee established under Section 410 shall be located in a county with a population greater than 200,000 that is contiguous with the Mississippi River.

Under the program, participating hospitals and physicians shall promptly acknowledge and apologize for mistakes in patient care and promptly offer fair settlements. Participating hospitals shall encourage patients and families to retain their own legal counsel to ensure that their rights are protected and to help facilitate negotiations for fair settlements. Participating hospitals shall report to the committee their total costs for healing art malpractice verdicts, settlements, and defense litigation for the preceding 5 years to enable the committee to determine average costs for that hospital during that period. The committee shall develop standards and protocols to compare costs for cases handled by traditional means and cases handled under the Sorry Works! protocol.

If the committee determines that the total costs of cases handled under the Sorry Works! protocol by a hospital participating in the program exceed the total costs that would have been incurred if the cases had been handled by traditional means, the hospital may apply for a grant from the Sorry Works! Fund, a special fund that is created in the State Treasury, for an amount, as determined by the committee, by which the total costs exceed the total costs that would have been incurred if the cases had been handled by traditional means; however, the total of all grants from the Fund for cases in any single participating hospital in any year may not exceed the amount in the Fund or \$2,000,000, whichever is less. All grants shall be subject to appropriation. Moneys in the Fund shall consist of funds transferred into the Fund or otherwise made available from any source.

Section 410. Establishment of committee.

(a) A committee is established to develop, oversee, and implement the Sorry Works! pilot program. The committee shall have 9 members, each of whom shall be a voting member. Six members of the committee shall constitute a quorum. The committee shall be comprised as follows:

(1) The President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives shall each appoint 2 members.

(2) The Secretary of Financial and Professional Regulation or his or her designee.

(b) The committee shall establish criteria for the program, including but not limited to: selection of hospitals, physicians, and insurers to participate in the program; and creation of a subcommittee to review cases from hospitals and determine whether hospitals, physicians, and insurers are entitled to compensation under the program.

(c) The committee shall communicate with hospitals, physicians, and insurers that are interested in participating in the program. The committee shall make final decisions as to which applicants are accepted for the program.

[May 30, 2005]

- (d) The committee shall report to the Governor and the General Assembly annually.
- (e) The committee shall publish data regarding the program.
- (f) Committee members shall receive no compensation for the performance of their duties as members, but each member shall be paid necessary expenses while engaged in the performance of those duties.

Section 415. Termination of program.

- (a) The program may be terminated at any time if the committee, by a vote of two-thirds of its members, votes to terminate the program.
- (b) If the program is not terminated under subsection (a), the program shall terminate after its second year of operation.

Section 495. The State Finance Act is amended by adding Section 5.640 as follows:

(30 ILCS 105/5.640 new)

Sec. 5.640. The Sorry Works! Fund.

ARTICLE 9. MISCELLANEOUS

Section 995. Inseverability. The provisions of this Act are mutually dependent and inseverable. If any provision is held invalid, then this entire Act, including all new and amendatory provisions, is invalid.

Section 999. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 475**, with House Amendment No. 1, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 562

A bill for AN ACT concerning methamphetamine.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 562

House Amendment No. 2 to SENATE BILL NO. 562

Passed the House, as amended, May 30, 2005.

MARK MAHONEY, Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 562

AMENDMENT NO. 1. Amend Senate Bill 562 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Methamphetamine Control and Community Protection Act.

Section 5. Purpose. The purpose of this Act is to reduce the damage that the manufacture, distribution, and use of methamphetamine are inflicting on children, families, communities, businesses, the economy, and the environment in Illinois. The General Assembly recognizes that methamphetamine is fundamentally different from other drugs regulated by the Illinois Controlled Substances Act because the harms relating to methamphetamine stem not only from the distribution and use of the drug, but also from the manufacture of the drug in this State. Because methamphetamine is not only distributed and used but also manufactured here, and because the manufacture of methamphetamine is extremely and uniquely harmful, the General Assembly finds that a separate Act is needed to address the manufacture, distribution, and use of methamphetamine in Illinois.

Section 10. Definitions. As used in this Act:

[May 30, 2005]

"Anhydrous ammonia" has the meaning provided in subsection (d) of Section 3 of the Illinois Fertilizer Act of 1961.

"Anhydrous ammonia equipment" means all items used to store, hold, contain, handle, transfer, transport, or apply anhydrous ammonia for lawful purposes.

"Booby trap" means any device designed to cause physical injury when triggered by an act of a person approaching, entering, or moving through a structure, a vehicle, or any location where methamphetamine has been manufactured, is being manufactured, or is intended to be manufactured.

"Deliver" or "delivery" has the meaning provided in subsection (h) of Section 102 of the Illinois Controlled Substances Act.

"Director" means the Director of State Police or the Director's designated agents.

"Dispose" or "disposal" means to abandon, discharge, release, deposit, inject, dump, spill, leak, or place methamphetamine waste onto or into any land, water, or well of any type so that the waste has the potential to enter the environment, be emitted into the air, or be discharged into the soil or any waters, including groundwater.

"Emergency response" means the act of collecting evidence, securing a methamphetamine laboratory site, and cleaning up the methamphetamine site, whether these actions are performed by public entities or private contractors paid by public entities.

"Emergency service provider" means a local, State, or federal peace officer, firefighter, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, or other medical or first aid personnel rendering aid, or any agent or designee of the foregoing.

"Firearm" has the meaning provided in Section 1.1 of the Firearm Owners Identification Card Act.

"Manufacture" means to produce, prepare, compound, convert, process, synthesize, concentrate, purify, separate, or extract any methamphetamine, methamphetamine precursor, methamphetamine manufacturing catalyst, methamphetamine manufacturing reagent, methamphetamine manufacturing solvent, or any substance containing any of the foregoing.

"Methamphetamine" means the chemical methamphetamine or any salt, optical isomer, salt of optical isomer, or analog thereof. Methamphetamine is a Schedule II controlled substance under the Illinois Controlled Substances Act.

"Methamphetamine manufacturing catalyst" means any substance that has been used, is being used, or is intended to be used to activate, accelerate, extend, or improve a chemical reaction involved in the manufacture of methamphetamine.

"Methamphetamine manufacturing environment" means a structure or vehicle in which:

- (1) methamphetamine is being or has been manufactured;
- (2) chemicals that are being used, have been used, or are intended to be used to manufacture methamphetamine are stored;
- (3) methamphetamine manufacturing materials that have been used to manufacture methamphetamine are stored; or
- (4) methamphetamine manufacturing waste is stored.

"Methamphetamine manufacturing material" means any methamphetamine precursor, substance containing any methamphetamine precursor, methamphetamine manufacturing catalyst, substance containing any methamphetamine manufacturing catalyst, methamphetamine manufacturing reagent, substance containing any methamphetamine manufacturing reagent, methamphetamine manufacturing solvent, substance containing any methamphetamine manufacturing solvent, or any other chemical, substance, ingredient, equipment, apparatus, or item that is being used, has been used, or is intended to be used in the manufacture of methamphetamine.

"Methamphetamine manufacturing reagent" means any substance other than a methamphetamine manufacturing catalyst that has been used, is being used, or is intended to be used to react with and chemically alter any methamphetamine precursor without itself becoming a substantial part of the finished methamphetamine product.

"Methamphetamine manufacturing solvent" means any substance that has been used, is being used, or is intended to be used as a medium in which any methamphetamine precursor, methamphetamine manufacturing catalyst, methamphetamine manufacturing reagent, or any substance containing any of the foregoing is dissolved or diluted during any part of the methamphetamine manufacturing process.

"Methamphetamine manufacturing waste" means any chemical, substance, ingredient, equipment, apparatus, or item that results from or is produced by the process of manufacturing methamphetamine, including but not limited to any solid, semisolid, liquid, or contained gaseous material or article, or any container, packaging, or equipment.

"Methamphetamine precursor" means ephedrine, pseudoephedrine, benzyl methyl ketone, methyl benzyl ketone, phenylacetone, phenyl-2-propanone, P2P, or any salt, optical isomer, or salt of an optical isomer of any of these chemicals.

"Multi-unit dwelling" means a unified structure used or intended for use as a habitation, home, or residence that contains 2 or more condominiums, apartments, hotel rooms, motel rooms, or other living units.

"Package" means an item marked for retail sale that is not designed to be further broken down or subdivided for the purpose of retail sale.

"Participate" or "participation" in the manufacture of methamphetamine means to produce, prepare, compound, convert, process, synthesize, concentrate, purify, separate, or extract any methamphetamine, methamphetamine precursor, methamphetamine manufacturing catalyst, methamphetamine manufacturing reagent, methamphetamine manufacturing solvent, or any substance containing any of the foregoing, or to assist in any of these actions, or to attempt to take any of these actions, regardless of whether this action or these actions result in the production of finished methamphetamine.

"Person with a disability" means a person who suffers from a permanent physical or mental impairment resulting from disease, injury, functional disorder, or congenital condition which renders the person incapable of adequately providing for his or her own health and personal care.

"Procure" means to purchase, steal, gather, or otherwise obtain, by legal or illegal means.

"Second or subsequent offense" means an offense under this Act committed by an offender who previously committed an offense under this Act, the Illinois Controlled Substances Act, the Cannabis Control Act, or another Act of this State, another state, or the United States relating to methamphetamine, cannabis, or any other controlled substance.

"Standard dosage form", as used in relation to any methamphetamine precursor, means that the methamphetamine precursor is contained in a pill, tablet, capsule, caplet, gel cap, or liquid cap that has been manufactured by a lawful entity and contains a standard quantity of methamphetamine precursor.

"Unauthorized container", as used in relation to anhydrous ammonia, means any container that is not designed for the specific and sole purpose of holding, storing, transporting, or applying anhydrous ammonia. "Unauthorized container" includes, but is not limited to, any propane tank, fire extinguisher, oxygen cylinder, gasoline can, food or beverage cooler, or compressed gas cylinder used in dispensing fountain drinks. "Unauthorized container" does not encompass anhydrous ammonia manufacturing plants, refrigeration systems where anhydrous ammonia is used solely as a refrigerant, anhydrous ammonia transportation pipelines, or anhydrous ammonia barges.

Section 15. Participation in methamphetamine manufacturing.

(a) Participation in methamphetamine manufacturing.

(1) It is unlawful to participate in the manufacture of methamphetamine with the intent that methamphetamine or a substance containing methamphetamine be produced.

(2) A person who violates paragraph (1) of this subsection (a) is subject to the following penalties:

(A) A person who participates in the manufacture of less than 15 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 1 felony.

(B) A person who participates in the manufacture of 15 or more grams but less than 100 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000 or the street value of the methamphetamine manufactured, whichever is greater.

(C) A person who participates in the manufacture of 100 or more grams but less than 400 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 9 years and not more than 40 years, and subject to a fine not to exceed \$200,000 or the street value of the methamphetamine manufactured, whichever is greater.

(D) A person who participates in the manufacture of 400 or more grams but less than 900 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 12 years and not more than 50 years, and subject to a fine not to exceed \$300,000 or the street value of the methamphetamine manufactured,

whichever is greater.

(E) A person who participates in the manufacture of 900 grams or more of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 15 years and not more than 60 years, and subject to a fine not to exceed \$400,000 or the street value of the methamphetamine, whichever is greater.

(b) Aggravated participation in methamphetamine manufacturing.

(1) It is unlawful to engage in aggravated participation in the manufacture of methamphetamine. A person engages in aggravated participation in the manufacture of methamphetamine when the person violates paragraph (1) of subsection (a) and:

(A) the person knowingly does so in a multi-unit dwelling;

(B) the person knowingly does so in a structure or vehicle where a child under the age of 18, a person with a disability, or a person 60 years of age or older who is incapable of adequately providing for his or her own health and personal care resides, is present, or is endangered by the manufacture of methamphetamine;

(C) the person does so in a structure or vehicle where a woman the person knows to be pregnant (including but not limited to the person herself) resides, is present, or is endangered by the methamphetamine manufacture;

(D) the person knowingly does so in a structure or vehicle protected by one or more firearms, explosive devices, booby traps, alarm systems, surveillance systems, guard dogs, or dangerous animals;

(E) the methamphetamine manufacturing in which the person participates is a contributing cause of the death, serious bodily injury, disability, or disfigurement of another person, including but not limited to an emergency service provider;

(F) the methamphetamine manufacturing in which the person participates is a contributing cause of a fire or explosion that damages property belonging to another person; or

(G) the person knowingly organizes, directs, or finances the methamphetamine manufacturing or activities carried out in support of the methamphetamine manufacturing.

(2) A person who violates paragraph (1) of this subsection (b) is subject to the following penalties:

(A) A person who participates in the manufacture of less than 15 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000 or the street value of the methamphetamine, whichever is greater.

(B) A person who participates in the manufacture of 15 or more grams but less than 100 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 9 years and not more than 40 years, and subject to a fine not to exceed \$200,000 or the street value of the methamphetamine, whichever is greater.

(C) A person who participates in the manufacture of 100 or more grams but less than 400 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 12 years and not more than 50 years, and subject to a fine not to exceed \$300,000 or the street value of the methamphetamine, whichever is greater.

(D) A person who participates in the manufacture of 400 grams or more of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 15 years and not more than 60 years, and subject to a fine not to exceed \$400,000 or the street value of the methamphetamine, whichever is greater.

Section 20. Methamphetamine precursor.

(a) Methamphetamine precursor or substance containing any methamphetamine precursor in standard dosage form.

(1) It is unlawful to possess, procure, transport, store, or deliver any methamphetamine precursor or substance containing any methamphetamine precursor in standard dosage form with the intent that it be used to manufacture methamphetamine or a substance containing methamphetamine.

(2) A person who violates paragraph (1) of this subsection (a) is subject to the following penalties:

(A) A person who possesses, procures, transports, stores, or delivers less than 15 grams of methamphetamine precursor or substance containing any methamphetamine precursor is

guilty of a Class 2 felony.

(B) A person who possesses, procures, transports, stores, or delivers 15 or more grams but less than 30 grams of methamphetamine precursor or substance containing any methamphetamine precursor is guilty of a Class 1 felony.

(C) A person who possesses, procures, transports, stores, or delivers 30 or more grams but less than 150 grams of methamphetamine precursor or substance containing any methamphetamine precursor is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

(D) A person who possesses, procures, transports, stores, or delivers 150 or more grams but less than 500 grams of methamphetamine precursor or substance containing any methamphetamine precursor is guilty of a Class X felony, subject to a term of imprisonment of not less than 8 years and not more than 40 years, and subject to a fine not to exceed \$200,000.

(E) A person who possesses, procures, transports, stores, or delivers 500 or more grams of methamphetamine precursor or substance containing any methamphetamine precursor is guilty of a Class X felony, subject to a term of imprisonment of not less than 10 years and not more than 50 years, and subject to a fine not to exceed \$300,000.

(b) Methamphetamine precursor or substance containing any methamphetamine precursor in any form other than a standard dosage form.

(1) It is unlawful to possess, procure, transport, store, or deliver any methamphetamine precursor or substance containing any methamphetamine precursor in any form other than a standard dosage form with the intent that it be used to manufacture methamphetamine or a substance containing methamphetamine.

(2) A person who violates paragraph (1) of this subsection (b) is subject to the following penalties:

(A) A person who violates paragraph (1) of this subsection (b) with the intent that less than 10 grams of methamphetamine or a substance containing methamphetamine be manufactured is guilty of a Class 2 felony.

(B) A person who violates paragraph (1) of this subsection (b) with the intent that 10 or more grams but less than 20 grams of methamphetamine or a substance containing methamphetamine be manufactured is guilty of a Class 1 felony.

(C) A person who violates paragraph (1) of this subsection (b) with the intent that 20 or more grams but less than 100 grams of methamphetamine or a substance containing methamphetamine be manufactured is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

(D) A person who violates paragraph (1) of this subsection (b) with the intent that 100 or more grams but less than 350 grams of methamphetamine or a substance containing methamphetamine be manufactured is guilty of a Class X felony, subject to a term of imprisonment of not less than 8 years and not more than 40 years, and subject to a fine not to exceed \$200,000.

(E) A person who violates paragraph (1) of this subsection (b) with the intent that 350 or more grams of methamphetamine or a substance containing methamphetamine be manufactured is guilty of a Class X felony, subject to a term of imprisonment of not less than 10 years and not more than 50 years, and subject to a fine not to exceed \$300,000.

(c) Rule of evidence. The presence of any methamphetamine precursor in a sealed, factory imprinted container, including, but not limited to, a bottle, box, package, or blister pack, at the time of seizure by law enforcement, is prima facie evidence that the methamphetamine precursor located within the container is in fact the material so described and in the amount listed on the container. The factory imprinted container is admissible for a violation of this Act for purposes of proving the contents of the container.

Section 25. Anhydrous ammonia.

(a) Possession, procurement, transportation, storage, or delivery of anhydrous ammonia with the intent that it be used to manufacture methamphetamine.

(1) It is unlawful to engage in the possession, procurement, transportation, storage, or delivery of anhydrous ammonia or to attempt to engage in any of these activities or to assist another in engaging in any of these activities with the intent that the anhydrous ammonia be used to manufacture methamphetamine.

(2) A person who violates paragraph (1) of this subsection (a) is guilty of a Class 1 felony.

(b) Aggravated possession, procurement, transportation, storage, or delivery of anhydrous ammonia with the intent that it be used to manufacture methamphetamine.

(1) It is unlawful to engage in the aggravated possession, procurement, transportation, storage, or delivery of anhydrous ammonia with the intent that it be used to manufacture methamphetamine. A person commits this offense when the person engages in the possession, procurement, transportation, storage, or delivery of anhydrous ammonia or attempts to engage in any of these activities or assists another in engaging in any of these activities with the intent that the anhydrous ammonia be used to manufacture methamphetamine and:

(A) the person knowingly does so in a multi-unit dwelling;

(B) the person knowingly does so in a structure or vehicle where a child under the age of 18, or a person with a disability, or a person who is 60 years of age or older who is incapable of adequately providing for his or her own health and personal care resides, is present, or is endangered by the anhydrous ammonia;

(C) the person's possession, procurement, transportation, storage, or delivery of anhydrous ammonia is a contributing cause of the death, serious bodily injury, disability, or disfigurement of another person; or

(D) the person's possession, procurement, transportation, storage, or delivery of anhydrous ammonia is a contributing cause of a fire or explosion that damages property belonging to another person.

(2) A person who violates paragraph (1) of this subsection (b) is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

(c) Possession, procurement, transportation, storage, or delivery of anhydrous ammonia in an unauthorized container.

(1) It is unlawful to possess, procure, transport, store, or deliver anhydrous ammonia in an unauthorized container.

(2) A person who violates paragraph (1) of this subsection (c) is guilty of a Class 3 felony.

(3) Affirmative defense. It is an affirmative defense that the person charged possessed, procured, transported, stored, or delivered anhydrous ammonia in a manner that substantially complied with the rules governing anhydrous ammonia equipment found in 8 Illinois Administrative Code Section 215, in 92 Illinois Administrative Code Sections 171 through 180, or in any provision of the Code of Federal Regulations incorporated by reference into these Sections of the Illinois Administrative Code.

(d) Tampering with anhydrous ammonia equipment.

(1) It is unlawful to tamper with anhydrous ammonia equipment. A person tampers with anhydrous ammonia equipment when, without authorization from the lawful owner, the person:

(A) removes or attempts to remove anhydrous ammonia from the anhydrous ammonia equipment used by the lawful owner;

(B) damages or attempts to damage the anhydrous ammonia equipment used by the lawful owner; or

(C) vents or attempts to vent anhydrous ammonia into the environment.

(2) A person who violates paragraph (1) of this subsection (d) is guilty of a Class 3 felony.

Section 30. Methamphetamine manufacturing material.

(a) It is unlawful to engage in the possession, procurement, transportation, storage, or delivery of any methamphetamine manufacturing material, other than a methamphetamine precursor, substance containing a methamphetamine precursor, or anhydrous ammonia, with the intent that it be used to manufacture methamphetamine.

(b) A person who violates subsection (a) of this Section is guilty of a Class 2 felony.

Section 35. Use of property.

(a) It is unlawful for a person knowingly to use or allow the use of a vehicle, a structure, real property, or personal property within the person's control to help bring about a violation of this Act.

(b) A person who violates subsection (a) of this Section is guilty of a Class 2 felony.

Section 40. Protection of methamphetamine manufacturing.

(a) It is unlawful to engage in the protection of methamphetamine manufacturing. A person engages in the protection of methamphetamine manufacturing when:

(1) the person knows that others have been participating, are participating, or will be participating in the manufacture of methamphetamine; and

(2) with the intent to help prevent detection of or interference with the methamphetamine manufacturing, the person serves as a lookout for or guard of the methamphetamine manufacturing.

(b) A person who violates subsection (a) of this Section is guilty of a Class 2 felony.

Section 45. Methamphetamine manufacturing waste.

(a) It is unlawful to knowingly burn, place in a trash receptacle, or dispose of methamphetamine manufacturing waste.

(b) A person who violates subsection (a) of this Section is guilty of a Class 2 felony.

Section 50. Methamphetamine-related child endangerment.

(a) Methamphetamine-related child endangerment.

(1) It is unlawful to engage in methamphetamine-related child endangerment. A person engages in methamphetamine-related child endangerment when the person knowingly endangers the life and health of a child by exposing or allowing exposure of the child to a methamphetamine manufacturing environment.

(2) A person who violates paragraph (1) of this subsection (a) is guilty of a Class 2 felony.

(b) Aggravated methamphetamine-related child endangerment.

(1) It is unlawful to engage in aggravated methamphetamine-related child endangerment. A person engages in aggravated methamphetamine-related child endangerment when the person violates paragraph (1) of this subsection (a) of this Section and the child experiences death, great bodily harm, disability, or disfigurement as a result of the methamphetamine-related child endangerment.

(2) A person who violates paragraph (1) of this subsection (b) is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

Section 55. Methamphetamine delivery.

(a) Delivery or possession with intent to deliver methamphetamine or a substance containing methamphetamine.

(1) It is unlawful knowingly to engage in the delivery or possession with intent to deliver methamphetamine or a substance containing methamphetamine.

(2) A person who violates paragraph (1) of this subsection (a) is subject to the following penalties:

(A) A person who delivers or possesses with intent to deliver less than 5 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 2 felony.

(B) A person who delivers or possesses with intent to deliver 5 or more grams but less than 15 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 1 felony.

(C) A person who delivers or possesses with intent to deliver 15 or more grams but less than 100 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000 or the street value of the methamphetamine, whichever is greater.

(D) A person who delivers or possesses with intent to deliver 100 or more grams but less than 400 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 9 years and not more than 40 years, and subject to a fine not to exceed \$200,000 or the street value of the methamphetamine, whichever is greater.

(E) A person who delivers or possesses with intent to deliver 400 or more grams but less than 900 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 12 years and not more than 50 years, and subject to a fine not to exceed \$300,000 or the street value of the methamphetamine,

whichever is greater.

(F) A person who delivers or possesses with intent to deliver 900 or more grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 15 years and not more than 60 years, and subject to a fine not to exceed \$400,000 or the street value of the methamphetamine, whichever is greater.

(b) Aggravated delivery or possession with intent to deliver methamphetamine or a substance containing methamphetamine.

(1) It is unlawful to engage in the aggravated delivery or possession with intent to deliver methamphetamine or a substance containing methamphetamine. A person engages in the aggravated delivery or possession with intent to deliver methamphetamine or a substance containing methamphetamine when the person violates paragraph (1) of subsection (a) of this Section and:

(A) the person is over 18 years of age and knowingly delivers or possesses with intent to deliver the methamphetamine or substance containing methamphetamine to a person under 18 years of age;

(B) the person is over 18 years of age and knowingly uses, engages, employs, or causes another person to use, engage, or employ a person under 18 years of age to deliver the methamphetamine or substance containing methamphetamine;

(C) the person knowingly delivers or possesses with intent to deliver the methamphetamine or substance containing methamphetamine in any structure or vehicle protected by one or more firearms, explosive devices, booby traps, alarm systems, surveillance systems, guard dogs, or dangerous animals;

(D) the person knowingly delivers or possesses with intent to deliver the methamphetamine or substance containing methamphetamine in any school, on any real property comprising any school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity;

(E) the person delivers or causes another person to deliver the methamphetamine or substance containing methamphetamine to a woman that the person knows to be pregnant; or

(F) the person knowingly brings or causes another to bring the methamphetamine or substance containing methamphetamine into Illinois from a location outside of Illinois.

(2) A person who violates paragraph (1) of this subsection (b) is subject to the following penalties:

(A) A person who delivers or possesses with intent to deliver less than 5 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 1 felony.

(B) A person who delivers or possesses with intent to deliver 5 or more grams but less than 15 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000 or the street value of the methamphetamine, whichever is greater.

(C) A person who delivers or possesses with intent to deliver 15 or more grams but less than 100 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 8 years and not more than 40 years, and subject to a fine not to exceed \$200,000 or the street value of the methamphetamine, whichever is greater.

(D) A person who delivers or possesses with intent to deliver 100 or more grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 10 years and not more than 50 years, and subject to a fine not to exceed \$300,000 or the street value of the methamphetamine, whichever is greater.

Section 60. Methamphetamine possession.

(a) It is unlawful knowingly to possess methamphetamine or a substance containing methamphetamine.

(b) A person who violates subsection (a) is subject to the following penalties:

(1) A person who possesses less than 5 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 3 felony.

(2) A person who possesses 5 or more grams but less than 15 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 2 felony.

(3) A person who possesses 15 or more grams but less than 100 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class 1 felony.

(4) A person who possesses 100 or more grams but less than 400 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 6 years and not more than 30 years, and subject to a fine not to exceed \$100,000.

(5) A person who possesses 400 or more grams but less than 900 grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 8 years and not more than 40 years, and subject to a fine not to exceed \$200,000.

(6) A person who possesses 900 or more grams of methamphetamine or a substance containing methamphetamine is guilty of a Class X felony, subject to a term of imprisonment of not less than 10 years and not more than 50 years, and subject to a fine not to exceed \$300,000.

Section 65. Methamphetamine conspiracy.

(a) It is unlawful to engage in a methamphetamine conspiracy. A person engages in a methamphetamine conspiracy when:

- (1) the person intends to violate one or more provisions of this Act;
- (2) the person agrees with one or more persons to violate one or more provisions of this Act; and
- (3) the person or any party to the agreement commits an act in furtherance of the agreement.

(b) A person convicted of engaging in a methamphetamine conspiracy shall face the penalty for the offense that is the object of the conspiracy and may be held accountable for the cumulative weight of any methamphetamine, substance containing methamphetamine, methamphetamine precursor, or substance containing methamphetamine precursor attributable to the conspiracy for the duration of the conspiracy.

(c) It is not a defense to a methamphetamine conspiracy charge that the person or persons with whom the person charged is alleged to have conspired have not been prosecuted or convicted, have been acquitted, have been convicted of a different offense, are not amenable to justice, or lacked the capacity to commit the offense.

(d) Any person who is convicted under this Section of engaging in a methamphetamine conspiracy shall forfeit to the State of Illinois the receipts the person obtained in the conspiracy and any of the person's interests in, claims against, receipts from, or property or rights of any kind affording a source of influence over, the conspiracy. The circuit court may enter such injunctions, restraining orders, directions, or prohibitions, or take such other actions, including the acceptance of satisfactory performance bonds, in connection with any property, claim, receipt, right, or other interest subject to forfeiture under this Section, as it deems proper.

Section 70. Probation.

(a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for any offense under this Act, the Illinois Controlled Substances Act, the Cannabis Control Act, or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of less than 15 grams of methamphetamine under paragraph (1) or (2) of subsection (b) of Section 60 of this Act, the court, without entering a judgment and with the consent of the person, may sentence him or her to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person:

- (1) not violate any criminal statute of any jurisdiction;
- (2) refrain from possessing a firearm or other dangerous weapon;
- (3) submit to periodic drug testing at a time and in a manner as ordered by the court,

but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and

- (4) perform no less than 30 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person take one or more of the following actions:

- (1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;
- (2) pay a fine and costs;
- (3) work or pursue a course of study or vocational training;
- (4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
- (6) support his or her dependents;
- (7) refrain from having in his or her body the presence of any illicit drug prohibited by this Act, the Cannabis Control Act, or the Illinois Controlled Substances Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; or
- (8) if a minor:
 - (i) reside with his or her parents or in a foster home;
 - (ii) attend school;
 - (iii) attend a non-residential program for youth; or
 - (iv) contribute to his or her own support at home or in a foster home.
- (e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.
- (f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against the person.
- (g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.
- (h) There may be only one discharge and dismissal under this Section, Section 410 of the Illinois Controlled Substances Act, or Section 10 of the Cannabis Control Act with respect to any person.
- (i) If a person is convicted of an offense under this Act, the Cannabis Control Act, or the Illinois Controlled Substances Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section are admissible in the sentencing proceeding for that conviction as evidence in aggravation.

Section 75. Fines.

(a) Whenever any person pleads guilty to, is found guilty of, or is placed on supervision for an offense under this Act, a fine may be levied in addition to any other penalty imposed by the court.

(b) In determining whether to impose a fine under this Section and the amount, time for payment, and method of payment of any fine so imposed, the court shall:

- (1) consider the defendant's income, regardless of source, the defendant's earning capacity and the defendant's financial resources, as well as the nature of the burden the fine will impose on the defendant and any person legally or financially dependent upon the defendant;
- (2) consider the proof received at trial, or as a result of a plea of guilty, concerning the full street value of the controlled substances seized and any profits or other proceeds derived by the defendant from the violation of this Act;
- (3) take into account any other pertinent equitable considerations; and
- (4) give primary consideration to the need to deprive the defendant of illegally obtained profits or other proceeds from the offense.

For the purpose of paragraph (2) of this subsection (b), "street value" shall be determined by the court on the basis of testimony of law enforcement personnel and the defendant as to the amount seized and such testimony as may be required by the court as to the current street value of the controlled substances.

(c) As a condition of a fine, the court may require that payment be made in specified installments or within a specified period of time, but the period shall not be greater than the maximum applicable term of probation or imprisonment, whichever is greater. Unless otherwise specified, payment of a fine shall be due immediately.

(d) If a fine for a violation of this Act is imposed on an organization, it is the duty of each individual authorized to make disbursements of the assets of the organization to pay the fine

from the assets of the organization.

(e) A defendant who has been sentenced to pay a fine, and who has paid part but not all of the fine, may petition the court for an extension of the time for payment or modification of the method of payment. The court may grant the petition if it finds that:

- (1) the circumstances that warranted payment by the time or method specified no longer exist; or
- (2) it is otherwise unjust to require payment of the fine by the time or method specified.

Section 80. Assessment.

(a) Every person convicted of a violation of this Act, and every person placed on probation, conditional discharge, supervision, or probation under this Act, shall be assessed for each offense a sum fixed at:

- (1) \$3,000 for a Class X felony;
- (2) \$2,000 for a Class 1 felony;
- (3) \$1,000 for a Class 2 felony;
- (4) \$500 for a Class 3 or Class 4 felony.

(b) The assessment under this Section is in addition to and not in lieu of any fines, restitution, costs, forfeitures, or other assessments authorized or required by law.

(c) As a condition of the assessment, the court may require that payment be made in specified installments or within a specified period of time. If the assessment is not paid within the period of probation, conditional discharge, or supervision to which the defendant was originally sentenced, the court may extend the period of probation, conditional discharge, or supervision pursuant to Section 5-6-2 or 5-6-3.1 of the Unified Code of Corrections, as applicable, until the assessment is paid or until successful completion of public or community service set forth in subsection (e) or the successful completion of the substance abuse intervention or treatment program set forth in subsection (f). If a term of probation, conditional discharge, or supervision is not imposed, the assessment shall be payable upon judgment or as directed by the court.

(d) If an assessment for a violation of this Act is imposed on an organization, it is the duty of each individual authorized to make disbursements of the assets of the organization to pay the assessment from assets of the organization.

(e) A defendant who has been ordered to pay an assessment may petition the court to convert all or part of the assessment into court-approved public or community service. One hour of public or community service shall be equivalent to \$4 of assessment. The performance of this public or community service shall be a condition of the probation, conditional discharge, or supervision and shall be in addition to the performance of any other period of public or community service ordered by the court or required by law.

(f) The court may suspend the collection of the assessment imposed under this Section if the defendant agrees to enter a substance abuse intervention or treatment program approved by the court and the defendant agrees to pay for all or some portion of the costs associated with the intervention or treatment program. In this case, the collection of the assessment imposed under this Section shall be suspended during the defendant's participation in the approved intervention or treatment program. Upon successful completion of the program, the defendant may apply to the court to reduce the assessment imposed under this Section by any amount actually paid by the defendant for his or her participation in the program. The court shall not reduce the penalty under this subsection unless the defendant establishes to the satisfaction of the court that he or she has successfully completed the intervention or treatment program. If the defendant's participation is for any reason terminated before his or her successful completion of the intervention or treatment program, collection of the entire assessment imposed under this Section shall be enforced. Nothing in this Section shall be deemed to affect or suspend any other fines, restitution costs, forfeitures, or assessments imposed under this or any other Act.

(g) The court shall not impose more than one assessment per complaint, indictment, or information. If the person is convicted of more than one offense in a complaint, indictment, or information, the assessment shall be based on the highest class offense for which the person is convicted.

(h) In counties with a population under 3,000,000, all moneys collected under this Section shall be forwarded by the clerk of the circuit court to the State Treasurer for deposit in the Drug

Treatment Fund. The Department of Human Services may make grants to persons licensed under Section 15-10 of the Alcoholism and Other Drug Abuse and Dependency Act or to municipalities or counties from funds appropriated to the Department from the Drug Treatment Fund for the treatment of pregnant women who are addicted to alcohol, cannabis or controlled substances and for the needed care of minor, unemancipated children of women undergoing residential drug treatment. If the Department of Human Services grants funds to a municipality or a county that the Department determines is not experiencing a problem with pregnant women addicted to alcohol, cannabis or controlled substances, or with care for minor, unemancipated children of women undergoing residential drug treatment, or intervention, the funds shall be used for the treatment of any person addicted to alcohol, cannabis, or controlled substances. The Department may adopt such rules as it deems appropriate for the administration of such grants.

(i) In counties with a population of 3,000,000 or more, all moneys collected under this

Section shall be forwarded to the County Treasurer for deposit into the County Health Fund. The County Treasurer shall, no later than the 15th day of each month, forward to the State Treasurer 30 percent of all moneys collected under this Act and received into the County Health Fund since the prior remittance to the State Treasurer. Funds retained by the County shall be used for community-based treatment of pregnant women who are addicted to alcohol, cannabis, or controlled substances or for the needed care of minor, unemancipated children of these women. Funds forwarded to the State Treasurer shall be deposited into the State Drug Treatment Fund maintained by the State Treasurer from which the Department of Human Services may make grants to persons licensed under Section 15-10 of the Alcoholism and Other Drug Abuse and Dependency Act or to municipalities or counties from funds appropriated to the Department from the Drug Treatment Fund, provided that the moneys collected from each county be returned proportionately to the counties through grants to licensees located within the county from which the assessment was received and moneys in the State Drug Treatment Fund shall not supplant other local, State or federal funds. If the Department of Human Services grants funds to a municipality or county that the Department determines is not experiencing a problem with pregnant women addicted to alcohol, cannabis or controlled substances, or with care for minor, unemancipated children or women undergoing residential drug treatment, the funds shall be used for the treatment of any person addicted to alcohol, cannabis or controlled substances. The Department may adopt such rules as it deems appropriate for the administration of such grants.

Section 85. Forfeiture.

(a) The following are subject to forfeiture:

- (1) all substances containing methamphetamine which have been produced, manufactured, delivered, or possessed in violation of this Act;
- (2) all methamphetamine manufacturing materials which have been produced, delivered, or possessed in connection with any substance containing methamphetamine in violation of this Act;
- (3) all conveyances, including aircraft, vehicles or vessels, which are used, or intended for use, to transport, or in any manner to facilitate the transportation, sale, receipt, possession, or concealment of property described in paragraph (1) or (2) that constitutes a felony violation of the Act, but:
 - (i) no conveyance used by any person as a common carrier in the transaction of business as a common carrier is subject to forfeiture under this Section unless it appears that the owner or other person in charge of the conveyance is a consenting party or privy to a violation of this Act;
 - (ii) no conveyance is subject to forfeiture under this Section by reason of any act or omission which the owner proves to have been committed or omitted without his or her knowledge or consent;
 - (iii) a forfeiture of a conveyance encumbered by a bona fide security interest is subject to the interest of the secured party if he or she neither had knowledge of nor consented to the act or omission;
- (4) all money, things of value, books, records, and research products and materials including formulas, microfilm, tapes, and data which are used, or intended for use in a felony violation of this Act;
- (5) everything of value furnished or intended to be furnished by any person in exchange for a substance in violation of this Act, all proceeds traceable to such an exchange, and all

moneys, negotiable instruments, and securities used, or intended to be used, to commit or in any manner to facilitate any felony violation of this Act.

(6) all real property, including any right, title, and interest (including, but not limited to, any leasehold interest or the beneficial interest in a land trust) in the whole of any lot or tract of land and any appurtenances or improvements, which is used, or intended to be used, in any manner or part, to commit, or in any manner to facilitate the commission of, any violation or act that constitutes a violation of this Act or that is the proceeds of any violation or act that constitutes a violation of this Act.

(b) Property subject to forfeiture under this Act may be seized by the Director or any peace officer upon process or seizure warrant issued by any court having jurisdiction over the property. Seizure by the Director or any peace officer without process may be made:

(1) if the property subject to seizure has been the subject of a prior judgment in favor of the State in a criminal proceeding or in an injunction or forfeiture proceeding based upon this Act or the Drug Asset Forfeiture Procedure Act;

(2) if there is probable cause to believe that the property is directly or indirectly dangerous to health or safety;

(3) if there is probable cause to believe that the property is subject to forfeiture under this Act and the property is seized under circumstances in which a warrantless seizure or arrest would be reasonable; or

(4) in accordance with the Code of Criminal Procedure of 1963.

(c) In the event of seizure pursuant to subsection (b), forfeiture proceedings shall be instituted in accordance with the Drug Asset Forfeiture Procedure Act.

(d) Property taken or detained under this Section is not subject to replevin, but is deemed to be in the custody of the Director subject only to the order and judgments of the circuit court having jurisdiction over the forfeiture proceedings and the decisions of the State's Attorney under the Drug Asset Forfeiture Procedure Act. When property is seized under this Act, the seizing agency shall promptly conduct an inventory of the seized property, estimate the property's value, and forward a copy of the inventory of seized property and the estimate of the property's value to the Director. Upon receiving notice of seizure, the Director may:

(1) place the property under seal;

(2) remove the property to a place designated by him or her;

(3) keep the property in the possession of the seizing agency;

(4) remove the property to a storage area for safekeeping or, if the property is a negotiable instrument or money and is not needed for evidentiary purposes, deposit it in an interest bearing account;

(5) place the property under constructive seizure by posting notice of pending forfeiture on it, by giving notice of pending forfeiture to its owners and interest holders, or by filing notice of pending forfeiture in any appropriate public record relating to the property; or

(6) provide for another agency or custodian, including an owner, secured party, or lienholder, to take custody of the property upon the terms and conditions set by the Director.

(e) No disposition may be made of property under seal until the time for taking an appeal has elapsed or until all appeals have been concluded unless a court, upon application therefor, orders the sale of perishable substances and the deposit of the proceeds of the sale with the court.

(f) When property is forfeited under this Act, the Director shall sell the property unless the property is required by law to be destroyed or is harmful to the public, and shall distribute the proceeds of the sale, together with any moneys forfeited or seized, in accordance with subsection (g). However, upon the application of the seizing agency or prosecutor who was responsible for the investigation, arrest or arrests and prosecution which lead to the forfeiture, the Director may return any item of forfeited property to the seizing agency or prosecutor for official use in the enforcement of laws relating to methamphetamine, cannabis, or controlled substances, if the agency or prosecutor demonstrates that the item requested would be useful to the agency or prosecutor in their enforcement efforts. When any real property returned to the seizing agency is sold by the agency or its unit of government, the proceeds of the sale shall be delivered to the Director and distributed in accordance with subsection (g).

(g) All moneys and the sale proceeds of all other property forfeited and seized under this Act shall be distributed as follows:

(1) 65% shall be distributed to the metropolitan enforcement group, local, municipal, county, or State law enforcement agency or agencies which conducted or participated in the investigation resulting in the forfeiture. The distribution shall bear a reasonable relationship to the

degree of direct participation of the law enforcement agency in the effort resulting in the forfeiture, taking into account the total value of the property forfeited and the total law enforcement effort with respect to the violation of the law upon which the forfeiture is based. Amounts distributed to the agency or agencies shall be used for the enforcement of laws governing methamphetamine, cannabis, and controlled substances, except that amounts distributed to the Secretary of State shall be deposited into the Secretary of State Evidence Fund to be used as provided in Section 2-115 of the Illinois Vehicle Code.

(2)(i) 12.5% shall be distributed to the Office of the State's Attorney of the county in which the prosecution resulting in the forfeiture was instituted, deposited in a special fund in the county treasury and appropriated to the State's Attorney for use in the enforcement of laws governing methamphetamine, cannabis, and controlled substances. In counties with a population over 3,000,000, 25% shall be distributed to the Office of the State's Attorney for use in the enforcement of laws governing methamphetamine, cannabis, and controlled substances. If the prosecution is undertaken solely by the Attorney General, the portion provided hereunder shall be distributed to the Attorney General for use in the enforcement of laws governing methamphetamine, cannabis, and controlled substances.

(ii) 12.5% shall be distributed to the Office of the State's Attorneys Appellate Prosecutor and deposited in the Narcotics Profit Forfeiture Fund of that Office to be used for additional expenses incurred in the investigation, prosecution and appeal of cases arising under laws governing methamphetamine, cannabis, and controlled substances. The Office of the State's Attorneys Appellate Prosecutor shall not receive distribution from cases brought in counties with a population over 3,000,000.

(3) 10% shall be retained by the Department of State Police for expenses related to the administration and sale of seized and forfeited property.

Section 90. Methamphetamine restitution. If a person commits a violation of this Act in a manner that requires an emergency response, the person shall be required to make restitution to all public entities involved in the emergency response, to cover the reasonable cost of their participation in the emergency response. The convicted person shall make this restitution in addition to any other fine or penalty required by law.

Section 95. Youth Drug Abuse Prevention Fund.

(a) Twelve and one-half percent of all amounts collected as fines pursuant to the provisions of this Article shall be paid into the Youth Drug Abuse Prevention Fund created by the Controlled Substances Act in the State treasury, to be used by the Department for the funding of programs and services for drug-abuse treatment, and prevention and education services, for juveniles.

(b) Eighty-seven and one-half percent of the proceeds of all fines received under the provisions of this Act shall be transmitted to and deposited into the State treasury and distributed as follows:

(1) If such seizure was made by a combination of law enforcement personnel representing differing units of local government, the court levying the fine shall equitably allocate 50% of the fine among these units of local government and shall allocate 37.5% to the county general corporate fund. If the seizure was made by law enforcement personnel representing a unit of local government from a municipality where the number of inhabitants exceeds 2 million in population, the court levying the fine shall allocate 87.5% of the fine to that unit of local government. If the seizure was made by a combination of law enforcement personnel representing differing units of local government and if at least one of those units represents a municipality where the number of inhabitants exceeds 2 million in population, the court shall equitably allocate 87.5% of the proceeds of the fines received among the differing units of local government.

(2) If such seizure was made by State law enforcement personnel, then the court shall allocate 37.5% to the State treasury and 50% to the county general corporate fund.

(3) If a State law enforcement agency in combination with any law enforcement agency or agencies of a unit or units of local government conducted the seizure, the court shall equitably allocate 37.5% of the fines to or among the law enforcement agency or agencies of the unit or units of local government that conducted the seizure and shall allocate 50% to the county general corporate fund.

(c) The proceeds of all fines allocated to the law enforcement agency or agencies of the unit or units of local government pursuant to subsection (b) shall be made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis.

The proceeds of fines awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund, except that amounts distributed to the Secretary of State shall be deposited into the Secretary of State Evidence Fund to be used as provided in Section 2-115 of the Illinois Vehicle Code. Moneys from this Fund may be used by the Department of State Police for use in the enforcement of laws regulating controlled substances and cannabis; to satisfy funding provisions of the Intergovernmental Drug Laws Enforcement Act; to defray costs and expenses associated with returning violators of the Cannabis Control Act and this Act only, as provided in those Acts, when punishment of the crime shall be confinement of the criminal in the penitentiary; and all other moneys shall be paid into the General Revenue Fund in the State treasury.

Section 100. Second or subsequent offenses.

(a) Any person convicted of a second or subsequent offense under this Act may be sentenced to imprisonment for a term up to twice the maximum term otherwise authorized, fined an amount up to twice that otherwise authorized, or both.

(b) Any penalty imposed for any violation of this Act is in addition to, and not in lieu of, any civil or administrative penalty or sanction otherwise authorized by this Act or any other law.

Section 105. Applicability. A prosecution for any violation of law occurring prior to the effective date of this Act is not affected or abated by this Act. If the offense being prosecuted would be a violation of this Act, and has not reached the sentencing stage or final adjudication, then for purposes of penalty the penalties under this Act apply if they are less than under the prior law upon which the prosecution was commenced.

Section 110. Scope of Act. Nothing in this Act limits any authority or activity authorized by the Illinois Controlled Substances Act, the Medical Practice Act of 1987, the Nursing and Advanced Practice Nursing Act, the Pharmacy Practice Act of 1987, the Illinois Dental Practice Act, the Podiatric Medical Practice Act of 1987, or the Veterinary Medicine and Surgery Practice Act of 2004. Nothing in this Act limits the authority or activity of any law enforcement officer acting within the scope of his or her employment.

Section 901. The Alcoholism and Other Drug Abuse and Dependency Act is amended by changing Sections 5-10, 40-5, and 50-35 as follows:

(20 ILCS 301/5-10)

Sec. 5-10. Functions of the Department.

(a) In addition to the powers, duties and functions vested in the Department by this Act, or by other laws of this State, the Department shall carry out the following activities:

(1) Design, coordinate and fund a comprehensive and coordinated community-based and culturally and gender-appropriate array of services throughout the State for the prevention, intervention, treatment and rehabilitation of alcohol and other drug abuse and dependency that is accessible and addresses the needs of at-risk or addicted individuals and their families.

(2) Act as the exclusive State agency to accept, receive and expend, pursuant to appropriation, any public or private monies, grants or services, including those received from the federal government or from other State agencies, for the purpose of providing an array of services for the prevention, intervention, treatment and rehabilitation of alcoholism or other drug abuse or dependency. Monies received by the Department shall be deposited into appropriate funds as may be created by State law or administrative action.

(3) Coordinate a statewide strategy among State agencies for the prevention, intervention, treatment and rehabilitation of alcohol and other drug abuse and dependency. This strategy shall include the development of an annual comprehensive State plan for the provision of an array of services for education, prevention, intervention, treatment, relapse prevention and other services and activities to alleviate alcoholism and other drug abuse and dependency. The plan shall be based on local community-based needs and upon data including, but not limited to, that which defines the prevalence of and costs associated with the abuse of and dependency upon alcohol and other drugs. This comprehensive State plan shall include identification of problems, needs, priorities, services and other pertinent information, including the needs of minorities and other specific populations in the State, and shall describe how the identified problems and needs will be addressed. For purposes of this paragraph, the term "minorities and other specific populations" may include, but shall not be limited to, groups such as women, children, intravenous drug users, persons with AIDS or who are HIV infected, African-Americans, Puerto Ricans, Hispanics, Asian Americans, the elderly,

[May 30, 2005]

persons in the criminal justice system, persons who are clients of services provided by other State agencies, persons with disabilities and such other specific populations as the Department may from time to time identify. In developing the plan, the Department shall seek input from providers, parent groups, associations and interested citizens.

Beginning with State fiscal year 1996, the annual comprehensive State plan developed under this Section shall include an explanation of the rationale to be used in ensuring that funding shall be based upon local community needs, including, but not limited to, the incidence and prevalence of, and costs associated with, the abuse of and dependency upon alcohol and other drugs, as well as upon demonstrated program performance.

The annual comprehensive State plan developed under this Section shall contain a report detailing the activities of and progress made by the programs for the care and treatment of addicted pregnant women, addicted mothers and their children established under subsection (j) of Section 35-5 of this Act.

Each State agency which provides or funds alcohol or drug prevention, intervention and treatment services shall annually prepare an agency plan for providing such services, and these shall be used by the Department in preparing the annual comprehensive statewide plan. Each agency's annual plan for alcohol and drug abuse services shall contain a report on the activities and progress of such services in the prior year. The Department may provide technical assistance to other State agencies, as required, in the development of their agency plans.

(4) Lead, foster and develop cooperation, coordination and agreements among federal and State governmental agencies and local providers that provide assistance, services, funding or other functions, peripheral or direct, in the prevention, intervention, treatment or rehabilitation of alcoholism and other drug abuse and dependency. This shall include, but shall not be limited to, the following:

(A) Cooperate with and assist the Department of Corrections and the Department on Aging in establishing and conducting programs relating to alcoholism and other drug abuse and dependency among those populations which they respectively serve.

(B) Cooperate with and assist the Illinois Department of Public Health in the establishment, funding and support of programs and services for the promotion of maternal and child health and the prevention and treatment of infectious diseases, including but not limited to HIV infection, especially with respect to those persons who may abuse drugs by intravenous injection, or may have been sexual partners of drug abusers, or may have abused substances so that their immune systems are impaired, causing them to be at high risk.

(C) Supply to the Department of Public Health and prenatal care providers a list of all alcohol and other drug abuse service providers for addicted pregnant women in this State.

(D) Assist in the placement of child abuse or neglect perpetrators (identified by the Illinois Department of Children and Family Services) who have been determined to be in need of alcohol or other drug abuse services pursuant to Section 8.2 of the Abused and Neglected Child Reporting Act.

(E) Cooperate with and assist the Illinois Department of Children and Family Services in carrying out its mandates to:

(i) identify alcohol and other drug abuse issues among its clients and their families; and

(ii) develop programs and services to deal with such problems.

These programs and services may include, but shall not be limited to, programs to prevent the abuse of alcohol or other drugs by DCFS clients and their families, rehabilitation services, identifying child care needs within the array of alcohol and other drug abuse services, and assistance with other issues as required.

(F) Cooperate with and assist the Illinois Criminal Justice Information Authority with respect to statistical and other information concerning drug abuse incidence and prevalence.

(G) Cooperate with and assist the State Superintendent of Education, boards of education, schools, police departments, the Illinois Department of State Police, courts and other public and private agencies and individuals in establishing prevention programs statewide and preparing curriculum materials for use at all levels of education. An agreement shall be entered into with the State Superintendent of Education to assist in the establishment of such programs.

(H) Cooperate with and assist the Illinois Department of Public Aid in the development and provision of services offered to recipients of public assistance for the treatment and prevention of alcoholism and other drug abuse and dependency.

(I) Provide training recommendations to other State agencies funding alcohol or

other drug abuse prevention, intervention, treatment or rehabilitation services.

(5) From monies appropriated to the Department from the Drunk and Drugged Driving Prevention Fund, make grants to reimburse DUI evaluation and remedial education programs licensed by the Department for the costs of providing indigent persons with free or reduced-cost services relating to a charge of driving under the influence of alcohol or other drugs.

(6) Promulgate regulations to provide appropriate standards for publicly and privately funded programs as well as for levels of payment to government funded programs which provide an array of services for prevention, intervention, treatment and rehabilitation for alcoholism and other drug abuse or dependency.

(7) In consultation with local service providers, specify a uniform statistical methodology for use by agencies, organizations, individuals and the Department for collection and dissemination of statistical information regarding services related to alcoholism and other drug use and abuse. This shall include prevention services delivered, the number of persons treated, frequency of admission and readmission, and duration of treatment.

(8) Receive data and assistance from federal, State and local governmental agencies, and obtain copies of identification and arrest data from all federal, State and local law enforcement agencies for use in carrying out the purposes and functions of the Department.

(9) Designate and license providers to conduct screening, assessment, referral and tracking of clients identified by the criminal justice system as having indications of alcoholism or other drug abuse or dependency and being eligible to make an election for treatment under Section 40-5 of this Act, and assist in the placement of individuals who are under court order to participate in treatment.

(10) Designate medical examination and other programs for determining alcoholism and other drug abuse and dependency.

(11) Encourage service providers who receive financial assistance in any form from the State to assess and collect fees for services rendered.

(12) Make grants with funds appropriated from the Drug Treatment Fund in accordance with Section 7 of the Controlled Substance and Cannabis Nuisance Act, or in accordance with Section 80 of the Methamphetamine Control and Community Protection Act, or in accordance with subsections (h) and (i) of Section 411.2 of the Illinois Controlled Substances Act.

(13) Encourage all health and disability insurance programs to include alcoholism and other drug abuse and dependency as a covered illness.

(14) Make such agreements, grants-in-aid and purchase-care arrangements with any other department, authority or commission of this State, or any other state or the federal government or with any public or private agency, including the disbursement of funds and furnishing of staff, to effectuate the purposes of this Act.

(15) Conduct a public information campaign to inform the State's Hispanic residents regarding the prevention and treatment of alcoholism.

(b) In addition to the powers, duties and functions vested in it by this Act, or by other laws of this State, the Department may undertake, but shall not be limited to, the following activities:

(1) Require all programs funded by the Department to include an education component to inform participants regarding the causes and means of transmission and methods of reducing the risk of acquiring or transmitting HIV infection, and to include funding for such education component in its support of the program.

(2) Review all State agency applications for federal funds which include provisions relating to the prevention, early intervention and treatment of alcoholism and other drug abuse and dependency in order to ensure consistency with the comprehensive statewide plan developed pursuant to this Act.

(3) Prepare, publish, evaluate, disseminate and serve as a central repository for educational materials dealing with the nature and effects of alcoholism and other drug abuse and dependency. Such materials may deal with the educational needs of the citizens of Illinois, and may include at least pamphlets which describe the causes and effects of fetal alcohol syndrome, which the Department may distribute free of charge to each county clerk in sufficient quantities that the county clerk may provide a pamphlet to the recipients of all marriage licenses issued in the county.

(4) Develop and coordinate, with regional and local agencies, education and training programs for persons engaged in providing the array of services for persons having alcoholism or other drug abuse and dependency problems, which programs may include specific HIV education and training for program personnel.

(5) Cooperate with and assist in the development of education, prevention and treatment

programs for employees of State and local governments and businesses in the State.

(6) Utilize the support and assistance of interested persons in the community, including recovering addicts and alcoholics, to assist individuals and communities in understanding the dynamics of addiction, and to encourage individuals with alcohol or other drug abuse or dependency problems to voluntarily undergo treatment.

(7) Promote, conduct, assist or sponsor basic clinical, epidemiological and statistical research into alcoholism and other drug abuse and dependency, and research into the prevention of those problems either solely or in conjunction with any public or private agency.

(8) Cooperate with public and private agencies, organizations and individuals in the development of programs, and to provide technical assistance and consultation services for this purpose.

(9) Publish or provide for the publishing of a manual to assist medical and social service providers in identifying alcoholism and other drug abuse and dependency and coordinating the multidisciplinary delivery of services to addicted pregnant women, addicted mothers and their children. The manual may be used only to provide information and may not be used by the Department to establish practice standards. The Department may not require recipients to use specific providers nor may they require providers to refer recipients to specific providers. The manual may include, but need not be limited to, the following:

(A) Information concerning risk assessments of women seeking prenatal, natal, and postnatal medical care.

(B) Information concerning risk assessments of infants who may be substance-affected.

(C) Protocols that have been adopted by the Illinois Department of Children and Family Services for the reporting and investigation of allegations of child abuse or neglect under the Abused and Neglected Child Reporting Act.

(D) Summary of procedures utilized in juvenile court in cases of children alleged or found to be abused or neglected as a result of being born to addicted women.

(E) Information concerning referral of addicted pregnant women, addicted mothers and their children by medical, social service, and substance abuse treatment providers, by the Departments of Children and Family Services, Public Aid, Public Health, and Human Services.

(F) Effects of substance abuse on infants and guidelines on the symptoms, care, and comfort of drug-withdrawing infants.

(G) Responsibilities of the Illinois Department of Public Health to maintain statistics on the number of children in Illinois addicted at birth.

(10) To the extent permitted by federal law or regulation, establish and maintain a clearinghouse and central repository for the development and maintenance of a centralized data collection and dissemination system and a management information system for all alcoholism and other drug abuse prevention, early intervention and treatment services.

(11) Fund, promote or assist programs, services, demonstrations or research dealing with addictive or habituating behaviors detrimental to the health of Illinois citizens.

(12) With monies appropriated from the Group Home Loan Revolving Fund, make loans, directly or through subcontract, to assist in underwriting the costs of housing in which individuals recovering from alcohol or other drug abuse or dependency may reside in groups of not less than 6 persons, pursuant to Section 50-40 of this Act.

(13) Promulgate such regulations as may be necessary for the administration of grants or to otherwise carry out the purposes and enforce the provisions of this Act.

(14) Fund programs to help parents be effective in preventing substance abuse by building an awareness of drugs and alcohol and the family's role in preventing abuse through adjusting expectations, developing new skills, and setting positive family goals. The programs shall include, but not be limited to, the following subjects: healthy family communication; establishing rules and limits; how to reduce family conflict; how to build self-esteem, competency, and responsibility in children; how to improve motivation and achievement; effective discipline; problem solving techniques; and how to talk about drugs and alcohol. The programs shall be open to all parents.

(Source: P.A. 88-80; incorporates 88-171; 88-670, eff. 12-2-94; 89-363, eff. 1-1-96; 89-507, eff. 7-1-97.)
(20 ILCS 301/40-5)

Sec. 40-5. Election of treatment. An addict or alcoholic who is charged with or convicted of a crime may elect treatment under the supervision of a licensed program designated by the Department, referred to in this Article as "designated program", unless:

(1) the crime is a crime of violence;

(2) the crime is a violation of Section 401(a), 401(b), 401(c) where the person electing treatment has been previously convicted of a non-probationable felony or the violation is non-probationable, 401(d) where the violation is non-probationable, 401.1, 402(a), 405 or 407 of the Illinois Controlled Substances Act, or Section 4(d), 4(e), 4(f), 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the Cannabis Control Act or Section 15, 20, 55, 60, or 65 of the Methamphetamine Control and Community Protection Act;

(3) the person has a record of 2 or more convictions of a crime of violence;

(4) other criminal proceedings alleging commission of a felony are pending against the person;

(5) the person is on probation or parole and the appropriate parole or probation authority does not consent to that election;

(6) the person elected and was admitted to a designated program on 2 prior occasions within any consecutive 2-year period;

(7) the person has been convicted of residential burglary and has a record of one or more felony convictions;

(8) the crime is a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance; or

(9) the crime is a reckless homicide or a reckless homicide of an unborn child, as defined in Section 9-3 or 9-3.2 of the Criminal Code of 1961, in which the cause of death consists of the driving of a motor vehicle by a person under the influence of alcohol or any other drug or drugs at the time of the violation.

(Source: P.A. 90-397, eff. 8-15-97.)

(20 ILCS 301/50-35)

Sec. 50-35. Drug Treatment Fund.

(a) There is hereby established the Drug Treatment Fund, to be held as a separate fund in the State treasury. There shall be deposited into this fund such amounts as may be received under subsections (h) and (i) of Section 411.2 of the Illinois Controlled Substances Act, under Section 80 of the Methamphetamine Control and Community Protection Act, and under Section 7 of the Controlled Substance and Cannabis Nuisance Act.

(b) Monies in this fund shall be appropriated to the Department for the purposes and activities set forth in subsections (h) and (i) of Section 411.2 of the Illinois Controlled Substances Act, or in Section 7 of the Controlled Substance and Cannabis Nuisance Act.

(Source: P.A. 88-80.)

Section 902. The Department of Human Services (Alcoholism and Substance Abuse) Law of the Civil Administrative Code of Illinois is amended by changing Section 310-5 as follows:

(20 ILCS 310/310-5) (was 20 ILCS 5/9.29)

Sec. 310-5. Powers under certain Acts. The Department of Human Services, as successor to the Department of Alcoholism and Substance Abuse, shall exercise, administer, and enforce all rights, powers, and duties formerly vested in the Department of Mental Health and Developmental Disabilities by the following named Acts or Sections of those Acts as they pertain to the provision of alcoholism services and the Dangerous Drugs Commission:

(1) The Cannabis Control Act.

(2) The Illinois Controlled Substances Act.

(3) The Community Mental Health Act.

(4) The Community Services Act.

(5) The Methamphetamine Control and Community Protection Act.

(Source: P.A. 91-239, eff. 1-1-00.)

Section 905. The Department of State Police Law of the Civil Administrative Code of Illinois is amended by changing Section 2605-555 as follows:

(20 ILCS 2605/2605-555)

Sec. 2605-555. Pilot program; Project Exile.

(a) The Department shall establish a Project Exile pilot program to combat gun violence.

(b) Through the pilot program, the Department, in coordination with local law enforcement agencies, State's Attorneys, and United States Attorneys, shall, to the extent possible, encourage the prosecution in federal court of all persons who illegally use, attempt to use, or threaten to use firearms against the person or property of another, of all persons who use or possess a firearm in connection with a violation of the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine

Control and Community Protection Act, all persons who have been convicted of a felony under the laws of this State or any other jurisdiction who possess any weapon prohibited under Section 24-1 of the Criminal Code of 1961 or any firearm or any firearm ammunition, and of all persons who use or possess a firearm in connection with a violation of an order of protection issued under the Illinois Domestic Violence Act of 1986 or Article 112A of the Code of Criminal Procedure of 1963 or in connection with the offense of domestic battery. The program shall also encourage public outreach by law enforcement agencies.

(c) There is created the Project Exile Fund, a special fund in the State treasury. Moneys appropriated for the purposes of Project Exile and moneys from any other private or public source, including without limitation grants from the Department of Commerce and Economic Opportunity Community Affairs, shall be deposited into the Fund. Moneys in the Fund, subject to appropriation, may be used by the Department of State Police to develop and administer the Project Exile pilot program.

(d) The Department shall report to the General Assembly by March 1, 2003 regarding the implementation and effects of the Project Exile pilot program and shall by that date make recommendations to the General Assembly for changes in the program that the Department deems appropriate.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader, and the Clerk of the House of Representatives, with the President, the Minority Leader, and the Secretary of the Senate, and with the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

(Source: P.A. 92-332, eff. 8-10-01; 92-342, eff. 8-10-01; 92-651, eff. 7-11-02; revised 12-6-03.)

Section 910. The State Police Act is amended by changing Section 12.5 as follows:

(20 ILCS 2610/12.5)

Sec. 12.5. Zero tolerance drug policy. Any person employed by the Department of State Police who tests positive in accordance with established Departmental drug testing procedures for any substance prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall be discharged from employment. Refusal to submit to a drug test, ordered in accordance with Departmental procedures, by any person employed by the Department shall be construed as a positive test, and the person shall be discharged from employment.

(Source: P.A. 92-80, eff. 1-1-02.)

Section 915. The Narcotic Control Division Abolition Act is amended by changing Sections 7 and 8 as follows:

(20 ILCS 2620/7) (from Ch. 127, par. 55j)

Sec. 7. Expenditures; evidence; forfeited property.

(a) The Director and the inspectors appointed by him, when authorized by the Director, may expend such sums as the Director deems necessary in the purchase of controlled substances and cannabis for evidence and in the employment of persons to obtain evidence.

Such sums to be expended shall be advanced to the officer who is to make such purchase or employment from funds appropriated or made available by law for the support or use of the Department on vouchers therefor signed by the Director. The Director and such officers are authorized to maintain one or more commercial checking accounts with any State banking corporation or corporations organized under or subject to the Illinois Banking Act for the deposit and withdrawal of moneys to be used for the purchase of evidence and for the employment of persons to obtain evidence; provided that no check may be written on nor any withdrawal made from any such account except on the written signatures of 2 persons designated by the Director to write such checks and make such withdrawals.

(b) The Director is authorized to maintain one or more commercial bank accounts with any State banking corporation or corporations organized under or subject to the Illinois Banking Act, as now or hereafter amended, for the deposit or withdrawal of (i) moneys forfeited to the Department, including the proceeds of the sale of forfeited property, as provided in Section 2 of the State Officers and Employees Money Disposition Act, as now or hereafter amended, pending disbursement to participating agencies and deposit of the Department's share as provided in subsection (c), and (ii) all moneys being held as evidence by the Department, pending final court disposition; provided that no check may be written on or any withdrawal made from any such account except on the written signatures of 2 persons designated by the Director to write such checks and make such withdrawals.

[May 30, 2005]

(c) All moneys received by the Illinois State Police as their share of forfeited funds (including the proceeds of the sale of forfeited property) received pursuant to the Drug Asset Forfeiture Procedure Act, the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, the Environmental Protection Act, or any other Illinois law shall be deposited into the State Asset Forfeiture Fund, which is hereby created as an interest-bearing special fund in the State treasury.

All moneys received by the Illinois State Police as their share of forfeited funds (including the proceeds of the sale of forfeited property) received pursuant to federal equitable sharing transfers shall be deposited into the Federal Asset Forfeiture Fund, which is hereby created as an interest-bearing special fund in the State treasury.

The moneys deposited into the State Asset Forfeiture Fund and the Federal Asset Forfeiture Fund shall be appropriated to the Department of State Police and may be used by the Illinois State Police in accordance with law.

(Source: P.A. 90-9, eff. 7-1-97.)

(20 ILCS 2620/8) (from Ch. 127, par. 55k)

Sec. 8. The Attorney General, upon the request of the Department, shall prosecute any violation of this Act, and of the "Illinois Controlled Substances Act", ~~and the "Cannabis Control Act" enacted by the 77th General Assembly, and the Methamphetamine Control and Community Protection Act as now or hereafter amended.~~

(Source: P.A. 77-770.)

Section 920. The Criminal Identification Act is amended by changing Sections 2.1 and 5 as follows:

(20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

Sec. 2.1. For the purpose of maintaining complete and accurate criminal records of the Department of State Police, it is necessary for all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and State's Attorney of each county to submit certain criminal arrest, charge, and disposition information to the Department for filing at the earliest time possible. Unless otherwise noted herein, it shall be the duty of all policing bodies of this State, the clerk of the circuit court, the Illinois Department of Corrections, the sheriff of each county, and the State's Attorney of each county to report such information as provided in this Section, both in the form and manner required by the Department and within 30 days of the criminal history event. Specifically:

(a) Arrest Information. All agencies making arrests for offenses which are required by statute to be collected, maintained or disseminated by the Department of State Police shall be responsible for furnishing daily to the Department fingerprints, charges and descriptions of all persons who are arrested for such offenses. All such agencies shall also notify the Department of all decisions by the arresting agency not to refer such arrests for prosecution. With approval of the Department, an agency making such arrests may enter into arrangements with other agencies for the purpose of furnishing daily such fingerprints, charges and descriptions to the Department upon its behalf.

(b) Charge Information. The State's Attorney of each county shall notify the Department of all charges filed and all petitions filed alleging that a minor is delinquent, including all those added subsequent to the filing of a case, and whether charges were not filed in cases for which the Department has received information required to be reported pursuant to paragraph (a) of this Section. With approval of the Department, the State's Attorney may enter into arrangements with other agencies for the purpose of furnishing the information required by this subsection (b) to the Department upon the State's Attorney's behalf.

(c) Disposition Information. The clerk of the circuit court of each county shall furnish the Department, in the form and manner required by the Supreme Court, with all final dispositions of cases for which the Department has received information required to be reported pursuant to paragraph (a) or (d) of this Section. Such information shall include, for each charge, all (1) judgments of not guilty, judgments of guilty including the sentence pronounced by the court, findings that a minor is delinquent and any sentence made based on those findings, discharges and dismissals in the court; (2) reviewing court orders filed with the clerk of the circuit court which reverse or remand a reported conviction or findings that a minor is delinquent or that vacate or modify a sentence or sentence made following a trial that a minor is delinquent; (3) continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, Section 10 of the Steroid Control Act, or

Section 5-615 of the Juvenile Court Act of 1987; and (4) judgments or court orders terminating or revoking a sentence to or juvenile disposition of probation, supervision or conditional discharge and any resentencing or new court orders entered by a juvenile court relating to the disposition of a minor's case involving delinquency after such revocation.

(d) Fingerprints After Sentencing.

(1) After the court pronounces sentence, sentences a minor following a trial in which a minor was found to be delinquent or issues an order of supervision or an order of probation granted under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, Section 10 of the Steroid Control Act, or Section 5-615 of the Juvenile Court Act of 1987 for any offense which is required by statute to be collected, maintained, or disseminated by the Department of State Police, the State's Attorney of each county shall ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court shall so order the requested fingerprinting, if it determines that any such person has not previously been fingerprinted for the same case. The law enforcement agency shall submit such fingerprints to the Department daily.

(2) After the court pronounces sentence or makes a disposition of a case following a finding of delinquency for any offense which is not required by statute to be collected, maintained, or disseminated by the Department of State Police, the prosecuting attorney may ask the court to order a law enforcement agency to fingerprint immediately all persons appearing before the court who have not previously been fingerprinted for the same case. The court may so order the requested fingerprinting, if it determines that any so sentenced person has not previously been fingerprinted for the same case. The law enforcement agency may retain such fingerprints in its files.

(e) Corrections Information. The Illinois Department of Corrections and the sheriff of each county shall furnish the Department with all information concerning the receipt, escape, execution, death, release, pardon, parole, commutation of sentence, granting of executive clemency or discharge of an individual who has been sentenced or committed to the agency's custody for any offenses which are mandated by statute to be collected, maintained or disseminated by the Department of State Police. For an individual who has been charged with any such offense and who escapes from custody or dies while in custody, all information concerning the receipt and escape or death, whichever is appropriate, shall also be so furnished to the Department.

(Source: P.A. 90-590, eff. 1-1-00.)

(20 ILCS 2630/5) (from Ch. 38, par. 206-5)

(This Section may contain text from a Public Act with a delayed effective date)

Sec. 5. Arrest reports; expungement.

(a) All policing bodies of this State shall furnish to the Department, daily, in the form and detail the Department requires, fingerprints and descriptions of all persons who are arrested on charges of violating any penal statute of this State for offenses that are classified as felonies and Class A or B misdemeanors and of all minors of the age of 10 and over who have been arrested for an offense which would be a felony if committed by an adult, and may forward such fingerprints and descriptions for minors arrested for Class A or B misdemeanors. Moving or nonmoving traffic violations under the Illinois Vehicle Code shall not be reported except for violations of Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In addition, conservation offenses, as defined in the Supreme Court Rule 501(c), that are classified as Class B misdemeanors shall not be reported.

Whenever an adult or minor prosecuted as an adult, not having previously been convicted of any criminal offense or municipal ordinance violation, charged with a violation of a municipal ordinance or a felony or misdemeanor, is acquitted or released without being convicted, whether the acquittal or release occurred before, on, or after the effective date of this amendatory Act of 1991, the Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial may upon verified petition of the defendant order the record of arrest expunged from the official records of the arresting authority and the Department and order that the records of the clerk of the circuit court be sealed until further order of the court upon good cause shown and the name of the defendant obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. The Department may charge the petitioner a fee equivalent to the cost of processing any order to expunge or seal the records, and the fee shall be deposited into the State Police Services Fund. The

[May 30, 2005]

records of those arrests, however, that result in a disposition of supervision for any offense shall not be expunged from the records of the arresting authority or the Department nor impounded by the court until 2 years after discharge and dismissal of supervision. Those records that result from a supervision for a violation of Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Section 12-3.2, 12-15 or 16A-3 of the Criminal Code of 1961, or probation under Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3(b)(1) and (2) of the Criminal Code of 1961 (as those provisions existed before their deletion by Public Act 89-313), Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act when the judgment of conviction has been vacated, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act when the judgment of conviction has been vacated, or Section 10 of the Steroid Control Act shall not be expunged from the records of the arresting authority nor impounded by the court until 5 years after termination of probation or supervision. Those records that result from a supervision for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, shall not be expunged. All records set out above may be ordered by the court to be expunged from the records of the arresting authority and impounded by the court after 5 years, but shall not be expunged by the Department, but shall, on court order be sealed by the Department and may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or a similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual.

(a-5) Those records maintained by the Department for persons arrested prior to their 17th birthday shall be expunged as provided in Section 5-915 of the Juvenile Court Act of 1987.

(b) Whenever a person has been convicted of a crime or of the violation of a municipal ordinance, in the name of a person whose identity he has stolen or otherwise come into possession of, the aggrieved person from whom the identity was stolen or otherwise obtained without authorization, upon learning of the person having been arrested using his identity, may, upon verified petition to the chief judge of the circuit wherein the arrest was made, have a court order entered nunc pro tunc by the chief judge to correct the arrest record, conviction record, if any, and all official records of the arresting authority, the Department, other criminal justice agencies, the prosecutor, and the trial court concerning such arrest, if any, by removing his name from all such records in connection with the arrest and conviction, if any, and by inserting in the records the name of the offender, if known or ascertainable, in lieu of the aggrieved's name. The records of the clerk of the circuit court shall be sealed until further order of the court upon good cause shown and the name of the aggrieved person obliterated on the official index required to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act, but the order shall not affect any index issued by the circuit court clerk before the entry of the order. Nothing in this Section shall limit the Department of State Police or other criminal justice agencies or prosecutors from listing under an offender's name the false names he or she has used. For purposes of this Section, convictions for moving and nonmoving traffic violations other than convictions for violations of Chapter 4, Section 11-204.1 or Section 11-501 of the Illinois Vehicle Code shall not be a bar to expunging the record of arrest and court records for violation of a misdemeanor or municipal ordinance.

(c) Whenever a person who has been convicted of an offense is granted a pardon by the Governor which specifically authorizes expungement, he may, upon verified petition to the chief judge of the circuit where the person had been convicted, any judge of the circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, may have a court order entered expunging the record of arrest from the official records of the arresting authority and order that the records of the clerk of the circuit court and the Department be sealed until further order of the court upon good cause shown or as otherwise provided herein, and the name of the defendant obliterated from the official index requested to be kept by the circuit court clerk under Section 16 of the Clerks of Courts Act in connection with the arrest and conviction for the offense for which he had been pardoned but the order shall not affect any index issued by the circuit court clerk before the entry of the order. All records sealed by the Department may be disseminated by the Department only as required by law or to the arresting authority, the State's Attorney, and the court upon a later arrest for the same or similar offense or for the purpose of sentencing for any subsequent felony. Upon conviction for any subsequent offense, the Department of Corrections shall have access to all sealed records of the Department pertaining to that individual. Upon entry of the order of expungement, the clerk of the circuit court shall promptly mail a copy of the order to the person who was pardoned.

(c-5) Whenever a person has been convicted of criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, criminal sexual abuse, or aggravated criminal sexual

abuse, the victim of that offense may request that the State's Attorney of the county in which the conviction occurred file a verified petition with the presiding trial judge at the defendant's trial to have a court order entered to seal the records of the clerk of the circuit court in connection with the proceedings of the trial court concerning that offense. However, the records of the arresting authority and the Department of State Police concerning the offense shall not be sealed. The court, upon good cause shown, shall make the records of the clerk of the circuit court in connection with the proceedings of the trial court concerning the offense available for public inspection.

(c-6) If a conviction has been set aside on direct review or on collateral attack and the court determines by clear and convincing evidence that the defendant was factually innocent of the charge, the court shall enter an expungement order as provided in subsection (b) of Section 5-5-4 of the Unified Code of Corrections.

(d) Notice of the petition for subsections (a), (b), and (c) shall be served upon the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government affecting the arrest. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to the petition within 30 days from the date of the notice, the court shall enter an order granting or denying the petition. The clerk of the court shall promptly mail a copy of the order to the person, the arresting agency, the prosecutor, the Department of State Police and such other criminal justice agencies as may be ordered by the judge.

(e) Nothing herein shall prevent the Department of State Police from maintaining all records of any person who is admitted to probation upon terms and conditions and who fulfills those terms and conditions pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act.

(f) No court order issued under the expungement provisions of this Section shall become final for purposes of appeal until 30 days after notice is received by the Department. Any court order contrary to the provisions of this Section is void.

(g) Except as otherwise provided in subsection (c-5) of this Section, the court shall not order the sealing or expungement of the arrest records and records of the circuit court clerk of any person granted supervision for or convicted of any sexual offense committed against a minor under 18 years of age. For the purposes of this Section, "sexual offense committed against a minor" includes but is not limited to the offenses of indecent solicitation of a child or criminal sexual abuse when the victim of such offense is under 18 years of age.

(h) (1) Applicability. Notwithstanding any other provision of this Act to the contrary and cumulative with any rights to expungement of criminal records, this subsection authorizes the sealing of criminal records of adults and of minors prosecuted as adults.

(2) Sealable offenses. The following offenses may be sealed:

(A) All municipal ordinance violations and misdemeanors, with the exception of the following:

(i) violations of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance;

(ii) violations of Article 11 of the Criminal Code of 1961 or a similar provision of a local ordinance, except Section 11-14 of the Criminal Code of 1961 as provided in clause B(i) of this subsection (h);

(iii) violations of Section 12-15, 12-30, or 26-5 of the Criminal Code of 1961 or a similar provision of a local ordinance;

(iv) violations that are a crime of violence as defined in Section 2 of the Crime Victims Compensation Act or a similar provision of a local ordinance;

(v) Class A misdemeanor violations of the Humane Care for Animals Act; and

(vi) any offense or attempted offense that would subject a person to registration under the Sex Offender Registration Act.

(B) Misdemeanor and Class 4 felony violations of:

(i) Section 11-14 of the Criminal Code of 1961;

(ii) Section 4 of the Cannabis Control Act;

(iii) Section 402 of the Illinois Controlled Substances Act; and

(iv) Section 60 of the Methamphetamine Control and Community Protection Act.

~~(iv)~~ However, for purposes of this subsection (h), a sentence of first offender probation

under Section 10 of the Cannabis Control Act, ~~and~~ Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall be treated as a Class 4 felony conviction.

(3) Requirements for sealing. Records identified as sealable under clause (h) (2) may be sealed when the individual was:

- (A) Acquitted of the offense or offenses or released without being convicted.
- (B) Convicted of the offense or offenses and the conviction or convictions were reversed.
- (C) Placed on misdemeanor supervision for an offense or offenses; and
 - (i) at least 3 years have elapsed since the completion of the term of supervision, or terms of supervision, if more than one term has been ordered; and
 - (ii) the individual has not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor or felony during the period specified in clause (i).
- (D) Convicted of an offense or offenses; and
 - (i) at least 4 years have elapsed since the last such conviction or term of any sentence, probation, parole, or supervision, if any, whichever is last in time; and
 - (ii) the individual has not been convicted of a felony or misdemeanor or placed on supervision for a misdemeanor or felony during the period specified in clause (i).

(4) Requirements for sealing of records when more than one charge and disposition have been filed. When multiple offenses are petitioned to be sealed under this subsection (h), the requirements of the relevant provisions of clauses (h)(3)(A) through (D) each apply. In instances in which more than one waiting period is applicable under clauses (h)(C)(i) and (ii) and (h)(D)(i) and (ii), the longer applicable period applies, and the requirements of clause (h) (3) shall be considered met when the petition is filed after the passage of the longer applicable waiting period. That period commences on the date of the completion of the last sentence or the end of supervision, probation, or parole, whichever is last in time.

(5) Subsequent convictions. A person may not have subsequent felony conviction records sealed as provided in this subsection (h) if he or she is convicted of any felony offense after the date of the sealing of prior felony records as provided in this subsection (h).

(6) Notice of eligibility for sealing. Upon acquittal, release without conviction, or being placed on supervision for a sealable offense, or upon conviction of a sealable offense, the person shall be informed by the court of the right to have the records sealed and the procedures for the sealing of the records.

(7) Procedure. Upon becoming eligible for the sealing of records under this subsection (h), the person who seeks the sealing of his or her records shall file a petition requesting the sealing of records with the clerk of the court where the charge or charges were brought. The records may be sealed by the Chief Judge of the circuit wherein the charge was brought, any judge of that circuit designated by the Chief Judge, or in counties of less than 3,000,000 inhabitants, the presiding trial judge at the defendant's trial, if any. If charges were brought in multiple jurisdictions, a petition must be filed in each such jurisdiction. The petitioner shall pay the applicable fee, if not waived.

(A) Contents of petition. The petition shall contain the petitioner's name, date of birth, current address, each charge, each case number, the date of each charge, the identity of the arresting authority, and such other information as the court may require. During the pendency of the proceeding, the petitioner shall promptly notify the clerk of the court of any change of address.

(B) Drug test. A person filing a petition to have his or her records sealed for a Class 4 felony violation of Section 4 of the Cannabis Control Act or for a Class 4 felony violation of Section 402 of the Illinois Controlled Substances Act must attach to the petition proof that the petitioner has passed a test taken within the previous 30 days before the filing of the petition showing the absence within his or her body of all illegal substances in violation of either the Illinois Controlled Substances Act or the Cannabis Control Act.

(C) Service of petition. The clerk shall promptly serve a copy of the petition on the State's Attorney or prosecutor charged with the duty of prosecuting the offense, the Department of State Police, the arresting agency and the chief legal officer of the unit of local government effecting the arrest.

(D) Entry of order. Unless the State's Attorney or prosecutor, the Department of State Police, the arresting agency or such chief legal officer objects to sealing of the records within 90 days of notice the court shall enter an order sealing the defendant's records.

(E) Hearing upon objection. If an objection is filed, the court shall set a date for a hearing and notify the petitioner and the parties on whom the petition had been served, and shall hear evidence on whether the sealing of the records should or should not be granted, and shall make a

determination on whether to issue an order to seal the records based on the evidence presented at the hearing.

(F) Service of order. After entering the order to seal records, the court must provide copies of the order to the Department, in a form and manner prescribed by the Department, to the petitioner, to the State's Attorney or prosecutor charged with the duty of prosecuting the offense, to the arresting agency, to the chief legal officer of the unit of local government effecting the arrest, and to such other criminal justice agencies as may be ordered by the court.

(8) Fees. Notwithstanding any provision of the Clerk of the Courts Act to the contrary, and subject to the approval of the county board, the clerk may charge a fee equivalent to the cost associated with the sealing of records by the clerk and the Department of State Police. The clerk shall forward the Department of State Police portion of the fee to the Department and it shall be deposited into the State Police Services Fund.

(i) Subject to available funding, the Illinois Department of Corrections shall conduct a study of the impact of sealing, especially on employment and recidivism rates, utilizing a random sample of those who apply for the sealing of their criminal records under Public Act 93-211, in accordance to rules adopted by the Department. At the request of the Illinois Department of Corrections, records of the Illinois Department of Employment Security shall be utilized as appropriate to assist in the study. The study shall not disclose any data in a manner that would allow the identification of any particular individual or employing unit. The study shall be made available to the General Assembly no later than September 1, 2006.

(Source: P.A. 92-651, eff. 7-11-02; 93-210, eff. 7-18-03; 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)

Section 925. The Illinois Uniform Conviction Information Act is amended by changing Section 3 as follows:

(20 ILCS 2635/3) (from Ch. 38, par. 1603)

Sec. 3. Definitions. Whenever used in this Act, and for the purposes of this Act, unless the context clearly indicates otherwise:

(A) "Accurate" means factually correct, containing no mistake or error of a material nature.

(B) The phrase "administer the criminal laws" includes any of the following activities: intelligence gathering, surveillance, criminal investigation, crime detection and prevention (including research), apprehension, detention, pretrial or post-trial release, prosecution, the correctional supervision or rehabilitation of accused persons or criminal offenders, criminal identification activities, or the collection, maintenance or dissemination of criminal history record information.

(C) "The Authority" means the Illinois Criminal Justice Information Authority.

(D) "Automated" means the utilization of computers, telecommunication lines, or other automatic data processing equipment for data collection or storage, analysis, processing, preservation, maintenance, dissemination, or display and is distinguished from a system in which such activities are performed manually.

(E) "Complete" means accurately reflecting all the criminal history record information about an individual that is required to be reported to the Department pursuant to Section 2.1 of the Criminal Identification Act.

(F) "Conviction information" means data reflecting a judgment of guilt or nolo contendere. The term includes all prior and subsequent criminal history events directly relating to such judgments, such as, but not limited to: (1) the notation of arrest; (2) the notation of charges filed; (3) the sentence imposed; (4) the fine imposed; and (5) all related probation, parole, and release information. Information ceases to be "conviction information" when a judgment of guilt is reversed or vacated.

For purposes of this Act, continuances to a date certain in furtherance of an order of supervision granted under Section 5-6-1 of the Unified Code of Corrections or an order of probation granted under either Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act shall not be deemed "conviction information".

(G) "Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pretrial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individual are not identified and from which

their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(H) "Criminal justice agency" means (1) a government agency or any subunit thereof which is authorized to administer the criminal laws and which allocates a substantial part of its annual budget for that purpose, or (2) an agency supported by public funds which is authorized as its principal function to administer the criminal laws and which is officially designated by the Department as a criminal justice agency for purposes of this Act.

(I) "The Department" means the Illinois Department of State Police.

(J) "Director" means the Director of the Illinois Department of State Police.

(K) "Disseminate" means to disclose or transmit conviction information in any form, oral, written, or otherwise.

(L) "Exigency" means pending danger or the threat of pending danger to an individual or property.

(M) "Non-criminal justice agency" means a State agency, Federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations.

(M-5) "Request" means the submission to the Department, in the form and manner required, the necessary data elements or fingerprints, or both, to allow the Department to initiate a search of its criminal history record information files.

(N) "Requester" means any private individual, corporation, organization, employer, employment agency, labor organization, or non-criminal justice agency that has made a request pursuant to this Act to obtain conviction information maintained in the files of the Department of State Police regarding a particular individual.

(O) "Statistical information" means data from which the identity of an individual cannot be ascertained, reconstructed, or verified and to which the identity of an individual cannot be linked by the recipient of the information.

(Source: P.A. 88-368; 88-670, eff. 12-2-94.)

Section 926. The State Officers and Employees Money Disposition Act is amended by changing Section 2 as follows:

(30 ILCS 230/2) (from Ch. 127, par. 171)

Sec. 2. Accounts of money received; payment into State treasury.

(a) Every officer, board, commission, commissioner, department, institution, arm or agency brought within the provisions of this Act by Section 1 shall keep in proper books a detailed itemized account of all moneys received for or on behalf of the State of Illinois, showing the date of receipt, the payor, and purpose and amount, and the date and manner of disbursement as hereinafter provided, and, unless a different time of payment is expressly provided by law or by rules or regulations promulgated under subsection (b) of this Section, shall pay into the State treasury the gross amount of money so received on the day of actual physical receipt with respect to any single item of receipt exceeding \$10,000, within 24 hours of actual physical receipt with respect to an accumulation of receipts of \$10,000 or more, or within 48 hours of actual physical receipt with respect to an accumulation of receipts exceeding \$500 but less than \$10,000, disregarding holidays, Saturdays and Sundays, after the receipt of same, without any deduction on account of salaries, fees, costs, charges, expenses or claims of any description whatever; provided that:

(1) the provisions of (i) Section 2505-475 of the Department of Revenue Law (20 ILCS 2505/2505-475), (ii) any specific taxing statute authorizing a claim for credit procedure instead of the actual making of refunds, (iii) Section 505 of the Illinois Controlled Substances Act, (iv) Section 85 of the Methamphetamine Control and Community Protection Act, authorizing the Director of State Police to dispose of forfeited property, which includes the sale and disposition of the proceeds of the sale of forfeited property, and the Department of Central Management Services to be reimbursed for costs incurred with the sales of forfeited vehicles, boats or aircraft and to pay to bona fide or innocent purchasers, conditional sales vendors or mortgagees of such vehicles, boats or aircraft their interest in such vehicles, boats or aircraft, and (v) ~~(iv)~~ Section 6b-2 of the State Finance Act, establishing procedures for handling cash receipts from the sale of pari-mutuel wagering tickets, shall not be deemed to be in conflict with the requirements of this Section;

(2) any fees received by the State Registrar of Vital Records pursuant to the Vital Records Act which are insufficient in amount may be returned by the Registrar as provided in that Act;

(3) any fees received by the Department of Public Health under the Food Handling Regulation Enforcement Act that are submitted for renewal of an expired food service sanitation

[May 30, 2005]

manager certificate may be returned by the Director as provided in that Act;

(3.5) the State Treasurer may permit the deduction of fees by third-party unclaimed property examiners from the property recovered by the examiners for the State of Illinois during examinations of holders located outside the State under which the Office of the Treasurer has agreed to pay for the examinations based upon a percentage, set by rule by the State Treasurer in accordance with the Illinois Administrative Procedure Act, of the property recovered during the examination; and

(4) if the amount of money received does not exceed \$500, such money may be retained and need not be paid into the State treasury until the total amount of money so received exceeds \$500, or until the next succeeding 1st or 15th day of each month (or until the next business day if these days fall on Sunday or a holiday), whichever is earlier, at which earlier time such money shall be paid into the State treasury, except that if a local bank or savings and loan association account has been authorized by law, any balances shall be paid into the State treasury on Monday of each week if more than \$500 is to be deposited in any fund.

Single items of receipt exceeding \$10,000 received after 2 p.m. on a working day may be deemed to have been received on the next working day for purposes of fulfilling the requirement that the item be deposited on the day of actual physical receipt.

No money belonging to or left for the use of the State shall be expended or applied except in consequence of an appropriation made by law and upon the warrant of the State Comptroller. However, payments made by the Comptroller to persons by direct deposit need not be made upon the warrant of the Comptroller, but if not made upon a warrant, shall be made in accordance with Section 9.02 of the State Comptroller Act. All moneys so paid into the State treasury shall, unless required by some statute to be held in the State treasury in a separate or special fund, be covered into the General Revenue Fund in the State treasury. Moneys received in the form of checks, drafts or similar instruments shall be properly endorsed, if necessary, and delivered to the State Treasurer for collection. The State Treasurer shall remit such collected funds to the depositing officer, board, commission, commissioner, department, institution, arm or agency by Treasurers Draft or through electronic funds transfer. The draft or notification of the electronic funds transfer shall be provided to the State Comptroller to allow deposit into the appropriate fund.

(b) Different time periods for the payment of public funds into the State treasury or to the State Treasurer, in excess of the periods established in subsection (a) of this Section, but not in excess of 30 days after receipt of such funds, may be established and revised from time to time by rules or regulations promulgated jointly by the State Treasurer and the State Comptroller in accordance with the Illinois Administrative Procedure Act. The different time periods established by rule or regulation under this subsection may vary according to the nature and amounts of the funds received, the locations at which the funds are received, whether compliance with the deposit requirements specified in subsection (a) of this Section would be cost effective, and such other circumstances and conditions as the promulgating authorities consider to be appropriate. The Treasurer and the Comptroller shall review all such different time periods established pursuant to this subsection every 2 years from the establishment thereof and upon such review, unless it is determined that it is economically unfeasible for the agency to comply with the provisions of subsection (a), shall repeal such different time period.

(Source: P.A. 90-37, eff. 6-27-97; 90-655, eff. 7-30-98; 91-239, eff. 1-1-00; 91-862, eff. 1-1-01.)

Section 930. The Counties Code is amended by changing Section 5-1103 as follows:
(55 ILCS 5/5-1103) (from Ch. 34, par. 5-1103)

Sec. 5-1103. Court services fee. A county board may enact by ordinance or resolution a court services fee dedicated to defraying court security expenses incurred by the sheriff in providing court services or for any other court services deemed necessary by the sheriff to provide for court security, including without limitation court services provided pursuant to Section 3-6023, as now or hereafter amended. Such fee shall be paid in civil cases by each party at the time of filing the first pleading, paper or other appearance; provided that no additional fee shall be required if more than one party is represented in a single pleading, paper or other appearance. In criminal, local ordinance, county ordinance, traffic and conservation cases, such fee shall be assessed against the defendant upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision, or sentence of probation without entry of judgment pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of the Illinois Alcoholism and Other Drug Dependency Act, Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act, or Section 10 of the Steroid Control Act. In setting such fee, the county board may impose, with the concurrence of the Chief Judge of the judicial circuit in which the county is located by

[May 30, 2005]

administrative order entered by the Chief Judge, differential rates for the various types or categories of criminal and civil cases, but the maximum rate shall not exceed \$25. All proceeds from this fee must be used to defray court security expenses incurred by the sheriff in providing court services. No fee shall be imposed or collected, however, in traffic, conservation, and ordinance cases in which fines are paid without a court appearance. The fees shall be collected in the manner in which all other court fees or costs are collected and shall be deposited into the county general fund for payment solely of costs incurred by the sheriff in providing court security or for any other court services deemed necessary by the sheriff to provide for court security.

(Source: P.A. 93-558, eff. 12-1-03.)

Section 935. The Park District Code is amended by changing Section 8-23 as follows:

(70 ILCS 1205/8-23)

Sec. 8-23. Criminal background investigations.

(a) An applicant for employment with a park district is required as a condition of employment to authorize an investigation to determine if the applicant has been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted, within 7 years of the application for employment with the park district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the investigation shall be furnished by the applicant to the park district. Upon receipt of this authorization, the park district shall submit the applicant's name, sex, race, date of birth, and social security number to the Department of State Police on forms prescribed by the Department of State Police. The Department of State Police shall conduct a search of the Illinois criminal history records database to ascertain if the applicant being considered for employment has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the park district, any other felony under the laws of this State. The Department of State Police shall charge the park district a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry. The applicant shall not be charged a fee by the park district for the investigation.

(b) If the search of the Illinois criminal history record database indicates that the applicant has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the park district, any other felony under the laws of this State, the Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint based background check, records of convictions, until expunged, to the president of the park district. Any information concerning the record of convictions obtained by the president shall be confidential and may only be transmitted to those persons who are necessary to the decision on whether to hire the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) No park district shall knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder, a Class X felony, or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, no park district shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987. No park district shall knowingly employ a person for whom a criminal background investigation has not been initiated.

(Source: P.A. 93-418, eff. 1-1-04.)

Section 940. The Chicago Park District Act is amended by changing Section 16a-5 as follows:

(70 ILCS 1505/16a-5)

[May 30, 2005]

Sec. 16a-5. Criminal background investigations.

(a) An applicant for employment with the Chicago Park District is required as a condition of employment to authorize an investigation to determine if the applicant has been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted, within 7 years of the application for employment with the Chicago Park District, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the investigation shall be furnished by the applicant to the Chicago Park District. Upon receipt of this authorization, the Chicago Park District shall submit the applicant's name, sex, race, date of birth, and social security number to the Department of State Police on forms prescribed by the Department of State Police. The Department of State Police shall conduct a search of the Illinois criminal history record information database to ascertain if the applicant being considered for employment has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) of this Section or has been convicted, of committing or attempting to commit within 7 years of the application for employment with the Chicago Park District, any other felony under the laws of this State. The Department of State Police shall charge the Chicago Park District a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry. The applicant shall not be charged a fee by the Chicago Park District for the investigation.

(b) If the search of the Illinois criminal history record database indicates that the applicant has been convicted of committing or attempting to commit any of the enumerated criminal or drug offenses in subsection (c) or has been convicted of committing or attempting to commit, within 7 years of the application for employment with the Chicago Park District, any other felony under the laws of this State, the Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint based background check, records of convictions, until expunged, to the General Superintendent and Chief Executive Officer of the Chicago Park District. Any information concerning the record of convictions obtained by the General Superintendent and Chief Executive Officer shall be confidential and may only be transmitted to those persons who are necessary to the decision on whether to hire the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) The Chicago Park District may not knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder, a Class X felony, or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, the Chicago Park District may not knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987. The Chicago Park District may not knowingly employ a person for whom a criminal background investigation has not been initiated.

(Source: P.A. 93-418, eff. 1-1-04.)

Section 945. The Metropolitan Transit Authority Act is amended by changing Section 28b as follows:
(70 ILCS 3605/28b) (from Ch. 111 2/3, par. 328b)

Sec. 28b. Any person applying for a position as a driver of a vehicle owned by a private carrier company which provides public transportation pursuant to an agreement with the Authority shall be required to authorize an investigation by the private carrier company to determine if the applicant has been convicted of any of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-7.1, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.1, 18-1, 18-2, 20-1, 20-1.1, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of

[May 30, 2005]

Section 4, and subsection (a) of Section 5 of the Cannabis Control Act (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; and (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses. Upon receipt of this authorization, the private carrier company shall submit the applicant's name, sex, race, date of birth, fingerprints and social security number to the Department of State Police on forms prescribed by the Department. The Department of State Police shall conduct an investigation to ascertain if the applicant has been convicted of any of the above enumerated offenses. The Department shall charge the private carrier company a fee for conducting the investigation, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such investigation by the private carrier company. The Department of State Police shall furnish, pursuant to positive identification, records of convictions, until expunged, to the private carrier company which requested the investigation. A copy of the record of convictions obtained from the Department shall be provided to the applicant. Any record of conviction received by the private carrier company shall be confidential. Any person who releases any confidential information concerning any criminal convictions of an applicant shall be guilty of a Class A misdemeanor, unless authorized by this Section.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

Section 950. The School Code is amended by changing Sections 10-21.9, 10-27.1B, 21-23a, 34-18.5, and 34-84b as follows:

(105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

Sec. 10-21.9. Criminal history records checks.

(a) Certified and noncertified applicants for employment with a school district, except school bus driver applicants, are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the check shall be furnished by the applicant to the school district, except that if the applicant is a substitute teacher seeking employment in more than one school district, a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check, or to the regional superintendent who requested the check. The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent. Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse school districts and regional superintendents for fees paid to obtain criminal history records checks under this Section.

(b) Any information concerning the record of convictions obtained by the president of the school board or the regional superintendent shall be confidential and may only be transmitted to the superintendent of the school district or his designee, the appropriate regional superintendent if the check was requested by the school district, the presidents of the appropriate school boards if the check was requested from the Department of State Police by the regional superintendent, the State Superintendent of Education, the State Teacher Certification Board or any other person necessary to the decision of

hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. If a check of an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one school district was requested by the regional superintendent, and the Department of State Police upon a check ascertains that the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and so notifies the regional superintendent, then the regional superintendent shall issue to the applicant a certificate evidencing that as of the date specified by the Department of State Police the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. The school board of any school district located in the educational service region served by the regional superintendent who issues such a certificate to an applicant for employment as a substitute teacher in more than one such district may rely on the certificate issued by the regional superintendent to that applicant, or may initiate its own criminal history records check of the applicant through the Department of State Police as provided in subsection (a). Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) No school board shall knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the "Criminal Code of 1961"; (ii) those defined in the "Cannabis Control Act" except those defined in Sections 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the "Illinois Controlled Substances Act"; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, no school board shall knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

(d) No school board shall knowingly employ a person for whom a criminal history records check has not been initiated.

(e) Upon receipt of the record of a conviction of or a finding of child abuse by a holder of any certificate issued pursuant to Article 21 or Section 34-8.1 or 34-83 of the School Code, the appropriate regional superintendent of schools or the State Superintendent of Education shall initiate the certificate suspension and revocation proceedings authorized by law.

(f) After January 1, 1990 the provisions of this Section shall apply to all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district. For purposes of criminal history records checks on employees of persons or firms holding contracts with more than one school district and assigned to more than one school district, the regional superintendent of the educational service region in which the contracting school districts are located may, at the request of any such school district, be responsible for receiving the authorization for a check prepared by each such employee and submitting the same to the Department of State Police. Any information concerning the record of conviction of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards.

(Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04.)

(105 ILCS 5/10-27.1B)

Sec. 10-27.1B. Reporting drug-related incidents in schools.

(a) In this Section:

"Drug" means "cannabis" as defined under subsection (a) of Section 3 of the Cannabis Control Act, ~~or~~ "narcotic drug" as defined under subsection (aa) of Section 102 of the Illinois Controlled Substances Act, or "methamphetamine" as defined under Section 10 of the Methamphetamine Control and Community

Protection Act.

"School" means any public or private elementary or secondary school.

(b) Upon receipt of any written, electronic, or verbal report from any school personnel regarding a verified incident involving drugs in a school or on school owned or leased property, including any conveyance owned, leased, or used by the school for the transport of students or school personnel, the superintendent or his or her designee, or other appropriate administrative officer for a private school, shall report all such drug-related incidents occurring in a school or on school property to the local law enforcement authorities immediately and to the Department of State Police in a form, manner, and frequency as prescribed by the Department of State Police.

(c) The State Board of Education shall receive an annual statistical compilation and related data associated with drug-related incidents in schools from the Department of State Police. The State Board of Education shall compile this information by school district and make it available to the public.

(Source: P.A. 91-491, eff. 8-13-99.)

(105 ILCS 5/21-23a) (from Ch. 122, par. 21-23a)

Sec. 21-23a. Conviction of sex or narcotics offense, first degree murder, attempted first degree murder, or Class X felony as grounds for revocation of certificate.

(a) Whenever the holder of any certificate issued pursuant to this Article has been convicted of any sex offense or narcotics offense as defined in this Section, the regional superintendent or the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the suspending authority shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. "Sex offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in Sections 11-6 and 11-9 and Sections 11-14 through 11-21, inclusive, and Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the "Criminal Code of 1961"; (2) any attempt to commit any of the foregoing offenses, and (3) any offense committed or attempted in any other state which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. "Narcotics offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in the "Cannabis Control Act" except those defined in Sections 4(a), 4(b) and 5(a) of that Act and any offense for which the holder of any certificate is placed on probation under the provisions of Section 10 of that Act and fulfills the terms and conditions of probation as may be required by the court; (2) any offense defined in the "Illinois Controlled Substances Act" except any offense for which the holder of any certificate is placed on probation under the provisions of Section 410 of that Act and fulfills the terms and conditions of probation as may be required by the court; (3) any offense defined in the Methamphetamine Control and Community Protection Act except any offense for which the holder of any certificate is placed on probation under the provision of Section 70 of that Act and fulfills the terms and conditions of probation as may be required by the court; (4) ~~(3)~~ any attempt to commit any of the foregoing offenses; and (5) ~~(4)~~ any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.

(b) Whenever the holder of a certificate issued pursuant to this Article has been convicted of first degree murder, attempted first degree murder, or a Class X felony, the regional superintendent or the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of that offense in a new trial or the charges that he or she committed that offense are dismissed, the suspending authority shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. The stated offenses of "first degree murder", "attempted first degree murder", and "Class X felony" referred to in this Section include any offense committed in another state that, if committed in this State, would have been punishable as any one of the stated offenses.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 89-610, eff. 8-6-96.)

(105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

Sec. 34-18.5. Criminal history records checks.

(a) Certified and noncertified applicants for employment with the school district are required as a condition of employment to authorize a fingerprint-based criminal history records check to determine if such applicants have been convicted of any of the enumerated criminal or drug offenses in subsection (c) of this Section or have been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. Authorization for the check shall be

furnished by the applicant to the school district, except that if the applicant is a substitute teacher seeking employment in more than one school district, or a teacher seeking concurrent part-time employment positions with more than one school district (as a reading specialist, special education teacher or otherwise), or an educational support personnel employee seeking employment positions with more than one district, any such district may require the applicant to furnish authorization for the check to the regional superintendent of the educational service region in which are located the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee. Upon receipt of this authorization, the school district or the appropriate regional superintendent, as the case may be, shall submit the applicant's name, sex, race, date of birth, social security number, fingerprint images, and other identifiers, as prescribed by the Department of State Police, to the Department. The regional superintendent submitting the requisite information to the Department of State Police shall promptly notify the school districts in which the applicant is seeking employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee that the check of the applicant has been requested. The Department of State Police and the Federal Bureau of Investigation shall furnish, pursuant to a fingerprint-based criminal history records check, records of convictions, until expunged, to the president of the school board for the school district that requested the check, or to the regional superintendent who requested the check. The Department shall charge the school district or the appropriate regional superintendent a fee for conducting such check, which fee shall be deposited in the State Police Services Fund and shall not exceed the cost of the inquiry; and the applicant shall not be charged a fee for such check by the school district or by the regional superintendent. Subject to appropriations for these purposes, the State Superintendent of Education shall reimburse the school district and regional superintendent for fees paid to obtain criminal history records checks under this Section.

(b) Any information concerning the record of convictions obtained by the president of the board of education or the regional superintendent shall be confidential and may only be transmitted to the general superintendent of the school district or his designee, the appropriate regional superintendent if the check was requested by the board of education for the school district, the presidents of the appropriate board of education or school boards if the check was requested from the Department of State Police by the regional superintendent, the State Superintendent of Education, the State Teacher Certification Board or any other person necessary to the decision of hiring the applicant for employment. A copy of the record of convictions obtained from the Department of State Police shall be provided to the applicant for employment. If a check of an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one school district was requested by the regional superintendent, and the Department of State Police upon a check ascertains that the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State and so notifies the regional superintendent, then the regional superintendent shall issue to the applicant a certificate evidencing that as of the date specified by the Department of State Police the applicant has not been convicted of any of the enumerated criminal or drug offenses in subsection (c) or has not been convicted, within 7 years of the application for employment with the school district, of any other felony under the laws of this State or of any offense committed or attempted in any other state or against the laws of the United States that, if committed or attempted in this State, would have been punishable as a felony under the laws of this State. The school board of any school district located in the educational service region served by the regional superintendent who issues such a certificate to an applicant for employment as a substitute or concurrent part-time teacher or concurrent educational support personnel employee in more than one such district may rely on the certificate issued by the regional superintendent to that applicant, or may initiate its own criminal history records check of the applicant through the Department of State Police as provided in subsection (a). Any person who releases any confidential information concerning any criminal convictions of an applicant for employment shall be guilty of a Class A misdemeanor, unless the release of such information is authorized by this Section.

(c) The board of education shall not knowingly employ a person who has been convicted for committing attempted first degree murder or for committing or attempting to commit first degree murder or a Class X felony or any one or more of the following offenses: (i) those defined in Sections 11-6, 11-9, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the Criminal Code of 1961; (ii) those defined in the Cannabis Control Act, except those defined in Sections 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the

Illinois Controlled Substances Act; (iv) those defined in the Methamphetamine Control and Community Protection Act; and (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. Further, the board of education shall not knowingly employ a person who has been found to be the perpetrator of sexual or physical abuse of any minor under 18 years of age pursuant to proceedings under Article II of the Juvenile Court Act of 1987.

(d) The board of education shall not knowingly employ a person for whom a criminal history records check has not been initiated.

(e) Upon receipt of the record of a conviction of or a finding of child abuse by a holder of any certificate issued pursuant to Article 21 or Section 34-8.1 or 34-83 of the School Code, the board of education or the State Superintendent of Education shall initiate the certificate suspension and revocation proceedings authorized by law.

(f) After March 19, 1990, the provisions of this Section shall apply to all employees of persons or firms holding contracts with any school district including, but not limited to, food service workers, school bus drivers and other transportation employees, who have direct, daily contact with the pupils of any school in such district. For purposes of criminal history records checks on employees of persons or firms holding contracts with more than one school district and assigned to more than one school district, the regional superintendent of the educational service region in which the contracting school districts are located may, at the request of any such school district, be responsible for receiving the authorization for a check prepared by each such employee and submitting the same to the Department of State Police. Any information concerning the record of conviction of any such employee obtained by the regional superintendent shall be promptly reported to the president of the appropriate school board or school boards.

(Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04.)

(105 ILCS 5/34-84b) (from Ch. 122, par. 34-84b)

Sec. 34-84b. Conviction of sex or narcotics offense, first degree murder, attempted first degree murder, or Class X felony as grounds for revocation of certificate.

(a) Whenever the holder of any certificate issued by the board of education has been convicted of any sex offense or narcotics offense as defined in this Section, the board of education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of the offense in a new trial or the charges against him are dismissed, the board shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the board shall forthwith revoke the certificate. "Sex offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in Sections 11-6 and 11-9 and Sections 11-14 through 11-21, inclusive, and Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the "Criminal Code of 1961"; (2) any attempt to commit any of the foregoing offenses, and (3) any offense committed or attempted in any other state which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses. "Narcotics offense" as used in this Section means any one or more of the following offenses: (1) any offense defined in the "Cannabis Control Act" except those defined in Sections 4(a), 4(b) and 5(a) of that Act and any offense for which the holder of any certificate is placed on probation under the provisions of Section 10 of that Act and fulfills the terms and conditions of probation as may be required by the court; (2) any offense defined in the "Illinois Controlled Substances Act" except any offense for which the holder of any certificate is placed on probation under the provisions of Section 410 of that Act and fulfills the terms and conditions of probation as may be required by the court; (3) any offense defined in the Methamphetamine Control and Community Protection Act except any offense for which the holder of any certificate is placed on probation under the provision of Section 70 of that Act and fulfills the terms and conditions of probation as may be required by the court; (4) ~~(3)~~ any attempt to commit any of the foregoing offenses; and (5) ~~(4)~~ any offense committed or attempted in any other state or against the laws of the United States which, if committed or attempted in this State, would have been punishable as one or more of the foregoing offenses.

(b) Whenever the holder of any certificate issued by the board of education or pursuant to Article 21 or any other provisions of the School Code has been convicted of first degree murder, attempted first degree murder, or a Class X felony, the board of education or the State Superintendent of Education shall forthwith suspend the certificate. If the conviction is reversed and the holder is acquitted of that offense in a new trial or the charges that he or she committed that offense are dismissed, the suspending authority shall forthwith terminate the suspension of the certificate. When the conviction becomes final, the State Superintendent of Education shall forthwith revoke the certificate. The stated offenses of "first degree murder", "attempted first degree murder", and "Class X felony" referred to in this Section include any offense committed in another state that, if committed in this State, would have been punishable as

any one of the stated offenses.

(Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96; 89-610, eff. 8-6-96.)

Section 955. The School Reporting of Drug Violations Act is amended by changing Section 2 as follows:

(105 ILCS 127/2)

Sec. 2. Duty of school administrators. It is the duty of the principal of a public elementary or secondary school, or his or her designee, and the chief administrative officer of a private elementary or secondary school or a public or private community college, college, or university, or his or her designee, to report to the municipal police department or office of the county sheriff of the municipality or county where the school is located violations of Section 5.2 of the Cannabis Control Act, ~~and~~ violations of Section 401 and subsection (b) of Section 407 of the Illinois Controlled Substances Act and violations of the Methamphetamine Control and Community Protection Act occurring in a school, on the real property comprising any school, on a public way within 1,000 feet of a school, or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity within 48 hours of becoming aware of the incident.

(Source: P.A. 90-395, eff. 8-15-97.)

Section 960. The Acupuncture Practice Act is amended by changing Section 135 as follows:

(225 ILCS 2/135)

(Section scheduled to be repealed on January 1, 2008)

Sec. 135. Criminal violations. Whoever knowingly practices or offers to practice acupuncture in this State without being licensed for that purpose shall be guilty of a Class A misdemeanor and for each subsequent conviction shall be guilty of a Class 4 felony. Notwithstanding any other provision of this Act, all criminal fines, moneys, or other property collected or received by the Department under this Section or any other State or federal statute, including but not limited to property forfeited to the Department under Section 505 of the Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

(Source: P.A. 90-61, eff. 7-3-97.)

Section 965. The Child Care Act of 1969 is amended by changing Section 4.2 as follows:

(225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

Sec. 4.2. (a) No applicant may receive a license from the Department and no person may be employed by a licensed child care facility who refuses to authorize an investigation as required by Section 4.1.

(b) In addition to the other provisions of this Section, no applicant may receive a license from the Department and no person may be employed by a child care facility licensed by the Department who has been declared a sexually dangerous person under "An Act in relation to sexually dangerous persons, and providing for their commitment, detention and supervision", approved July 6, 1938, as amended, or convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961:

- (1) murder;
- (1.1) solicitation of murder;
- (1.2) solicitation of murder for hire;
- (1.3) intentional homicide of an unborn child;
- (1.4) voluntary manslaughter of an unborn child;
- (1.5) involuntary manslaughter;
- (1.6) reckless homicide;
- (1.7) concealment of a homicidal death;
- (1.8) involuntary manslaughter of an unborn child;
- (1.9) reckless homicide of an unborn child;
- (1.10) drug-induced homicide;
- (2) a sex offense under Article 11, except offenses described in Sections 11-7, 11-8, 11-12, and 11-13;
- (3) kidnapping;
- (3.1) aggravated unlawful restraint;
- (3.2) forcible detention;
- (3.3) harboring a runaway;
- (3.4) aiding and abetting child abduction;

[May 30, 2005]

- (4) aggravated kidnapping;
- (5) child abduction;
- (6) aggravated battery of a child;
- (7) criminal sexual assault;
- (8) aggravated criminal sexual assault;
- (8.1) predatory criminal sexual assault of a child;
- (9) criminal sexual abuse;
- (10) aggravated sexual abuse;
- (11) heinous battery;
- (12) aggravated battery with a firearm;
- (13) tampering with food, drugs, or cosmetics;
- (14) drug induced infliction of great bodily harm;
- (15) hate crime;
- (16) stalking;
- (17) aggravated stalking;
- (18) threatening public officials;
- (19) home invasion;
- (20) vehicular invasion;
- (21) criminal transmission of HIV;
- (22) criminal abuse or neglect of an elderly or disabled person;
- (23) child abandonment;
- (24) endangering the life or health of a child;
- (25) ritual mutilation;
- (26) ritualized abuse of a child;
- (27) an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the foregoing offenses.

(b-1) In addition to the other provisions of this Section, beginning January 1, 2004, no new applicant and, on the date of licensure renewal, no current licensee may operate or receive a license from the Department to operate, no person may be employed by, and no adult person may reside in a child care facility licensed by the Department who has been convicted of committing or attempting to commit any of the following offenses or an offense in any other jurisdiction the elements of which are similar and bear a substantial relationship to any of the following offenses:

(I) BODILY HARM

- (1) Felony aggravated assault.
- (2) Vehicular endangerment.
- (3) Felony domestic battery.
- (4) Aggravated battery.
- (5) Heinous battery.
- (6) Aggravated battery with a firearm.
- (7) Aggravated battery of an unborn child.
- (8) Aggravated battery of a senior citizen.
- (9) Intimidation.
- (10) Compelling organization membership of persons.
- (11) Abuse and gross neglect of a long term care facility resident.
- (12) Felony violation of an order of protection.

(II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- (1) Felony unlawful use of weapons.
- (2) Aggravated discharge of a firearm.
- (3) Reckless discharge of a firearm.
- (4) Unlawful use of metal piercing bullets.
- (5) Unlawful sale or delivery of firearms on the premises of any school.
- (6) Disarming a police officer.
- (7) Obstructing justice.
- (8) Concealing or aiding a fugitive.
- (9) Armed violence.
- (10) Felony contributing to the criminal delinquency of a juvenile.

(III) DRUG OFFENSES

- (1) Possession of more than 30 grams of cannabis.
- (2) Manufacture of more than 10 grams of cannabis.
- (3) Cannabis trafficking.
- (4) Delivery of cannabis on school grounds.
- (5) Unauthorized production of more than 5 cannabis sativa plants.
- (6) Calculated criminal cannabis conspiracy.
- (7) Unauthorized manufacture or delivery of controlled substances.
- (8) Controlled substance trafficking.
- (9) Manufacture, distribution, or advertisement of look-alike substances.
- (10) Calculated criminal drug conspiracy.
- (11) Street gang criminal drug conspiracy.
- (12) Permitting unlawful use of a building.
- (13) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.
- (14) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
- (15) Delivery of controlled substances.
- (16) Sale or delivery of drug paraphernalia.
- (17) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection.
- (18) Felony possession of a controlled substance.
- (19) Any violation of the Methamphetamine Control and Community Protection Act.

(b-2) For child care facilities other than foster family homes, the Department may issue a new child care facility license to or renew the existing child care facility license of an applicant, a person employed by a child care facility, or an applicant who has an adult residing in a home child care facility who was convicted of an offense described in subsection (b-1), provided that all of the following requirements are met:

- (1) The relevant criminal offense occurred more than 5 years prior to the date of application or renewal, except for drug offenses. The relevant drug offense must have occurred more than 10 years prior to the date of application or renewal, unless the applicant passed a drug test, arranged and paid for by the child care facility, no less than 5 years after the offense.
- (2) The Department must conduct a background check and assess all convictions and recommendations of the child care facility to determine if waiver shall apply in accordance with Department administrative rules and procedures.
- (3) The applicant meets all other requirements and qualifications to be licensed as the pertinent type of child care facility under this Act and the Department's administrative rules.
- (c) In addition to the other provisions of this Section, no applicant may receive a license from the Department to operate a foster family home, and no adult person may reside in a foster family home licensed by the Department, who has been convicted of committing or attempting to commit any of the following offenses stipulated under the Criminal Code of 1961, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, and the Illinois Controlled Substances Act:

(I) OFFENSES DIRECTED AGAINST THE PERSON

(A) KIDNAPPING AND RELATED OFFENSES

- (1) Unlawful restraint.

(B) BODILY HARM

- (2) Felony aggravated assault.
- (3) Vehicular endangerment.
- (4) Felony domestic battery.
- (5) Aggravated battery.
- (6) Heinous battery.
- (7) Aggravated battery with a firearm.
- (8) Aggravated battery of an unborn child.
- (9) Aggravated battery of a senior citizen.
- (10) Intimidation.
- (11) Compelling organization membership of persons.
- (12) Abuse and gross neglect of a long term care facility resident.

(13) Felony violation of an order of protection.

(II) OFFENSES DIRECTED AGAINST PROPERTY

- (14) Felony theft.
- (15) Robbery.
- (16) Armed robbery.
- (17) Aggravated robbery.
- (18) Vehicular hijacking.
- (19) Aggravated vehicular hijacking.
- (20) Burglary.
- (21) Possession of burglary tools.
- (22) Residential burglary.
- (23) Criminal fortification of a residence or building.
- (24) Arson.
- (25) Aggravated arson.
- (26) Possession of explosive or explosive incendiary devices.

(III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

- (27) Felony unlawful use of weapons.
- (28) Aggravated discharge of a firearm.
- (29) Reckless discharge of a firearm.
- (30) Unlawful use of metal piercing bullets.
- (31) Unlawful sale or delivery of firearms on the premises of any school.
- (32) Disarming a police officer.
- (33) Obstructing justice.
- (34) Concealing or aiding a fugitive.
- (35) Armed violence.
- (36) Felony contributing to the criminal delinquency of a juvenile.

(IV) DRUG OFFENSES

- (37) Possession of more than 30 grams of cannabis.
 - (38) Manufacture of more than 10 grams of cannabis.
 - (39) Cannabis trafficking.
 - (40) Delivery of cannabis on school grounds.
 - (41) Unauthorized production of more than 5 cannabis sativa plants.
 - (42) Calculated criminal cannabis conspiracy.
 - (43) Unauthorized manufacture or delivery of controlled substances.
 - (44) Controlled substance trafficking.
 - (45) Manufacture, distribution, or advertisement of look-alike substances.
 - (46) Calculated criminal drug conspiracy.
 - (46.5) Streetgang criminal drug conspiracy.
 - (47) Permitting unlawful use of a building.
 - (48) Delivery of controlled, counterfeit, or look-alike substances to persons under age 18, or at truck stops, rest stops, or safety rest areas, or on school property.
 - (49) Using, engaging, or employing persons under 18 to deliver controlled, counterfeit, or look-alike substances.
 - (50) Delivery of controlled substances.
 - (51) Sale or delivery of drug paraphernalia.
 - (52) Felony possession, sale, or exchange of instruments adapted for use of a controlled substance, methamphetamine, or cannabis by subcutaneous injection.
 - (53) Any violation of the Methamphetamine Control and Community Protection Act.
- (d) Notwithstanding subsection (c), the Department may issue a new foster family home license or may renew an existing foster family home license of an applicant who was convicted of an offense described in subsection (c), provided all of the following requirements are met:
- (1) The relevant criminal offense or offenses occurred more than 10 years prior to the date of application or renewal.
 - (2) The applicant had previously disclosed the conviction or convictions to the Department for purposes of a background check.
 - (3) After the disclosure, the Department either placed a child in the home or the

foster family home license was issued.

(4) During the background check, the Department had assessed and waived the conviction in compliance with the existing statutes and rules in effect at the time of the waiver.

(5) The applicant meets all other requirements and qualifications to be licensed as a foster family home under this Act and the Department's administrative rules.

(6) The applicant has a history of providing a safe, stable home environment and appears able to continue to provide a safe, stable home environment.

(Source: P.A. 92-328, eff. 1-1-02; 93-151, eff. 7-10-03.)

Section 970. The Health Care Worker Background Check Act is amended by changing Section 25 as follows:

(225 ILCS 46/25)

Sec. 25. Persons ineligible to be hired by health care employers.

(a) After January 1, 1996, or January 1, 1997, as applicable, no health care employer shall knowingly hire, employ, or retain any individual in a position with duties involving direct care for clients, patients, or residents, who has been convicted of committing or attempting to commit one or more of the offenses defined in Sections 8-1.1, 8-1.2, 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 10-1, 10-2, 10-3, 10-3.1, 10-4, 10-5, 10-7, 11-6, 11-9.1, 11-19.2, 11-20.1, 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33, 16-1, 16-1.3, 16A-3, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1, 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2 of the Criminal Code of 1961; those provided in Section 4 of the Wrongs to Children Act; those provided in Section 53 of the Criminal Jurisprudence Act; those defined in Section 5, 5.1, 5.2, 7, or 9 of the Cannabis Control Act; those defined in the Methamphetamine Control and Community Protection Act; or those defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1 of the Illinois Controlled Substances Act, unless the applicant or employee obtains a waiver pursuant to Section 40.

(a-1) After January 1, 2004, no health care employer shall knowingly hire any individual in a position with duties involving direct care for clients, patients, or residents who has (i) been convicted of committing or attempting to commit one or more of the offenses defined in Section 12-3.3, 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1, 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card and Debit Card Act; or Section 5.1 of the Wrongs to Children Act; or (ii) violated Section 10-5 of the Nursing and Advanced Practice Nursing Act.

A UCIA criminal history record check need not be redone for health care employees who have been continuously employed by a health care employer since January 1, 2004, but nothing in this Section prohibits a health care employer from initiating a criminal history check for these employees.

A health care employer is not required to retain an individual in a position with duties involving direct care for clients, patients, or residents who has been convicted of committing or attempting to commit one or more of the offenses enumerated in this subsection.

(b) A health care employer shall not hire, employ, or retain any individual in a position with duties involving direct care of clients, patients, or residents if the health care employer becomes aware that the individual has been convicted in another state of committing or attempting to commit an offense that has the same or similar elements as an offense listed in subsection (a) or (a-1), as verified by court records, records from a state agency, or an FBI criminal history record check. This shall not be construed to mean that a health care employer has an obligation to conduct a criminal history records check in other states in which an employee has resided.

(Source: P.A. 93-224, eff. 7-18-03.)

Section 975. The Medical Practice Act of 1987 is amended by changing Section 22 as follows:

(225 ILCS 60/22) (from Ch. 111, par. 4400-22)

(Section scheduled to be repealed on January 1, 2007)

Sec. 22. Disciplinary action.

(A) The Department may revoke, suspend, place on probationary status, or take any other disciplinary action as the Department may deem proper with regard to the license or visiting professor permit of any person issued under this Act to practice medicine, or to treat human ailments without the use of drugs and without operative surgery upon any of the following grounds:

(1) Performance of an elective abortion in any place, locale, facility, or institution other than:

(a) a facility licensed pursuant to the Ambulatory Surgical Treatment Center Act;

[May 30, 2005]

- (b) an institution licensed under the Hospital Licensing Act; or
 - (c) an ambulatory surgical treatment center or hospitalization or care facility maintained by the State or any agency thereof, where such department or agency has authority under law to establish and enforce standards for the ambulatory surgical treatment centers, hospitalization, or care facilities under its management and control; or
 - (d) ambulatory surgical treatment centers, hospitalization or care facilities maintained by the Federal Government; or
 - (e) ambulatory surgical treatment centers, hospitalization or care facilities maintained by any university or college established under the laws of this State and supported principally by public funds raised by taxation.
- (2) Performance of an abortion procedure in a wilful and wanton manner on a woman who was not pregnant at the time the abortion procedure was performed.
- (3) The conviction of a felony in this or any other jurisdiction, except as otherwise provided in subsection B of this Section, whether or not related to practice under this Act, or the entry of a guilty or nolo contendere plea to a felony charge.
- (4) Gross negligence in practice under this Act.
- (5) Engaging in dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud or harm the public.
- (6) Obtaining any fee by fraud, deceit, or misrepresentation.
- (7) Habitual or excessive use or abuse of drugs defined in law as controlled substances, of alcohol, or of any other substances which results in the inability to practice with reasonable judgment, skill or safety.
- (8) Practicing under a false or, except as provided by law, an assumed name.
- (9) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.
- (10) Making a false or misleading statement regarding their skill or the efficacy or value of the medicine, treatment, or remedy prescribed by them at their direction in the treatment of any disease or other condition of the body or mind.
- (11) Allowing another person or organization to use their license, procured under this Act, to practice.
- (12) Disciplinary action of another state or jurisdiction against a license or other authorization to practice as a medical doctor, doctor of osteopathy, doctor of osteopathic medicine or doctor of chiropractic, a certified copy of the record of the action taken by the other state or jurisdiction being prima facie evidence thereof.
- (13) Violation of any provision of this Act or of the Medical Practice Act prior to the repeal of that Act, or violation of the rules, or a final administrative action of the Director, after consideration of the recommendation of the Disciplinary Board.
- (14) Dividing with anyone other than physicians with whom the licensee practices in a partnership, Professional Association, limited liability company, or Medical or Professional Corporation any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing medicine in partnership under a partnership agreement, including a limited liability partnership, in a limited liability company under the Limited Liability Company Act, in a corporation authorized by the Medical Corporation Act, as an association authorized by the Professional Association Act, or in a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the Board of Directors of the corporation or association. Nothing contained in this subsection prohibits 2 or more corporations authorized by the Medical Corporation Act, from forming a partnership or joint venture of such corporations, and providing medical, surgical and scientific research and knowledge by employees of these corporations if such employees are licensed under this Act, or from pooling, sharing, dividing, or apportioning the fees and monies received by the partnership or joint venture in accordance with the partnership or joint venture agreement. Nothing contained in this subsection shall abrogate the right of 2 or more persons, holding valid and current licenses under this Act, to each receive adequate compensation for concurrently rendering professional services to a patient and divide a fee; provided, the patient has full knowledge of the division, and, provided, that the division is made in proportion to the services performed and responsibility assumed by each.
- (15) A finding by the Medical Disciplinary Board that the registrant after having his or her license placed on probationary status or subjected to conditions or restrictions violated the

terms of the probation or failed to comply with such terms or conditions.

(16) Abandonment of a patient.

(17) Prescribing, selling, administering, distributing, giving or self-administering any drug classified as a controlled substance (designated product) or narcotic for other than medically accepted therapeutic purposes.

(18) Promotion of the sale of drugs, devices, appliances or goods provided for a patient in such manner as to exploit the patient for financial gain of the physician.

(19) Offering, undertaking or agreeing to cure or treat disease by a secret method, procedure, treatment or medicine, or the treating, operating or prescribing for any human condition by a method, means or procedure which the licensee refuses to divulge upon demand of the Department.

(20) Immoral conduct in the commission of any act including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice.

(21) Wilfully making or filing false records or reports in his or her practice as a physician, including, but not limited to, false records to support claims against the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

(22) Wilful omission to file or record, or wilfully impeding the filing or recording, or inducing another person to omit to file or record, medical reports as required by law, or wilfully failing to report an instance of suspected abuse or neglect as required by law.

(23) Being named as a perpetrator in an indicated report by the Department of Children and Family Services under the Abused and Neglected Child Reporting Act, and upon proof by clear and convincing evidence that the licensee has caused a child to be an abused child or neglected child as defined in the Abused and Neglected Child Reporting Act.

(24) Solicitation of professional patronage by any corporation, agents or persons, or profiting from those representing themselves to be agents of the licensee.

(25) Gross and wilful and continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered, including, but not limited to, filing such false statements for collection of monies for services not rendered from the medical assistance program of the Department of Public Aid under the Illinois Public Aid Code.

(26) A pattern of practice or other behavior which demonstrates incapacity or incompetence to practice under this Act.

(27) Mental illness or disability which results in the inability to practice under this Act with reasonable judgment, skill or safety.

(28) Physical illness, including, but not limited to, deterioration through the aging process, or loss of motor skill which results in a physician's inability to practice under this Act with reasonable judgment, skill or safety.

(29) Cheating on or attempt to subvert the licensing examinations administered under this Act.

(30) Wilfully or negligently violating the confidentiality between physician and patient except as required by law.

(31) The use of any false, fraudulent, or deceptive statement in any document connected with practice under this Act.

(32) Aiding and abetting an individual not licensed under this Act in the practice of a profession licensed under this Act.

(33) Violating state or federal laws or regulations relating to controlled substances.

(34) Failure to report to the Department any adverse final action taken against them by another licensing jurisdiction (any other state or any territory of the United States or any foreign state or country), by any peer review body, by any health care institution, by any professional society or association related to practice under this Act, by any governmental agency, by any law enforcement agency, or by any court for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(35) Failure to report to the Department surrender of a license or authorization to practice as a medical doctor, a doctor of osteopathy, a doctor of osteopathic medicine, or doctor of chiropractic in another state or jurisdiction, or surrender of membership on any medical staff or in any medical or professional association or society, while under disciplinary investigation by any of those authorities or bodies, for acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(36) Failure to report to the Department any adverse judgment, settlement, or award arising from a liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for action as defined in this Section.

(37) Failure to transfer copies of medical records as required by law.

(38) Failure to furnish the Department, its investigators or representatives, relevant information, legally requested by the Department after consultation with the Chief Medical Coordinator or the Deputy Medical Coordinator.

(39) Violating the Health Care Worker Self-Referral Act.

(40) Willful failure to provide notice when notice is required under the Parental Notice of Abortion Act of 1995.

(41) Failure to establish and maintain records of patient care and treatment as required by this law.

(42) Entering into an excessive number of written collaborative agreements with licensed advanced practice nurses resulting in an inability to adequately collaborate and provide medical direction.

(43) Repeated failure to adequately collaborate with or provide medical direction to a licensed advanced practice nurse.

All proceedings to suspend, revoke, place on probationary status, or take any other disciplinary action as the Department may deem proper, with regard to a license on any of the foregoing grounds, must be commenced within 3 years next after receipt by the Department of a complaint alleging the commission of or notice of the conviction order for any of the acts described herein. Except for the grounds numbered (8), (9) and (29), no action shall be commenced more than 5 years after the date of the incident or act alleged to have violated this Section. In the event of the settlement of any claim or cause of action in favor of the claimant or the reduction to final judgment of any civil action in favor of the plaintiff, such claim, cause of action or civil action being grounded on the allegation that a person licensed under this Act was negligent in providing care, the Department shall have an additional period of one year from the date of notification to the Department under Section 23 of this Act of such settlement or final judgment in which to investigate and commence formal disciplinary proceedings under Section 36 of this Act, except as otherwise provided by law. The time during which the holder of the license was outside the State of Illinois shall not be included within any period of time limiting the commencement of disciplinary action by the Department.

The entry of an order or judgment by any circuit court establishing that any person holding a license under this Act is a person in need of mental treatment operates as a suspension of that license. That person may resume their practice only upon the entry of a Departmental order based upon a finding by the Medical Disciplinary Board that they have been determined to be recovered from mental illness by the court and upon the Disciplinary Board's recommendation that they be permitted to resume their practice.

The Department may refuse to issue or take disciplinary action concerning the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied as determined by the Illinois Department of Revenue.

The Department, upon the recommendation of the Disciplinary Board, shall adopt rules which set forth standards to be used in determining:

- (a) when a person will be deemed sufficiently rehabilitated to warrant the public trust;
- (b) what constitutes dishonorable, unethical or unprofessional conduct of a character likely to deceive, defraud, or harm the public;
- (c) what constitutes immoral conduct in the commission of any act, including, but not limited to, commission of an act of sexual misconduct related to the licensee's practice; and
- (d) what constitutes gross negligence in the practice of medicine.

However, no such rule shall be admissible into evidence in any civil action except for review of a licensing or other disciplinary action under this Act.

In enforcing this Section, the Medical Disciplinary Board, upon a showing of a possible violation, may compel any individual licensed to practice under this Act, or who has applied for licensure or a permit pursuant to this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the Department. The examining physician or physicians shall be those specifically designated by the Disciplinary Board. The Medical Disciplinary Board or the Department may order the examining physician to present testimony concerning this mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communication between the licensee or applicant and the examining physician. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of the examination. Failure of any individual to submit to mental or physical

examination, when directed, shall be grounds for suspension of his or her license until such time as the individual submits to the examination if the Disciplinary Board finds, after notice and hearing, that the refusal to submit to the examination was without reasonable cause. If the Disciplinary Board finds a physician unable to practice because of the reasons set forth in this Section, the Disciplinary Board shall require such physician to submit to care, counseling, or treatment by physicians approved or designated by the Disciplinary Board, as a condition for continued, reinstated, or renewed licensure to practice. Any physician, whose license was granted pursuant to Sections 9, 17, or 19 of this Act, or, continued, reinstated, renewed, disciplined or supervised, subject to such terms, conditions or restrictions who shall fail to comply with such terms, conditions or restrictions, or to complete a required program of care, counseling, or treatment, as determined by the Chief Medical Coordinator or Deputy Medical Coordinators, shall be referred to the Director for a determination as to whether the licensee shall have their license suspended immediately, pending a hearing by the Disciplinary Board. In instances in which the Director immediately suspends a license under this Section, a hearing upon such person's license must be convened by the Disciplinary Board within 15 days after such suspension and completed without appreciable delay. The Disciplinary Board shall have the authority to review the subject physician's record of treatment and counseling regarding the impairment, to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act, affected under this Section, shall be afforded an opportunity to demonstrate to the Disciplinary Board that they can resume practice in compliance with acceptable and prevailing standards under the provisions of their license.

The Department may promulgate rules for the imposition of fines in disciplinary cases, not to exceed \$5,000 for each violation of this Act. Fines may be imposed in conjunction with other forms of disciplinary action, but shall not be the exclusive disposition of any disciplinary action arising out of conduct resulting in death or injury to a patient. Any funds collected from such fines shall be deposited in the Medical Disciplinary Fund.

(B) The Department shall revoke the license or visiting permit of any person issued under this Act to practice medicine or to treat human ailments without the use of drugs and without operative surgery, who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or visiting permit is revoked under this subsection B of Section 22 of this Act shall be prohibited from practicing medicine or treating human ailments without the use of drugs and without operative surgery.

(C) The Medical Disciplinary Board shall recommend to the Department civil penalties and any other appropriate discipline in disciplinary cases when the Board finds that a physician willfully performed an abortion with actual knowledge that the person upon whom the abortion has been performed is a minor or an incompetent person without notice as required under the Parental Notice of Abortion Act of 1995. Upon the Board's recommendation, the Department shall impose, for the first violation, a civil penalty of \$1,000 and for a second or subsequent violation, a civil penalty of \$5,000.

(Source: P.A. 89-18, eff. 6-1-95; 89-201, eff. 1-1-96; 89-626, eff. 8-9-96; 89-702, eff. 7-1-97; 90-742, eff. 8-13-98.)

Section 980. The Naprapathic Practice Act is amended by changing Section 123 as follows:

(225 ILCS 63/123)

(Section scheduled to be repealed on January 1, 2013)

Sec. 123. Violation; penalty. Whoever knowingly practices or offers to practice naprapathy in this State without being licensed for that purpose shall be guilty of a Class A misdemeanor and for each subsequent conviction shall be guilty of a Class 4 felony. Notwithstanding any other provision of this Act, all criminal fines, moneys, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of the Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

(Source: P.A. 89-61, eff. 6-30-95.)

Section 985. The Nursing and Advanced Practice Nursing Act is amended by changing Section 20-75 as follows:

(225 ILCS 65/20-75)

(Section scheduled to be repealed on January 1, 2008)

[May 30, 2005]

Sec. 20-75. Injunctive remedies.

(a) If any person violates the provision of this Act, the Director may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, or the State's Attorney of any county in which the action is brought, petition for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as a nurse or hold herself or himself out as a nurse without being licensed under the provisions of this Act, then any licensed nurse, any interested party, or any person injured thereby may, in addition to the Director, petition for relief as provided in subsection (a) of this Section.

Whoever knowingly practices or offers to practice nursing in this State without a license for that purpose shall be guilty of a Class A misdemeanor and for each subsequent conviction, shall be guilty of a Class 4 felony. All criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of the Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

(c) Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued forthwith.

(Source: P.A. 90-742, eff. 8-13-98.)

Section 990. The Illinois Optometric Practice Act of 1987 is amended by changing Section 26.1 as follows:

(225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

(Section scheduled to be repealed on January 1, 2007)

Sec. 26.1. Injunctions; criminal offenses; cease and desist orders.

(a) If any person violates the provision of this Act, the Director may, in the name of the People of the State of Illinois, through the Attorney General of the State of Illinois, or the State's Attorney of any county in which the action is brought, petition for an order enjoining such violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition in court, the court may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin such violation, and if it is established that such person has violated or is violating the injunction, the Court may punish the offender for contempt of court. Proceedings under this Section shall be in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) If any person shall practice as an optometrist or hold himself or herself out as an optometrist without being licensed under the provisions of this Act then any licensed optometrist, any interested party or any person injured thereby may, in addition to the Director, petition for relief as provided in subsection (a) of this Section.

Whoever knowingly practices or offers to practice optometry in this State without being licensed for that purpose shall be guilty of a Class A misdemeanor and for each subsequent conviction, shall be guilty of a Class 4 felony. Notwithstanding any other provision of this Act, all criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of the Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

(c) Whenever in the opinion of the Department any person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against him. The rule shall clearly set forth the grounds relied upon by the Department and shall provide a period of 7 days from the date of the rule to file an answer to the satisfaction of the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued forthwith.

(Source: P.A. 89-702, eff. 7-1-97.)

Section 995. The Podiatric Medical Practice Act of 1987 is amended by changing Section 41 as follows:

(225 ILCS 100/41) (from Ch. 111, par. 4841)

(Section scheduled to be repealed on January 1, 2008)

Sec. 41. Violations. Any person who is found to have violated any provisions of this Act is guilty of a Class A misdemeanor. All criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of The Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

The Board, with the advice of the Director and attorneys for the Department, may establish by rule a schedule of fines payable by those who have violated any provisions of this Act.

Fines assessed and collected for violations of this Act shall be deposited in the Illinois State Podiatric Medical Disciplinary Fund.

(Source: P.A. 86-685.)

Section 1000. The Veterinary Medicine and Surgery Practice Act of 2004 is amended by changing Section 25.16 as follows:

(225 ILCS 115/25.16) (from Ch. 111, par. 7025.16)

(Section scheduled to be repealed on January 1, 2014)

Sec. 25.16. Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony. All criminal fines, monies, or other property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of The Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

(Source: P.A. 86-685.)

Section 1005. The Wholesale Drug Distribution Licensing Act is amended by changing Sections 55 and 170 as follows:

(225 ILCS 120/55) (from Ch. 111, par. 8301-55)

(Section scheduled to be repealed on January 1, 2013)

Sec. 55. Discipline; grounds.

(a) The Department may refuse to issue, restore, or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem proper for any of the following reasons:

(1) Violation of this Act or its rules.

(2) Aiding or assisting another person in violating any provision of this Act or its rules.

(3) Failing, within 60 days, to respond to a written requirement made by the Department for information.

(4) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public. This includes violations of "good faith" as defined by the Illinois Controlled Substances Act and applies to all prescription drugs.

(5) Discipline by another U.S. jurisdiction or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Act.

(6) Selling or engaging in the sale of drug samples provided at no cost by drug manufacturers.

(7) Conviction of the applicant or licensee, or any officer, director, manager or shareholder who owns more than 5% of stock, in State or federal court of any crime that is a felony.

(8) Habitual or excessive use or addiction to alcohol, narcotics, stimulants, or any other chemical agent or drug that results in the inability to function with reasonable judgment, skill, or safety.

(b) The Department may refuse to issue, restore, or renew, or may revoke, suspend, place on probation, reprimand or take other disciplinary action as the Department may deem property including fines not to exceed \$1000 for any of the following reasons:

(1) Material misstatement in furnishing information to the Department.

[May 30, 2005]

(2) Making any misrepresentation for the purpose of obtaining a license.

(3) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(4) A finding that licensure or registration has been applied for or obtained by fraudulent means.

(5) Willfully making or filing false records or reports.

(6) A finding of a substantial discrepancy in a Department audit of a prescription drug, including a controlled substance as that term is defined in this Act or in the Illinois Controlled Substances Act.

(c) The Department may refuse to issue or may suspend the license or registration of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of tax, penalty or interest, as required by any tax Act administered by the Illinois Department of Revenue, until the time the requirements of the tax Act are satisfied.

(d) The Department shall revoke the license or certificate of registration issued under this Act or any prior Act of this State of any person who has been convicted a second time of committing any felony under the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act or who has been convicted a second time of committing a Class 1 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid Code. A person whose license or certificate of registration issued under this Act or any prior Act of this State is revoked under this subsection (c) shall be prohibited from engaging in the practice of pharmacy in this State.

(Source: P.A. 87-594.)

(225 ILCS 120/170) (from Ch. 111, par. 8301-170)

(Section scheduled to be repealed on January 1, 2013)

Sec. 170. Penalties. Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony. All criminal fines, monies, or property collected or received by the Department under this Section or any other State or federal statute, including, but not limited to, property forfeited to the Department under Section 505 of the Illinois Controlled Substances Act or Section 85 of the Methamphetamine Control and Community Protection Act, shall be deposited into the Professional Regulation Evidence Fund.

(Source: P.A. 87-594.)

Section 1010. The Illinois Public Aid Code is amended by changing Section 1-10 as follows:

(305 ILCS 5/1-10)

Sec. 1-10. Drug convictions.

(a) Persons convicted of an offense under the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act which is a Class X felony, or a Class 1 felony, or comparable federal criminal law which has as an element the possession, use, or distribution of a controlled substance, as defined in Section 102(6) of the federal Controlled Substances Act (21 U.S.C. 802(c)), shall not be eligible for cash assistance provided under this Code.

(b) Persons convicted of any other felony under the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act which is not a Class X or Class 1 felony, or comparable federal criminal law which has as an element the possession, use, or distribution of a controlled substance, as defined in Section 102(6) of the federal Controlled Substances Act (21 U.S.C. 802(c)), shall not be eligible for cash assistance provided under this Code for 2 years from the date of conviction. This prohibition shall not apply if the person is in a drug treatment program, aftercare program, or similar program as defined by rule.

(c) Persons shall not be determined ineligible for food stamps provided under this Code based upon a conviction of any felony or comparable federal or State criminal law which has as an element the possession, use or distribution of a controlled substance, as defined in Section 102(6) of the federal Controlled Substance Act (21 U.S.C. 802(c)).

(Source: P.A. 90-17, eff. 7-1-97.)

Section 1015. The Housing Authorities Act is amended by changing Section 8.1a as follows:

(310 ILCS 10/8.1a) (from Ch. 67 1/2, par. 8.1a)

Sec. 8.1a. Police powers.

(a) A Housing Authority in any municipality having over 500,000 inhabitants has power to police its property and to exercise police powers for the protection of the persons and property of its residents, employees and visitors, for the enforcement of any rule or regulation adopted by the Authority, and in

[May 30, 2005]

furtherance of the purposes for which such Authority was organized. In particular, and subject to amounts appropriated for that purpose, the Housing Authority in exercising its police powers shall strive to eliminate or reduce the following activities within the property or facilities of the Authority: streetgang-related activities (as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act), illegal activities involving controlled substances (as defined in the Illinois Controlled Substances Act), illegal activities involving cannabis (as defined in the Cannabis Control Act), illegal activities involving methamphetamine (as defined in the Methamphetamine Control and Community Protection Act), and illegal activities involving firearms. Such Authority has power to establish, appoint and support a police force for such purposes.

(b) A Housing Authority in a municipality having 500,000 or fewer inhabitants may establish, appoint, and support a police force to police the Authority's property, to protect the persons and property of the Authority's residents, employees, and visitors, to enforce the Authority's adopted rules and regulations, and to otherwise further the purposes for which the Authority was organized. A police force may be established under this subsection only with the approval of the mayor or president of the municipality and only if, in the opinion of the Authority and the mayor or president, the severity of streetgang-related activities (as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act), illegal activities involving controlled substances (as defined in the Illinois Controlled Substances Act), illegal activities involving cannabis (as defined in the Cannabis Control Act), illegal activities involving methamphetamine (as defined in the Methamphetamine Control and Community Protection Act), or illegal activities involving firearms makes the establishment of a police force desirable.

(c) Members of a Housing Authority police force shall be conservators of the peace and shall have all powers possessed by the police of cities, and sheriffs, including the power to make arrests for violations of federal and state statutes, city and county ordinances, and rules and regulations of the Authority and governing federal agencies; provided, that they may exercise such powers only within the property or facilities of such Authority, and only (i) when such exercise is appropriate for the protection of Authority properties and interests, or its residents, employees and visitors, or (ii) otherwise, within the municipality in which the Authority operates, when specifically requested by appropriate federal, state and local law enforcement officials. Unless expressly limited by the Authority, when outside the property or facilities of the Authority, the members of the police force shall have the same powers as those conferred on the police of organized cities and villages when acting outside of the territorial limits of their city or village. "Property or facilities of the Authority" means property owned or leased by the Authority and property over which the Authority has easement rights. The Authority shall establish minimum standards for selection and training of members of such police force, provided that the members of such police force shall be certified and trained under the provisions of the Illinois Police Training Act, as now or hereafter amended. The members of such police force may serve and execute civil process. The establishment of such a police force shall not affect the power of the Authority to use or employ other security personnel as permitted by law. Neither the Authority, the members of its Board nor its officers or employees shall be held liable for failure to provide a security or police force or, if a security or police force is provided, for failure to provide adequate police protection or security, failure to prevent the commission of crimes or failure to apprehend criminals.

(Source: P.A. 89-351, eff. 1-1-96.)

Section 1020. The Abandoned Housing Rehabilitation Act is amended by changing Section 2 as follows:

(310 ILCS 50/2) (from Ch. 67 1/2, par. 852)

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

(a) "Property" means any residential real estate which has been continuously unoccupied by persons legally in possession for the preceding 1 year.

(b) "Nuisance" means any property which because of its physical condition or use is a public nuisance, or any property which constitutes a blight on the surrounding area, or any property which is not fit for human habitation under the applicable fire, building and housing codes. "Nuisance" also means any property on which any illegal activity involving controlled substances (as defined in the Illinois Controlled Substances Act), methamphetamine (as defined in the Methamphetamine Control and Community Protection Act), or cannabis (as defined in the Cannabis Control Act) takes place or any property on which any streetgang-related activity (as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act) takes place.

(c) "Organization" means any Illinois corporation, agency, partnership, association, firm or other entity consisting of 2 or more persons organized and conducted on a not-for-profit basis with no personal profit inuring to anyone as a result of its operation which has among its purposes the improvement of

housing.

(d) "Parties in interest" means any owner or owners of record, judgment creditor, tax purchaser or other party having any legal or equitable title or interest in the property.

(e) "Last known address" includes the address where the property is located, or the address as listed in the tax records or as listed pursuant to any owner's registration ordinance duly adopted by a home rule unit of government.

(f) "Low or moderate income housing" means housing for persons and families with low or moderate incomes, provided that the income limits for such persons and families shall be the same as those established by rule by the Illinois Housing Development Authority in accordance with subsection (g) of Section 2 of the Illinois Housing Development Act, as amended.

(g) "Rehabilitation" means the process of improving the property, including but not limited to bringing property into compliance with applicable fire, housing and building codes.

(Source: P.A. 91-357, eff. 7-29-99; 91-807, eff. 1-1-01.)

Section 1025. The Abused and Neglected Child Reporting Act is amended by changing Section 3 as follows:

(325 ILCS 5/3) (from Ch. 23, par. 2053)

Sec. 3. As used in this Act unless the context otherwise requires:

"Child" means any person under the age of 18 years, unless legally emancipated by reason of marriage or entry into a branch of the United States armed services.

"Department" means Department of Children and Family Services.

"Local law enforcement agency" means the police of a city, town, village or other incorporated area or the sheriff of an unincorporated area or any sworn officer of the Illinois Department of State Police.

"Abused child" means a child whose parent or immediate family member, or any person responsible for the child's welfare, or any individual residing in the same home as the child, or a paramour of the child's parent:

(a) inflicts, causes to be inflicted, or allows to be inflicted upon such child

physical injury, by other than accidental means, which causes death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(b) creates a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death, disfigurement, impairment of physical or emotional health, or loss or impairment of any bodily function;

(c) commits or allows to be committed any sex offense against such child, as such sex offenses are defined in the Criminal Code of 1961, as amended, and extending those definitions of sex offenses to include children under 18 years of age;

(d) commits or allows to be committed an act or acts of torture upon such child;

(e) inflicts excessive corporal punishment;

(f) commits or allows to be committed the offense of female genital mutilation, as defined in Section 12-34 of the Criminal Code of 1961, against the child; or

(g) causes to be sold, transferred, distributed, or given to such child under 18 years of age, a controlled substance as defined in Section 102 of the Illinois Controlled Substances Act in violation of Article IV of the Illinois Controlled Substances Act or in violation of the Methamphetamine Control and Community Protection Act, except for controlled substances that are prescribed in accordance with Article III of the Illinois Controlled Substances Act and are dispensed to such child in a manner that substantially complies with the prescription.

A child shall not be considered abused for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act.

"Neglected child" means any child who is not receiving the proper or necessary nourishment or medically indicated treatment including food or care not provided solely on the basis of the present or anticipated mental or physical impairment as determined by a physician acting alone or in consultation with other physicians or otherwise is not receiving the proper or necessary support or medical or other remedial care recognized under State law as necessary for a child's well-being, or other care necessary for his or her well-being, including adequate food, clothing and shelter; or who is abandoned by his or her parents or other person responsible for the child's welfare without a proper plan of care; or who is a newborn infant whose blood, urine, or meconium contains any amount of a controlled substance as defined in subsection (f) of Section 102 of the Illinois Controlled Substances Act or a metabolite thereof, with the exception of a controlled substance or metabolite thereof whose presence in the newborn infant is the result of medical treatment administered to the mother or the newborn infant. A child shall not be considered neglected for the sole reason that the child's parent or other person responsible for his or her

welfare has left the child in the care of an adult relative for any period of time. A child shall not be considered neglected for the sole reason that the child has been relinquished in accordance with the Abandoned Newborn Infant Protection Act. A child shall not be considered neglected or abused for the sole reason that such child's parent or other person responsible for his or her welfare depends upon spiritual means through prayer alone for the treatment or cure of disease or remedial care as provided under Section 4 of this Act. A child shall not be considered neglected or abused solely because the child is not attending school in accordance with the requirements of Article 26 of The School Code, as amended.

"Child Protective Service Unit" means certain specialized State employees of the Department assigned by the Director to perform the duties and responsibilities as provided under Section 7.2 of this Act.

"Person responsible for the child's welfare" means the child's parent; guardian; foster parent; relative caregiver; any person responsible for the child's welfare in a public or private residential agency or institution; any person responsible for the child's welfare within a public or private profit or not for profit child care facility; or any other person responsible for the child's welfare at the time of the alleged abuse or neglect, or any person who came to know the child through an official capacity or position of trust, including but not limited to health care professionals, educational personnel, recreational supervisors, members of the clergy, and volunteers or support personnel in any setting where children may be subject to abuse or neglect.

"Temporary protective custody" means custody within a hospital or other medical facility or a place previously designated for such custody by the Department, subject to review by the Court, including a licensed foster home, group home, or other institution; but such place shall not be a jail or other place for the detention of criminal or juvenile offenders.

"An unfounded report" means any report made under this Act for which it is determined after an investigation that no credible evidence of abuse or neglect exists.

"An indicated report" means a report made under this Act if an investigation determines that credible evidence of the alleged abuse or neglect exists.

"An undetermined report" means any report made under this Act in which it was not possible to initiate or complete an investigation on the basis of information provided to the Department.

"Subject of report" means any child reported to the central register of child abuse and neglect established under Section 7.7 of this Act and his or her parent, guardian or other person responsible who is also named in the report.

"Perpetrator" means a person who, as a result of investigation, has been determined by the Department to have caused child abuse or neglect.

"Member of the clergy" means a clergyman or practitioner of any religious denomination accredited by the religious body to which he or she belongs.

(Source: P.A. 91-802, eff. 1-1-01; 92-408, eff. 8-17-01; 92-432, eff. 8-17-01; 92-801, eff. 8-16-02.)

Section 1030. The Illinois Food, Drug and Cosmetic Act is amended by changing Section 24 as follows:

(410 ILCS 620/24) (from Ch. 56 1/2, par. 524)

Sec. 24.

Nothing in this Act shall be construed to limit or repeal any provisions of the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act.

(Source: P.A. 77-765.)

Section 1035. The Firearm Owners Identification Card Act is amended by changing Section 10 as follows:

(430 ILCS 65/10) (from Ch. 38, par. 83-10)

Sec. 10. (a) Whenever an application for a Firearm Owner's Identification Card is denied, whenever the Department fails to act on an application within 30 days of its receipt, or whenever such a Card is revoked or seized as provided for in Section 8 of this Act, the aggrieved party may appeal to the Director of the Department of State Police for a hearing upon such denial, revocation or seizure, unless the denial, revocation, or seizure was based upon a forcible felony, stalking, aggravated stalking, domestic battery, any violation of either the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act that is classified as a Class 2 or greater felony, any felony violation of Article 24 of the Criminal Code of 1961, or any adjudication as a delinquent minor for the commission of an offense that if committed by an adult would be a felony, in which case the aggrieved party may petition the circuit court in writing in the county of his or her residence for a hearing upon such denial, revocation, or seizure.

[May 30, 2005]

(b) At least 30 days before any hearing in the circuit court, the petitioner shall serve the relevant State's Attorney with a copy of the petition. The State's Attorney may object to the petition and present evidence. At the hearing the court shall determine whether substantial justice has been done. Should the court determine that substantial justice has not been done, the court shall issue an order directing the Department of State Police to issue a Card.

(c) Any person prohibited from possessing a firearm under Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or acquiring a Firearm Owner's Identification Card under Section 8 of this Act may apply to the Director of the Department of State Police or petition the circuit court in the county where the petitioner resides, whichever is applicable in accordance with subsection (a) of this Section, requesting relief from such prohibition and the Director or court may grant such relief if it is established by the applicant to the court's or Director's satisfaction that:

(0.05) when in the circuit court, the State's Attorney has been served with a written copy of the petition at least 30 days before any such hearing in the circuit court and at the hearing the State's Attorney was afforded an opportunity to present evidence and object to the petition;

(1) the applicant has not been convicted of a forcible felony under the laws of this State or any other jurisdiction within 20 years of the applicant's application for a Firearm Owner's Identification Card, or at least 20 years have passed since the end of any period of imprisonment imposed in relation to that conviction;

(2) the circumstances regarding a criminal conviction, where applicable, the applicant's criminal history and his reputation are such that the applicant will not be likely to act in a manner dangerous to public safety; and

(3) granting relief would not be contrary to the public interest.

(d) When a minor is adjudicated delinquent for an offense which if committed by an adult would be a felony, the court shall notify the Department of State Police.

(e) The court shall review the denial of an application or the revocation of a Firearm Owner's Identification Card of a person who has been adjudicated delinquent for an offense that if committed by an adult would be a felony if an application for relief has been filed at least 10 years after the adjudication of delinquency and the court determines that the applicant should be granted relief from disability to obtain a Firearm Owner's Identification Card. If the court grants relief, the court shall notify the Department of State Police that the disability has been removed and that the applicant is eligible to obtain a Firearm Owner's Identification Card.

(Source: P.A. 92-442, eff. 8-17-01; 93-367, eff. 1-1-04.)

Section 1040. The Illinois Vehicle Code is amended by changing Sections 2-115, 6-103, 6-106.1, 6-107, 6-108, 6-201, 6-206, and 6-508 as follows:

(625 ILCS 5/2-115) (from Ch. 95 1/2, par. 2-115)

Sec. 2-115. Investigators.

(a) The Secretary of State, for the purpose of more effectively carrying out the provisions of the laws in relation to motor vehicles, shall have power to appoint such number of investigators as he may deem necessary. It shall be the duty of such investigators to investigate and enforce violations of the provisions of this Act administered by the Secretary of State and provisions of Chapters 11, 12, 13, 14 and 15 and to investigate and report any violation by any person who operates as a motor carrier of property as defined in Section 18-100 of this Act and does not hold a valid certificate or permit. Such investigators shall have and may exercise throughout the State all of the powers of peace officers.

No person may be retained in service as an investigator under this Section after he has reached 60 years of age.

The Secretary of State must authorize to each investigator employed under this Section and to any other employee of the Office of the Secretary of State exercising the powers of a peace officer a distinct badge that, on its face, (i) clearly states that the badge is authorized by the Office of the Secretary of State and (ii) contains a unique identifying number. No other badge shall be authorized by the Office of the Secretary of State.

(b) The Secretary may expend such sums as he deems necessary from Contractual Services appropriations for the Department of Police for the purchase of evidence, for the employment of persons to obtain evidence, and for the payment for any goods or services related to obtaining evidence. Such sums shall be advanced to investigators authorized by the Secretary to expend funds, on vouchers signed by the Secretary. In addition, the Secretary of State is authorized to maintain one or more commercial checking accounts with any State banking corporation or corporations organized under or subject to the Illinois Banking Act for the deposit and withdrawal of moneys to be used solely for the purchase of evidence and for the employment of persons to obtain evidence, or for the payment for any goods or

[May 30, 2005]

services related to obtaining evidence; provided that no check may be written on nor any withdrawal made from any such account except on the written signatures of 2 persons designated by the Secretary to write such checks and make such withdrawals, and provided further that the balance of moneys on deposit in any such account shall not exceed \$5,000 at any time, nor shall any one check written on or single withdrawal made from any such account exceed \$5,000.

All fines or moneys collected or received by the Department of Police under any State or federal forfeiture statute; including, but not limited to moneys forfeited under Section 12 of the Cannabis Control Act, moneys forfeited under Section 85 of the Methamphetamine Control and Community Protection Act, and moneys distributed under Section 413 of the Illinois Controlled Substances Act, shall be deposited into the Secretary of State Evidence Fund.

In all convictions for offenses in violation of this Act, the Court may order restitution to the Secretary of any or all sums expended for the purchase of evidence, for the employment of persons to obtain evidence, and for the payment for any goods or services related to obtaining evidence. All such restitution received by the Secretary shall be deposited into the Secretary of State Evidence Fund. Moneys deposited into the fund shall, subject to appropriation, be used by the Secretary of State for the purposes provided for under the provisions of this Section.

(Source: P.A. 91-883, eff. 1-1-01.)

(625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

Sec. 6-103. What persons shall not be licensed as drivers or granted permits. The Secretary of State shall not issue, renew, or allow the retention of any driver's license nor issue any permit under this Code:

1. To any person, as a driver, who is under the age of 18 years except as provided in

Section 6-107, and except that an instruction permit may be issued under Section 6-107.1 to a child who is not less than 15 years of age if the child is enrolled in an approved driver education course as defined in Section 1-103 of this Code and requires an instruction permit to participate therein, except that an instruction permit may be issued under the provisions of Section 6-107.1 to a child who is 17 years and 9 months of age without the child having enrolled in an approved driver education course and except that an instruction permit may be issued to a child who is at least 15 years and 6 months of age, is enrolled in school, meets the educational requirements of the Driver Education Act, and has passed examinations the Secretary of State in his or her discretion may prescribe;

2. To any person who is under the age of 18 as an operator of a motorcycle other than a motor driven cycle unless the person has, in addition to meeting the provisions of Section 6-107 of this Code, successfully completed a motorcycle training course approved by the Illinois Department of Transportation and successfully completes the required Secretary of State's motorcycle driver's examination;

3. To any person, as a driver, whose driver's license or permit has been suspended, during the suspension, nor to any person whose driver's license or permit has been revoked, except as provided in Sections 6-205, 6-206, and 6-208;

4. To any person, as a driver, who is a user of alcohol or any other drug to a degree that renders the person incapable of safely driving a motor vehicle;

5. To any person, as a driver, who has previously been adjudged to be afflicted with or suffering from any mental or physical disability or disease and who has not at the time of application been restored to competency by the methods provided by law;

6. To any person, as a driver, who is required by the Secretary of State to submit an alcohol and drug evaluation or take an examination provided for in this Code unless the person has successfully passed the examination and submitted any required evaluation;

7. To any person who is required under the provisions of the laws of this State to deposit security or proof of financial responsibility and who has not deposited the security or proof;

8. To any person when the Secretary of State has good cause to believe that the person by reason of physical or mental disability would not be able to safely operate a motor vehicle upon the highways, unless the person shall furnish to the Secretary of State a verified written statement, acceptable to the Secretary of State, from a competent medical specialist to the effect that the operation of a motor vehicle by the person would not be inimical to the public safety;

9. To any person, as a driver, who is 69 years of age or older, unless the person has successfully complied with the provisions of Section 6-109;

10. To any person convicted, within 12 months of application for a license, of any of the sexual offenses enumerated in paragraph 2 of subsection (b) of Section 6-205;

11. To any person who is under the age of 21 years with a classification prohibited in paragraph (b) of Section 6-104 and to any person who is under the age of 18 years with a classification prohibited in paragraph (c) of Section 6-104;

12. To any person who has been either convicted of or adjudicated under the Juvenile Court Act of 1987 based upon a violation of the Cannabis Control Act, ~~or the Illinois Controlled Substances Act~~, ~~or the Methamphetamine Control and Community Protection Act~~ while that person was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, ~~or Section 410 of the Illinois Controlled Substances Act~~, ~~or Section 70 of the Methamphetamine Control and Community Protection Act~~ shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. The Secretary of State shall not issue a new license or permit for a period of one year;

13. To any person who is under the age of 18 years and who has committed the offense of operating a motor vehicle without a valid license or permit in violation of Section 6-101;

14. To any person who is 90 days or more delinquent in court ordered child support payments or has been adjudicated in arrears in an amount equal to 90 days' obligation or more and who has been found in contempt of court for failure to pay the support, subject to the requirements and procedures of Article VII of Chapter 7 of the Illinois Vehicle Code;

15. To any person released from a term of imprisonment for violating Section 9-3 of the Criminal Code of 1961 or a similar provision of a law of another state relating to reckless homicide or for violating subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of this Code relating to aggravated driving under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any combination thereof, if the violation was the proximate cause of a death, within 24 months of release from a term of imprisonment; ~~or~~

16. To any person who, with intent to influence any act related to the issuance of any driver's license or permit, by an employee of the Secretary of State's Office, or the owner or employee of any commercial driver training school licensed by the Secretary of State, or any other individual authorized by the laws of this State to give driving instructions or administer all or part of a driver's license examination, promises or tenders to that person any property or personal advantage which that person is not authorized by law to accept. Any persons promising or tendering such property or personal advantage shall be disqualified from holding any class of driver's license or permit for 120 consecutive days. The Secretary of State shall establish by rule the procedures for implementing this period of disqualification and the procedures by which persons so disqualified may obtain administrative review of the decision to disqualify; ~~or~~

~~17. 46-~~ To any person for whom the Secretary of State cannot verify the accuracy of any information or documentation submitted in application for a driver's license.

The Secretary of State shall retain all conviction information, if the information is required to be held confidential under the Juvenile Court Act of 1987.

(Source: P.A. 92-343, eff. 1-1-02; 93-174, eff. 1-1-04; 93-712, eff. 1-1-05; 93-783, eff. 1-1-05; 93-788, eff. 1-1-05; 93-895, eff. 1-1-05; revised 10-22-04.)

(625 ILCS 5/6-106.1) (from Ch. 95 1/2, par. 6-106.1)

Sec. 6-106.1. School bus driver permit.

(a) The Secretary of State shall issue a school bus driver permit to those applicants who have met all the requirements of the application and screening process under this Section to insure the welfare and safety of children who are transported on school buses throughout the State of Illinois. Applicants shall obtain the proper application required by the Secretary of State from their prospective or current employer and submit the completed application to the prospective or current employer along with the necessary fingerprint submission as required by the Department of State Police to conduct fingerprint based criminal background checks on current and future information available in the state system and current information available through the Federal Bureau of Investigation's system. Applicants who have completed the fingerprinting requirements shall not be subjected to the fingerprinting process when applying for subsequent permits or submitting proof of successful completion of the annual refresher course. Individuals who on the effective date of this Act possess a valid school bus driver permit that has been previously issued by the appropriate Regional School Superintendent are not subject to the fingerprinting provisions of this Section as long as the permit remains valid and does not lapse. The applicant shall be required to pay all related application and fingerprinting fees as established by rule including, but not limited to, the amounts established by the Department of State Police and the Federal Bureau of Investigation to process fingerprint based criminal background investigations. All fees paid for fingerprint processing services under this Section shall be deposited into the State Police Services Fund for the cost incurred in processing the fingerprint based criminal background investigations. All

other fees paid under this Section shall be deposited into the Road Fund for the purpose of defraying the costs of the Secretary of State in administering this Section. All applicants must:

1. be 21 years of age or older;
 2. possess a valid and properly classified driver's license issued by the Secretary of State;
 3. possess a valid driver's license, which has not been revoked, suspended, or canceled for 3 years immediately prior to the date of application, or have not had his or her commercial motor vehicle driving privileges disqualified within the 3 years immediately prior to the date of application;
 4. successfully pass a written test, administered by the Secretary of State, on school bus operation, school bus safety, and special traffic laws relating to school buses and submit to a review of the applicant's driving habits by the Secretary of State at the time the written test is given;
 5. demonstrate ability to exercise reasonable care in the operation of school buses in accordance with rules promulgated by the Secretary of State;
 6. demonstrate physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use for each applicant not subject to such testing pursuant to federal law, conducted by a licensed physician, an advanced practice nurse who has a written collaborative agreement with a collaborating physician which authorizes him or her to perform medical examinations, or a physician assistant who has been delegated the performance of medical examinations by his or her supervising physician within 90 days of the date of application according to standards promulgated by the Secretary of State;
 7. affirm under penalties of perjury that he or she has not made a false statement or knowingly concealed a material fact in any application for permit;
 8. have completed an initial classroom course, including first aid procedures, in school bus driver safety as promulgated by the Secretary of State; and after satisfactory completion of said initial course an annual refresher course; such courses and the agency or organization conducting such courses shall be approved by the Secretary of State; failure to complete the annual refresher course, shall result in cancellation of the permit until such course is completed;
 9. not have been convicted of 2 or more serious traffic offenses, as defined by rule, within one year prior to the date of application that may endanger the life or safety of any of the driver's passengers within the duration of the permit period;
 10. not have been convicted of reckless driving, driving while intoxicated, or reckless homicide resulting from the operation of a motor vehicle within 3 years of the date of application;
 11. not have been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) ~~(v)~~ the offenses defined in Section 4.1 and 5.1 of the Wrongs to Children Act and (vii) ~~(vi)~~ those offenses defined in Section 6-16 of the Liquor Control Act of 1934;
 12. not have been repeatedly involved as a driver in motor vehicle collisions or been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree which indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;
 13. not have, through the unlawful operation of a motor vehicle, caused an accident resulting in the death of any person; and
 14. not have, within the last 5 years, been adjudged to be afflicted with or suffering from any mental disability or disease.
- (b) A school bus driver permit shall be valid for a period specified by the Secretary of State as set forth by rule. It shall be renewable upon compliance with subsection (a) of this Section.
- (c) A school bus driver permit shall contain the holder's driver's license number, legal name, residence address, zip code, social security number and date of birth, a brief description of the holder and a space

for signature. The Secretary of State may require a suitable photograph of the holder.

(d) The employer shall be responsible for conducting a pre-employment interview with prospective school bus driver candidates, distributing school bus driver applications and medical forms to be completed by the applicant, and submitting the applicant's fingerprint cards to the Department of State Police that are required for the criminal background investigations. The employer shall certify in writing to the Secretary of State that all pre-employment conditions have been successfully completed including the successful completion of an Illinois specific criminal background investigation through the Department of State Police and the submission of necessary fingerprints to the Federal Bureau of Investigation for criminal history information available through the Federal Bureau of Investigation system. The applicant shall present the certification to the Secretary of State at the time of submitting the school bus driver permit application.

(e) Permits shall initially be provisional upon receiving certification from the employer that all pre-employment conditions have been successfully completed, and upon successful completion of all training and examination requirements for the classification of the vehicle to be operated, the Secretary of State shall provisionally issue a School Bus Driver Permit. The permit shall remain in a provisional status pending the completion of the Federal Bureau of Investigation's criminal background investigation based upon fingerprinting specimens submitted to the Federal Bureau of Investigation by the Department of State Police. The Federal Bureau of Investigation shall report the findings directly to the Secretary of State. The Secretary of State shall remove the bus driver permit from provisional status upon the applicant's successful completion of the Federal Bureau of Investigation's criminal background investigation.

(f) A school bus driver permit holder shall notify the employer and the Secretary of State if he or she is convicted in another state of an offense that would make him or her ineligible for a permit under subsection (a) of this Section. The written notification shall be made within 5 days of the entry of the conviction. Failure of the permit holder to provide the notification is punishable as a petty offense for a first violation and a Class B misdemeanor for a second or subsequent violation.

(g) Cancellation; suspension; notice and procedure.

(1) The Secretary of State shall cancel a school bus driver permit of an applicant whose criminal background investigation discloses that he or she is not in compliance with the provisions of subsection (a) of this Section.

(2) The Secretary of State shall cancel a school bus driver permit when he or she receives notice that the permit holder fails to comply with any provision of this Section or any rule promulgated for the administration of this Section.

(3) The Secretary of State shall cancel a school bus driver permit if the permit holder's restricted commercial or commercial driving privileges are withdrawn or otherwise invalidated.

(4) The Secretary of State may not issue a school bus driver permit for a period of 3 years to an applicant who fails to obtain a negative result on a drug test as required in item 6 of subsection (a) of this Section or under federal law.

(5) The Secretary of State shall forthwith suspend a school bus driver permit for a period of 3 years upon receiving notice that the holder has failed to obtain a negative result on a drug test as required in item 6 of subsection (a) of this Section or under federal law.

The Secretary of State shall notify the State Superintendent of Education and the permit holder's prospective or current employer that the applicant has (1) failed a criminal background investigation or (2) is no longer eligible for a school bus driver permit; and of the related cancellation of the applicant's provisional school bus driver permit. The cancellation shall remain in effect pending the outcome of a hearing pursuant to Section 2-118 of this Code. The scope of the hearing shall be limited to the issuance criteria contained in subsection (a) of this Section. A petition requesting a hearing shall be submitted to the Secretary of State and shall contain the reason the individual feels he or she is entitled to a school bus driver permit. The permit holder's employer shall notify in writing to the Secretary of State that the employer has certified the removal of the offending school bus driver from service prior to the start of that school bus driver's next workshift. An employing school board that fails to remove the offending school bus driver from service is subject to the penalties defined in Section 3-14.23 of the School Code. A school bus contractor who violates a provision of this Section is subject to the penalties defined in Section 6-106.11.

All valid school bus driver permits issued under this Section prior to January 1, 1995, shall remain effective until their expiration date unless otherwise invalidated.

(Source: P.A. 92-703, eff. 7-19-02; 93-895, eff. 1-1-05.)

(625 ILCS 5/6-107) (from Ch. 95 1/2, par. 6-107)

Sec. 6-107. Graduated license.

(a) The purpose of the Graduated Licensing Program is to develop safe and mature driving habits in young, inexperienced drivers and reduce or prevent motor vehicle accidents, fatalities, and injuries by:

- (1) providing for an increase in the time of practice period before granting permission to obtain a driver's license;
- (2) strengthening driver licensing and testing standards for persons under the age of 21 years;
- (3) sanctioning driving privileges of drivers under age 21 who have committed serious traffic violations or other specified offenses; and
- (4) setting stricter standards to promote the public's health and safety.

(b) The application of any person under the age of 18 years, and not legally emancipated by marriage, for a drivers license or permit to operate a motor vehicle issued under the laws of this State, shall be accompanied by the written consent of either parent of the applicant; otherwise by the guardian having custody of the applicant, or in the event there is no parent or guardian, then by another responsible adult.

No graduated driver's license shall be issued to any applicant under 18 years of age, unless the applicant is at least 16 years of age and has:

- (1) Held a valid instruction permit for a minimum of 3 months.
- (2) Passed an approved driver education course and submits proof of having passed the course as may be required.
- (3) certification by the parent, legal guardian, or responsible adult that the applicant has had a minimum of 25 hours of behind-the-wheel practice time and is sufficiently prepared and able to safely operate a motor vehicle.

(c) No graduated driver's license or permit shall be issued to any applicant under 18 years of age who has committed the offense of operating a motor vehicle without a valid license or permit in violation of Section 6-101 of this Code and no graduated driver's license or permit shall be issued to any applicant under 18 years of age who has committed an offense that would otherwise result in a mandatory revocation of a license or permit as provided in Section 6-205 of this Code or who has been either convicted of or adjudicated a delinquent based upon a violation of the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act while that individual was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such.

(d) No graduated driver's license shall be issued for 6 months to any applicant under the age of 18 years who has been convicted of any offense defined as a serious traffic violation in this Code or a similar provision of a local ordinance.

(e) No graduated driver's license holder under the age of 18 years shall operate any motor vehicle, except a motor driven cycle or motorcycle, with more than one passenger in the front seat of the motor vehicle and no more passengers in the back seats than the number of available seat safety belts as set forth in Section 12-603 of this Code.

(f) No graduated driver's license holder under the age of 18 shall operate a motor vehicle unless each driver and front or back seat passenger under the age of 18 is wearing a properly adjusted and fastened seat safety belt.

(g) If a graduated driver's license holder is under the age of 18 when he or she receives the license, for the first 6 months he or she holds the license or until he or she reaches the age of 18, whichever occurs sooner, the graduated license holder may not operate a motor vehicle with more than one passenger in the vehicle who is under the age of 20, unless any additional passenger or passengers are siblings, step-siblings, children, or stepchildren of the driver.

(Source: P.A. 93-101, eff. 1-1-04; 93-788, eff. 1-1-05.)

(625 ILCS 5/6-108) (from Ch. 95 1/2, par. 6-108)

Sec. 6-108. Cancellation of license issued to minor.

(a) The Secretary of State shall cancel the license or permit of any minor under the age of 18 years in any of the following events:

1. Upon the verified written request of the person who consented to the application of the minor that the license or permit be cancelled;
2. Upon receipt of satisfactory evidence of the death of the person who consented to

the application of the minor;

3. Upon receipt of satisfactory evidence that the person who consented to the application of a minor no longer has legal custody of the minor.

After cancellation, the Secretary of State shall not issue a new license or permit until the applicant meets the provisions of Section 6-107 of this Code.

(b) The Secretary of State shall cancel the license or permit of any person under the age of 18 years if he or she is convicted of violating the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act while that person was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. After the cancellation, the Secretary of State shall not issue a new license or permit for a period of one year after the date of cancellation or until the minor attains the age of 18 years, whichever is longer. However, upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety, or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle between the person's residence and person's place of employment or within the scope of the person's employment related duties, or to allow transportation for the person or a household member of the person's family for the receipt of necessary medical care or, if the professional evaluation indicates, provide transportation for the petitioner for alcohol remedial or rehabilitative activity, or for the person to attend classes, as a student, in an accredited educational institution; if the person is able to demonstrate that no alternative means of transportation is reasonably available; provided that the Secretary's discretion shall be limited to cases where undue hardship would result from a failure to issue such restricted driving permit. In each case the Secretary of State may issue a restricted driving permit for a period as he deems appropriate, except that the permit shall expire within one year from the date of issuance. A restricted driving permit issued hereunder shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued hereunder may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a driver remedial or rehabilitative program. Thereafter, upon reapplication for a license as provided in Section 6-106 of this Code or a permit as provided in Section 6-105 of this Code and upon payment of the appropriate application fee, the Secretary of State shall issue the applicant a license as provided in Section 6-106 of this Code or shall issue the applicant a permit as provided in Section 6-105.

(Source: P.A. 86-1450; 87-1114.)

(625 ILCS 5/6-201) (from Ch. 95 1/2, par. 6-201)

Sec. 6-201. Authority to cancel licenses and permits.

(a) The Secretary of State is authorized to cancel any license or permit upon determining that the holder thereof:

1. was not entitled to the issuance thereof hereunder; or
2. failed to give the required or correct information in his application; or
3. failed to pay any fees, civil penalties owed to the Illinois Commerce Commission, or taxes due under this Act and upon reasonable notice and demand; or
4. committed any fraud in the making of such application; or
5. is ineligible therefor under the provisions of Section 6-103 of this Act, as amended; or
6. has refused or neglected to submit an alcohol, drug, and intoxicating compound evaluation or to submit to examination or re-examination as required under this Act; or
7. has been convicted of violating the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Use of Intoxicating Compounds Act while that individual was in actual physical control of a motor vehicle. For purposes of this Section, any person placed on probation under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act shall not be considered convicted. Any person found guilty of this offense, while in actual physical control of a motor vehicle, shall have an entry made in the court record by the judge that this offense did occur while the person was in actual

physical control of a motor vehicle and order the clerk of the court to report the violation to the Secretary of State as such. After the cancellation, the Secretary of State shall not issue a new license or permit for a period of one year after the date of cancellation. However, upon application, the Secretary of State may, if satisfied that the person applying will not endanger the public safety, or welfare, issue a restricted driving permit granting the privilege of driving a motor vehicle between the person's residence and person's place of employment or within the scope of the person's employment related duties, or to allow transportation for the person or a household member of the person's family for the receipt of necessary medical care or, if the professional evaluation indicates, provide transportation for the petitioner for alcohol remedial or rehabilitative activity, or for the person to attend classes, as a student, in an accredited educational institution; if the person is able to demonstrate that no alternative means of transportation is reasonably available; provided that the Secretary's discretion shall be limited to cases where undue hardship would result from a failure to issue such restricted driving permit. In each case the Secretary of State may issue such restricted driving permit for such period as he deems appropriate, except that such permit shall expire within one year from the date of issuance. A restricted driving permit issued hereunder shall be subject to cancellation, revocation and suspension by the Secretary of State in like manner and for like cause as a driver's license issued hereunder may be cancelled, revoked or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a driver remedial or rehabilitative program; or

8. failed to submit a report as required by Section 6-116.5 of this Code.

(b) Upon such cancellation the licensee or permittee must surrender the license or permit so cancelled to the Secretary of State.

(c) Except as provided in Sections 6-206.1 and 7-702.1, the Secretary of State shall have exclusive authority to grant, issue, deny, cancel, suspend and revoke driving privileges, drivers' licenses and restricted driving permits.

(Source: P.A. 89-92, eff. 7-1-96; 89-584, eff. 7-31-96; 90-779, eff. 1-1-99.)

(625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

Sec. 6-206. Discretionary authority to suspend or revoke license or permit; Right to a hearing.

(a) The Secretary of State is authorized to suspend or revoke the driving privileges of any person without preliminary hearing upon a showing of the person's records or other sufficient evidence that the person:

1. Has committed an offense for which mandatory revocation of a driver's license or permit is required upon conviction;
2. Has been convicted of not less than 3 offenses against traffic regulations governing the movement of vehicles committed within any 12 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;
3. Has been repeatedly involved as a driver in motor vehicle collisions or has been repeatedly convicted of offenses against laws and ordinances regulating the movement of traffic, to a degree that indicates lack of ability to exercise ordinary and reasonable care in the safe operation of a motor vehicle or disrespect for the traffic laws and the safety of other persons upon the highway;
4. Has by the unlawful operation of a motor vehicle caused or contributed to an accident resulting in death or injury requiring immediate professional treatment in a medical facility or doctor's office to any person, except that any suspension or revocation imposed by the Secretary of State under the provisions of this subsection shall start no later than 6 months after being convicted of violating a law or ordinance regulating the movement of traffic, which violation is related to the accident, or shall start not more than one year after the date of the accident, whichever date occurs later;
5. Has permitted an unlawful or fraudulent use of a driver's license, identification card, or permit;
6. Has been lawfully convicted of an offense or offenses in another state, including the authorization contained in Section 6-203.1, which if committed within this State would be grounds for suspension or revocation;
7. Has refused or failed to submit to an examination provided for by Section 6-207 or has failed to pass the examination;
8. Is ineligible for a driver's license or permit under the provisions of Section 6-103;
9. Has made a false statement or knowingly concealed a material fact or has used false information or identification in any application for a license, identification card, or permit;

10. Has possessed, displayed, or attempted to fraudulently use any license, identification card, or permit not issued to the person;
11. Has operated a motor vehicle upon a highway of this State when the person's driving privilege or privilege to obtain a driver's license or permit was revoked or suspended unless the operation was authorized by a judicial driving permit, probationary license to drive, or a restricted driving permit issued under this Code;
12. Has submitted to any portion of the application process for another person or has obtained the services of another person to submit to any portion of the application process for the purpose of obtaining a license, identification card, or permit for some other person;
13. Has operated a motor vehicle upon a highway of this State when the person's driver's license or permit was invalid under the provisions of Sections 6-107.1 and 6-110;
14. Has committed a violation of Section 6-301, 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B of the Illinois Identification Card Act;
15. Has been convicted of violating Section 21-2 of the Criminal Code of 1961 relating to criminal trespass to vehicles in which case, the suspension shall be for one year;
16. Has been convicted of violating Section 11-204 of this Code relating to fleeing from a peace officer;
17. Has refused to submit to a test, or tests, as required under Section 11-501.1 of this Code and the person has not sought a hearing as provided for in Section 11-501.1;
18. Has, since issuance of a driver's license or permit, been adjudged to be afflicted with or suffering from any mental disability or disease;
19. Has committed a violation of paragraph (a) or (b) of Section 6-101 relating to driving without a driver's license;
20. Has been convicted of violating Section 6-104 relating to classification of driver's license;
21. Has been convicted of violating Section 11-402 of this Code relating to leaving the scene of an accident resulting in damage to a vehicle in excess of \$1,000, in which case the suspension shall be for one year;
22. Has used a motor vehicle in violating paragraph (3), (4), (7), or (9) of subsection (a) of Section 24-1 of the Criminal Code of 1961 relating to unlawful use of weapons, in which case the suspension shall be for one year;
23. Has, as a driver, been convicted of committing a violation of paragraph (a) of Section 11-502 of this Code for a second or subsequent time within one year of a similar violation;
24. Has been convicted by a court-martial or punished by non-judicial punishment by military authorities of the United States at a military installation in Illinois of or for a traffic related offense that is the same as or similar to an offense specified under Section 6-205 or 6-206 of this Code;
25. Has permitted any form of identification to be used by another in the application process in order to obtain or attempt to obtain a license, identification card, or permit;
26. Has altered or attempted to alter a license or has possessed an altered license, identification card, or permit;
27. Has violated Section 6-16 of the Liquor Control Act of 1934;
28. Has been convicted of the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under the Illinois Controlled Substances Act, ~~or any cannabis prohibited under the provisions of the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act~~, in which case the person's driving privileges shall be suspended for one year, and any driver who is convicted of a second or subsequent offense, within 5 years of a previous conviction, for the illegal possession, while operating or in actual physical control, as a driver, of a motor vehicle, of any controlled substance prohibited under ~~the provisions of the Illinois Controlled Substances Act, or any cannabis prohibited under the Cannabis Control Act, or any methamphetamine prohibited under the Methamphetamine Control and Community Protection Act~~ shall be suspended for 5 years. Any defendant found guilty of this offense while operating a motor vehicle, shall have an entry made in the court record by the presiding judge that this offense did occur while the defendant was operating a motor vehicle and order the clerk of the court to report the violation to the Secretary of State;
29. Has been convicted of the following offenses that were committed while the person was operating or in actual physical control, as a driver, of a motor vehicle: criminal sexual assault, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual abuse, aggravated criminal sexual abuse, juvenile pimping, soliciting for a juvenile prostitute and the

manufacture, sale or delivery of controlled substances or instruments used for illegal drug use or abuse in which case the driver's driving privileges shall be suspended for one year;

30. Has been convicted a second or subsequent time for any combination of the offenses named in paragraph 29 of this subsection, in which case the person's driving privileges shall be suspended for 5 years;

31. Has refused to submit to a test as required by Section 11-501.6 or has submitted to a test resulting in an alcohol concentration of 0.08 or more or any amount of a drug, substance, or compound resulting from the unlawful use or consumption of cannabis as listed in the Cannabis Control Act, a controlled substance as listed in the Illinois Controlled Substances Act, or an intoxicating compound as listed in the Use of Intoxicating Compounds Act, in which case the penalty shall be as prescribed in Section 6-208.1;

32. Has been convicted of Section 24-1.2 of the Criminal Code of 1961 relating to the aggravated discharge of a firearm if the offender was located in a motor vehicle at the time the firearm was discharged, in which case the suspension shall be for 3 years;

33. Has as a driver, who was less than 21 years of age on the date of the offense, been convicted a first time of a violation of paragraph (a) of Section 11-502 of this Code or a similar provision of a local ordinance;

34. Has committed a violation of Section 11-1301.5 of this Code;

35. Has committed a violation of Section 11-1301.6 of this Code;

36. Is under the age of 21 years at the time of arrest and has been convicted of not less than 2 offenses against traffic regulations governing the movement of vehicles committed within any 24 month period. No revocation or suspension shall be entered more than 6 months after the date of last conviction;

37. Has committed a violation of subsection (c) of Section 11-907 of this Code;

38. Has been convicted of a violation of Section 6-20 of the Liquor Control Act of 1934 or a similar provision of a local ordinance;

39. Has committed a second or subsequent violation of Section 11-1201 of this Code; ~~or~~

40. Has committed a violation of subsection (a-1) of Section 11-908 of this Code; ~~or -~~

~~41.~~ ~~40.~~ Has committed a second or subsequent violation of Section 11-605.1 of this Code within 2 years of the date of the previous violation, in which case the suspension shall be for 90 days.

For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26, and 27 of this subsection, license means any driver's license, any traffic ticket issued when the person's driver's license is deposited in lieu of bail, a suspension notice issued by the Secretary of State, a duplicate or corrected driver's license, a probationary driver's license or a temporary driver's license.

(b) If any conviction forming the basis of a suspension or revocation authorized under this Section is appealed, the Secretary of State may rescind or withhold the entry of the order of suspension or revocation, as the case may be, provided that a certified copy of a stay order of a court is filed with the Secretary of State. If the conviction is affirmed on appeal, the date of the conviction shall relate back to the time the original judgment of conviction was entered and the 6 month limitation prescribed shall not apply.

(c) 1. Upon suspending or revoking the driver's license or permit of any person as authorized in this Section, the Secretary of State shall immediately notify the person in writing of the revocation or suspension. The notice to be deposited in the United States mail, postage prepaid, to the last known address of the person.

2. If the Secretary of State suspends the driver's license of a person under subsection 2 of paragraph (a) of this Section, a person's privilege to operate a vehicle as an occupation shall not be suspended, provided an affidavit is properly completed, the appropriate fee received, and a permit issued prior to the effective date of the suspension, unless 5 offenses were committed, at least 2 of which occurred while operating a commercial vehicle in connection with the driver's regular occupation. All other driving privileges shall be suspended by the Secretary of State. Any driver prior to operating a vehicle for occupational purposes only must submit the affidavit on forms to be provided by the Secretary of State setting forth the facts of the person's occupation. The affidavit shall also state the number of offenses committed while operating a vehicle in connection with the driver's regular occupation. The affidavit shall be accompanied by the driver's license. Upon receipt of a properly completed affidavit, the Secretary of State shall issue the driver a permit to operate a vehicle in connection with the driver's regular occupation only. Unless the permit is issued by the Secretary of State prior to the date of suspension, the privilege to drive any motor vehicle shall be suspended as set forth in the notice that was mailed under this Section. If an affidavit is received subsequent to the effective date of this suspension, a permit may be issued for the remainder of the suspension period.

The provisions of this subparagraph shall not apply to any driver required to obtain a commercial driver's license under Section 6-507 during the period of a disqualification of commercial driving privileges under Section 6-514.

Any person who falsely states any fact in the affidavit required herein shall be guilty of perjury under Section 6-302 and upon conviction thereof shall have all driving privileges revoked without further rights.

3. At the conclusion of a hearing under Section 2-118 of this Code, the Secretary of State shall either rescind or continue an order of revocation or shall substitute an order of suspension; or, good cause appearing therefor, rescind, continue, change, or extend the order of suspension. If the Secretary of State does not rescind the order, the Secretary may upon application, to relieve undue hardship, issue a restricted driving permit granting the privilege of driving a motor vehicle between the petitioner's residence and petitioner's place of employment or within the scope of his employment related duties, or to allow transportation for the petitioner, or a household member of the petitioner's family, to receive necessary medical care and if the professional evaluation indicates, provide transportation for alcohol remedial or rehabilitative activity, or for the petitioner to attend classes, as a student, in an accredited educational institution; if the petitioner is able to demonstrate that no alternative means of transportation is reasonably available and the petitioner will not endanger the public safety or welfare.

If a person's license or permit has been revoked or suspended due to 2 or more convictions of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1.

If a person's license or permit has been revoked or suspended 2 or more times within a 10 year period due to a single conviction of violating Section 11-501 of this Code or a similar provision of a local ordinance or a similar out-of-state offense, and a statutory summary suspension under Section 11-501.1, or 2 or more statutory summary suspensions, or combination of 2 offenses, or of an offense and a statutory summary suspension, arising out of separate occurrences, that person, if issued a restricted driving permit, may not operate a vehicle unless it has been equipped with an ignition interlock device as defined in Section 1-129.1. The person must pay to the Secretary of State DUI Administration Fund an amount not to exceed \$20 per month. The Secretary shall establish by rule the amount and the procedures, terms, and conditions relating to these fees. If the restricted driving permit was issued for employment purposes, then this provision does not apply to the operation of an occupational vehicle owned or leased by that person's employer. In each case the Secretary may issue a restricted driving permit for a period deemed appropriate, except that all permits shall expire within one year from the date of issuance. The Secretary may not, however, issue a restricted driving permit to any person whose current revocation is the result of a second or subsequent conviction for a violation of Section 11-501 of this Code or a similar provision of a local ordinance relating to the offense of operating or being in physical control of a motor vehicle while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds, or any similar out-of-state offense, or any combination of those offenses, until the expiration of at least one year from the date of the revocation. A restricted driving permit issued under this Section shall be subject to cancellation, revocation, and suspension by the Secretary of State in like manner and for like cause as a driver's license issued under this Code may be cancelled, revoked, or suspended; except that a conviction upon one or more offenses against laws or ordinances regulating the movement of traffic shall be deemed sufficient cause for the revocation, suspension, or cancellation of a restricted driving permit. The Secretary of State may, as a condition to the issuance of a restricted driving permit, require the applicant to participate in a designated driver remedial or rehabilitative program. The Secretary of State is authorized to cancel a restricted driving permit if the permit holder does not successfully complete the program.

(c-5) The Secretary of State may, as a condition of the reissuance of a driver's license or permit to an applicant whose driver's license or permit has been suspended before he or she reached the age of 18 years pursuant to any of the provisions of this Section, require the applicant to participate in a driver remedial education course and be retested under Section 6-109 of this Code.

(d) This Section is subject to the provisions of the Drivers License Compact.

(e) The Secretary of State shall not issue a restricted driving permit to a person under the age of 16 years whose driving privileges have been suspended or revoked under any provisions of this Code.

(Source: P.A. 92-283, eff. 1-1-02; 92-418, eff. 8-17-01; 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 92-804, eff. 1-1-03; 92-814, eff. 1-1-03; 93-120, eff. 1-1-04; 93-667, eff. 3-19-04; 93-788, eff. 1-1-05;

93-955, eff. 8-19-04; revised 10-22-04.)

(625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

Sec. 6-508. Commercial Driver's License (CDL) - qualification standards.

(a) Testing.

(1) General. No person shall be issued an original or renewal CDL unless that person is domiciled in this State. The Secretary shall cause to be administered such tests as the Secretary deems necessary to meet the requirements of 49 C.F.R. Part 383, subparts G and H.

(2) Third party testing. The Secretary of state may authorize a "third party tester", pursuant to 49 C.F.R. Part 383.75, to administer the skills test or tests specified by Federal Highway Administration pursuant to the Commercial Motor Vehicle Safety Act of 1986 and any appropriate federal rule.

(b) Waiver of Skills Test. The Secretary of State may waive the skills test specified in this Section for a commercial driver license applicant who meets the requirements of 49 C.F.R. Part 383.77.

(c) Limitations on issuance of a CDL. A CDL, or a commercial driver instruction permit, shall not be issued to a person while the person is subject to a disqualification from driving a commercial motor vehicle, or unless otherwise permitted by this Code, while the person's driver's license is suspended, revoked or cancelled in any state, or any territory or province of Canada; nor may a CDL be issued to a person who has a CDL issued by any other state, or foreign jurisdiction, unless the person first surrenders all such licenses. No CDL shall be issued to or renewed for a person who does not meet the requirement of 49 CFR 391.41(b)(11). The requirement may be met with the aid of a hearing aid.

(c-1) The Secretary may issue a CDL with a school bus driver endorsement to allow a person to drive the type of bus described in subsection (d-5) of Section 6-104 of this Code. The CDL with a school bus driver endorsement may be issued only to a person meeting the following requirements:

(1) the person has submitted his or her fingerprints to the Department of State Police in the form and manner prescribed by the Department of State Police. These fingerprints shall be checked against the fingerprint records now and hereafter filed in the Department of State Police and Federal Bureau of Investigation criminal history records databases ~~for fingerprint based criminal background checks on current and future information available in the state system and current information available through the Federal Bureau of Investigation's system;~~

(2) the person has passed a written test, administered by the Secretary of State, on charter bus operation, charter bus safety, and certain special traffic laws relating to school buses determined by the Secretary of State to be relevant to charter buses, and submitted to a review of the applicant's driving habits by the Secretary of State at the time the written test is given;

(3) the person has demonstrated physical fitness to operate school buses by submitting the results of a medical examination, including tests for drug use; and

(4) the person has not been convicted of committing or attempting to commit any one or more of the following offenses: (i) those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and subsection (b), clause (1), of Section 12-4 of the Criminal Code of 1961; (ii) those offenses defined in the Cannabis Control Act except those offenses defined in subsections (a) and (b) of Section 4, and subsection (a) of Section 5 of the Cannabis Control Act; (iii) those offenses defined in the Illinois Controlled Substances Act; (iv) those offenses defined in the Methamphetamine Control and Community Protection Act; (v) ~~(iv)~~ any offense committed or attempted in any other state or against the laws of the United States, which if committed or attempted in this State would be punishable as one or more of the foregoing offenses; (vi) ~~(v)~~ the offenses defined in Sections 4.1 and 5.1 of the Wrongs to Children Act; and (vii) ~~(vi)~~ those offenses defined in Section 6-16 of the Liquor Control Act of 1934.

The Department of State Police shall charge a fee for conducting the criminal history records check, which shall be deposited into the State Police Services Fund and may not exceed the actual cost of the records check.

(d) Commercial driver instruction permit. A commercial driver instruction permit may be issued to any person holding a valid Illinois driver's license if such person successfully passes such tests as the Secretary determines to be necessary. A commercial driver instruction permit shall not be issued to a person who does not meet the requirements of 49 CFR 391.41 (b)(11), except for the renewal of a commercial driver instruction permit for a person who possesses a commercial instruction permit prior to the effective date of this amendatory Act of 1999.

[May 30, 2005]

(Source: P.A. 93-476, eff. 1-1-04; 93-644, eff. 6-1-04; revised 11-29-04.)

Section 1045. The Clerks of Courts Act is amended by changing Section 27.6 as follows:
(705 ILCS 105/27.6)

Sec. 27.6. (a) All fees, fines, costs, additional penalties, bail balances assessed or forfeited, and any other amount paid by a person to the circuit clerk equalling an amount of \$55 or more, except the additional fee required by subsections (b) and (c), restitution under Section 5-5-6 of the Unified Code of Corrections, reimbursement for the costs of an emergency response as provided under Section 11-501 of the Illinois Vehicle Code, any fees collected for attending a traffic safety program under paragraph (c) of Supreme Court Rule 529, any fee collected on behalf of a State's Attorney under Section 4-2002 of the Counties Code or a sheriff under Section 4-5001 of the Counties Code, or any cost imposed under Section 124A-5 of the Code of Criminal Procedure of 1963, for convictions, orders of supervision, or any other disposition for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, and except as provided in subsection (d) shall be disbursed within 60 days after receipt by the circuit clerk as follows: 44.5% shall be disbursed to the entity authorized by law to receive the fine imposed in the case; 16.825% shall be disbursed to the State Treasurer; and 38.675% shall be disbursed to the county's general corporate fund. Of the 16.825% disbursed to the State Treasurer, 2/17 shall be deposited by the State Treasurer into the Violent Crime Victims Assistance Fund, 5.052/17 shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, 3/17 shall be deposited into the Drivers Education Fund, and 6.948/17 shall be deposited into the Trauma Center Fund. Of the 6.948/17 deposited into the Trauma Center Fund from the 16.825% disbursed to the State Treasurer, 50% shall be disbursed to the Department of Public Health and 50% shall be disbursed to the Department of Public Aid. For fiscal year 1993, amounts deposited into the Violent Crime Victims Assistance Fund, the Traffic and Criminal Conviction Surcharge Fund, or the Drivers Education Fund shall not exceed 110% of the amounts deposited into those funds in fiscal year 1991. Any amount that exceeds the 110% limit shall be distributed as follows: 50% shall be disbursed to the county's general corporate fund and 50% shall be disbursed to the entity authorized by law to receive the fine imposed in the case. Not later than March 1 of each year the circuit clerk shall submit a report of the amount of funds remitted to the State Treasurer under this Section during the preceding year based upon independent verification of fines and fees. All counties shall be subject to this Section, except that counties with a population under 2,000,000 may, by ordinance, elect not to be subject to this Section. For offenses subject to this Section, judges shall impose one total sum of money payable for violations. The circuit clerk may add on no additional amounts except for amounts that are required by Sections 27.3a and 27.3c of this Act, unless those amounts are specifically waived by the judge. With respect to money collected by the circuit clerk as a result of forfeiture of bail, ex parte judgment or guilty plea pursuant to Supreme Court Rule 529, the circuit clerk shall first deduct and pay amounts required by Sections 27.3a and 27.3c of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

(b) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(b-1) In addition to any other fines and court costs assessed by the courts, any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c) In addition to any other fines and court costs assessed by the courts, any person convicted for a violation of Sections 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a person sentenced for a violation of the Cannabis Control Act, or the Illinois Controlled Substances ~~Substance Act~~, or the

Methamphetamine Control and Community Protection Act shall pay an additional fee of \$100 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(c-1) In addition to any other fines and court costs assessed by the courts, any person sentenced for a violation of the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act shall pay an additional fee of \$5 to the clerk of the circuit court. This amount, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection during the preceding calendar year.

(d) The following amounts must be remitted to the State Treasurer for deposit into the Illinois Animal Abuse Fund:

- (1) 50% of the amounts collected for felony offenses under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961;
 - (2) 20% of the amounts collected for Class A and Class B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04, 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961; and
 - (3) 50% of the amounts collected for Class C misdemeanors under Sections 4.01 and 7.1 of the Humane Care for Animals Act and Section 26-5 of the Criminal Code of 1961.
- (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02; 92-650, eff. 7-11-02; 92-651, eff. 7-11-02; 93-800, eff. 1-1-05.)

Section 1050. The Juvenile Court Act of 1987 is amended by changing Sections 1-7, 1-8, 5-130, 5-601, 5-615, 5-710, 5-715, 5-805, and 5-901 as follows:

(705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

Sec. 1-7. Confidentiality of law enforcement records.

(A) Inspection and copying of law enforcement records maintained by law enforcement agencies that relate to a minor who has been arrested or taken into custody before his or her 17th birthday shall be restricted to the following:

- (1) Any local, State or federal law enforcement officers of any jurisdiction or agency when necessary for the discharge of their official duties during the investigation or prosecution of a crime or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang. For purposes of this Section, "criminal street gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.
- (2) Prosecutors, probation officers, social workers, or other individuals assigned by the court to conduct a pre-adjudication or pre-disposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court, when essential to performing their responsibilities.
- (3) Prosecutors and probation officers:
 - (a) in the course of a trial when institution of criminal proceedings has been permitted or required under Section 5-805; or
 - (b) when institution of criminal proceedings has been permitted or required under Section 5-805 and such minor is the subject of a proceeding to determine the amount of bail; or
 - (c) when criminal proceedings have been permitted or required under Section 5-805 and such minor is the subject of a pre-trial investigation, pre-sentence investigation, fitness hearing, or proceedings on an application for probation.
- (4) Adult and Juvenile Prisoner Review Board.
- (5) Authorized military personnel.
- (6) Persons engaged in bona fide research, with the permission of the Presiding Judge

of the Juvenile Court and the chief executive of the respective law enforcement agency; provided that publication of such research results in no disclosure of a minor's identity and protects the

confidentiality of the minor's record.

(7) Department of Children and Family Services child protection investigators acting in their official capacity.

(8) The appropriate school official. Inspection and copying shall be limited to law enforcement records transmitted to the appropriate school official by a local law enforcement agency under a reciprocal reporting system established and maintained between the school district and the local law enforcement agency under Section 10-20.14 of the School Code concerning a minor enrolled in a school within the school district who has been arrested or taken into custody for any of the following offenses:

- (i) unlawful use of weapons under Section 24-1 of the Criminal Code of 1961;
- (ii) a violation of the Illinois Controlled Substances Act;
- (iii) a violation of the Cannabis Control Act; ~~or~~
- (iv) a forcible felony as defined in Section 2-8 of the Criminal Code of 1961; ~~or~~
- (v) a violation of the Methamphetamine Control and Community Protection Act.

(9) Mental health professionals on behalf of the Illinois Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting, or investigating a potential or actual petition brought under the Sexually Violent Persons Commitment Act relating to a person who is the subject of juvenile law enforcement records or the respondent to a petition brought under the Sexually Violent Persons Commitment Act who is the subject of the juvenile law enforcement records sought. Any records and any information obtained from those records under this paragraph (9) may be used only in sexually violent persons commitment proceedings.

(B) (1) Except as provided in paragraph (2), no law enforcement officer or other person or agency may knowingly transmit to the Department of Corrections, Adult Division or the Department of State Police or to the Federal Bureau of Investigation any fingerprint or photograph relating to a minor who has been arrested or taken into custody before his or her 17th birthday, unless the court in proceedings under this Act authorizes the transmission or enters an order under Section 5-805 permitting or requiring the institution of criminal proceedings.

(2) Law enforcement officers or other persons or agencies shall transmit to the Department of State Police copies of fingerprints and descriptions of all minors who have been arrested or taken into custody before their 17th birthday for the offense of unlawful use of weapons under Article 24 of the Criminal Code of 1961, a Class X or Class 1 felony, a forcible felony as defined in Section 2-8 of the Criminal Code of 1961, or a Class 2 or greater felony under the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or Chapter 4 of the Illinois Vehicle Code, pursuant to Section 5 of the Criminal Identification Act. Information reported to the Department pursuant to this Section may be maintained with records that the Department files pursuant to Section 2.1 of the Criminal Identification Act. Nothing in this Act prohibits a law enforcement agency from fingerprinting a minor taken into custody or arrested before his or her 17th birthday for an offense other than those listed in this paragraph (2).

(C) The records of law enforcement officers concerning all minors under 17 years of age must be maintained separate from the records of arrests and may not be open to public inspection or their contents disclosed to the public except by order of the court or when the institution of criminal proceedings has been permitted or required under Section 5-805 or such a person has been convicted of a crime and is the subject of pre-sentence investigation or proceedings on an application for probation or when provided by law.

(D) Nothing contained in subsection (C) of this Section shall prohibit the inspection or disclosure to victims and witnesses of photographs contained in the records of law enforcement agencies when the inspection and disclosure is conducted in the presence of a law enforcement officer for the purpose of the identification or apprehension of any person subject to the provisions of this Act or for the investigation or prosecution of any crime.

(E) Law enforcement officers may not disclose the identity of any minor in releasing information to the general public as to the arrest, investigation or disposition of any case involving a minor.

(F) Nothing contained in this Section shall prohibit law enforcement agencies from communicating with each other by letter, memorandum, teletype or intelligence alert bulletin or other means the identity or other relevant information pertaining to a person under 17 years of age if there are reasonable grounds to believe that the person poses a real and present danger to the safety of the public or law enforcement officers. The information provided under this subsection (F) shall remain confidential and shall not be publicly disclosed, except as otherwise allowed by law.

(G) Nothing in this Section shall prohibit the right of a Civil Service Commission or appointing

authority of any state, county or municipality examining the character and fitness of an applicant for employment with a law enforcement agency, correctional institution, or fire department from obtaining and examining the records of any law enforcement agency relating to any record of the applicant having been arrested or taken into custody before the applicant's 17th birthday.

(Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00; 92-415, eff. 8-17-01.)

(705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

Sec. 1-8. Confidentiality and accessibility of juvenile court records.

(A) Inspection and copying of juvenile court records relating to a minor who is the subject of a proceeding under this Act shall be restricted to the following:

(1) The minor who is the subject of record, his parents, guardian and counsel.

(2) Law enforcement officers and law enforcement agencies when such information is essential to executing an arrest or search warrant or other compulsory process, or to conducting an ongoing investigation or relating to a minor who has been adjudicated delinquent and there has been a previous finding that the act which constitutes the previous offense was committed in furtherance of criminal activities by a criminal street gang.

Before July 1, 1994, for the purposes of this Section, "criminal street gang" means any ongoing organization, association, or group of 3 or more persons, whether formal or informal, having as one of its primary activities the commission of one or more criminal acts and that has a common name or common identifying sign, symbol or specific color apparel displayed, and whose members individually or collectively engage in or have engaged in a pattern of criminal activity.

Beginning July 1, 1994, for purposes of this Section, "criminal street gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(3) Judges, hearing officers, prosecutors, probation officers, social workers or other individuals assigned by the court to conduct a pre-adjudication or predisposition investigation, and individuals responsible for supervising or providing temporary or permanent care and custody for minors pursuant to the order of the juvenile court when essential to performing their responsibilities.

(4) Judges, prosecutors and probation officers:

(a) in the course of a trial when institution of criminal proceedings has been permitted or required under Section 5-805; or

(b) when criminal proceedings have been permitted or required under Section 5-805 and a minor is the subject of a proceeding to determine the amount of bail; or

(c) when criminal proceedings have been permitted or required under Section 5-805 and a minor is the subject of a pre-trial investigation, pre-sentence investigation or fitness hearing, or proceedings on an application for probation; or

(d) when a minor becomes 17 years of age or older, and is the subject of criminal proceedings, including a hearing to determine the amount of bail, a pre-trial investigation, a pre-sentence investigation, a fitness hearing, or proceedings on an application for probation.

(5) Adult and Juvenile Prisoner Review Boards.

(6) Authorized military personnel.

(7) Victims, their subrogees and legal representatives; however, such persons shall have access only to the name and address of the minor and information pertaining to the disposition or alternative adjustment plan of the juvenile court.

(8) Persons engaged in bona fide research, with the permission of the presiding judge of the juvenile court and the chief executive of the agency that prepared the particular records; provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record.

(9) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 of the Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers.

(10) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court.

(11) Mental health professionals on behalf of the Illinois Department of Corrections or the Department of Human Services or prosecutors who are evaluating, prosecuting, or investigating a potential or actual petition brought under the Sexually Persons Commitment Act relating to a person who is the subject of juvenile court records or the respondent to a petition brought under the Sexually Violent Persons Commitment Act, who is the subject of juvenile court records sought. Any records and any information obtained from those records under this paragraph (11) may be used only in sexually violent persons commitment proceedings.

(B) A minor who is the victim in a juvenile proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record.

(C) Except as otherwise provided in this subsection (C), juvenile court records shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court. The State's Attorney, the minor, his parents, guardian and counsel shall at all times have the right to examine court files and records.

(1) The court shall allow the general public to have access to the name, address, and offense of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(A) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

(B) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (i) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an act involving the use of a firearm in the commission of a felony, (iii) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (iv) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, ~~or~~ (v) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult, (vi) an act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act, or (vii) an act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act.

(2) The court shall allow the general public to have access to the name, address, and offense of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-4, under either of the following circumstances:

(A) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(B) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (i) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (ii) an offense involving the use of a firearm in the commission of a felony, (iii) a Class X felony offense under or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (iv) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, ~~or~~ (v) an offense under Section 401 of the Illinois Controlled Substances Act, (vi) an act that would be a second or subsequent offense under Section 60 of the Methamphetamine Control and Community Protection Act, or (vii) an act that would be an offense under another Section of the Methamphetamine Control and Community Protection Act.

(D) Pending or following any adjudication of delinquency for any offense defined in Sections 12-13 through 12-16 of the Criminal Code of 1961, the victim of any such offense shall receive the rights set out in Sections 4 and 6 of the Bill of Rights for Victims and Witnesses of Violent Crime Act; and the juvenile who is the subject of the adjudication, notwithstanding any other provision of this Act, shall be treated as an adult for the purpose of affording such rights to the victim.

(E) Nothing in this Section shall affect the right of a Civil Service Commission or appointing authority of any state, county or municipality examining the character and fitness of an applicant for employment with a law enforcement agency, correctional institution, or fire department to ascertain whether that applicant was ever adjudicated to be a delinquent minor and, if so, to examine the records of disposition or evidence which were made in proceedings under this Act.

(F) Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, shall provide a copy of the dispositional order to the principal or chief administrative officer of the school. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him.

(G) Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive

Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

(H) When a Court hearing a proceeding under Article II of this Act becomes aware that an earlier proceeding under Article II had been heard in a different county, that Court shall request, and the Court in which the earlier proceedings were initiated shall transmit, an authenticated copy of the Court record, including all documents, petitions, and orders filed therein and the minute orders, transcript of proceedings, and docket entries of the Court.

(I) The Clerk of the Circuit Court shall report to the Department of State Police, in the form and manner required by the Department of State Police, the final disposition of each minor who has been arrested or taken into custody before his or her 17th birthday for those offenses required to be reported under Section 5 of the Criminal Identification Act. Information reported to the Department under this Section may be maintained with records that the Department files under Section 2.1 of the Criminal Identification Act.

(Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00, 92-415, eff. 8-17-01.)

(705 ILCS 405/5-130)

Sec. 5-130. Excluded jurisdiction.

(1) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 15 years of age and who is charged with first degree murder, aggravated criminal sexual assault, aggravated battery with a firearm committed in a school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on, boarding, or departing from any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity regardless of the time of day or time of year that the offense was committed, armed robbery when the armed robbery was committed with a firearm, or aggravated vehicular hijacking when the hijacking was committed with a firearm.

These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

For purposes of this paragraph (a) of subsection (1):

"School" means a public or private elementary or secondary school, community college, college, or university.

"School related activity" means any sporting, social, academic or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (1) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the Criminal Code of 1961 on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (1) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the Criminal Code of 1961.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (1), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (1), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Corrections, Juvenile Division, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter

V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(2) (a) The definition of a delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with an offense under Section 401 of the Illinois Controlled Substances Act or an offense under the Methamphetamine Control and Community Protection Act, while in a school, regardless of the time of day or the time of year, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, on the real property comprising any school, regardless of the time of day or the time of year, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or on a public way within 1,000 feet of the real property comprising any school, regardless of the time of day or the time of year, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development. School is defined, for the purposes of this Section, as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (2) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (2) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (2), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (2), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Corrections, Juvenile Division, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(3) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of the offense was at least 15 years of age and who is charged with a violation of the provisions of paragraph (1), (3), (4), or (10) of subsection (a) of Section 24-1 of the Criminal Code of 1961 while in school, regardless of the time of day or the time of year, or on the real property comprising any school, regardless of the time of day or the time of year. School is defined, for purposes of this Section as any public or private elementary or secondary school, community college, college, or university. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense

specified in paragraph (a) of this subsection (3) the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (3) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (3), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (3), that finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Corrections, Juvenile Division, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(4) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who at the time of an offense was at least 13 years of age and who is charged with first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping. However, this subsection (4) does not include a minor charged with first degree murder based exclusively upon the accountability provisions of the Criminal Code of 1961.

(b) (i) If before trial or plea an information or indictment is filed that does not charge first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, and additional charges that are not specified in paragraph (a) of this subsection, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of first degree murder committed during the course of aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If the minor was not yet 15 years of age at the time of the offense, and if after trial or plea the court finds that the minor committed an offense other than first degree murder committed during the course of either aggravated criminal sexual assault, criminal sexual assault, or aggravated kidnaping, the finding shall not invalidate the verdict or the prosecution of the minor under the criminal laws of the State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making

its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Corrections, Juvenile Division, for the treatment and rehabilitation of the minor; (e) whether the best interest of the minor and the security of the public require sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(5) (a) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who is charged with a violation of subsection (a) of Section 31-6 or Section 32-10 of the Criminal Code of 1961 when the minor is subject to prosecution under the criminal laws of this State as a result of the application of the provisions of Section 5-125, or subsection (1) or (2) of this Section. These charges and all other charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(b) (i) If before trial or plea an information or indictment is filed that does not charge an offense specified in paragraph (a) of this subsection (5), the State's Attorney may proceed on any lesser charge or charges, but only in Juvenile Court under the provisions of this Article. The State's Attorney may proceed under the criminal laws of this State on a lesser charge if before trial the minor defendant knowingly and with advice of counsel waives, in writing, his or her right to have the matter proceed in Juvenile Court.

(ii) If before trial or plea an information or indictment is filed that includes one or more charges specified in paragraph (a) of this subsection (5) and additional charges that are not specified in that paragraph, all of the charges arising out of the same incident shall be prosecuted under the criminal laws of this State.

(c) (i) If after trial or plea the minor is convicted of any offense covered by paragraph (a) of this subsection (5), then, in sentencing the minor, the court shall have available any or all dispositions prescribed for that offense under Chapter V of the Unified Code of Corrections.

(ii) If after trial or plea the court finds that the minor committed an offense not covered by paragraph (a) of this subsection (5), the conviction shall not invalidate the verdict or the prosecution of the minor under the criminal laws of this State; however, unless the State requests a hearing for the purpose of sentencing the minor under Chapter V of the Unified Code of Corrections, the Court must proceed under Sections 5-705 and 5-710 of this Article. To request a hearing, the State must file a written motion within 10 days following the entry of a finding or the return of a verdict. Reasonable notice of the motion shall be given to the minor or his or her counsel. If the motion is made by the State, the court shall conduct a hearing to determine if whether the minor should be sentenced under Chapter V of the Unified Code of Corrections. In making its determination, the court shall consider among other matters: (a) whether there is evidence that the offense was committed in an aggressive and premeditated manner; (b) the age of the minor; (c) the previous delinquent history of the minor; (d) whether there are facilities particularly available to the Juvenile Court or the Department of Corrections, Juvenile Division, for the treatment and rehabilitation of the minor; (e) whether the security of the public requires sentencing under Chapter V of the Unified Code of Corrections; and (f) whether the minor possessed a deadly weapon when committing the offense. The rules of evidence shall be the same as if at trial. If after the hearing the court finds that the minor should be sentenced under Chapter V of the Unified Code of Corrections, then the court shall sentence the minor accordingly having available to it any or all dispositions so prescribed.

(6) The definition of delinquent minor under Section 5-120 of this Article shall not apply to any minor who, pursuant to subsection (1), (2), or (3) or Section 5-805, or 5-810, has previously been placed under the jurisdiction of the criminal court and has been convicted of a crime under an adult criminal or penal statute. Such a minor shall be subject to prosecution under the criminal laws of this State.

(7) The procedures set out in this Article for the investigation, arrest and prosecution of juvenile offenders shall not apply to minors who are excluded from jurisdiction of the Juvenile Court, except that minors under 17 years of age shall be kept separate from confined adults.

(8) Nothing in this Act prohibits or limits the prosecution of any minor for an offense committed on or after his or her 17th birthday even though he or she is at the time of the offense a ward of the court.

(9) If an original petition for adjudication of wardship alleges the commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State, the minor, with the consent of his or her counsel, may, at any time before commencement of the adjudicatory hearing, file with the

court a motion that criminal prosecution be ordered and that the petition be dismissed insofar as the act or acts involved in the criminal proceedings are concerned. If such a motion is filed as herein provided, the court shall enter its order accordingly.

(10) If a minor is subject to the provisions of subsection (2) of this Section, other than a minor charged with a Class X felony violation of the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act, any party including the minor or the court sua sponte may, before trial, move for a hearing for the purpose of trying and sentencing the minor as a delinquent minor. To request a hearing, the party must file a motion prior to trial. Reasonable notice of the motion shall be given to all parties. On its own motion or upon the filing of a motion by one of the parties including the minor, the court shall conduct a hearing to determine whether the minor should be tried and sentenced as a delinquent minor under this Article. In making its determination, the court shall consider among other matters:

- (a) The age of the minor;
- (b) Any previous delinquent or criminal history of the minor;
- (c) Any previous abuse or neglect history of the minor;
- (d) Any mental health or educational history of the minor, or both; and
- (e) Whether there is probable cause to support the charge, whether the minor is charged through accountability, and whether there is evidence the minor possessed a deadly weapon or caused serious bodily harm during the offense.

Any material that is relevant and reliable shall be admissible at the hearing. In all cases, the judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on a preponderance of the evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the factors listed in this subsection (10).

(Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99; 92-16, eff. 6-28-01; 92-665, eff. 1-1-03.)

(705 ILCS 405/5-601)

Sec. 5-601. Trial.

(1) When a petition has been filed alleging that the minor is a delinquent, a trial must be held within 120 days of a written demand for such hearing made by any party, except that when the State, without success, has exercised due diligence to obtain evidence material to the case and there are reasonable grounds to believe that the evidence may be obtained at a later date, the court may, upon motion by the State, continue the trial for not more than 30 additional days.

(2) If a minor respondent has multiple delinquency petitions pending against him or her in the same county and simultaneously demands a trial upon more than one delinquency petition pending against him or her in the same county, he or she shall receive a trial or have a finding, after waiver of trial, upon at least one such petition before expiration relative to any of the pending petitions of the period described by this Section. All remaining petitions thus pending against the minor respondent shall be adjudicated within 160 days from the date on which a finding relative to the first petition prosecuted is rendered under Section 5-620 of this Article, or, if the trial upon the first petition is terminated without a finding and there is no subsequent trial, or adjudication after waiver of trial, on the first petition within a reasonable time, the minor shall receive a trial upon all of the remaining petitions within 160 days from the date on which the trial, or finding after waiver of trial, on the first petition is concluded. If either such period of 160 days expires without the commencement of trial, or adjudication after waiver of trial, of any of the remaining pending petitions, the petition or petitions shall be dismissed and barred for want of prosecution unless the delay is occasioned by any of the reasons described in this Section.

(3) When no such trial is held within the time required by subsections (1) and (2) of this Section, the court shall, upon motion by any party, dismiss the petition with prejudice.

(4) Without affecting the applicability of the tolling and multiple prosecution provisions of subsections (8) and (2) of this Section when a petition has been filed alleging that the minor is a delinquent and the minor is in detention or shelter care, the trial shall be held within 30 calendar days after the date of the order directing detention or shelter care, or the earliest possible date in compliance with the provisions of Section 5-525 as to the custodial parent, guardian or legal custodian, but no later than 45 calendar days from the date of the order of the court directing detention or shelter care. When the petition alleges the minor has committed an offense involving a controlled substance as defined in the Illinois Controlled Substances Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State, continue the trial for receipt of a confirmatory laboratory report for up to 45 days after the date of the order directing detention or shelter care. When the petition alleges the minor committed an offense that involves the death of, great bodily harm to or sexual assault or aggravated criminal sexual abuse on a victim, the court may, upon motion of

the State, continue the trial for not more than 70 calendar days after the date of the order directing detention or shelter care.

Any failure to comply with the time limits of this Section shall require the immediate release of the minor from detention, and the time limits set forth in subsections (1) and (2) shall apply.

(5) If the court determines that the State, without success, has exercised due diligence to obtain the results of DNA testing that is material to the case, and that there are reasonable grounds to believe that the results may be obtained at a later date, the court may continue the cause on application of the State for not more than 120 additional days. The court may also extend the period of detention of the minor for not more than 120 additional days.

(6) If the State's Attorney makes a written request that a proceeding be designated an extended juvenile jurisdiction prosecution, and the minor is in detention, the period the minor can be held in detention pursuant to subsection (4), shall be extended an additional 30 days after the court determines whether the proceeding will be designated an extended juvenile jurisdiction prosecution or the State's Attorney withdraws the request for extended juvenile jurisdiction prosecution.

(7) When the State's Attorney files a motion for waiver of jurisdiction pursuant to Section 5-805, and the minor is in detention, the period the minor can be held in detention pursuant to subsection (4), shall be extended an additional 30 days if the court denies motion for waiver of jurisdiction or the State's Attorney withdraws the motion for waiver of jurisdiction.

(8) The period in which a trial shall be held as prescribed by subsections (1), (2), (3), (4), (5), (6), or (7) of this Section is tolled by: (i) delay occasioned by the minor; (ii) a continuance allowed pursuant to Section 114-4 of the Code of Criminal Procedure of 1963 after the court's determination of the minor's incapacity for trial; (iii) an interlocutory appeal; (iv) an examination of fitness ordered pursuant to Section 104-13 of the Code of Criminal Procedure of 1963; (v) a fitness hearing; or (vi) an adjudication of unfitness for trial. Any such delay shall temporarily suspend, for the time of the delay, the period within which a trial must be held as prescribed by subsections (1), (2), (4), (5), and (6) of this Section. On the day of expiration of the delays the period shall continue at the point at which the time was suspended.

(9) Nothing in this Section prevents the minor or the minor's parents, guardian or legal custodian from exercising their respective rights to waive the time limits set forth in this Section.

(Source: P.A. 90-590, eff. 1-1-99.)

(705 ILCS 405/5-615)

Sec. 5-615. Continuance under supervision.

(1) The court may enter an order of continuance under supervision for an offense other than first degree murder, a Class X felony or a forcible felony (a) upon an admission or stipulation by the appropriate respondent or minor respondent of the facts supporting the petition and before proceeding to adjudication, or after hearing the evidence at the trial, and (b) in the absence of objection made in open court by the minor, his or her parent, guardian, or legal custodian, the minor's attorney or the State's Attorney.

(2) If the minor, his or her parent, guardian, or legal custodian, the minor's attorney or State's Attorney objects in open court to any continuance and insists upon proceeding to findings and adjudication, the court shall so proceed.

(3) Nothing in this Section limits the power of the court to order a continuance of the hearing for the production of additional evidence or for any other proper reason.

(4) When a hearing where a minor is alleged to be delinquent is continued pursuant to this Section, the period of continuance under supervision may not exceed 24 months. The court may terminate a continuance under supervision at any time if warranted by the conduct of the minor and the ends of justice.

(5) When a hearing where a minor is alleged to be delinquent is continued pursuant to this Section, the court may, as conditions of the continuance under supervision, require the minor to do any of the following:

(a) not violate any criminal statute of any jurisdiction;

(b) make a report to and appear in person before any person or agency as directed by the court;

(c) work or pursue a course of study or vocational training;

(d) undergo medical or psychotherapeutic treatment rendered by a therapist licensed under the provisions of the Medical Practice Act of 1987, the Clinical Psychologist Licensing Act, or the Clinical Social Work and Social Work Practice Act, or an entity licensed by the Department of Human Services as a successor to the Department of Alcoholism and Substance Abuse, for the provision of drug addiction and alcoholism treatment;

(e) attend or reside in a facility established for the instruction or residence of persons on probation;

(f) support his or her dependents, if any;

(g) pay costs;

(h) refrain from possessing a firearm or other dangerous weapon, or an automobile;

(i) permit the probation officer to visit him or her at his or her home or elsewhere;

(j) reside with his or her parents or in a foster home;

(k) attend school;

(k-5) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she committed a crime of violence as defined in Section 2 of the Crime Victims Compensation Act in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(l) attend a non-residential program for youth;

(m) contribute to his or her own support at home or in a foster home;

(n) perform some reasonable public or community service;

(o) make restitution to the victim, in the same manner and under the same conditions as provided in subsection (4) of Section 5-710, except that the "sentencing hearing" referred to in that Section shall be the adjudicatory hearing for purposes of this Section;

(p) comply with curfew requirements as designated by the court;

(q) refrain from entering into a designated geographic area except upon terms as the court finds appropriate. The terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the minor, and advance approval by a probation officer;

(r) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(r-5) undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body;

(s) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; or

(t) comply with any other conditions as may be ordered by the court.

(6) A minor whose case is continued under supervision under subsection (5) shall be given a certificate setting forth the conditions imposed by the court. Those conditions may be reduced, enlarged, or modified by the court on motion of the probation officer or on its own motion, or that of the State's Attorney, or, at the request of the minor after notice and hearing.

(7) If a petition is filed charging a violation of a condition of the continuance under supervision, the court shall conduct a hearing. If the court finds that a condition of supervision has not been fulfilled, the court may proceed to findings and adjudication and disposition. The filing of a petition for violation of a condition of the continuance under supervision shall toll the period of continuance under supervision until the final determination of the charge, and the term of the continuance under supervision shall not run until the hearing and disposition of the petition for violation; provided where the petition alleges conduct that does not constitute a criminal offense, the hearing must be held within 30 days of the filing of the petition unless a delay shall continue the tolling of the period of continuance under supervision for the period of the delay.

(8) When a hearing in which a minor is alleged to be a delinquent for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 is continued under this Section, the court shall, as a condition of the continuance under supervision, require the minor to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the alleged violation or similar damage to property located in the municipality or county in which the alleged violation occurred. The condition may be in addition to any other condition.

(8.5) When a hearing in which a minor is alleged to be a delinquent for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 is continued under this Section, the court shall, as a condition of the continuance under supervision, require the minor to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The condition may be in addition to any other condition.

(9) When a hearing in which a minor is alleged to be a delinquent is continued under this Section, the

court, before continuing the case, shall make a finding whether the offense alleged to have been committed either: (i) was related to or in furtherance of the activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (ii) is a violation of paragraph (13) of subsection (a) of Section 12-2 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the unlawful use of a firearm. If the court determines the question in the affirmative the court shall, as a condition of the continuance under supervision and as part of or in addition to any other condition of the supervision, require the minor to perform community service for not less than 30 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by an alleged violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the alleged violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(10) The court shall impose upon a minor placed on supervision, as a condition of the supervision, a fee of \$25 for each month of supervision ordered by the court, unless after determining the inability of the minor placed on supervision to pay the fee, the court assesses a lesser amount. The court may not impose the fee on a minor who is made a ward of the State under this Act while the minor is in placement. The fee shall be imposed only upon a minor who is actively supervised by the probation and court services department. A court may order the parent, guardian, or legal custodian of the minor to pay some or all of the fee on the minor's behalf.

(Source: P.A. 91-98; eff. 1-1-00; 91-332, eff. 7-29-99; 92-16, eff. 6-28-01; 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651, eff. 7-11-02.)

(705 ILCS 405/5-710)

Sec. 5-710. Kinds of sentencing orders.

(1) The following kinds of sentencing orders may be made in respect of wards of the court:

(a) Except as provided in Sections 5-805, 5-810, 5-815, a minor who is found guilty under Section 5-620 may be:

(i) put on probation or conditional discharge and released to his or her parents, guardian or legal custodian, provided, however, that any such minor who is not committed to the Department of Corrections, Juvenile Division under this subsection and who is found to be a delinquent for an offense which is first degree murder, a Class X felony, or a forcible felony shall be placed on probation;

(ii) placed in accordance with Section 5-740, with or without also being put on probation or conditional discharge;

(iii) required to undergo a substance abuse assessment conducted by a licensed provider and participate in the indicated clinical level of care;

(iv) placed in the guardianship of the Department of Children and Family Services, but only if the delinquent minor is under 13 years of age;

(v) placed in detention for a period not to exceed 30 days, either as the exclusive order of disposition or, where appropriate, in conjunction with any other order of disposition issued under this paragraph, provided that any such detention shall be in a juvenile detention home and the minor so detained shall be 10 years of age or older. However, the 30-day limitation may be extended by further order of the court for a minor under age 13 committed to the Department of Children and Family Services if the court finds that the minor is a danger to himself or others. The minor shall be given credit on the sentencing order of detention for time spent in detention under Sections 5-501, 5-601, 5-710, or 5-720 of this Article as a result of the offense for which the sentencing order was imposed. The court may grant credit on a sentencing order of detention entered under a violation of probation or violation of conditional discharge under Section 5-720 of this Article for time spent in detention before the filing of the petition alleging the violation. A minor shall not be deprived of credit for time spent in detention before the filing of a violation of probation or conditional discharge alleging the same or related act or acts;

(vi) ordered partially or completely emancipated in accordance with the provisions of the Emancipation of Mature Minors Act;

(vii) subject to having his or her driver's license or driving privileges suspended for such time as determined by the court but only until he or she attains 18 years of age;

(viii) put on probation or conditional discharge and placed in detention under Section 3-6039 of the Counties Code for a period not to exceed the period of incarceration

permitted by law for adults found guilty of the same offense or offenses for which the minor was adjudicated delinquent, and in any event no longer than upon attainment of age 21; this subdivision (viii) notwithstanding any contrary provision of the law; or

(ix) ordered to undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body.

(b) A minor found to be guilty may be committed to the Department of Corrections, Juvenile Division, under Section 5-750 if the minor is 13 years of age or older, provided that the commitment to the Department of Corrections, Juvenile Division, shall be made only if a term of incarceration is permitted by law for adults found guilty of the offense for which the minor was adjudicated delinquent. The time during which a minor is in custody before being released upon the request of a parent, guardian or legal custodian shall be considered as time spent in detention.

(c) When a minor is found to be guilty for an offense which is a violation of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and made a ward of the court, the court may enter a disposition order requiring the minor to undergo assessment, counseling or treatment in a substance abuse program approved by the Department of Human Services.

(2) Any sentencing order other than commitment to the Department of Corrections, Juvenile Division, may provide for protective supervision under Section 5-725 and may include an order of protection under Section 5-730.

(3) Unless the sentencing order expressly so provides, it does not operate to close proceedings on the pending petition, but is subject to modification until final closing and discharge of the proceedings under Section 5-750.

(4) In addition to any other sentence, the court may order any minor found to be delinquent to make restitution, in monetary or non-monetary form, under the terms and conditions of Section 5-5-6 of the Unified Code of Corrections, except that the "presentencing hearing" referred to in that Section shall be the sentencing hearing for purposes of this Section. The parent, guardian or legal custodian of the minor may be ordered by the court to pay some or all of the restitution on the minor's behalf, pursuant to the Parental Responsibility Law. The State's Attorney is authorized to act on behalf of any victim in seeking restitution in proceedings under this Section, up to the maximum amount allowed in Section 5 of the Parental Responsibility Law.

(5) Any sentencing order where the minor is committed or placed in accordance with Section 5-740 shall provide for the parents or guardian of the estate of the minor to pay to the legal custodian or guardian of the person of the minor such sums as are determined by the custodian or guardian of the person of the minor as necessary for the minor's needs. The payments may not exceed the maximum amounts provided for by Section 9.1 of the Children and Family Services Act.

(6) Whenever the sentencing order requires the minor to attend school or participate in a program of training, the truant officer or designated school official shall regularly report to the court if the minor is a chronic or habitual truant under Section 26-2a of the School Code.

(7) In no event shall a guilty minor be committed to the Department of Corrections, Juvenile Division for a period of time in excess of that period for which an adult could be committed for the same act.

(8) A minor found to be guilty for reasons that include a violation of Section 21-1.3 of the Criminal Code of 1961 shall be ordered to perform community service for not less than 30 and not more than 120 hours, if community service is available in the jurisdiction. The community service shall include, but need not be limited to, the cleanup and repair of the damage that was caused by the violation or similar damage to property located in the municipality or county in which the violation occurred. The order may be in addition to any other order authorized by this Section.

(8.5) A minor found to be guilty for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 shall be ordered to undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The order may be in addition to any other order authorized by this Section.

(9) In addition to any other sentencing order, the court shall order any minor found to be guilty for an act which would constitute, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, aggravated criminal sexual abuse, or criminal sexual abuse if committed by an adult to undergo medical testing to determine whether the defendant has any sexually transmissible disease including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agency of acquired immunodeficiency syndrome (AIDS). Any medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the minor's person. Except as otherwise provided by law,

the results of the test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the sentencing order was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom the results of the testing may be revealed. The court shall notify the minor of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or the legal guardian, of the results of the test for infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at the Department of Public Health facilities to all parties to whom the results of the testing are revealed. The court shall order that the cost of any test shall be paid by the county and may be taxed as costs against the minor.

(10) When a court finds a minor to be guilty the court shall, before entering a sentencing order under this Section, make a finding whether the offense committed either: (a) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the minor's membership in or allegiance to an organized gang, or (b) involved a violation of subsection (a) of Section 12-7.1 of the Criminal Code of 1961, a violation of any Section of Article 24 of the Criminal Code of 1961, or a violation of any statute that involved the wrongful use of a firearm. If the court determines the question in the affirmative, and the court does not commit the minor to the Department of Corrections, Juvenile Division, the court shall order the minor to perform community service for not less than 30 hours nor more than 120 hours, provided that community service is available in the jurisdiction and is funded and approved by the county board of the county where the offense was committed. The community service shall include, but need not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located in the municipality or county in which the violation occurred. When possible and reasonable, the community service shall be performed in the minor's neighborhood. This order shall be in addition to any other order authorized by this Section except for an order to place the minor in the custody of the Department of Corrections, Juvenile Division. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised 10-9-03.)

(705 ILCS 405/5-715)

Sec. 5-715. Probation.

(1) The period of probation or conditional discharge shall not exceed 5 years or until the minor has attained the age of 21 years, whichever is less, except as provided in this Section for a minor who is found to be guilty for an offense which is first degree murder, a Class X felony or a forcible felony. The juvenile court may terminate probation or conditional discharge and discharge the minor at any time if warranted by the conduct of the minor and the ends of justice; provided, however, that the period of probation for a minor who is found to be guilty for an offense which is first degree murder, a Class X felony, or a forcible felony shall be at least 5 years.

(2) The court may as a condition of probation or of conditional discharge require that the minor:

- (a) not violate any criminal statute of any jurisdiction;
- (b) make a report to and appear in person before any person or agency as directed by the court;
- (c) work or pursue a course of study or vocational training;
- (d) undergo medical or psychiatric treatment, rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist or social work services rendered by a clinical social worker, or treatment for drug addiction or alcoholism;
- (e) attend or reside in a facility established for the instruction or residence of persons on probation;
- (f) support his or her dependents, if any;
- (g) refrain from possessing a firearm or other dangerous weapon, or an automobile;
- (h) permit the probation officer to visit him or her at his or her home or elsewhere;
- (i) reside with his or her parents or in a foster home;
- (j) attend school;
- (j-5) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she committed a crime of violence as defined in Section 2 of the Crime Victims Compensation Act in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;
- (k) attend a non-residential program for youth;

(l) make restitution under the terms of subsection (4) of Section 5-710;
 (m) contribute to his or her own support at home or in a foster home;
 (n) perform some reasonable public or community service;
 (o) participate with community corrections programs including unified delinquency intervention services administered by the Department of Human Services subject to Section 5 of the Children and Family Services Act;

(p) pay costs;
 (q) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the minor:
 (i) remain within the interior premises of the place designated for his or her confinement during the hours designated by the court;
 (ii) admit any person or agent designated by the court into the minor's place of confinement at any time for purposes of verifying the minor's compliance with the conditions of his or her confinement; and
 (iii) use an approved electronic monitoring device if ordered by the court subject to Article 8A of Chapter V of the Unified Code of Corrections;
 (r) refrain from entering into a designated geographic area except upon terms as the court finds appropriate. The terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the minor, and advance approval by a probation officer, if the minor has been placed on probation, or advance approval by the court, if the minor has been placed on conditional discharge;
 (s) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;
 (s-5) undergo a medical or other procedure to have a tattoo symbolizing allegiance to a street gang removed from his or her body;
 (t) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and shall submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug; or
 (u) comply with other conditions as may be ordered by the court.

(3) The court may as a condition of probation or of conditional discharge require that a minor found guilty on any alcohol, cannabis, methamphetamine, or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If the minor is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(3.5) The court shall, as a condition of probation or of conditional discharge, require that a minor found to be guilty and placed on probation for reasons that include a violation of Section 3.02 or Section 3.03 of the Humane Care for Animals Act or paragraph (d) of subsection (1) of Section 21-1 of the Criminal Code of 1961 undergo medical or psychiatric treatment rendered by a psychiatrist or psychological treatment rendered by a clinical psychologist. The condition may be in addition to any other condition.

(3.10) The court shall order that a minor placed on probation or conditional discharge for a sex offense as defined in the Sex Offender Management Board Act undergo and successfully complete sex offender treatment. The treatment shall be in conformance with the standards developed under the Sex Offender Management Board Act and conducted by a treatment provider approved by the Board. The treatment shall be at the expense of the person evaluated based upon that person's ability to pay for the treatment.

(4) A minor on probation or conditional discharge shall be given a certificate setting forth the conditions upon which he or she is being released.

(5) The court shall impose upon a minor placed on probation or conditional discharge, as a condition of the probation or conditional discharge, a fee of \$25 for each month of probation or conditional discharge supervision ordered by the court, unless after determining the inability of the minor placed on probation or conditional discharge to pay the fee, the court assesses a lesser amount. The court may not impose the fee on a minor who is made a ward of the State under this Act while the minor is in placement. The fee shall be imposed only upon a minor who is actively supervised by the probation and court services department. The court may order the parent, guardian, or legal custodian of the minor to pay some or all of the fee on the minor's behalf.

(6) The General Assembly finds that in order to protect the public, the juvenile justice system must

compel compliance with the conditions of probation by responding to violations with swift, certain, and fair punishments and intermediate sanctions. The Chief Judge of each circuit shall adopt a system of structured, intermediate sanctions for violations of the terms and conditions of a sentence of supervision, probation or conditional discharge, under this Act.

The court shall provide as a condition of a disposition of probation, conditional discharge, or supervision, that the probation agency may invoke any sanction from the list of intermediate sanctions adopted by the chief judge of the circuit court for violations of the terms and conditions of the sentence of probation, conditional discharge, or supervision, subject to the provisions of Section 5-720 of this Act. (Source: P.A. 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651, eff. 7-11-02; 93-616, eff. 1-1-04.)

(705 ILCS 405/5-805)

Sec. 5-805. Transfer of jurisdiction.

(1) Mandatory transfers.

(a) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes a forcible felony under the laws of this State, and if a motion by the State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged forcible felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activity by an organized gang, the Juvenile Judge assigned to hear and determine those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

(b) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes a felony under the laws of this State, and if a motion by a State's Attorney to prosecute the minor under the criminal laws of Illinois for the alleged felony alleges that (i) the minor has previously been adjudicated delinquent or found guilty for commission of an act that constitutes a forcible felony under the laws of this State or any other state and (ii) the act that constitutes the offense was committed in furtherance of criminal activities by an organized gang, the Juvenile Judge assigned to hear and determine those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

(c) If a petition alleges commission by a minor 15 years of age or older of: (i) an act that constitutes an offense enumerated in the presumptive transfer provisions of subsection (2); and (ii) the minor has previously been adjudicated delinquent or found guilty of a forcible felony, the Juvenile Judge designated to hear and determine those motions shall, upon determining that there is probable cause that both allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

(d) If a petition alleges commission by a minor 15 years of age or older of an act that constitutes the offense of aggravated discharge of a firearm committed in a school, on the real property comprising a school, within 1,000 feet of the real property comprising a school, at a school related activity, or on, boarding, or departing from any conveyance owned, leased, or contracted by a school or school district to transport students to or from school or a school related activity, regardless of the time of day or the time of year, the juvenile judge designated to hear and determine those motions shall, upon determining that there is probable cause that the allegations are true, enter an order permitting prosecution under the criminal laws of Illinois.

For purposes of this paragraph (d) of subsection (1):

"School" means a public or private elementary or secondary school, community college, college, or university.

"School related activity" means any sporting, social, academic, or other activity for which students' attendance or participation is sponsored, organized, or funded in whole or in part by a school or school district.

(2) Presumptive transfer.

(a) If the State's Attorney files a petition, at any time prior to commencement of the minor's trial, to permit prosecution under the criminal laws and the petition alleges the commission by a minor 15 years of age or older of: (i) a Class X felony other than armed violence; (ii) aggravated discharge of a firearm; (iii) armed violence with a firearm when the predicate offense is a Class 1 or Class 2 felony and the State's Attorney's motion to transfer the case alleges that the offense committed is in furtherance of the criminal activities of an organized gang; (iv) armed violence with a firearm when the predicate offense is a violation of the Illinois Controlled Substances Act, ~~or~~ a violation of the Cannabis Control Act, or a violation of the Methamphetamine Control and Community Protection Act; (v) armed violence when the weapon involved was a machine gun or other weapon described in subsection (a)(7) of Section 24-1 of the Criminal Code of 1961, and, if the juvenile judge assigned to

hear and determine motions to transfer a case for prosecution in the criminal court determines that there is probable cause to believe that the allegations in the petition and motion are true, there is a rebuttable presumption that the minor is not a fit and proper subject to be dealt with under the Juvenile Justice Reform Provisions of 1998 (Public Act 90-590), and that, except as provided in paragraph (b), the case should be transferred to the criminal court.

(b) The judge shall enter an order permitting prosecution under the criminal laws of Illinois unless the judge makes a finding based on clear and convincing evidence that the minor would be amenable to the care, treatment, and training programs available through the facilities of the juvenile court based on an evaluation of the following:

- (i) The seriousness of the alleged offense;
- (ii) The minor's history of delinquency;
- (iii) The age of the minor;
- (iv) The culpability of the minor in committing the alleged offense;
- (v) Whether the offense was committed in an aggressive or premeditated manner;
- (vi) Whether the minor used or possessed a deadly weapon when committing the alleged offense;
- (vii) The minor's history of services, including the minor's willingness to participate meaningfully in available services;
- (viii) Whether there is a reasonable likelihood that the minor can be rehabilitated before the expiration of the juvenile court's jurisdiction;
- (ix) The adequacy of the punishment or services available in the juvenile justice system.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency than to the other factors listed in this subsection.

(3) Discretionary transfer.

(a) If a petition alleges commission by a minor 13 years of age or over of an act that constitutes a crime under the laws of this State and, on motion of the State's Attorney to permit prosecution of the minor under the criminal laws, a Juvenile Judge assigned by the Chief Judge of the Circuit to hear and determine those motions, after hearing but before commencement of the trial, finds that there is probable cause to believe that the allegations in the motion are true and that it is not in the best interests of the public to proceed under this Act, the court may enter an order permitting prosecution under the criminal laws.

(b) In making its determination on the motion to permit prosecution under the criminal laws, the court shall consider among other matters:

- (i) The seriousness of the alleged offense;
- (ii) The minor's history of delinquency;
- (iii) The age of the minor;
- (iv) The culpability of the minor in committing the alleged offense;
- (v) Whether the offense was committed in an aggressive or premeditated manner;
- (vi) Whether the minor used or possessed a deadly weapon when committing the alleged offense;
- (vii) The minor's history of services, including the minor's willingness to participate meaningfully in available services;
- (viii) The adequacy of the punishment or services available in the juvenile justice system.

In considering these factors, the court shall give greater weight to the seriousness of the alleged offense and the minor's prior record of delinquency than to the other factors listed in this subsection.

(4) The rules of evidence for this hearing shall be the same as under Section 5-705 of this Act. A minor must be represented in court by counsel before the hearing may be commenced.

(5) If criminal proceedings are instituted, the petition for adjudication of wardship shall be dismissed insofar as the act or acts involved in the criminal proceedings. Taking of evidence in a trial on petition for adjudication of wardship is a bar to criminal proceedings based upon the conduct alleged in the petition.

(Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00; 91-357, eff. 7-29-99.)

(705 ILCS 405/5-901)

Sec. 5-901. Court file.

(1) The Court file with respect to proceedings under this Article shall consist of the petitions, pleadings, victim impact statements, process, service of process, orders, writs and docket entries reflecting hearings held and judgments and decrees entered by the court. The court file shall be kept

separate from other records of the court.

(a) The file, including information identifying the victim or alleged victim of any sex offense, shall be disclosed only to the following parties when necessary for discharge of their official duties:

- (i) A judge of the circuit court and members of the staff of the court designated by the judge;
- (ii) Parties to the proceedings and their attorneys;
- (iii) Victims and their attorneys, except in cases of multiple victims of sex offenses in which case the information identifying the nonrequesting victims shall be redacted;
- (iv) Probation officers, law enforcement officers or prosecutors or their staff;
- (v) Adult and juvenile Prisoner Review Boards.

(b) The Court file redacted to remove any information identifying the victim or alleged victim of any sex offense shall be disclosed only to the following parties when necessary for discharge of their official duties:

- (i) Authorized military personnel;
- (ii) Persons engaged in bona fide research, with the permission of the judge of the juvenile court and the chief executive of the agency that prepared the particular recording: provided that publication of such research results in no disclosure of a minor's identity and protects the confidentiality of the record;
- (iii) The Secretary of State to whom the Clerk of the Court shall report the disposition of all cases, as required in Section 6-204 or Section 6-205.1 of the Illinois Vehicle Code. However, information reported relative to these offenses shall be privileged and available only to the Secretary of State, courts, and police officers;
- (iv) The administrator of a bonafide substance abuse student assistance program with the permission of the presiding judge of the juvenile court;
- (v) Any individual, or any public or private agency or institution, having custody of the juvenile under court order or providing educational, medical or mental health services to the juvenile or a court-approved advocate for the juvenile or any placement provider or potential placement provider as determined by the court.

(3) A minor who is the victim or alleged victim in a juvenile proceeding shall be provided the same confidentiality regarding disclosure of identity as the minor who is the subject of record. Information identifying victims and alleged victims of sex offenses, shall not be disclosed or open to public inspection under any circumstances. Nothing in this Section shall prohibit the victim or alleged victim of any sex offense from voluntarily disclosing his or her identity.

(4) Relevant information, reports and records shall be made available to the Department of Corrections when a juvenile offender has been placed in the custody of the Department of Corrections, Juvenile Division.

(5) Except as otherwise provided in this subsection (5), juvenile court records shall not be made available to the general public but may be inspected by representatives of agencies, associations and news media or other properly interested persons by general or special order of the court. The State's Attorney, the minor, his or her parents, guardian and counsel shall at all times have the right to examine court files and records.

(a) The court shall allow the general public to have access to the name, address, and offense of a minor who is adjudicated a delinquent minor under this Act under either of the following circumstances:

(i) The adjudication of delinquency was based upon the minor's commission of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault; or

(ii) The court has made a finding that the minor was at least 13 years of age at the time the act was committed and the adjudication of delinquency was based upon the minor's commission of: (A) an act in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (B) an act involving the use of a firearm in the commission of a felony, (C) an act that would be a Class X felony offense under or the minor's second or subsequent Class 2 or greater felony offense under the Cannabis Control Act if committed by an adult, (D) an act that would be a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act if committed by an adult, ~~or~~ (E) an act that would be an offense under Section 401 of the Illinois Controlled Substances Act if committed by an adult, or (F) an act that would be an offense under the Methamphetamine Control and Community Protection Act if committed by an adult.

(b) The court shall allow the general public to have access to the name, address, and

offense of a minor who is at least 13 years of age at the time the offense is committed and who is convicted, in criminal proceedings permitted or required under Section 5-805, under either of the following circumstances:

(i) The minor has been convicted of first degree murder, attempt to commit first degree murder, aggravated criminal sexual assault, or criminal sexual assault,

(ii) The court has made a finding that the minor was at least 13 years of age at the time the offense was committed and the conviction was based upon the minor's commission of: (A) an offense in furtherance of the commission of a felony as a member of or on behalf of a criminal street gang, (B) an offense involving the use of a firearm in the commission of a felony, (C) a Class X felony offense under the Cannabis Control Act or a second or subsequent Class 2 or greater felony offense under the Cannabis Control Act, (D) a second or subsequent offense under Section 402 of the Illinois Controlled Substances Act, ~~or~~ (E) an offense under Section 401 of the Illinois Controlled Substances Act, or (F) an offense under the Methamphetamine Control and Community Protection Act.

(6) Nothing in this Section shall be construed to limit the use of a adjudication of delinquency as evidence in any juvenile or criminal proceeding, where it would otherwise be admissible under the rules of evidence, including but not limited to, use as impeachment evidence against any witness, including the minor if he or she testifies.

(7) Nothing in this Section shall affect the right of a Civil Service Commission or appointing authority examining the character and fitness of an applicant for a position as a law enforcement officer to ascertain whether that applicant was ever adjudicated to be a delinquent minor and, if so, to examine the records or evidence which were made in proceedings under this Act.

(8) Following any adjudication of delinquency for a crime which would be a felony if committed by an adult, or following any adjudication of delinquency for a violation of Section 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the State's Attorney shall ascertain whether the minor respondent is enrolled in school and, if so, shall provide a copy of the sentencing order to the principal or chief administrative officer of the school. Access to such juvenile records shall be limited to the principal or chief administrative officer of the school and any guidance counselor designated by him or her.

(9) Nothing contained in this Act prevents the sharing or disclosure of information or records relating or pertaining to juveniles subject to the provisions of the Serious Habitual Offender Comprehensive Action Program when that information is used to assist in the early identification and treatment of habitual juvenile offenders.

(11) The Clerk of the Circuit Court shall report to the Department of State Police, in the form and manner required by the Department of State Police, the final disposition of each minor who has been arrested or taken into custody before his or her 17th birthday for those offenses required to be reported under Section 5 of the Criminal Identification Act. Information reported to the Department under this Section may be maintained with records that the Department files under Section 2.1 of the Criminal Identification Act.

(12) Information or records may be disclosed to the general public when the court is conducting hearings under Section 5-805 or 5-810.

(Source: P.A. 90-590, eff. 1-1-99.)

Section 1055. The Criminal Code of 1961 is amended by changing Sections 9-3.3, 11-19.2, 14-3, 19-5, 20-2, 24-1.1, 24-1.6, 29B-1, 31A-1.1, 31A-1.2, 33A-3, 37-1, 44-2, and 44-3 as follows:

(720 ILCS 5/9-3.3) (from Ch. 38, par. 9-3.3)

Sec. 9-3.3. Drug-induced homicide.

(a) A person who violates Section 401 of the Illinois Controlled Substances Act or Section 55 of the Methamphetamine Control and Community Protection Act by unlawfully delivering a controlled substance to another, and any person dies as a result of the injection, inhalation or ingestion of any amount of that controlled substance, commits the offense of drug-induced homicide.

(b) Sentence. Drug-induced homicide is a Class X felony.

(c) A person who commits drug-induced homicide by violating subsection (a) or subsection (c) of Section 401 of the Illinois Controlled Substances Act or Section 55 of the Methamphetamine Control and Community Protection Act commits a Class X felony for which the defendant shall in addition to a sentence authorized by law, be sentenced to a term of imprisonment of not less than 15 years and not more than 30 years or an extended term of not less than 30 years and not more than 60 years.

(Source: P.A. 91-357, eff. 7-29-99; 92-256, eff. 1-1-02.)

(720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

Sec. 11-19.2. Exploitation of a child.

(A) A person commits exploitation of a child when he or she confines a child under the age of 16 or a severely or profoundly mentally retarded person against his or her will by the infliction or threat of imminent infliction of great bodily harm, permanent disability or disfigurement or by administering to the child or severely or profoundly mentally retarded person without his or her consent or by threat or deception and for other than medical purposes, any alcoholic intoxicant or a drug as defined in the Illinois Controlled Substances Act or the Cannabis Control Act or methamphetamine as defined in the Methamphetamine Control and Community Protection Act and:

(1) compels the child or severely or profoundly mentally retarded person to become a prostitute; or

(2) arranges a situation in which the child or severely or profoundly mentally retarded person may practice prostitution; or

(3) receives any money, property, token, object, or article or anything of value from the child or severely or profoundly mentally retarded person knowing it was obtained in whole or in part from the practice of prostitution.

(B) For purposes of this Section, administering drugs, as defined in subsection (A), or an alcoholic intoxicant to a child under the age of 13 or a severely or profoundly mentally retarded person shall be deemed to be without consent if such administering is done without the consent of the parents or legal guardian.

(C) Exploitation of a child is a Class X felony.

(D) Any person convicted under this Section is subject to the forfeiture provisions of Section 11-20.1A of this Act.

(Source: P.A. 91-357, eff. 7-29-99; 91-696, eff. 4-13-00; 92-434, eff. 1-1-02.)

(720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

Sec. 14-3. Exemptions. The following activities shall be exempt from the provisions of this Article:

(a) Listening to radio, wireless and television communications of any sort where the same are publicly made;

(b) Hearing conversation when heard by employees of any common carrier by wire incidental to the normal course of their employment in the operation, maintenance or repair of the equipment of such common carrier by wire so long as no information obtained thereby is used or divulged by the hearer;

(c) Any broadcast by radio, television or otherwise whether it be a broadcast or recorded for the purpose of later broadcasts of any function where the public is in attendance and the conversations are overheard incidental to the main purpose for which such broadcasts are then being made;

(d) Recording or listening with the aid of any device to any emergency communication made in the normal course of operations by any federal, state or local law enforcement agency or institutions dealing in emergency services, including, but not limited to, hospitals, clinics, ambulance services, fire fighting agencies, any public utility, emergency repair facility, civilian defense establishment or military installation;

(e) Recording the proceedings of any meeting required to be open by the Open Meetings Act, as amended;

(f) Recording or listening with the aid of any device to incoming telephone calls of phone lines publicly listed or advertised as consumer "hotlines" by manufacturers or retailers of food and drug products. Such recordings must be destroyed, erased or turned over to local law enforcement authorities within 24 hours from the time of such recording and shall not be otherwise disseminated. Failure on the part of the individual or business operating any such recording or listening device to comply with the requirements of this subsection shall eliminate any civil or criminal immunity conferred upon that individual or business by the operation of this Section;

(g) With prior notification to the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded under circumstances where the use of the device is necessary for the protection of the law enforcement officer or any person acting at the direction of law enforcement, in the course of an investigation of a forcible felony, a felony violation of the Illinois Controlled Substances Act, a felony violation of the Cannabis Control Act, a felony violation of the Methamphetamine Control and Community Protection Act, or any "streetgang related" or "gang-related" felony as those terms are defined in the Illinois Streetgang Terrorism Omnibus Prevention Act. Any recording or evidence derived as the result of this exemption shall be inadmissible in any proceeding, criminal, civil or administrative, except (i) where a party to the conversation suffers great bodily injury or is killed during such conversation, or (ii) when used as direct impeachment of a witness concerning matters contained in the interception or recording. The Director of the Department of State Police shall issue regulations as are

necessary concerning the use of devices, retention of tape recordings, and reports regarding their use;

(g-5) With approval of the State's Attorney of the county in which it is to occur, recording or listening with the aid of any device to any conversation where a law enforcement officer, or any person acting at the direction of law enforcement, is a party to the conversation and has consented to it being intercepted or recorded in the course of an investigation of any offense defined in Article 29D of this Code. In all such cases, an application for an order approving the previous or continuing use of an eavesdropping device must be made within 48 hours of the commencement of such use. In the absence of such an order, or upon its denial, any continuing use shall immediately terminate. The Director of State Police shall issue rules as are necessary concerning the use of devices, retention of tape recordings, and reports regarding their use.

Any recording or evidence obtained or derived in the course of an investigation of any offense defined in Article 29D of this Code shall, upon motion of the State's Attorney or Attorney General prosecuting any violation of Article 29D, be reviewed in camera with notice to all parties present by the court presiding over the criminal case, and, if ruled by the court to be relevant and otherwise admissible, it shall be admissible at the trial of the criminal case.

This subsection (g-5) is inoperative on and after January 1, 2005. No conversations recorded or monitored pursuant to this subsection (g-5) shall be ~~inadmissible~~ inadmissible in a court of law by virtue of the repeal of this subsection (g-5) on January 1, 2005;

(h) Recordings made simultaneously with a video recording of an oral conversation between a peace officer, who has identified his or her office, and a person stopped for an investigation of an offense under the Illinois Vehicle Code;

(i) Recording of a conversation made by or at the request of a person, not a law enforcement officer or agent of a law enforcement officer, who is a party to the conversation, under reasonable suspicion that another party to the conversation is committing, is about to commit, or has committed a criminal offense against the person or a member of his or her immediate household, and there is reason to believe that evidence of the criminal offense may be obtained by the recording;

(j) The use of a telephone monitoring device by either (1) a corporation or other business entity engaged in marketing or opinion research or (2) a corporation or other business entity engaged in telephone solicitation, as defined in this subsection, to record or listen to oral telephone solicitation conversations or marketing or opinion research conversations by an employee of the corporation or other business entity when:

(i) the monitoring is used for the purpose of service quality control of marketing or opinion research or telephone solicitation, the education or training of employees or contractors engaged in marketing or opinion research or telephone solicitation, or internal research related to marketing or opinion research or telephone solicitation; and

(ii) the monitoring is used with the consent of at least one person who is an active party to the marketing or opinion research conversation or telephone solicitation conversation being monitored.

No communication or conversation or any part, portion, or aspect of the communication or conversation made, acquired, or obtained, directly or indirectly, under this exemption (j), may be, directly or indirectly, furnished to any law enforcement officer, agency, or official for any purpose or used in any inquiry or investigation, or used, directly or indirectly, in any administrative, judicial, or other proceeding, or divulged to any third party.

When recording or listening authorized by this subsection (j) on telephone lines used for marketing or opinion research or telephone solicitation purposes results in recording or listening to a conversation that does not relate to marketing or opinion research or telephone solicitation; the person recording or listening shall, immediately upon determining that the conversation does not relate to marketing or opinion research or telephone solicitation, terminate the recording or listening and destroy any such recording as soon as is practicable.

Business entities that use a telephone monitoring or telephone recording system pursuant to this exemption (j) shall provide current and prospective employees with notice that the monitoring or recordings may occur during the course of their employment. The notice shall include prominent signage notification within the workplace.

Business entities that use a telephone monitoring or telephone recording system pursuant to this exemption (j) shall provide their employees or agents with access to personal-only telephone lines which may be pay telephones, that are not subject to telephone monitoring or telephone recording.

For the purposes of this subsection (j), "telephone solicitation" means a communication through the use of a telephone by live operators:

(i) soliciting the sale of goods or services;

- (ii) receiving orders for the sale of goods or services;
- (iii) assisting in the use of goods or services; or
- (iv) engaging in the solicitation, administration, or collection of bank or retail credit accounts.

For the purposes of this subsection (j), "marketing or opinion research" means a marketing or opinion research interview conducted by a live telephone interviewer engaged by a corporation or other business entity whose principal business is the design, conduct, and analysis of polls and surveys measuring the opinions, attitudes, and responses of respondents toward products and services, or social or political issues, or both; -

(k) Electronic recordings, including but not limited to, a motion picture, videotape, digital, or other visual or audio recording, made of a custodial interrogation of an individual at a police station or other place of detention by a law enforcement officer under Section 5-401.5 of the Juvenile Court Act of 1987 or Section 103-2.1 of the Code of Criminal Procedure of 1963; and

(l) ~~(k)~~ Recording the interview or statement of any person when the person knows that the interview is being conducted by a law enforcement officer or prosecutor and the interview takes place at a police station that is currently participating in the Custodial Interview Pilot Program established under the Illinois Criminal Justice Information Act.

(Source: P.A. 92-854, eff. 12-5-02; 93-206, eff. 7-18-03; 93-517, eff. 8-6-03; 93-605, eff. 11-19-03; revised 12-9-03.)

(720 ILCS 5/19-5) (from Ch. 38, par. 19-5)

Sec. 19-5. Criminal fortification of a residence or building. (a) A person commits the offense of criminal fortification of a residence or building when, with the intent to prevent the lawful entry of a law enforcement officer or another, he maintains a residence or building in a fortified condition, knowing that such residence or building is used for the manufacture, storage, delivery, or trafficking of cannabis, ~~or~~ controlled substances or methamphetamine as defined in the Cannabis Control Act, ~~the~~ ~~or~~ Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act.

(b) "Fortified condition" means preventing or impeding entry through the use of steel doors, wooden planking, crossbars, alarm systems, dogs, or other similar means.

(c) Sentence. Criminal fortification of a residence or building is a Class 3 felony.

(d) This Section does not apply to the fortification of a residence or building used in the manufacture of methamphetamine as described in Sections 10 and 25 of the Methamphetamine Control and Community Protection Act.

(Source: P.A. 86-760.)

(720 ILCS 5/20-2) (from Ch. 38, par. 20-2)

Sec. 20-2. Possession of explosives or explosive or incendiary devices.

(a) A person commits the offense of possession of explosives or explosive or incendiary devices in violation of this Section when he or she possesses, manufactures or transports any explosive compound, timing or detonating device for use with any explosive compound or incendiary device and either intends to use such explosive or device to commit any offense or knows that another intends to use such explosive or device to commit a felony.

(b) Sentence.

Possession of explosives or explosive or incendiary devices in violation of this Section is a Class 1 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to not less than 4 years and not more than 30 years.

~~(c) (Blank). In this Section, "explosive compound" or "incendiary device" includes a methamphetamine manufacturing chemical as defined in clause (z 1) of Section 102 of the Illinois Controlled Substances Act.~~

(Source: P.A. 93-594, eff. 1-1-04.)

(720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

Sec. 24-1.1. Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities.

(a) It is unlawful for a person to knowingly possess on or about his person or on his land or in his own abode or fixed place of business any weapon prohibited under Section 24-1 of this Act or any firearm or any firearm ammunition if the person has been convicted of a felony under the laws of this State or any other jurisdiction. This Section shall not apply if the person has been granted relief by the Director of the Department of State Police under Section 10 of the Firearm Owners Identification Card Act.

(b) It is unlawful for any person confined in a penal institution, which is a facility of the Illinois Department of Corrections, to possess any weapon prohibited under Section 24-1 of this Code or any firearm or firearm ammunition, regardless of the intent with which he possesses it.

(c) It shall be an affirmative defense to a violation of subsection (b), that such possession was specifically authorized by rule, regulation, or directive of the Illinois Department of Corrections or order issued pursuant thereto.

(d) The defense of necessity is not available to a person who is charged with a violation of subsection (b) of this Section.

(e) Sentence. Violation of this Section by a person not confined in a penal institution shall be a Class 3 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to no less than 2 years and no more than 10 years. Violation of this Section by a person not confined in a penal institution who has been convicted of a forcible felony, a felony violation of Article 24 of this Code or of the Firearm Owners Identification Card Act, stalking or aggravated stalking, or a Class 2 or greater felony under the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act or the Methamphetamine Control and Community Protection Act is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to not less than 3 years and not more than 14 years. Violation of this Section by a person who is on parole or mandatory supervised release is a Class 2 felony for which the person, if sentenced to a term of imprisonment, shall be sentenced to not less than 3 years and not more than 14 years. Violation of this Section by a person not confined in a penal institution is a Class X felony when the firearm possessed is a machine gun. Any person who violates this Section while confined in a penal institution, which is a facility of the Illinois Department of Corrections, is guilty of a Class 1 felony, if he possesses any weapon prohibited under Section 24-1 of this Code regardless of the intent with which he possesses it, a Class X felony if he possesses any firearm, firearm ammunition or explosive, and a Class X felony for which the offender shall be sentenced to not less than 12 years and not more than 50 years when the firearm possessed is a machine gun. A violation of this Section while wearing or in possession of body armor as defined in Section 33F-1 is a Class X felony punishable by a term of imprisonment of not less than 10 years and not more than 40 years.

(Source: P.A. 93-906, eff. 8-11-04.)

(720 ILCS 5/24-1.6)

Sec. 24-1.6. Aggravated unlawful use of a weapon.

(a) A person commits the offense of aggravated unlawful use of a weapon when he or she knowingly:

(1) Carries on or about his or her person or in any vehicle or concealed on or about his or her person except when on his or her land or in his or her abode or fixed place of business any pistol, revolver, stun gun or taser or other firearm; or

(2) Carries or possesses on or about his or her person, upon any public street, alley, or other public lands within the corporate limits of a city, village or incorporated town, except when an invitee thereon or therein, for the purpose of the display of such weapon or the lawful commerce in weapons, or except when on his or her own land or in his or her own abode or fixed place of business, any pistol, revolver, stun gun or taser or other firearm; and

(3) One of the following factors is present:

(A) the firearm possessed was uncased, loaded and immediately accessible at the time of the offense; or

(B) the firearm possessed was uncased, unloaded and the ammunition for the weapon was immediately accessible at the time of the offense; or

(C) the person possessing the firearm has not been issued a currently valid Firearm Owner's Identification Card; or

(D) the person possessing the weapon was previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a felony; or

(E) the person possessing the weapon was engaged in a misdemeanor violation of the Cannabis Control Act, ~~or~~ in a misdemeanor violation of the Illinois Controlled Substances Act or in a misdemeanor violation of the Methamphetamine Control and Community Protection Act; or

(F) the person possessing the weapon is a member of a street gang or is engaged in street gang related activity, as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act; or

(G) the person possessing the weapon had a order of protection issued against him or her within the previous 2 years; or

(H) the person possessing the weapon was engaged in the commission or attempted commission of a misdemeanor involving the use or threat of violence against the person or property of another; or

(I) the person possessing the weapon was under 21 years of age and in possession of a handgun as defined in Section 24-3, unless the person under 21 is engaged in lawful activities under the Wildlife Code or described in subsection 24-2(b)(1), (b)(3), or 24-2(f).

(b) "Stun gun or taser" as used in this Section has the same definition given to it in Section 24-1 of this Code.

(c) This Section does not apply to or affect the transportation or possession of weapons that:

(i) are broken down in a non-functioning state; or

(ii) are not immediately accessible; or

(iii) are unloaded and enclosed in a case, firearm carrying box, shipping box, or other container by a person who has been issued a currently valid Firearm Owner's Identification Card.

(d) Sentence. Aggravated unlawful use of a weapon is a Class 4 felony; a second or subsequent offense is a Class 2 felony. Aggravated unlawful use of a weapon by a person who has been previously convicted of a felony in this State or another jurisdiction is a Class 2 felony. Aggravated unlawful use of a weapon while wearing or in possession of body armor as defined in Section 33F-1 by a person who has not been issued a valid Firearm Owner's Identification Card in accordance with Section 5 of the Firearm Owners Identification Card Act is a Class X felony.

(Source: P.A. 93-906, eff. 8-11-04.)

(720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

Sec. 29B-1. (a) A person commits the offense of money laundering:

(1) when he knowingly engages or attempts to engage in a financial transaction in criminally derived property with either the intent to promote the carrying on of the unlawful activity from which the criminally derived property was obtained or where he knows or reasonably should know that the financial transaction is designed in whole or in part to conceal or disguise the nature, the location, the source, the ownership or the control of the criminally derived property; or

(2) when, with the intent to:

(A) promote the carrying on of a specified criminal activity as defined in this Article; or

(B) conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of a specified criminal activity as defined by subdivision (b)(6),

he or she conducts or attempts to conduct a financial transaction involving property he or she believes to be the proceeds of specified criminal activity as defined by subdivision (b)(6) or property used to conduct or facilitate specified criminal activity as defined by subdivision (b)(6).

(b) As used in this Section:

(1) "Financial transaction" means a purchase, sale, loan, pledge, gift, transfer, delivery or other disposition utilizing criminally derived property, and with respect to financial institutions, includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit or other monetary instrument or any other payment, transfer or delivery by, through, or to a financial institution. For purposes of clause (a)(2) of this Section, the term "financial transaction" also means a transaction which without regard to whether the funds, monetary instruments, or real or personal property involved in the transaction are criminally derived, any transaction which in any way or degree: (1) involves the movement of funds by wire or any other means; (2) involves one or more monetary instruments; or (3) the transfer of title to any real or personal property. The receipt by an attorney of bona fide fees for the purpose of legal representation is not a financial transaction for purposes of this Section.

(2) "Financial institution" means any bank; saving and loan association; trust company; agency or branch of a foreign bank in the United States; currency exchange; credit union, mortgage banking institution; pawnbroker; loan or finance company; operator of a credit card system; issuer, redeemer or cashier of travelers checks, checks or money orders; dealer in precious metals, stones or jewels; broker or dealer in securities or commodities; investment banker; or investment company.

(3) "Monetary instrument" means United States coins and currency; coins and currency of a foreign country; travelers checks; personal checks, bank checks, and money orders; investment securities; bearer negotiable instruments; bearer investment securities; or bearer securities and certificates of stock in such form that title thereto passes upon delivery.

(4) "Criminally derived property" means: (A) any property constituting or derived from proceeds obtained, directly or indirectly, pursuant to a violation of the Criminal Code of 1961, the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act; or (B) any property represented to be property constituting or derived from proceeds obtained, directly or indirectly, pursuant to a violation of this Code, the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and

Community Protection Act.

(5) "Conduct" or "conducts" includes, in addition to its ordinary meaning, initiating, concluding, or participating in initiating or concluding a transaction.

(6) "Specified criminal activity" means any violation of Section 20.5-5 (720 ILCS 5/20.5-5) and any violation of Article 29D of this Code.

(c) Sentence.

(1) Laundering of criminally derived property of a value not exceeding \$10,000 is a Class 3 felony;

(2) Laundering of criminally derived property of a value exceeding \$10,000 but not exceeding \$100,000 is a Class 2 felony;

(3) Laundering of criminally derived property of a value exceeding \$100,000 but not exceeding \$500,000 is a Class 1 felony;

(4) Money laundering in violation of subsection (a)(2) of this Section is a Class X felony;

(5) Laundering of criminally derived property of a value exceeding \$500,000 is a Class 1 non-probationable felony.

(Source: P.A. 92-854, eff. 12-5-02; 93-520, eff. 8-6-03.)

(720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

Sec. 31A-1.1. Bringing Contraband into a Penal Institution; Possessing Contraband in a Penal Institution.

(a) A person commits the offense of bringing contraband into a penal institution when he knowingly and without authority of any person designated or authorized to grant such authority (1) brings an item of contraband into a penal institution or (2) causes another to bring an item of contraband into a penal institution or (3) places an item of contraband in such proximity to a penal institution as to give an inmate access to the contraband.

(b) A person commits the offense of possessing contraband in a penal institution when he possesses contraband in a penal institution, regardless of the intent with which he possesses it.

(c) For the purposes of this Section, the words and phrases listed below shall be defined as follows:

(1) "Penal institution" means any penitentiary, State farm, reformatory, prison, jail, house of correction, police detention area, half-way house or other institution or place for the incarceration or custody of persons under sentence for offenses awaiting trial or sentence for offenses, under arrest for an offense, a violation of probation, a violation of parole, or a violation of mandatory supervised release, or awaiting a bail setting hearing or preliminary hearing; provided that where the place for incarceration or custody is housed within another public building this Act shall not apply to that part of such building unrelated to the incarceration or custody of persons.

(2) "Item of contraband" means any of the following:

(i) "Alcoholic liquor" as such term is defined in Section 1-3.05 of ~~the The Liquor Control Act of 1934 as such Act may be now or hereafter amended.~~

(ii) "Cannabis" as such term is defined in subsection (a) of Section 3 of the "Cannabis Control Act", ~~approved August 16, 1971, as now or hereafter amended.~~

(iii) "Controlled substance" as such term is defined in the "Illinois Controlled Substances Act", ~~approved August 16, 1971, as now or hereafter amended.~~

(iii-a) "Methamphetamine" as such term is defined in the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act.

(iv) "Hypodermic syringe" or hypodermic needle, or any instrument adapted for use of controlled substances or cannabis by subcutaneous injection.

(v) "Weapon" means any knife, dagger, dirk, billy, razor, stiletto, broken bottle, or other piece of glass which could be used as a dangerous weapon. Such term includes any of the devices or implements designated in subsections (a)(1), (a)(3) and (a)(6) of Section 24-1 of this Act, or any other dangerous weapon or instrument of like character.

(vi) "Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas, including but not limited to:

(A) any pneumatic gun, spring gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter, or;

(B) any device used exclusively for signaling or safety and required as recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(C) any device used exclusively for the firing of stud cartridges, explosive rivets or industrial ammunition; or

(D) any device which is powered by electrical charging units, such as batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning, commonly referred to as a stun gun or taser.

(vii) "Firearm ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm, including but not limited to:

(A) any ammunition exclusively designed for use with a device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(B) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

(viii) "Explosive" means, but is not limited to, bomb, bombshell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes such as black powder bombs and Molotov cocktails or artillery projectiles.

(ix) "Tool to defeat security mechanisms" means, but is not limited to, handcuff or security restraint key, tool designed to pick locks, or device or instrument capable of unlocking handcuff or security restraints, doors to cells, rooms, gates or other areas of the penal institution.

(x) "Cutting tool" means, but is not limited to, hacksaw blade, wirecutter, or device, instrument or file capable of cutting through metal.

(xi) "Electronic contraband" means, but is not limited to, any electronic, video recording device, computer, or cellular communications equipment, including, but not limited to, cellular telephones, cellular telephone batteries, videotape recorders, pagers, computers, and computer peripheral equipment brought into or possessed in a penal institution without the written authorization of the Chief Administrative Officer.

(d) Bringing alcoholic liquor into a penal institution is a Class 4 felony. Possessing alcoholic liquor in a penal institution is a Class 4 felony.

(e) Bringing cannabis into a penal institution is a Class 3 felony. Possessing cannabis in a penal institution is a Class 3 felony.

(f) Bringing any amount of a controlled substance classified in Schedules III, IV or V of Article II of the Controlled Substance Act into a penal institution is a Class 2 felony. Possessing any amount of a controlled substance classified in Schedule III, IV, or V of Article II of the Controlled Substance Act in a penal institution is a Class 2 felony.

(g) Bringing any amount of a controlled substance classified in Schedules I or II of Article II of the Controlled Substance Act into a penal institution is a Class 1 felony. Possessing any amount of a controlled substance classified in Schedules I or II of Article II of the Controlled Substance Act in a penal institution is a Class 1 felony.

(h) Bringing an item of contraband listed in paragraph (iv) of subsection (c)(2) into a penal institution is a Class 1 felony. Possessing an item of contraband listed in paragraph (iv) of subsection (c)(2) in a penal institution is a Class 1 felony.

(i) Bringing an item of contraband listed in paragraph (v), (ix), (x), or (xi) of subsection (c)(2) into a penal institution is a Class 1 felony. Possessing an item of contraband listed in paragraph (v), (ix), (x), or (xi) of subsection (c)(2) in a penal institution is a Class 1 felony.

(j) Bringing an item of contraband listed in paragraphs (vi), (vii) or (viii) of subsection (c)(2) in a penal institution is a Class X felony. Possessing an item of contraband listed in paragraphs (vi), (vii), or (viii) of subsection (c)(2) in a penal institution is a Class X felony.

(k) It shall be an affirmative defense to subsection (b) hereof, that such possession was specifically authorized by rule, regulation, or directive of the governing authority of the penal institution or order issued pursuant thereto.

(l) It shall be an affirmative defense to subsection (a)(1) and subsection (b) hereof that the person bringing into or possessing contraband in a penal institution had been arrested, and that that person possessed such contraband at the time of his arrest, and that such contraband was brought into or possessed in the penal institution by that person as a direct and immediate result of his arrest.

(m) Items confiscated may be retained for use by the Department of Corrections or disposed of as deemed appropriate by the Chief Administrative Officer in accordance with Department rules or disposed of as required by law.

(Source: P.A. 88-678, eff. 7-1-95; 89-688, eff. 6-1-97.)

(720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

Sec. 31A-1.2. Unauthorized bringing of contraband into a penal institution by an employee; unauthorized possessing of contraband in a penal institution by an employee; unauthorized delivery of contraband in a penal institution by an employee.

(a) A person commits the offense of unauthorized bringing of contraband into a penal institution by an employee when a person who is an employee knowingly and without authority or any person designated or authorized to grant such authority:

- (1) brings or attempts to bring an item of contraband listed in paragraphs (i) through (iv) of subsection (d)(4) into a penal institution, or
- (2) causes or permits another to bring an item of contraband listed in paragraphs (i) through (iv) of subsection (d)(4) into a penal institution.

(b) A person commits the offense of unauthorized possession of contraband in a penal institution by an employee when a person who is an employee knowingly and without authority of any person designated or authorized to grant such authority possesses contraband listed in paragraphs (i) through (iv) of subsection (d)(4) in a penal institution, regardless of the intent with which he possesses it.

(c) A person commits the offense of unauthorized delivery of contraband in a penal institution by an employee when a person who is an employee knowingly and without authority of any person designated or authorized to grant such authority:

- (1) delivers or possesses with intent to deliver an item of contraband to any inmate of a penal institution, or
- (2) conspires to deliver or solicits the delivery of an item of contraband to any inmate of a penal institution, or
- (3) causes or permits the delivery of an item of contraband to any inmate of a penal institution, or
- (4) permits another person to attempt to deliver an item of contraband to any inmate of a penal institution.

(d) For purpose of this Section, the words and phrases listed below shall be defined as follows:

(1) "Penal Institution" shall have the meaning ascribed to it in subsection (c)(1) of Section 31A-1.1 of this Code;

(2) "Employee" means any elected or appointed officer, trustee or employee of a penal institution or of the governing authority of the penal institution, or any person who performs services for the penal institution pursuant to contract with the penal institution or its governing authority.

(3) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of an item of contraband, with or without consideration, whether or not there is an agency relationship;

(4) "Item of contraband" means any of the following:

- (i) "Alcoholic liquor" as such term is defined in Section 1-3.05 of the Liquor Control Act of 1934.
- (ii) "Cannabis" as such term is defined in subsection (a) of Section 3 of the Cannabis Control Act.
- (iii) "Controlled substance" as such term is defined in the Illinois Controlled Substances Act.

(iii-a) "Methamphetamine" as such term is defined in the Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act.

(iv) "Hypodermic syringe" or hypodermic needle, or any instrument adapted for use of controlled substances or cannabis by subcutaneous injection.

(v) "Weapon" means any knife, dagger, dirk, billy, razor, stiletto, broken bottle, or other piece of glass which could be used as a dangerous weapon. Such term includes any of the devices or implements designated in subsections (a)(1), (a)(3) and (a)(6) of Section 24-1 of this Act, or any other dangerous weapon or instrument of like character.

(vi) "Firearm" means any device, by whatever name known, which is designed to expel a projectile or projectiles by the action of an explosion, expansion of gas or escape of gas, including but not limited to:

- (A) any pneumatic gun, spring gun, or B-B gun which expels a single globular projectile not exceeding .18 inch in diameter; or
- (B) any device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or
- (C) any device used exclusively for the firing of stud cartridges, explosive rivets or industrial ammunition; or
- (D) any device which is powered by electrical charging units, such as

batteries, and which fires one or several barbs attached to a length of wire and which, upon hitting a human, can send out current capable of disrupting the person's nervous system in such a manner as to render him incapable of normal functioning, commonly referred to as a stun gun or taser.

(vii) "Firearm ammunition" means any self-contained cartridge or shotgun shell, by whatever name known, which is designed to be used or adaptable to use in a firearm, including but not limited to:

(A) any ammunition exclusively designed for use with a device used exclusively for signaling or safety and required or recommended by the United States Coast Guard or the Interstate Commerce Commission; or

(B) any ammunition designed exclusively for use with a stud or rivet driver or other similar industrial ammunition.

(viii) "Explosive" means, but is not limited to, bomb, bombshell, grenade, bottle or other container containing an explosive substance of over one-quarter ounce for like purposes such as black powder bombs and Molotov cocktails or artillery projectiles.

(ix) "Tool to defeat security mechanisms" means, but is not limited to, handcuff or security restraint key, tool designed to pick locks, or device or instrument capable of unlocking handcuff or security restraints, doors to cells, rooms, gates or other areas of the penal institution.

(x) "Cutting tool" means, but is not limited to, hacksaw blade, wirecutter, or device, instrument or file capable of cutting through metal.

(xi) "Electronic contraband" means, but is not limited to, any electronic, video recording device, computer, or cellular communications equipment, including, but not limited to, cellular telephones, cellular telephone batteries, videotape recorders, pagers, computers, and computer peripheral equipment.

(e) A violation of paragraphs (a) or (b) of this Section involving alcohol is a Class 4 felony. A violation of paragraph (a) or (b) of this Section involving cannabis is a Class 2 felony. A violation of paragraph (a) or (b) involving any amount of a controlled substance classified in Schedules III, IV or V of Article II of the Illinois Controlled Substances Act is a Class 1 felony. A violation of paragraph (a) or (b) of this Section involving any amount of a controlled substance classified in Schedules I or II of Article II of the Illinois Controlled Substances Act is a Class X felony. A violation of paragraph (a) or (b) involving an item of contraband listed in paragraph (iv) of subsection (d)(4) is a Class X felony. A violation of paragraph (a) or (b) involving an item of contraband listed in paragraph (v) or (xi) of subsection (d)(4) is a Class 1 felony. A violation of paragraph (a) or (b) involving an item of contraband listed in paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a Class X felony.

(f) A violation of paragraph (c) of this Section involving alcoholic liquor is a Class 3 felony. A violation of paragraph (c) involving cannabis is a Class 1 felony. A violation of paragraph (c) involving any amount of a controlled substance classified in Schedules III, IV or V of Article II of the Illinois Controlled Substances Act is a Class X felony. A violation of paragraph (c) involving any amount of a controlled substance classified in Schedules I or II of Article II of the Illinois Controlled Substances Act is a Class X felony for which the minimum term of imprisonment shall be 8 years. A violation of paragraph (c) involving an item of contraband listed in paragraph (iv) of subsection (d)(4) is a Class X felony for which the minimum term of imprisonment shall be 8 years. A violation of paragraph (c) involving an item of contraband listed in paragraph (v), (ix) or (x) of subsection (d)(4) is a Class X felony for which the minimum term of imprisonment shall be 10 years. A violation of paragraph (c) involving an item of contraband listed in paragraphs (vi), (vii) or (viii) of subsection (d)(4) is a Class X felony for which the minimum term of imprisonment shall be 12 years.

(g) Items confiscated may be retained for use by the Department of Corrections or disposed of as deemed appropriate by the Chief Administrative Officer in accordance with Department rules or disposed of as required by law.

(Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

(720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)

Sec. 33A-3. Sentence.

(a) Violation of Section 33A-2(a) with a Category I weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 15 years.

(a-5) Violation of Section 33A-2(a) with a Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 10 years.

(b) Violation of Section 33A-2(a) with a Category III weapon is a Class 2 felony or the felony classification provided for the same act while unarmed, whichever permits the greater penalty. A second or subsequent violation of Section 33A-2(a) with a Category III weapon is a Class 1 felony or the felony

classification provided for the same act while unarmed, whichever permits the greater penalty.

(b-5) Violation of Section 33A-2(b) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a minimum term of imprisonment of 20 years.

(b-10) Violation of Section 33A-2(c) with a firearm that is a Category I or Category II weapon is a Class X felony for which the defendant shall be sentenced to a term of imprisonment of not less than 25 years nor more than 40 years.

(c) Unless sentencing under Section 33B-1 is applicable, any person who violates subsection (a) or (b) of Section 33A-2 with a firearm, when that person has been convicted in any state or federal court of 3 or more of the following offenses: treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, arson, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, a violation of the Methamphetamine Control and Community Protection Act, or a violation of Section 401(a) of the Illinois Controlled Substances Act, when the third offense was committed after conviction on the second, the second offense was committed after conviction on the first, and the violation of Section 33A-2 was committed after conviction on the third, shall be sentenced to a term of imprisonment of not less than 25 years nor more than 50 years.

(c-5) Except as otherwise provided in paragraph (b-10) or (c) of this Section, a person who violates Section 33A-2(a) with a firearm that is a Category I weapon or Section 33A-2(b) in any school, in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity, or on the real property comprising any school or public park, and where the offense was related to the activities of an organized gang, shall be sentenced to a term of imprisonment of not less than the term set forth in subsection (a) or (b-5) of this Section, whichever is applicable, and not more than 30 years. For the purposes of this subsection (c-5), "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(d) For armed violence based upon a predicate offense listed in this subsection (d) the court shall enter the sentence for armed violence to run consecutively to the sentence imposed for the predicate offense. The offenses covered by this provision are:

- (i) solicitation of murder,
- (ii) solicitation of murder for hire,
- (iii) heinous battery,
- (iv) aggravated battery of a senior citizen,
- (v) criminal sexual assault,
- (vi) a violation of subsection (g) of Section 5 of the Cannabis Control Act,
- (vii) cannabis trafficking,
- (viii) a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act,
- (ix) controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act,
- (x) calculated criminal drug conspiracy, ~~or~~
- (xi) streetgang criminal drug conspiracy ~~or~~ -
- (xii) a violation of the Methamphetamine Control and Community Protection Act.

(Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

(720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

Sec. 37-1. Maintaining Public Nuisance. Any building used in the commission of offenses prohibited by Sections 9-1, 10-1, 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22, 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1, 28-3, 31-5 or 39A-1 of the Criminal Code of 1961, or prohibited by the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act, or used in the commission of an inchoate offense relative to any of the aforesaid principal offenses, or any real property erected, established, maintained, owned, leased, or used by a streetgang for the purpose of conducting streetgang related activity as defined in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act is a public nuisance.

(b) Sentence. A person convicted of knowingly maintaining such a public nuisance commits a Class A misdemeanor. Each subsequent offense under this Section is a Class 4 felony.

(Source: P.A. 91-876, eff. 1-1-01.)

(720 ILCS 5/44-2) (from Ch. 38, par. 44-2)

Sec. 44-2. (a) A person commits unlawful transfer of a telecommunications device to a minor when he gives, sells or otherwise transfers possession of a telecommunications device to a person under 18 years of age with the intent that the device be used to commit any offense under this Code, the Cannabis

Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act.

(b) Unlawful transfer of a telecommunications device to a minor is a Class A misdemeanor. (Source: P.A. 86-811.)

(720 ILCS 5/44-3) (from Ch. 38, par. 44-3)

Sec. 44-3. (a) Seizure. Any telecommunications device possessed by a person on the real property of any elementary or secondary school without the authority of the school principal, or used in the commission of an offense prohibited by this Code, the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act or which constitutes evidence of the commission of such offenses may be seized and delivered forthwith to the investigating law enforcement agency. A person who is not a student of the particular elementary or secondary school, who is on school property as an invitee of the school, and who has possession of a telecommunication device for lawful and legitimate purposes, shall not need to obtain authority from the school principal to possess the telecommunication device on school property. Such telecommunication device shall not be seized unless it was used in the commission of an offense specified above, or constitutes evidence of such an offense. Within 15 days after such delivery the investigating law enforcement agency shall give notice of seizure to any known owners, lienholders and secured parties of such property. Within that 15 day period the investigating law enforcement agency shall also notify the State's Attorney of the county of seizure about the seizure.

(b) Rights of lienholders and secured parties.

The State's Attorney shall promptly release a telecommunications device seized under the provisions of this Article to any lienholder or secured party if such lienholder or secured party shows to the State's Attorney that his lien or security interest is bona fide and was created without actual knowledge that such telecommunications device was or possessed in violation of this Section or used or to be used in the commission of the offense charged.

(c) Action for forfeiture. (1) The State's Attorney in the county in which such seizure occurs if he finds that such forfeiture was incurred without willful negligence or without any intention on the part of the owner of the telecommunications device or a lienholder or secured party to violate the law, or finds the existence of such mitigating circumstances as to justify remission of the forfeiture, may cause the investigating law enforcement agency to remit the same upon such terms and conditions as the State's Attorney deems reasonable and just. The State's Attorney shall exercise his discretion under the foregoing provision of this Section promptly after notice is given in accordance with subsection (a). If the State's Attorney does not cause the forfeiture to be remitted he shall forthwith bring an action for forfeiture in the circuit court within whose jurisdiction the seizure and confiscation has taken place. The State's Attorney shall give notice of the forfeiture proceeding by mailing a copy of the complaint in the forfeiture proceeding to the persons and in the manner set forth in subsection (a). The owner of the device or any person with any right, title, or interest in the device may within 20 days after the mailing of such notice file a verified answer to the complaint and may appear at the hearing on the action for forfeiture. The State shall show at such hearing by a preponderance of the evidence that the device was used in the commission of an offense described in subsection (a). The owner of the device or any person with any right, title, or interest in the device may show by a preponderance of the evidence that he did not know, and did not have reason to know, that the device was possessed in violation of this Section or to be used in the commission of such an offense or that any of the exceptions set forth in subsection (d) are applicable. Unless the State shall make such showing, the Court shall order the device released to the owner. Where the State has made such showing, the Court may order the device destroyed; may upon the request of the investigating law enforcement agency, order it delivered to any local, municipal or county law enforcement agency, or the Department of State Police or the Department of Revenue of the State of Illinois; or may order it sold at public auction.

(2) A copy of the order shall be filed with the investigating law enforcement agency of the county in which the seizure occurs. Such order, when filed, confers ownership of the device to the department or agency to whom it is delivered or any purchaser thereof. The investigating law enforcement agency shall comply promptly with instructions to remit received from the State's Attorney or Attorney General in accordance with paragraph (1) of this subsection or subsection (d).

(3) The proceeds of any sale at public auction pursuant to this subsection, after payment of all liens and deduction of the reasonable charges and expenses incurred by the investigating law enforcement agency in storing and selling the device, shall be paid into the general fund of the level of government responsible for the operation of the investigating law enforcement agency.

(d) Exceptions to forfeiture. (b) No device shall be forfeited under the provisions of subsection (c) by reason of any act or omission established by the owner thereof to have been committed or omitted by

any person other than the owner while the device was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state.

(e) Remission by Attorney General. Whenever any owner of, or other person interested in, a device seized under the provisions of this Section files with the Attorney General before the sale or destruction of the device a petition for the remission of such forfeiture the Attorney General if he finds that such forfeiture was incurred without willful negligence or without any intention on the part of the owner or any person with any right, title or interest in the device to violate the law, or finds the existence of such mitigating circumstances as to justify the remission of forfeiture, may cause the same to be remitted upon such terms and conditions as he deems reasonable and just, or order discontinuance of any forfeiture proceeding relating thereto.

(Source: P.A. 86-811.)

(720 ILCS 5/12-4.10 rep., from P.A. 93-111) (720 ILCS 5/12-4.10 rep., from P.A. 93-340) (720 ILCS 5/12-4.11 rep., from P.A. 93-340) (720 ILCS 5/20-1.4 rep.) (720 ILCS 5/20-1.5 rep.) (720 ILCS 5/21-1.5 rep.)

Section 1056. The Criminal Code of 1961 is amended by repealing Sections 12-4.10 (as added by Public Act 93-111), 12-4.10 (as added by Public Act 93-340), 12-4.11 (as added by Public Act 93-340), 20-1.4, 20-1.5, and 21-1.5.

Section 1060. The Cannabis Control Act is amended by changing Sections 10 and 10.2 as follows:

(720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

Sec. 10. (a) Whenever any person who has not previously been convicted of, or placed on probation or court supervision for, any offense under this Act or any law of the United States or of any State relating to cannabis, or controlled substances as defined in the Illinois Controlled Substances Act, pleads guilty to or is found guilty of violating Sections 4(a), 4(b), 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without entering a judgment and with the consent of such person, sentence him to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months, and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possession of a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) refrain from possessing a firearm or other dangerous weapon;

(7-5) refrain from having in his or her body the presence of any illicit drug prohibited

by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(8) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge such person and dismiss the proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the

conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime (including the additional penalty imposed for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d) of this Act).

(h) Discharge and dismissal under this Section, ~~or under~~ Section 410 of the Illinois Controlled Substances Act, ~~or~~ Section 70 of the Methamphetamine Control and Community Protection Act may occur only once with respect to any person.

(i) If a person is convicted of an offense under this Act, ~~or~~ the Illinois Controlled Substances Act, ~~or~~ the Methamphetamine Control and Community Protection Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as a factor in aggravation.

(Source: P.A. 91-696, eff. 4-13-00.)

(720 ILCS 550/10.2) (from Ch. 56 1/2, par. 710.2)

Sec. 10.2. (a) Twelve and one-half percent of all amounts collected as fines pursuant to the provisions of this Act shall be paid into the Youth Drug Abuse Prevention Fund, which is hereby created in the State treasury, to be used by the Department of Human Services for the funding of programs and services for drug-abuse treatment, and prevention and education services, for juveniles.

(b) Eighty-seven and one-half percent of the proceeds of all fines received under the provisions of this Act shall be transmitted to and deposited in the treasurer's office at the level of government as follows:

(1) If such seizure was made by a combination of law enforcement personnel representing differing units of local government, the court levying the fine shall equitably allocate 50% of the fine among these units of local government and shall allocate 37 1/2% to the county general corporate fund. In the event that the seizure was made by law enforcement personnel representing a unit of local government from a municipality where the number of inhabitants exceeds 2 million in population, the court levying the fine shall allocate 87 1/2% of the fine to that unit of local government. If the seizure was made by a combination of law enforcement personnel representing differing units of local government, and at least one of those units represents a municipality where the number of inhabitants exceeds 2 million in population, the court shall equitably allocate 87 1/2% of the proceeds of the fines received among the differing units of local government.

(2) If such seizure was made by State law enforcement personnel, then the court shall allocate 37 1/2% to the State treasury and 50% to the county general corporate fund.

(3) If a State law enforcement agency in combination with a law enforcement agency or agencies of a unit or units of local government conducted the seizure, the court shall equitably allocate 37 1/2% of the fines to or among the law enforcement agency or agencies of the unit or units of local government which conducted the seizure and shall allocate 50% to the county general corporate fund.

(c) The proceeds of all fines allocated to the law enforcement agency or agencies of the unit or units of local government pursuant to subsection (b) shall be made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. The proceeds of fines awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund, except that amounts distributed to the Secretary of State shall be deposited into the Secretary of State Evidence Fund to be used as provided in Section 2-115 of the Illinois Vehicle Code. Monies from this fund may be used by the Department of State Police for use in the enforcement of laws regulating controlled substances and cannabis; to satisfy funding provisions of the Intergovernmental Drug Laws Enforcement Act; to defray costs and expenses associated with returning violators of this Act, ~~and~~ the Illinois Controlled Substances Act, ~~and~~ the Methamphetamine Control and Community Protection Act only, as provided in such Acts, when punishment of the crime shall be confinement of the criminal in the penitentiary; and all other monies shall be paid into the general revenue fund in the State treasury.

(Source: P.A. 88-517; 89-507, eff. 7-1-97.)

Section 1065. The Illinois Controlled Substances Act is amended by changing Sections 102, 401, 401.1, 401.5, 402, 405.2, 405.3, 406.1, 407, 410, 413 as follows:

(720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

Sec. 102. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Addict" means any person who habitually uses any drug, chemical, substance or dangerous drug other than alcohol so as to endanger the public morals, health, safety or welfare or who is so far addicted to the use of a dangerous drug or controlled substance other than alcohol as to have lost the power of self control with reference to his addiction.

(b) "Administer" means the direct application of a controlled substance, whether by injection,

[May 30, 2005]

inhalation, ingestion, or any other means, to the body of a patient, research subject, or animal (as defined by the Humane Euthanasia in Animal Shelters Act) by:

- (1) a practitioner (or, in his presence, by his authorized agent),
- (2) the patient or research subject at the lawful direction of the practitioner, or
- (3) a euthanasia technician as defined by the Humane Euthanasia in Animal Shelters Act.

(c) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseman or employee of the carrier or warehouseman.

(c-1) "Anabolic Steroids" means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, and corticosteroids) that promotes muscle growth, and includes:

- (i) boldenone,
- (ii) chlorotestosterone,
- (iii) chostebol,
- (iv) dehydrochlormethyltestosterone,
- (v) dihydrotestosterone,
- (vi) drostanolone,
- (vii) ethylestrenol,
- (viii) fluoxymesterone,
- (ix) formebolone,
- (x) mesterolone,
- (xi) methandienone,
- (xii) methandranone,
- (xiii) methandriol,
- (xiv) methandrostenolone,
- (xv) methenolone,
- (xvi) methyltestosterone,
- (xvii) mibolerone,
- (xviii) nandrolone,
- (xix) norethandrolone,
- (xx) oxandrolone,
- (xxi) oxymesterone,
- (xxii) oxymetholone,
- (xxiii) stanolone,
- (xxiv) stanozolol,
- (xxv) testolactone,
- (xxvi) testosterone,
- (xxvii) trenbolone, and
- (xxviii) any salt, ester, or isomer of a drug or substance described or listed in this paragraph, if that salt, ester, or isomer promotes muscle growth.

Any person who is otherwise lawfully in possession of an anabolic steroid, or who otherwise lawfully manufactures, distributes, dispenses, delivers, or possesses with intent to deliver an anabolic steroid, which anabolic steroid is expressly intended for and lawfully allowed to be administered through implants to livestock or other nonhuman species, and which is approved by the Secretary of Health and Human Services for such administration, and which the person intends to administer or have administered through such implants, shall not be considered to be in unauthorized possession or to unlawfully manufacture, distribute, dispense, deliver, or possess with intent to deliver such anabolic steroid for purposes of this Act.

(d) "Administration" means the Drug Enforcement Administration, United States Department of Justice, or its successor agency.

(e) "Control" means to add a drug or other substance, or immediate precursor, to a Schedule under Article II of this Act whether by transfer from another Schedule or otherwise.

(f) "Controlled Substance" means a drug, substance, or immediate precursor in the Schedules of Article II of this Act.

(g) "Counterfeit substance" means a controlled substance, which, or the container or labeling of which, without authorization bears the trademark, trade name, or other identifying mark, imprint, number or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.

(h) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession of a

controlled substance, with or without consideration, whether or not there is an agency relationship.

(i) "Department" means the Illinois Department of Human Services (as successor to the Department of Alcoholism and Substance Abuse) or its successor agency.

(j) "Department of State Police" means the Department of State Police of the State of Illinois or its successor agency.

(k) "Department of Corrections" means the Department of Corrections of the State of Illinois or its successor agency.

(l) "Department of Professional Regulation" means the Department of Professional Regulation of the State of Illinois or its successor agency.

(m) "Depressant" or "stimulant substance" means:

(1) a drug which contains any quantity of (i) barbituric acid or any of the salts of barbituric acid which has been designated as habit forming under section 502 (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352 (d)); or

(2) a drug which contains any quantity of (i) amphetamine or methamphetamine and any of their optical isomers; (ii) any salt of amphetamine or methamphetamine or any salt of an optical isomer of amphetamine; or (iii) any substance which the Department, after investigation, has found to be, and by rule designated as, habit forming because of its depressant or stimulant effect on the central nervous system; or

(3) lysergic acid diethylamide; or

(4) any drug which contains any quantity of a substance which the Department, after investigation, has found to have, and by rule designated as having, a potential for abuse because of its depressant or stimulant effect on the central nervous system or its hallucinogenic effect.

(n) (Blank).

(o) "Director" means the Director of the Department of State Police or the Department of Professional Regulation or his designated agents.

(p) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a prescriber, including the prescribing, administering, packaging, labeling, or compounding necessary to prepare the substance for that delivery.

(q) "Dispenser" means a practitioner who dispenses.

(r) "Distribute" means to deliver, other than by administering or dispensing, a controlled substance.

(s) "Distributor" means a person who distributes.

(t) "Drug" means (1) substances recognized as drugs in the official United States Pharmacopoeia, Official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (2) substances intended for use in diagnosis, cure, mitigation, treatment, or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure of any function of the body of man or animals and (4) substances intended for use as a component of any article specified in clause (1), (2), or (3) of this subsection. It does not include devices or their components, parts, or accessories.

(t-5) "Euthanasia agency" means an entity certified by the Department of Professional Regulation for the purpose of animal euthanasia that holds an animal control facility license or animal shelter license under the Animal Welfare Act. A euthanasia agency is authorized to purchase, store, possess, and utilize Schedule II nonnarcotic and Schedule III nonnarcotic drugs for the sole purpose of animal euthanasia.

(t-10) "Euthanasia drugs" means Schedule II or Schedule III substances (nonnarcotic controlled substances) that are used by a euthanasia agency for the purpose of animal euthanasia.

(u) "Good faith" means the prescribing or dispensing of a controlled substance by a practitioner in the regular course of professional treatment to or for any person who is under his treatment for a pathology or condition other than that individual's physical or psychological dependence upon or addiction to a controlled substance, except as provided herein: and application of the term to a pharmacist shall mean the dispensing of a controlled substance pursuant to the prescriber's order which in the professional judgment of the pharmacist is lawful. The pharmacist shall be guided by accepted professional standards including, but not limited to the following, in making the judgment:

(1) lack of consistency of doctor-patient relationship,

(2) frequency of prescriptions for same drug by one prescriber for large numbers of patients,

(3) quantities beyond those normally prescribed,

(4) unusual dosages,

(5) unusual geographic distances between patient, pharmacist and prescriber,

(6) consistent prescribing of habit-forming drugs.

(u-1) "Home infusion services" means services provided by a pharmacy in compounding solutions for

direct administration to a patient in a private residence, long-term care facility, or hospice setting by means of parenteral, intravenous, intramuscular, subcutaneous, or intraspinal infusion.

(v) "Immediate precursor" means a substance:

- (1) which the Department has found to be and by rule designated as being a principal compound used, or produced primarily for use, in the manufacture of a controlled substance;
- (2) which is an immediate chemical intermediary used or likely to be used in the manufacture of such controlled substance; and
- (3) the control of which is necessary to prevent, curtail or limit the manufacture of such controlled substance.

(w) "Instructional activities" means the acts of teaching, educating or instructing by practitioners using controlled substances within educational facilities approved by the State Board of Education or its successor agency.

(x) "Local authorities" means a duly organized State, County or Municipal peace unit or police force.

(y) "Look-alike substance" means a substance, other than a controlled substance which (1) by overall dosage unit appearance, including shape, color, size, markings or lack thereof, taste, consistency, or any other identifying physical characteristic of the substance, would lead a reasonable person to believe that the substance is a controlled substance, or (2) is expressly or impliedly represented to be a controlled substance or is distributed under circumstances which would lead a reasonable person to believe that the substance is a controlled substance. For the purpose of determining whether the representations made or the circumstances of the distribution would lead a reasonable person to believe the substance to be a controlled substance under this clause (2) of subsection (y), the court or other authority may consider the following factors in addition to any other factor that may be relevant:

- (a) statements made by the owner or person in control of the substance concerning its nature, use or effect;
- (b) statements made to the buyer or recipient that the substance may be resold for profit;
- (c) whether the substance is packaged in a manner normally used for the illegal distribution of controlled substances;
- (d) whether the distribution or attempted distribution included an exchange of or demand for money or other property as consideration, and whether the amount of the consideration was substantially greater than the reasonable retail market value of the substance.

Clause (1) of this subsection (y) shall not apply to a noncontrolled substance in its finished dosage form that was initially introduced into commerce prior to the initial introduction into commerce of a controlled substance in its finished dosage form which it may substantially resemble.

Nothing in this subsection (y) prohibits the dispensing or distributing of noncontrolled substances by persons authorized to dispense and distribute controlled substances under this Act, provided that such action would be deemed to be carried out in good faith under subsection (u) if the substances involved were controlled substances.

Nothing in this subsection (y) or in this Act prohibits the manufacture, preparation, propagation, compounding, processing, packaging, advertising or distribution of a drug or drugs by any person registered pursuant to Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

(y-1) "Mail-order pharmacy" means a pharmacy that is located in a state of the United States, other than Illinois, that delivers, dispenses or distributes, through the United States Postal Service or other common carrier, to Illinois residents, any substance which requires a prescription.

(z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance other than methamphetamine, either directly or indirectly, by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling of its container, except that this term does not include:

- (1) by an ultimate user, the preparation or compounding of a controlled substance for his own use; or
- (2) by a practitioner, or his authorized agent under his supervision, the preparation, compounding, packaging, or labeling of a controlled substance:
 - (a) as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
 - (b) as an incident to lawful research, teaching or chemical analysis and not for sale.

(z-1) (Blank). "~~Methamphetamine manufacturing chemical~~" means ~~any of the following chemicals or substances containing any of the following chemicals: benzyl methyl ketone, ephedrine, methyl benzyl~~

~~ketone, phenylacetone, phenyl 2-propanone, pseudoephedrine, or red phosphorous or any of the salts, optical isomers, or salts of optical isomers of the above listed chemicals.~~

(aa) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1), but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salts, compound, isomer, salt of an isomer, derivative, or preparation of coca leaves including cocaine and ecgonine, and any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine (for the purpose of this paragraph, the term "isomer" includes optical, positional and geometric isomers).

(bb) "Nurse" means a registered nurse licensed under the Nursing and Advanced Practice Nursing Act.

(cc) (Blank).

(dd) "Opiate" means any substance having an addiction forming or addiction sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction sustaining liability.

(ee) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(ff) "Parole and Pardon Board" means the Parole and Pardon Board of the State of Illinois or its successor agency.

(gg) "Person" means any individual, corporation, mail-order pharmacy, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other entity.

(hh) "Pharmacist" means any person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987.

(ii) "Pharmacy" means any store, ship or other place in which pharmacy is authorized to be practiced under the Pharmacy Practice Act of 1987.

(jj) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(kk) "Practitioner" means a physician licensed to practice medicine in all its branches, dentist, podiatrist, veterinarian, scientific investigator, pharmacist, physician assistant, advanced practice nurse, licensed practical nurse, registered nurse, hospital, laboratory, or pharmacy, or other person licensed, registered, or otherwise lawfully permitted by the United States or this State to distribute, dispense, conduct research with respect to, administer or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

(ll) "Pre-printed prescription" means a written prescription upon which the designated drug has been indicated prior to the time of issuance.

(mm) "Prescriber" means a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian who issues a prescription, a physician assistant who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or an advanced practice nurse with prescriptive authority in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(nn) "Prescription" means a lawful written, facsimile, or verbal order of a physician licensed to practice medicine in all its branches, dentist, podiatrist or veterinarian for any controlled substance, of a physician assistant for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and the written guidelines required under Section 7.5 of the Physician Assistant Practice Act of 1987, or of an advanced practice nurse who issues a prescription for a Schedule III, IV, or V controlled substance in accordance with Section 303.05 and a written collaborative agreement under Sections 15-15 and 15-20 of the Nursing and Advanced Practice Nursing Act.

(oo) "Production" or "produce" means manufacture, planting, cultivating, growing, or harvesting of a controlled substance ~~other than methamphetamine.~~

(pp) "Registrant" means every person who is required to register under Section 302 of this Act.

(qq) "Registry number" means the number assigned to each person authorized to handle controlled substances under the laws of the United States and of this State.

(rr) "State" includes the State of Illinois and any state, district, commonwealth, territory, insular possession thereof, and any area subject to the legal authority of the United States of America.

(ss) "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

(Source: P.A. 92-449, eff. 1-1-02; 93-596, eff. 8-26-03; 93-626, eff. 12-23-03.)

(720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

Sec. 401. Except as authorized by this Act, it is unlawful for any person knowingly to: ~~(i) manufacture or deliver, or possess with intent to manufacture or deliver, a controlled substance other than methamphetamine, a counterfeit substance, or a controlled substance analog or (ii) possess any methamphetamine manufacturing chemical listed in paragraph (z 1) of Section 102 with the intent to manufacture methamphetamine or the salt of an optical isomer of methamphetamine or an analog thereof.~~ A violation of this Act with respect to each of the controlled substances listed herein constitutes a single and separate violation of this Act. For purposes of this Section, "controlled substance analog" or "analog" means a substance which is intended for human consumption, other than a controlled substance, that has a chemical structure substantially similar to that of a controlled substance in Schedule I or II, or that was specifically designed to produce an effect substantially similar to that of a controlled substance in Schedule I or II. Examples of chemical classes in which controlled substance analogs are found include, but are not limited to, the following: phenethylamines, N-substituted piperidines, morphinans, egonines, quinazolinones, substituted indoles, and arylcycloalkylamines. For purposes of this Act, a controlled substance analog shall be treated in the same manner as the controlled substance to which it is substantially similar.

(a) Any person who violates this Section with respect to the following amounts of controlled or counterfeit substances or controlled substance analogs, notwithstanding any of the provisions of subsections (c), ~~(c-5)~~, (d), ~~(d-5)~~, (e), (f), (g) or (h) to the contrary, is guilty of a Class X felony and shall be sentenced to a term of imprisonment as provided in this subsection (a) and fined as provided in subsection (b):

- (1) (A) not less than 6 years and not more than 30 years with respect to 15 grams or more but less than 100 grams of a substance containing heroin, or an analog thereof;
 - (B) not less than 9 years and not more than 40 years with respect to 100 grams or more but less than 400 grams of a substance containing heroin, or an analog thereof;
 - (C) not less than 12 years and not more than 50 years with respect to 400 grams or more but less than 900 grams of a substance containing heroin, or an analog thereof;
 - (D) not less than 15 years and not more than 60 years with respect to 900 grams or more of any substance containing heroin, or an analog thereof;
- (2) (A) not less than 6 years and not more than 30 years with respect to 15 grams or more but less than 100 grams of a substance containing cocaine, or an analog thereof;
 - (B) not less than 9 years and not more than 40 years with respect to 100 grams or more but less than 400 grams of a substance containing cocaine, or an analog thereof;
 - (C) not less than 12 years and not more than 50 years with respect to 400 grams or more but less than 900 grams of a substance containing cocaine, or an analog thereof;
 - (D) not less than 15 years and not more than 60 years with respect to 900 grams or more of any substance containing cocaine, or an analog thereof;
- (3) (A) not less than 6 years and not more than 30 years with respect to 15 grams or more but less than 100 grams of a substance containing morphine, or an analog thereof;
 - (B) not less than 9 years and not more than 40 years with respect to 100 grams or more but less than 400 grams of a substance containing morphine, or an analog thereof;
 - (C) not less than 12 years and not more than 50 years with respect to 400 grams or more but less than 900 grams of a substance containing morphine, or an analog thereof;
 - (D) not less than 15 years and not more than 60 years with respect to 900 grams or more of a substance containing morphine, or an analog thereof;
- (4) 200 grams or more of any substance containing peyote, or an analog thereof;
- (5) 200 grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid, or an analog thereof;
- (6) 200 grams or more of any substance containing amphetamine or any salt of an optical isomer of amphetamine, or an analog thereof;
- ~~(6.5) (blank); (A) not less than 6 years and not more than 30 years with respect to 15 grams or more but less than 100 grams of a substance containing methamphetamine or any salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(B) not less than 9 years and not more than 40 years with respect to 100 grams or more but less than 400 grams of a substance containing methamphetamine or any salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(C) not less than 12 years and not more than 50 years with respect to 400 grams or more but less than 900 grams of a substance containing methamphetamine or any salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(D) not less than 15 years and not more than 60 years with respect to 900 grams or more of any substance containing methamphetamine or any salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(6.6) (blank); (A) not less than 6 years and not more than 30 years for the possession of any methamphetamine manufacturing chemical set forth in paragraph (z 1) of Section 102 with intent to manufacture 30 grams or more but less than 150 grams of any substance containing methamphetamine, or salt of any optical isomer of methamphetamine, or an analog thereof;~~

~~(B) not less than 6 years and not more than 40 years for the possession of any methamphetamine manufacturing chemical set forth in paragraph (z 1) of Section 102 with intent to manufacture 150 grams or more but less than 500 grams of any substance containing methamphetamine, or salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(C) not less than 6 years and not more than 50 years for the possession of any methamphetamine manufacturing chemical set forth in paragraph (z 1) of Section 102 with intent to manufacture 500 grams or more but less than 1200 grams of any substance containing methamphetamine, or salt of an optical isomer of methamphetamine, or an analog thereof;~~

~~(D) not less than 6 years and not more than 60 years for the possession of any methamphetamine manufacturing chemical set forth in paragraph (z 1) of Section 102 with intent to manufacture 1200 grams or more of any substance containing methamphetamine, or salt of an optical isomer of methamphetamine, or an analog thereof;~~

(7) (A) not less than 6 years and not more than 30 years with respect to: (i) 15 grams or more but less than 100 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 15 or more objects or 15 or more segregated parts of an object or objects but less than 200 objects or 200 segregated parts of an object or objects containing in them or having upon them any amounts of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(B) not less than 9 years and not more than 40 years with respect to: (i) 100 grams or more but less than 400 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 200 or more objects or 200 or more segregated parts of an object or objects but less than 600 objects or less than 600 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(C) not less than 12 years and not more than 50 years with respect to: (i) 400 grams or more but less than 900 grams of a substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 600 or more objects or 600 or more segregated parts of an object or objects but less than 1500 objects or 1500 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(D) not less than 15 years and not more than 60 years with respect to: (i) 900 grams or more of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 1500 or more objects or 1500 or more segregated parts of an object or objects containing in them or having upon them any amount of a substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(7.5) (A) not less than 6 years and not more than 30 years with respect to: (i) 15 grams or more but less than 100 grams of a substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 15 or more pills, tablets, caplets, capsules, or objects but less than 200 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amounts of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(B) not less than 9 years and not more than 40 years with respect to: (i) 100 grams or more but less than 400 grams of a substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 200 or more pills, tablets, caplets, capsules, or objects but less than 600 pills, tablets,

caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(C) not less than 12 years and not more than 50 years with respect to: (i) 400 grams or more but less than 900 grams of a substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 600 or more pills, tablets, caplets, capsules, or objects but less than 1,500 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(D) not less than 15 years and not more than 60 years with respect to: (i) 900 grams or more of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 1,500 or more pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of a substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(8) 30 grams or more of any substance containing pentazocine or any of the salts, isomers and salts of isomers of pentazocine, or an analog thereof;

(9) 30 grams or more of any substance containing methaqualone or any of the salts, isomers and salts of isomers of methaqualone, or an analog thereof;

(10) 30 grams or more of any substance containing phencyclidine or any of the salts, isomers and salts of isomers of phencyclidine (PCP), or an analog thereof;

(10.5) 30 grams or more of any substance containing ketamine or any of the salts, isomers and salts of isomers of ketamine, or an analog thereof;

(11) 200 grams or more of any substance containing any other controlled substance classified in Schedules I or II, or an analog thereof, which is not otherwise included in this subsection.

(b) Any person sentenced with respect to violations of paragraph (1), (2), (3), ~~(6.5), (6.6)~~, (7), or (7.5) of subsection (a) involving 100 grams or more of the controlled substance named therein, may in addition to the penalties provided therein, be fined an amount not more than \$500,000 or the full street value of the controlled or counterfeit substance or controlled substance analog, whichever is greater. The term "street value" shall have the meaning ascribed in Section 110-5 of the Code of Criminal Procedure of 1963. Any person sentenced with respect to any other provision of subsection (a), may in addition to the penalties provided therein, be fined an amount not to exceed \$500,000.

(c) Any person who violates this Section with regard to the following amounts of controlled or counterfeit substances or controlled substance analogs, notwithstanding any of the provisions of subsections (a), (b), (d), (e), (f), (g) or (h) to the contrary, is guilty of a Class 1 felony. The fine for violation of this subsection (c) shall not be more than \$250,000:

(1) 1 gram or more but less than 15 grams of any substance containing heroin, or an analog thereof;

(2) 1 gram or more but less than 15 grams of any substance containing cocaine, or an analog thereof;

(3) 10 grams or more but less than 15 grams of any substance containing morphine, or an analog thereof;

(4) 50 grams or more but less than 200 grams of any substance containing peyote, or an analog thereof;

(5) 50 grams or more but less than 200 grams of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid, or an analog thereof;

(6) 50 grams or more but less than 200 grams of any substance containing amphetamine or any salt of an optical isomer of amphetamine, or an analog thereof;

~~(6.5) (blank); 5 grams or more but less than 15 grams of any substance containing methamphetamine or any salt or optical isomer of methamphetamine, or an analog thereof;~~

(7) (i) 5 grams or more but less than 15 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) more than 10 objects or more than 10 segregated parts of an object or objects but less than 15 objects or less than 15 segregated parts of an object containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(7.5) (i) 5 grams or more but less than 15 grams of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) more than 10 pills, tablets, caplets, capsules, or objects but less

than 15 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(8) 10 grams or more but less than 30 grams of any substance containing pentazocine or any of the salts, isomers and salts of isomers of pentazocine, or an analog thereof;

(9) 10 grams or more but less than 30 grams of any substance containing methaqualone or any of the salts, isomers and salts of isomers of methaqualone, or an analog thereof;

(10) 10 grams or more but less than 30 grams of any substance containing phencyclidine or any of the salts, isomers and salts of isomers of phencyclidine (PCP), or an analog thereof;

(10.5) 10 grams or more but less than 30 grams of any substance containing ketamine or any of the salts, isomers and salts of isomers of ketamine, or an analog thereof;

(11) 50 grams or more but less than 200 grams of any substance containing a substance classified in Schedules I or II, or an analog thereof, which is not otherwise included in this subsection.

~~(c-5) (Blank). Any person who violates this Section with regard to possession of any methamphetamine manufacturing chemical set forth in paragraph (z 1) of Section 102 with intent to manufacture 15 grams or more but less than 30 grams of methamphetamine, or salt of an optical isomer of methamphetamine or any analog thereof, is guilty of a Class 1 felony. The fine for violation of this subsection (c-5) shall not be more than \$250,000.~~

(d) Any person who violates this Section with regard to any other amount of a controlled or counterfeit substance classified in Schedules I or II, or an analog thereof, which is (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or an analog thereof, or (iii) any substance containing amphetamine or ~~methamphetamine~~ or any salt or optical isomer of amphetamine or ~~methamphetamine~~, or an analog thereof, is guilty of a Class 2 felony. The fine for violation of this subsection (d) shall not be more than \$200,000.

~~(d-5) (Blank). Any person who violates this Section with regard to possession of any methamphetamine manufacturing chemical set forth in paragraph (z 1) of Section 102 with intent to manufacture less than 15 grams of methamphetamine, or salt of an optical isomer of methamphetamine or any analog thereof, is guilty of a Class 2 felony. The fine for violation of this subsection (d-5) shall not be more than \$200,000.~~

(e) Any person who violates this Section with regard to any other amount of a controlled or counterfeit substance other than methamphetamine classified in Schedule I or II, or an analog thereof, which substance is not included under subsection (d) of this Section, is guilty of a Class 3 felony. The fine for violation of this subsection (e) shall not be more than \$150,000.

(f) Any person who violates this Section with regard to any other amount of a controlled or counterfeit substance classified in Schedule III is guilty of a Class 3 felony. The fine for violation of this subsection (f) shall not be more than \$125,000.

(g) Any person who violates this Section with regard to any other amount of a controlled or counterfeit substance classified in Schedule IV is guilty of a Class 3 felony. The fine for violation of this subsection (g) shall not be more than \$100,000.

(h) Any person who violates this Section with regard to any other amount of a controlled or counterfeit substance classified in Schedule V is guilty of a Class 3 felony. The fine for violation of this subsection (h) shall not be more than \$75,000.

(i) This Section does not apply to the manufacture, possession or distribution of a substance in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the Federal Food, Drug and Cosmetic Act.

~~(j) (Blank). The presence of any methamphetamine manufacturing chemical in a sealed, factory imprinted container, including, but not limited to a bottle, box, or plastic blister package, at the time of seizure by law enforcement, is prima facie evidence that the methamphetamine manufacturing chemical located within the container is in fact the chemical so described and in the amount and dosage listed on the container. The factory imprinted container is admissible for a violation of this Section for purposes of proving the contents of the container.~~

(Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698, eff. 7-19-02; 93-278, eff. 1-1-04.)

(720 ILCS 570/401.1) (from Ch. 56 1/2, par. 1401.1)

Sec. 401.1. Controlled Substance Trafficking.

(a) Except for purposes as authorized by this Act, any person who knowingly brings or causes to be brought into this State for the purpose of manufacture or delivery or with the intent to manufacture or deliver a controlled substance other than methamphetamine or counterfeit substance in this or any other state or country is guilty of controlled substance trafficking.

(b) A person convicted of controlled substance trafficking shall be sentenced to a term of

imprisonment not less than twice the minimum term and fined an amount as authorized by Section 401 of this Act, based upon the amount of controlled or counterfeit substance brought or caused to be brought into this State, and not more than twice the maximum term of imprisonment and fined twice the amount as authorized by Section 401 of this Act, based upon the amount of controlled or counterfeit substance brought or caused to be brought into this State.

(c) It shall be a Class 2 felony for which a fine not to exceed \$100,000 may be imposed for any person to knowingly use a cellular radio telecommunication device in the furtherance of controlled substance trafficking. This penalty shall be in addition to any other penalties imposed by law.

(Source: P.A. 85-1294; 86-1391.)

(720 ILCS 570/401.5)

Sec. 401.5. Chemical breakdown of illicit controlled substance.

(a) It is unlawful for any person to manufacture a controlled substance other than methamphetamine prohibited by this Act by chemically deriving the controlled substance from one or more other controlled substances prohibited by this Act.

(a-5) It is unlawful for any person to possess any substance with the intent to use the substance to facilitate the manufacture of any controlled substance other than methamphetamine, any or counterfeit substance, or any controlled substance analog other than as authorized by this Act.

(b) A violation of this Section is a Class 4 felony.

(c) ~~(Blank). This Section does not apply to the possession of any methamphetamine manufacturing chemicals with the intent to manufacture methamphetamine or any salt of an optical isomer of methamphetamine, or an analog of methamphetamine.~~

(Source: P.A. 90-775, eff. 1-1-99; 91-403, eff. 1-1-00; 91-825, eff. 6-13-00.)

(720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

Sec. 402. Except as otherwise authorized by this Act, it is unlawful for any person knowingly to possess a controlled or counterfeit substance. A violation of this Act with respect to each of the controlled substances listed herein constitutes a single and separate violation of this Act.

(a) Any person who violates this Section with respect to the following controlled or counterfeit substances and amounts, notwithstanding any of the provisions of subsections (c) and (d) to the contrary, is guilty of a Class 1 felony and shall, if sentenced to a term of imprisonment, be sentenced as provided in this subsection (a) and fined as provided in subsection (b):

- (1) (A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of a substance containing heroin;
 - (B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of a substance containing heroin;
 - (C) not less than 8 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of any substance containing heroin;
 - (D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing heroin;

- (2) (A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of any substance containing cocaine;
 - (B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of any substance containing cocaine;
 - (C) not less than 8 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of any substance containing cocaine;
 - (D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing cocaine;

- (3) (A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of any substance containing morphine;
 - (B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of any substance containing morphine;
 - (C) not less than 6 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of any substance containing morphine;
 - (D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing morphine;
- (4) 200 grams or more of any substance containing peyote;

(5) 200 grams or more of any substance containing a derivative of barbituric acid or any of the salts of a derivative of barbituric acid;

(6) 200 grams or more of any substance containing amphetamine or any salt of an optical isomer of amphetamine;

~~(6.5) (blank); (A) not less than 4 years and not more than 15 years with respect to 15 grams or more but less than 100 grams of a substance containing methamphetamine or any salt of an optical isomer of methamphetamine;~~

~~(B) not less than 6 years and not more than 30 years with respect to 100 grams or more but less than 400 grams of a substance containing methamphetamine or any salt of an optical isomer of methamphetamine;~~

~~(C) not less than 8 years and not more than 40 years with respect to 400 grams or more but less than 900 grams of a substance containing methamphetamine or any salt of an optical isomer of methamphetamine;~~

~~(D) not less than 10 years and not more than 50 years with respect to 900 grams or more of any substance containing methamphetamine or any salt of an optical isomer of methamphetamine;~~

(7) (A) not less than 4 years and not more than 15 years with respect to: (i) 15 grams or more but less than 100 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 15 or more objects or 15 or more segregated parts of an object or objects but less than 200 objects or 200 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(B) not less than 6 years and not more than 30 years with respect to: (i) 100 grams or more but less than 400 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 200 or more objects or 200 or more segregated parts of an object or objects but less than 600 objects or less than 600 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(C) not less than 8 years and not more than 40 years with respect to: (i) 400 grams or more but less than 900 grams of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 600 or more objects or 600 or more segregated parts of an object or objects but less than 1500 objects or 1500 segregated parts of an object or objects containing in them or having upon them any amount of any substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(D) not less than 10 years and not more than 50 years with respect to: (i) 900 grams or more of any substance containing lysergic acid diethylamide (LSD), or an analog thereof, or (ii) 1500 or more objects or 1500 or more segregated parts of an object or objects containing in them or having upon them any amount of a substance containing lysergic acid diethylamide (LSD), or an analog thereof;

(7.5) (A) not less than 4 years and not more than 15 years with respect to: (i) 15 grams or more but less than 100 grams of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 15 or more pills, tablets, caplets, capsules, or objects but less than 200 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(B) not less than 6 years and not more than 30 years with respect to: (i) 100 grams or more but less than 400 grams of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 200 or more pills, tablets, caplets, capsules, or objects but less than 600 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(C) not less than 8 years and not more than 40 years with respect to: (i) 400 grams or more but less than 900 grams of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 600 or more pills, tablets, caplets, capsules, or objects but less than 1,500 pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(D) not less than 10 years and not more than 50 years with respect to: (i) 900 grams or more of any substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof, or (ii) 1,500 or more pills, tablets, caplets, capsules, or objects containing in them or having upon them any amount of a substance listed in paragraph (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or (26) of subsection (d) of Section 204, or an analog or derivative thereof;

(8) 30 grams or more of any substance containing pentazocine or any of the salts, isomers and salts of isomers of pentazocine, or an analog thereof;

(9) 30 grams or more of any substance containing methaqualone or any of the salts, isomers and salts of isomers of methaqualone;

(10) 30 grams or more of any substance containing phencyclidine or any of the salts, isomers and salts of isomers of phencyclidine (PCP);

(10.5) 30 grams or more of any substance containing ketamine or any of the salts, isomers and salts of isomers of ketamine;

(11) 200 grams or more of any substance containing any substance classified as a narcotic drug in Schedules I or II which is not otherwise included in this subsection.

(b) Any person sentenced with respect to violations of paragraph (1), (2), (3), ~~(6.5)~~, (7), or (7.5) of subsection (a) involving 100 grams or more of the controlled substance named therein, may in addition to the penalties provided therein, be fined an amount not to exceed \$200,000 or the full street value of the controlled or counterfeit substances, whichever is greater. The term "street value" shall have the meaning ascribed in Section 110-5 of the Code of Criminal Procedure of 1963. Any person sentenced with respect to any other provision of subsection (a), may in addition to the penalties provided therein, be fined an amount not to exceed \$200,000.

(c) Any person who violates this Section with regard to an amount of a controlled substance other than methamphetamine or counterfeit substance not set forth in subsection (a) or (d) is guilty of a Class 4 felony. The fine for a violation punishable under this subsection (c) shall not be more than \$25,000.

(d) Any person who violates this Section with regard to any amount of anabolic steroid is guilty of a Class C misdemeanor for the first offense and a Class B misdemeanor for a subsequent offense committed within 2 years of a prior conviction.

(Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99; 92-256, eff. 1-1-02.)

(720 ILCS 570/405.2)

Sec. 405.2. Streetgang criminal drug conspiracy.

(a) Any person who engages in a streetgang criminal drug conspiracy, as defined in this Section, is guilty of a Class X felony for which the offender shall be sentenced to a term of imprisonment as follows:

(1) not less than 15 years and not more than 60 years for a violation of subsection (a) of Section 401;

(2) not less than 10 years and not more than 30 years for a violation of subsection (c) of Section 401.

For the purposes of this Section, a person engages in a streetgang criminal drug conspiracy when:

(i) he or she violates any of the provisions of subsection (a) or (c) of Section 401 of this Act or any provision of the Methamphetamine Control and Community Protection Act;

and

(ii) such violation is part of a conspiracy undertaken or carried out with 2 or more other persons; and

(iii) such conspiracy is in furtherance of the activities of an organized gang as defined in the Illinois Streetgang Terrorism Omnibus Prevention Act; and

(iv) he or she occupies a position of organizer, a supervising person, or any other position of management with those persons identified in clause (ii) of this subsection (a).

The fine for a violation of this Section shall not be more than \$500,000, and the offender shall be subject to the forfeitures prescribed in subsection (b).

(b) Subject to the provisions of Section 8 of the Drug Asset Forfeiture Procedure Act, any person who is convicted under this Section of engaging in a streetgang criminal drug conspiracy shall forfeit to the State of Illinois:

(1) the receipts obtained by him or her in such conspiracy; and

(2) any of his or her interests in, claims against, receipts from, or property or rights of any kind affording a source of influence over, such conspiracy.

(c) The circuit court may enter such injunctions, restraining orders, directions or prohibitions, or may take such other actions, including the acceptance of satisfactory performance bonds, in connection with

any property, claim, receipt, right or other interest subject to forfeiture under this Section, as it deems proper.

(Source: P.A. 89-498, eff. 6-27-96.)

(720 ILCS 570/406.1) (from Ch. 56 1/2, par. 1406.1)

Sec. 406.1. (a) Any person who controls any building and who performs the following act commits the offense of permitting unlawful use of a building:

Knowingly grants, permits or makes the building available for use for the purpose of unlawfully manufacturing or delivering a controlled substance other than methamphetamine.

(b) Permitting unlawful use of a building is a Class 4 felony.

(Source: P.A. 85-537.)

(720 ILCS 570/407) (from Ch. 56 1/2, par. 1407)

Sec. 407. (a) (1)(A) Any person 18 years of age or over who violates any subsection of Section 401 or subsection (b) of Section 404 by delivering a controlled, counterfeit or look-alike substance to a person under 18 years of age may be sentenced to imprisonment for a term up to twice the maximum term and fined an amount up to twice that amount otherwise authorized by the pertinent subsection of Section 401 and Subsection (b) of Section 404.

~~(B) (Blank). Any person 18 years of age or over who violates subdivision (a)(6.5), subdivision (a)(6.6), subdivision (c)(6.5), subsection (c 5), subsection (d), or subsection (d 5) of Section 401 by manufacturing methamphetamine, preparing to manufacture methamphetamine, or storing methamphetamine, methamphetamine ingredients, or methamphetamine waste in any vehicle or real property where a child under 18 years of age resides, is present, or is otherwise endangered by exposure to the methamphetamine, methamphetamine ingredients, methamphetamine waste, or methamphetamine manufacturing process may be sentenced to imprisonment for a term up to twice the maximum term and fined an amount up to twice that amount otherwise authorized by the pertinent subsection of Section 401 and subsection (b) of Section 404.~~

(2) Except as provided in paragraph (3) of this subsection, any person who violates:

(A) subsection (c) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 1 felony, the fine for which shall not exceed \$250,000;

(B) subsection (d) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 2 felony, the fine for which shall not exceed \$200,000;

(C) subsection (e) of Section 401 or subsection (b) of Section 404 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 3 felony, the fine for which shall not exceed \$150,000;

(D) subsection (f) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 3 felony, the fine for which shall not exceed \$125,000;

(E) subsection (g) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 3 felony, the fine for which shall not exceed \$100,000;

(F) subsection (h) of Section 401 by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of, a truck stop or safety rest area, is guilty of a Class 3 felony, the fine for which shall not exceed \$75,000;

(3) Any person who violates paragraph (2) of this subsection (a) by delivering or possessing with intent to deliver a controlled, counterfeit, or look-alike substance in or on, or within 1,000 feet of a truck stop or a safety rest area, following a prior conviction or convictions of paragraph (2) of this subsection (a) may be sentenced to a term of imprisonment up to 2 times the maximum term and fined an amount up to 2 times the amount otherwise authorized by Section 401.

(4) For the purposes of this subsection (a):

(A) "Safety rest area" means a roadside facility removed from the roadway with parking and facilities designed for motorists' rest, comfort, and information needs; and

(B) "Truck stop" means any facility (and its parking areas) used to provide fuel or service, or both, to any commercial motor vehicle as defined in Section 18b-101 of the Illinois Vehicle Code.

(b) Any person who violates:

(1) subsection (c) of Section 401 in any school, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential

property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park or within 1,000 feet of the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, on the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities, or within 1,000 feet of the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities is guilty of a Class X felony, the fine for which shall not exceed \$500,000;

(2) subsection (d) of Section 401 in any school, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park or within 1,000 feet of the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, on the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities, or within 1,000 feet of the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities is guilty of a Class 1 felony, the fine for which shall not exceed \$250,000;

(3) subsection (e) of Section 401 or Subsection (b) of Section 404 in any school, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park or within 1,000 feet of the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, on the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities, or within 1,000 feet of the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities is guilty of a Class 2 felony, the fine for which shall not exceed \$200,000;

(4) subsection (f) of Section 401 in any school, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property

comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park or within 1,000 feet of the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, on the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities, or within 1,000 feet of the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities is guilty of a Class 2 felony, the fine for which shall not exceed \$150,000;

(5) subsection (g) of Section 401 in any school, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park or within 1,000 feet of the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, on the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities, or within 1,000 feet of the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities is guilty of a Class 2 felony, the fine for which shall not exceed \$125,000;

(6) subsection (h) of Section 401 in any school, or any conveyance owned, leased or contracted by a school to transport students to or from school or a school related activity, or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park, on the real property comprising any school or residential property owned, operated or managed by a public housing agency or leased by a public housing agency as part of a scattered site or mixed-income development, or public park or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or within 1,000 feet of the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, on the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities, or within 1,000 feet of the real property comprising any of the following places, buildings, or structures used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities is guilty of a Class 2 felony, the fine for which shall not exceed \$100,000.

(c) Regarding penalties prescribed in subsection (b) for violations committed in a school or on or within 1,000 feet of school property, the time of day, time of year and whether classes were currently in session at the time of the offense is irrelevant.

(Source: P.A. 92-16, eff. 6-28-01; 93-223, eff. 1-1-04.)

(720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

Sec. 410. (a) Whenever any person who has not previously been convicted of, or placed on probation

[May 30, 2005]

or court supervision for any offense under this Act or any law of the United States or of any State relating to cannabis or controlled substances, pleads guilty to or is found guilty of possession of a controlled or counterfeit substance under subsection (c) of Section 402, the court, without entering a judgment and with the consent of such person, may sentence him to probation.

(b) When a person is placed on probation, the court shall enter an order specifying a period of probation of 24 months and shall defer further proceedings in the case until the conclusion of the period or until the filing of a petition alleging violation of a term or condition of probation.

(c) The conditions of probation shall be that the person: (1) not violate any criminal statute of any jurisdiction; (2) refrain from possessing a firearm or other dangerous weapon; (3) submit to periodic drug testing at a time and in a manner as ordered by the court, but no less than 3 times during the period of the probation, with the cost of the testing to be paid by the probationer; and (4) perform no less than 30 hours of community service, provided community service is available in the jurisdiction and is funded and approved by the county board.

(d) The court may, in addition to other conditions, require that the person:

(1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of probation;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical or psychiatric treatment; or treatment or rehabilitation approved by the Illinois Department of Human Services;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(6-5) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home.

(e) Upon violation of a term or condition of probation, the court may enter a judgment on its original finding of guilt and proceed as otherwise provided.

(f) Upon fulfillment of the terms and conditions of probation, the court shall discharge the person and dismiss the proceedings against him.

(g) A disposition of probation is considered to be a conviction for the purposes of imposing the conditions of probation and for appeal, however, discharge and dismissal under this Section is not a conviction for purposes of this Act or for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(h) There may be only one discharge and dismissal under this Section, ~~or~~ Section 10 of the Cannabis Control Act, or Section 70 of the Methamphetamine Control and Community Protection Act with respect to any person.

(i) If a person is convicted of an offense under this Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act within 5 years subsequent to a discharge and dismissal under this Section, the discharge and dismissal under this Section shall be admissible in the sentencing proceeding for that conviction as evidence in aggravation.

(Source: P.A. 91-696, eff. 4-13-00.)

(720 ILCS 570/413) (from Ch. 56 1/2, par. 1413)

Sec. 413. (a) Twelve and one-half percent of all amounts collected as fines pursuant to the provisions of this Article shall be paid into the Youth Drug Abuse Prevention Fund, which is hereby created in the State treasury, to be used by the Department for the funding of programs and services for drug-abuse treatment, and prevention and education services, for juveniles.

(b) Eighty-seven and one-half percent of the proceeds of all fines received under the provisions of this Article shall be transmitted to and deposited in the treasurer's office at the level of government as follows:

(1) If such seizure was made by a combination of law enforcement personnel representing differing units of local government, the court levying the fine shall equitably allocate 50% of the fine

among these units of local government and shall allocate 37 1/2% to the county general corporate fund. In the event that the seizure was made by law enforcement personnel representing a unit of local government from a municipality where the number of inhabitants exceeds 2 million in population, the court levying the fine shall allocate 87 1/2% of the fine to that unit of local government. If the seizure was made by a combination of law enforcement personnel representing differing units of local government, and at least one of those units represents a municipality where the number of inhabitants exceeds 2 million in population, the court shall equitably allocate 87 1/2% of the proceeds of the fines received among the differing units of local government.

(2) If such seizure was made by State law enforcement personnel, then the court shall allocate 37 1/2% to the State treasury and 50% to the county general corporate fund.

(3) If a State law enforcement agency in combination with a law enforcement agency or agencies of a unit or units of local government conducted the seizure, the court shall equitably allocate 37 1/2% of the fines to or among the law enforcement agency or agencies of the unit or units of local government which conducted the seizure and shall allocate 50% to the county general corporate fund.

(c) The proceeds of all fines allocated to the law enforcement agency or agencies of the unit or units of local government pursuant to subsection (b) shall be made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating cannabis, methamphetamine, and other controlled substances and cannabis. The proceeds of fines awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund, except that amounts distributed to the Secretary of State shall be deposited into the Secretary of State Evidence Fund to be used as provided in Section 2-115 of the Illinois Vehicle Code. Monies from this fund may be used by the Department of State Police or use in the enforcement of laws regulating cannabis, methamphetamine, and other controlled substances and cannabis; to satisfy funding provisions of the Intergovernmental Drug Laws Enforcement Act; to defray costs and expenses associated with returning violators of the Cannabis Control Act and this Act only, as provided in those Acts, when punishment of the crime shall be confinement of the criminal in the penitentiary; and all other monies shall be paid into the general revenue fund in the State treasury.
(Source: P.A. 87-342; 87-993.)

(720 ILCS 570/405.3 rep.) (720 ILCS 570/411.3 rep.)

Section 1066. The Illinois Controlled Substances Act is amended by repealing Sections 405.3 and 411.3.

Section 1070. The Drug Paraphernalia Control Act is amended by changing Section 2 as follows:
(720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

Sec. 2. As used in this Act, unless the context otherwise requires:

(a) The term "cannabis" shall have the meaning ascribed to it in Section 3 of the "Cannabis Control Act", as if that definition were incorporated herein.

(b) The term "controlled substance" shall have the meaning ascribed to it in Section 102 of the "Illinois Controlled Substances Act", as if that definition were incorporated herein.

(c) "Deliver" or "delivery" means the actual, constructive or attempted transfer of possession, with or without consideration, whether or not there is an agency relationship.

(d) "Drug paraphernalia" means all equipment, products and materials of any kind, other than methamphetamine manufacturing materials as defined in Section 10 of the Methamphetamine Control and Community Protection Act, which are intended to be used unlawfully in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body cannabis or a controlled substance in violation of the "Cannabis Control Act" ~~or~~ the "Illinois Controlled Substances Act" ~~or the Methamphetamine Control and Community Protection Act~~. It includes, but is not limited to:

(1) kits intended to be used unlawfully in manufacturing, compounding, converting, producing, processing or preparing cannabis or a controlled substance;

(2) isomerization devices intended to be used unlawfully in increasing the potency of any species of plant which is cannabis or a controlled substance;

(3) testing equipment intended to be used unlawfully in a private home for identifying or in analyzing the strength, effectiveness or purity of cannabis or controlled substances;

(4) diluents and adulterants intended to be used unlawfully for cutting cannabis or a controlled substance by private persons;

(5) objects intended to be used unlawfully in ingesting, inhaling, or otherwise introducing cannabis, cocaine, hashish, or hashish oil into the human body including, where

applicable, the following items:

- (A) water pipes;
- (B) carburetion tubes and devices;
- (C) smoking and carburetion masks;
- (D) miniature cocaine spoons and cocaine vials;
- (E) carburetor pipes;
- (F) electric pipes;
- (G) air-driven pipes;
- (H) chillums;
- (I) bongs;
- (J) ice pipes or chillers;

(6) any item whose purpose, as announced or described by the seller, is for use in violation of this Act.

(Source: P.A. 93-526, eff. 8-12-03.)

Section 1075. The Methamphetamine Manufacturing Chemical Retail Sale Control Act is amended by changing Sections 1, 5, 10, 15, 30, 45, 50, and 60 as follows:

(720 ILCS 647/1)

Sec. 1. Short title. This Act may be cited as the Methamphetamine Precursor ~~Methamphetamine Manufacturing Chemical~~ Retail Sale Control Act.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/5)

Sec. 5. Purpose. The purpose of this Act is to reduce the harm that methamphetamine is inflicting on individuals, families, communities, the economy, and the environment in Illinois by making it more difficult for persons engaged in the unlawful manufacture of methamphetamine to obtain methamphetamine precursor ~~methamphetamine manufacturing chemicals~~.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/10)

Sec. 10. Definitions. In this Act:

"Methamphetamine precursor" has the meaning ascribed to it in Section 10 of the Methamphetamine Control and Community Protection Act. ~~"Methamphetamine manufacturing chemical" has the meaning ascribed to it in subsection (z-1) of Section 102 of the Illinois Controlled Substances Act.~~

"Targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~" and "targeted medications" mean a subset of " methamphetamine precursor ~~methamphetamine manufacturing chemicals~~". "Targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~" means any medication in the form of a tablet, capsule, caplet, or similar product that is sold over the counter, without a prescription, and that contains either (A) more than 15 milligrams of ephedrine or its salts, optical isomers, or salts of optical isomers or (B) more than 15 milligrams of pseudoephedrine or its salts, optical isomers, or salts of optical isomers. "Targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~" does not include any medication in the form of a liquid, liquid cap, gel cap, or other similar substance, or any medication dispensed by a licensed pharmacist pursuant to a valid prescription.

"Package" means an item packaged and marked for retail sale that is not designed to be further broken down or subdivided for the purpose of retail sale.

"Targeted package" means a package containing any amount of a targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~.

"Single active ingredient targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~" means a targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~ whose sole active ingredient is ephedrine or its salts, optical isomers, or salts of optical isomers; or pseudoephedrine or its salts, optical isomers, or salts of optical isomers.

"Single active ingredient targeted package" means a package containing any amount of single active ingredient targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~.

"Multiple active ingredient targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~" means a targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~ that contains at least one active ingredient other than ephedrine or its salts, optical isomers, or salts of optical isomers; or pseudoephedrine or its salts, optical isomers, or salts of optical isomers.

"Multiple active ingredient targeted package" means a package containing any amount of multiple active ingredient targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~.

"Stock keeping unit" or "SKU" means the primary or basic unit of measure assigned to an item sold

by a retail distributor and the smallest unit of an item that may be dispensed from a retail distributor's inventory.

"Targeted stock keeping unit" means a stock keeping unit assigned to a targeted package.

"Blister pack" means a unit dose package commonly constructed from a formed cavity containing one or more individual doses.

"Capsule" means a solid dosage form in which a medicinal substance is enclosed and consisting of either a hard or soft soluble outer shell.

"Customer" means a person who buys goods from a retail distributor.

"Distribute" means to sell, give, provide or otherwise transfer.

"Dosage unit" means an exact amount of a drug's treatment pre-packaged by the manufacturer or pharmacist in standardized amounts.

"Sales employee" means any employee who at any time (a) operates a cash register at which targeted packages may be sold, (b) works at or behind a pharmacy counter, (c) stocks shelves containing targeted packages, or (d) trains or supervises other employees who engage in any of the preceding activities.

"Tablet" means a solid dosage form of varying weight, size, and shape that may be molded or compressed and that contains a medicinal substance in pure or diluted form.

"Single retail transaction" means a sale by a retail distributor to a specific customer at a specific time.

"Retail distributor" means a grocery store, general merchandise store, drug store, other merchandise store, or other entity or person whose activities as a distributor relating to drug products containing targeted ~~methamphetamine precursor~~ ~~methamphetamine manufacturing chemicals~~ are limited exclusively or almost exclusively to sales for personal use, both in number of sales and volume of sales, either directly to walk-in customers or in face-to-face transactions by direct sales.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/15)

Sec. 15. Package sale restrictions.

(a) Any targeted ~~methamphetamine precursor~~ ~~methamphetamine manufacturing chemical~~ displayed or distributed by any retail distributor in Illinois shall be packaged in blister packs, with each blister containing not more than 2 dosage units, or when the use of blister packs is technically infeasible, in unit dose packets or pouches.

(b) Any targeted package displayed or distributed by any retail distributor in Illinois shall contain no more than 3 grams of ephedrine or its salts, optical isomers, or salts of optical isomers; or pseudoephedrine or its salts, optical isomers, or salts of optical isomers.

(c) A retail distributor may not distribute more than 2 targeted packages in a single retail transaction.

(d) A retail distributor may not permit the purchase of any targeted package by means of a self-service checkout station, unless the self-service checkout station is programmed in a manner that satisfies all of the following conditions for each retail transaction:

(1) When a particular customer seeks to purchase a single targeted package, the self-service checkout station may allow him or her to do so without any special prompts or actions.

(2) If the customer seeks to purchase a second targeted package, the self-service checkout station shall not allow him or her to purchase the second targeted package without the assistance of a sales employee. If the customer then seeks the assistance of a sales employee, the sales employee may instruct the self-service checkout station to allow the sale of the second targeted package.

(3) If the customer seeks to purchase a third targeted package, neither the self-service checkout station nor the store employee shall allow him or her to do so.

(e) A retail distributor, its employees, or its agents may not distribute any targeted package or packages with knowledge that they will be used to manufacture methamphetamine or with reckless disregard of the likely use of such package or packages to manufacture methamphetamine.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/30)

Sec. 30. Training and certification.

(a) Every retail distributor of any targeted ~~methamphetamine precursor~~ ~~methamphetamine manufacturing chemical~~ shall train each sales employee on the topics listed on the certification form described in subsection (b) of this Section. This training may be conducted by a live trainer or by means of a computer-based training program. This training shall be completed by the effective date of this Act or within 30 days of the date that each sales employee begins working for the retail distributor, whichever of these 2 dates comes later.

(b) Immediately after training each sales employee as required in subsection (a) of this Section, every retail distributor of any targeted ~~methamphetamine precursor~~ ~~methamphetamine manufacturing chemical~~

shall have each sales employee read, sign, and date a certification form containing the following language:

(1) My name is (insert name of employee) and I am an employee of (insert name of business) at (insert street address).

(2) I understand that in Illinois there are laws governing the sale of certain over-the-counter medications that contain a chemical called ephedrine or a second chemical called pseudoephedrine. Medications that are subject to these laws are called "targeted medications" and they are sold in "targeted packages".

(3) I understand that "targeted medications" can be used to manufacture the illegal and dangerous drug methamphetamine and that methamphetamine is causing great harm to individuals, families, communities, the economy, and the environment throughout Illinois.

(4) I understand that under Illinois law, the store where I work is not allowed to sell more than 2 "targeted packages" in a single retail transaction. That means the store cannot sell more than 2 "targeted packages" to a single customer at one time.

(5) I understand that under Illinois law, the store where I work cannot allow customers to buy "targeted packages" at self-service check-out lanes, except under certain conditions which have been described to me.

(6) I understand that under Illinois law, I cannot sell "targeted medications" to a person if I know that the person is going to use them to make methamphetamine.

(7) I understand that there are a number of ingredients that are used to make the illegal drug methamphetamine, including "targeted medications" sold in "targeted packages". My employer has shown me a list of these various ingredients, and I have reviewed the list.

(8) I understand that there are certain procedures that I should follow if I suspect that a store customer is purchasing "targeted medications" or other products for the purpose of manufacturing methamphetamine. These procedures have been described to me, and I understand them.

(c) A certification form of the type described in subsection (b) of this Section may be signed with a handwritten signature or a reliable electronic signature that includes, a unique identifier for each employee. The certification shall be retained by the retail distributor for each sales employee for the duration of his or her employment and for at least 30 days following the end of his or her employment. Any such form shall be made available for inspection and copying by any law enforcement officer upon request.

(d) The office of the Illinois Attorney General shall make available to retail distributors the list of methamphetamine ingredients referred to in subsection (b) of this Section.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/45)

Sec. 45. Immunity from civil liability. In the event that any agent or employee of a retail distributor reports to any law-enforcement agency any suspicious activity concerning a targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~ or other methamphetamine ingredient or ingredients, the agent or employee and the retail distributor itself are immune from civil liability based on allegations of defamation, libel, slander, false arrest, or malicious prosecution, or similar allegations, except in cases of willful or wanton misconduct.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/50)

Sec. 50. Special exclusion. If the United States Drug Enforcement Administration has formally certified that a targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~ has been produced in a manner that prevents its use for the manufacture of methamphetamine, this Act does not apply to the sale of the targeted methamphetamine precursor ~~methamphetamine manufacturing chemical~~ produced in that manner.

(Source: P.A. 93-1008, eff. 1-1-05.)

(720 ILCS 647/60)

Sec. 60. Preemption and home rule powers.

(a) Except as provided in subsection (b) of this Section, a county or municipality, including a home rule unit, may regulate the sale of targeted methamphetamine precursor ~~methamphetamine manufacturing chemicals~~ and targeted packages in a manner that is not more or less restrictive than the regulation by the State under this Act. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of the powers and functions exercised by the State.

(b) Any regulation of the sale of targeted methamphetamine precursor ~~methamphetamine~~

~~manufacturing chemicals~~ and targeted packages by a home rule unit that took effect on or before May 1, 2004, is exempt from the provisions of subsection (a) of this Section.
(Source: P.A. 93-1008, eff. 1-1-05.)

Section 1080. The Code of Criminal Procedure of 1963 is amended by changing Sections 108B-3, 110-5, 110-6, 110-6.1, 110-7, 110-10, 115-10.5, and 115-15 as follows:

(725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

Sec. 108B-3. Authorization for the interception of private communication.

(a) The State's Attorney, or a person designated in writing or by law to act for him and to perform his duties during his absence or disability, may authorize, in writing, an ex parte application to the chief judge of a court of competent jurisdiction for an order authorizing the interception of a private oral communication when no party has consented to the interception and (i) the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit, a violation of Section 8-1.1 (solicitation of murder), 8-1.2 (solicitation of murder for hire), 9-1 (first degree murder), or 29B-1 (money laundering) of the Criminal Code of 1961, Section 401, 401.1 (controlled substance trafficking), 405, 405.1 (criminal drug conspiracy) or 407 of the Illinois Controlled Substances Act or any Section of the Methamphetamine Control and Community Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6), 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the Criminal Code of 1961 or conspiracy to commit money laundering or conspiracy to commit first degree murder; (ii) in response to a clear and present danger of imminent death or great bodily harm to persons resulting from: (1) a kidnapping or the holding of a hostage by force or the threat of the imminent use of force; or (2) the occupation by force or the threat of the imminent use of force of any premises, place, vehicle, vessel or aircraft; (iii) to aid an investigation or prosecution of a civil action brought under the Illinois Streetgang Terrorism Omnibus Prevention Act when there is probable cause to believe the interception of the private oral communication will provide evidence that a streetgang is committing, has committed, or will commit a second or subsequent gang-related offense or that the interception of the private oral communication will aid in the collection of a judgment entered under that Act; or (iv) upon information and belief that a streetgang has committed, is committing, or is about to commit a felony.

(b) The State's Attorney or a person designated in writing or by law to act for the State's Attorney and to perform his or her duties during his or her absence or disability, may authorize, in writing, an ex parte application to the chief judge of a circuit court for an order authorizing the interception of a private communication when no party has consented to the interception and the interception may provide evidence of, or may assist in the apprehension of a person who has committed, is committing or is about to commit, a violation of an offense under Article 29D of the Criminal Code of 1961.

(b-1) Subsection (b) is inoperative on and after January 1, 2005.

(b-2) No conversations recorded or monitored pursuant to subsection (b) shall be made inadmissible in a court of law by virtue of subsection (b-1).

(c) As used in this Section, "streetgang" and "gang-related" have the meanings ascribed to them in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(Source: P.A. 92-854, eff. 12-5-02.)

(725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

Sec. 110-5. Determining the amount of bail and conditions of release.

(a) In determining the amount of monetary bail or conditions of release, if any, which will reasonably assure the appearance of a defendant as required or the safety of any other person or the community and the likelihood of compliance by the defendant with all the conditions of bail, the court shall, on the basis of available information, take into account such matters as the nature and circumstances of the offense charged, whether the evidence shows that as part of the offense there was a use of violence or threatened use of violence, whether the offense involved corruption of public officials or employees, whether there was physical harm or threats of physical harm to any public official, public employee, judge, prosecutor, juror or witness, senior citizen, child or handicapped person, whether evidence shows that during the offense or during the arrest the defendant possessed or used a firearm, machine gun, explosive or metal piercing ammunition or explosive bomb device or any military or paramilitary armament, whether the evidence shows that the offense committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, the condition of the victim, any written statement submitted by the victim or proffer or representation by the State regarding the impact which the alleged criminal conduct has had on the victim and the victim's concern, if any, with further contact with the defendant if released on bail, whether the offense was based on racial, religious, sexual orientation or ethnic hatred, the likelihood of

the filing of a greater charge, the likelihood of conviction, the sentence applicable upon conviction, the weight of the evidence against such defendant, whether there exists motivation or ability to flee, whether there is any verification as to prior residence, education, or family ties in the local jurisdiction, in another county, state or foreign country, the defendant's employment, financial resources, character and mental condition, past conduct, prior use of alias names or dates of birth, and length of residence in the community, the consent of the defendant to periodic drug testing in accordance with Section 110-6.5, whether a foreign national defendant is lawfully admitted in the United States of America, whether the government of the foreign national maintains an extradition treaty with the United States by which the foreign government will extradite to the United States its national for a trial for a crime allegedly committed in the United States, whether the defendant is currently subject to deportation or exclusion under the immigration laws of the United States, whether the defendant, although a United States citizen, is considered under the law of any foreign state a national of that state for the purposes of extradition or non-extradition to the United States, the amount of unrecovered proceeds lost as a result of the alleged offense, the source of bail funds tendered or sought to be tendered for bail, whether from the totality of the court's consideration, the loss of funds posted or sought to be posted for bail will not deter the defendant from flight, whether the evidence shows that the defendant is engaged in significant possession, manufacture, or delivery of a controlled substance or cannabis, either individually or in consort with others, whether at the time of the offense charged he was on bond or pre-trial release pending trial, probation, periodic imprisonment or conditional discharge pursuant to this Code or the comparable Code of any other state or federal jurisdiction, whether the defendant is on bond or pre-trial release pending the imposition or execution of sentence or appeal of sentence for any offense under the laws of Illinois or any other state or federal jurisdiction, whether the defendant is under parole or mandatory supervised release or work release from the Illinois Department of Corrections or any penal institution or corrections department of any state or federal jurisdiction, the defendant's record of convictions, whether the defendant has been convicted of a misdemeanor or ordinance offense in Illinois or similar offense in other state or federal jurisdiction within the 10 years preceding the current charge or convicted of a felony in Illinois, whether the defendant was convicted of an offense in another state or federal jurisdiction that would be a felony if committed in Illinois within the 20 years preceding the current charge or has been convicted of such felony and released from the penitentiary within 20 years preceding the current charge if a penitentiary sentence was imposed in Illinois or other state or federal jurisdiction, the defendant's records of juvenile adjudication of delinquency in any jurisdiction, any record of appearance or failure to appear by the defendant at court proceedings, whether there was flight to avoid arrest or prosecution, whether the defendant escaped or attempted to escape to avoid arrest, whether the defendant refused to identify himself, or whether there was a refusal by the defendant to be fingerprinted as required by law. Information used by the court in its findings or stated in or offered in connection with this Section may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials. If the State presents evidence that the offense committed by the defendant was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang, and if the court determines that the evidence may be substantiated, the court shall prohibit the defendant from associating with other members of the organized gang as a condition of bail or release. For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(b) The amount of bail shall be:

(1) Sufficient to assure compliance with the conditions set forth in the bail bond, which shall include the defendant's current address with a written admonishment to the defendant that he or she must comply with the provisions of Section 110-12 regarding any change in his or her address. The defendant's address shall at all times remain a matter of public record with the clerk of the court.

(2) Not oppressive.

(3) Considerate of the financial ability of the accused.

(4) When a person is charged with a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, ~~as amended~~, or the Illinois Controlled Substances Act, ~~or the Methamphetamine Control and Community Protection Act as amended~~, the full street value of the drugs seized shall be considered. "Street value" shall be determined by the court on the basis of a proffer by the State based upon reliable information of a law enforcement official contained in a written report as to the amount seized and such proffer may be used by the court as to the current street value of the smallest unit of

the drug seized.

(b-5) Upon the filing of a written request demonstrating reasonable cause, the State's Attorney may request a source of bail hearing either before or after the posting of any funds. If the hearing is granted, before the posting of any bail, the accused must file a written notice requesting that the court conduct a source of bail hearing. The notice must be accompanied by justifying affidavits stating the legitimate and lawful source of funds for bail. At the hearing, the court shall inquire into any matters stated in any justifying affidavits, and may also inquire into matters appropriate to the determination which shall include, but are not limited to, the following:

- (1) the background, character, reputation, and relationship to the accused of any surety; and
- (2) the source of any money or property deposited by any surety, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and
- (3) the source of any money posted as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct; and
- (4) the background, character, reputation, and relationship to the accused of the person posting cash bail.

Upon setting the hearing, the court shall examine, under oath, any persons who may possess material information.

The State's Attorney has a right to attend the hearing, to call witnesses and to examine any witness in the proceeding. The court shall, upon request of the State's Attorney, continue the proceedings for a reasonable period to allow the State's Attorney to investigate the matter raised in any testimony or affidavit. If the hearing is granted after the accused has posted bail, the court shall conduct a hearing consistent with this subsection (b-5). At the conclusion of the hearing, the court must issue an order either approving or disapproving the bail.

(c) When a person is charged with an offense punishable by fine only the amount of the bail shall not exceed double the amount of the maximum penalty.

(d) When a person has been convicted of an offense and only a fine has been imposed the amount of the bail shall not exceed double the amount of the fine.

(e) The State may appeal any order granting bail or setting a given amount for bail.

(Source: P.A. 93-254, eff. 1-1-04; 93-817, eff. 7-27-04.)

(725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

Sec. 110-6. (a) Upon verified application by the State or the defendant or on its own motion the court before which the proceeding is pending may increase or reduce the amount of bail or may alter the conditions of the bail bond or grant bail where it has been previously revoked or denied. If bail has been previously revoked pursuant to subsection (f) of this Section or if bail has been denied to the defendant pursuant to subsection (e) of Section 110-6.1 or subsection (e) of Section 110-6.3, the defendant shall be required to present a verified application setting forth in detail any new facts not known or obtainable at the time of the previous revocation or denial of bail proceedings. If the court grants bail where it has been previously revoked or denied, the court shall state on the record of the proceedings the findings of facts and conclusion of law upon which such order is based.

(b) Violation of the conditions of Section 110-10 of this Code or any special conditions of bail as ordered by the court shall constitute grounds for the court to increase the amount of bail, or otherwise alter the conditions of bail, or, where the alleged offense committed on bail is a forcible felony in Illinois or a Class 2 or greater offense under the Illinois Controlled Substances Act, the ~~or~~ Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, revoke bail pursuant to the appropriate provisions of subsection (e) of this Section.

(c) Reasonable notice of such application by the defendant shall be given to the State.

(d) Reasonable notice of such application by the State shall be given to the defendant, except as provided in subsection (e).

(e) Upon verified application by the State stating facts or circumstances constituting a violation or a threatened violation of any of the conditions of the bail bond the court may issue a warrant commanding any peace officer to bring the defendant without unnecessary delay before the court for a hearing on the matters set forth in the application. If the actual court before which the proceeding is pending is absent or otherwise unavailable another court may issue a warrant pursuant to this Section. When the defendant is charged with a felony offense and while free on bail is charged with a subsequent felony offense and is the subject of a proceeding set forth in Section 109-1 or 109-3 of this Code, upon the filing of a verified petition by the State alleging a violation of Section 110-10 (a) (4) of this Code, the court shall without prior notice to the defendant, grant leave to file such application and shall order the transfer of the defendant and the application without unnecessary delay to the court before which the previous

felony matter is pending for a hearing as provided in subsection (b) or this subsection of this Section. The defendant shall be held without bond pending transfer to and a hearing before such court. At the conclusion of the hearing based on a violation of the conditions of Section 110-10 of this Code or any special conditions of bail as ordered by the court the court may enter an order increasing the amount of bail or alter the conditions of bail as deemed appropriate.

(f) Where the alleged violation consists of the violation of one or more felony statutes of any jurisdiction which would be a forcible felony in Illinois or a Class 2 or greater offense under the Illinois Controlled Substances Act, ~~the~~ Cannabis Control Act, or the Methamphetamine Control and Community Protection Act and the defendant is on bail for the alleged commission of a felony, or where the defendant is on bail for a felony domestic battery (enhanced pursuant to subsection (b) of Section 12-3.2 of the Criminal Code of 1961), aggravated domestic battery, aggravated battery, unlawful restraint, aggravated unlawful restraint or domestic battery in violation of item (1) of subsection (a) of Section 12-3.2 of the Criminal Code of 1961 against a family or household member as defined in Section 112A-3 of this Code and the violation is an offense of domestic battery against the same victim the court shall, on the motion of the State or its own motion, revoke bail in accordance with the following provisions:

(1) The court shall hold the defendant without bail pending the hearing on the alleged breach; however, if the defendant is not admitted to bail the hearing shall be commenced within 10 days from the date the defendant is taken into custody or the defendant may not be held any longer without bail, unless delay is occasioned by the defendant. Where defendant occasions the delay, the running of the 10 day period is temporarily suspended and resumes at the termination of the period of delay. Where defendant occasions the delay with 5 or fewer days remaining in the 10 day period, the court may grant a period of up to 5 additional days to the State for good cause shown. The State, however, shall retain the right to proceed to hearing on the alleged violation at any time, upon reasonable notice to the defendant and the court.

(2) At a hearing on the alleged violation the State has the burden of going forward and proving the violation by clear and convincing evidence. The evidence shall be presented in open court with the opportunity to testify, to present witnesses in his behalf, and to cross-examine witnesses if any are called by the State, and representation by counsel and if the defendant is indigent to have counsel appointed for him. The rules of evidence applicable in criminal trials in this State shall not govern the admissibility of evidence at such hearing. Information used by the court in its findings or stated in or offered in connection with hearings for increase or revocation of bail may be by way of proffer based upon reliable information offered by the State or defendant. All evidence shall be admissible if it is relevant and reliable regardless of whether it would be admissible under the rules of evidence applicable at criminal trials. A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained at such a hearing. Evidence that proof may have been obtained as a result of an unlawful search and seizure or through improper interrogation is not relevant to this hearing.

(3) Upon a finding by the court that the State has established by clear and convincing evidence that the defendant has committed a forcible felony or a Class 2 or greater offense under the Illinois Controlled Substances Act, ~~the~~ Cannabis Control Act, or the Methamphetamine Control and Community Protection Act while admitted to bail, or where the defendant is on bail for a felony domestic battery (enhanced pursuant to subsection (b) of Section 12-3.2 of the Criminal Code of 1961), aggravated domestic battery, aggravated battery, unlawful restraint, aggravated unlawful restraint or domestic battery in violation of item (1) of subsection (a) of Section 12-3.2 of the Criminal Code of 1961 against a family or household member as defined in Section 112A-3 of this Code and the violation is an offense of domestic battery, against the same victim, the court shall revoke the bail of the defendant and hold the defendant for trial without bail. Neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code or in a perjury proceeding.

(4) If the bail of any defendant is revoked pursuant to paragraph (f) (3) of this Section, the defendant may demand and shall be entitled to be brought to trial on the offense with respect to which he was formerly released on bail within 90 days after the date on which his bail was revoked. If the defendant is not brought to trial within the 90 day period required by the preceding sentence, he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant.

(5) If the defendant either is arrested on a warrant issued pursuant to this Code or is arrested for an unrelated offense and it is subsequently discovered that the defendant is a subject of

another warrant or warrants issued pursuant to this Code, the defendant shall be transferred promptly to the court which issued such warrant. If, however, the defendant appears initially before a court other than the court which issued such warrant, the non-issuing court shall not alter the amount of bail heretofore set on such warrant unless the court sets forth on the record of proceedings the conclusions of law and facts which are the basis for such altering of another court's bond. The non-issuing court shall not alter another court's bail set on a warrant unless the interests of justice and public safety are served by such action.

(g) The State may appeal any order where the court has increased or reduced the amount of bail or altered the conditions of the bail bond or granted bail where it has previously been revoked.

(Source: P.A. 93-417, eff. 8-5-03.)

(725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

Sec. 110-6.1. Denial of bail in non-probationable felony offenses.

(a) Upon verified petition by the State, the court shall hold a hearing to determine whether bail should be denied to a defendant who is charged with a felony offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, is required by law upon conviction, when it is alleged that the defendant's admission to bail poses a real and present threat to the physical safety of any person or persons.

(1) A petition may be filed without prior notice to the defendant at the first appearance before a judge, or within the 21 calendar days, except as provided in Section 110-6, after arrest and release of the defendant upon reasonable notice to defendant; provided that while such petition is pending before the court, the defendant if previously released shall not be detained.

(2) The hearing shall be held immediately upon the defendant's appearance before the court, unless for good cause shown the defendant or the State seeks a continuance. A continuance on motion of the defendant may not exceed 5 calendar days, and a continuance on the motion of the State may not exceed 3 calendar days. The defendant may be held in custody during such continuance.

(b) The court may deny bail to the defendant where, after the hearing, it is determined that:

(1) the proof is evident or the presumption great that the defendant has committed an offense for which a sentence of imprisonment, without probation, periodic imprisonment or conditional discharge, must be imposed by law as a consequence of conviction, and

(2) the defendant poses a real and present threat to the physical safety of any person or persons, by conduct which may include, but is not limited to, a forcible felony, the obstruction of justice, intimidation, injury, physical harm, or an offense under the Illinois Controlled Substances Act which is a Class X felony, or an offense under the Methamphetamine Control and Community Protection Act which is a Class X felony, and

(3) the court finds that no condition or combination of conditions set forth in subsection (b) of Section 110-10 of this Article, can reasonably assure the physical safety of any other person or persons.

(c) Conduct of the hearings.

(1) The hearing on the defendant's culpability and dangerousness shall be conducted in accordance with the following provisions:

(A) Information used by the court in its findings or stated in or offered at such hearing may be by way of proffer based upon reliable information offered by the State or by defendant. Defendant has the right to be represented by counsel, and if he is indigent, to have counsel appointed for him. Defendant shall have the opportunity to testify, to present witnesses in his own behalf, and to cross-examine witnesses if any are called by the State. The defendant has the right to present witnesses in his favor. When the ends of justice so require, the court may exercise its discretion and compel the appearance of a complaining witness. The court shall state on the record reasons for granting a defense request to compel the presence of a complaining witness. Cross-examination of a complaining witness at the pretrial detention hearing for the purpose of impeaching the witness' credibility is insufficient reason to compel the presence of the witness. In deciding whether to compel the appearance of a complaining witness, the court shall be considerate of the emotional and physical well-being of the witness. The pre-trial detention hearing is not to be used for purposes of discovery, and the post arraignment rules of discovery do not apply. The State shall tender to the defendant, prior to the hearing, copies of defendant's criminal history, if any, if available, and any written or recorded statements and the substance of any oral statements made by any person, if relied upon by the State in its petition. The rules concerning the admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the hearing. At the trial concerning the offense for which the hearing was conducted neither the finding of the court nor any transcript or other record of the hearing shall be admissible in the State's case in

chief, but shall be admissible for impeachment, or as provided in Section 115-10.1 of this Code, or in a perjury proceeding.

(B) A motion by the defendant to suppress evidence or to suppress a confession shall not be entertained. Evidence that proof may have been obtained as the result of an unlawful search and seizure or through improper interrogation is not relevant to this state of the prosecution.

(2) The facts relied upon by the court to support a finding that the defendant poses a real and present threat to the physical safety of any person or persons shall be supported by clear and convincing evidence presented by the State.

(d) Factors to be considered in making a determination of dangerousness. The court may, in determining whether the defendant poses a real and present threat to the physical safety of any person or persons, consider but shall not be limited to evidence or testimony concerning:

(1) The nature and circumstances of any offense charged, including whether the offense is a crime of violence, involving a weapon.

(2) The history and characteristics of the defendant including:

(A) Any evidence of the defendant's prior criminal history indicative of violent, abusive or assaultive behavior, or lack of such behavior. Such evidence may include testimony or documents received in juvenile proceedings, criminal, quasi-criminal, civil commitment, domestic relations or other proceedings.

(B) Any evidence of the defendant's psychological, psychiatric or other similar social history which tends to indicate a violent, abusive, or assaultive nature, or lack of any such history.

(3) The identity of any person or persons to whose safety the defendant is believed to pose a threat, and the nature of the threat;

(4) Any statements made by, or attributed to the defendant, together with the circumstances surrounding them;

(5) The age and physical condition of any person assaulted by the defendant;

(6) Whether the defendant is known to possess or have access to any weapon or weapons;

(7) Whether, at the time of the current offense or any other offense or arrest, the defendant was on probation, parole, mandatory supervised release or other release from custody pending trial, sentencing, appeal or completion of sentence for an offense under federal or state law;

(8) Any other factors, including those listed in Section 110-5 of this Article deemed by the court to have a reasonable bearing upon the defendant's propensity or reputation for violent, abusive or assaultive behavior, or lack of such behavior.

(e) Detention order. The court shall, in any order for detention:

(1) briefly summarize the evidence of the defendant's culpability and its reasons for concluding that the defendant should be held without bail;

(2) direct that the defendant be committed to the custody of the sheriff for confinement in the county jail pending trial;

(3) direct that the defendant be given a reasonable opportunity for private consultation with counsel, and for communication with others of his choice by visitation, mail and telephone; and

(4) direct that the sheriff deliver the defendant as required for appearances in connection with court proceedings.

(f) If the court enters an order for the detention of the defendant pursuant to subsection (e) of this Section, the defendant shall be brought to trial on the offense for which he is detained within 90 days after the date on which the order for detention was entered. If the defendant is not brought to trial within the 90 day period required by the preceding sentence, he shall not be held longer without bail. In computing the 90 day period, the court shall omit any period of delay resulting from a continuance granted at the request of the defendant.

(g) Rights of the defendant. Any person shall be entitled to appeal any order entered under this Section denying bail to the defendant.

(h) The State may appeal any order entered under this Section denying any motion for denial of bail.

(i) Nothing in this Section shall be construed as modifying or limiting in any way the defendant's presumption of innocence in further criminal proceedings.

(Source: P.A. 85-1209.)

(725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

Sec. 110-7. Deposit of Bail Security.

(a) The person for whom bail has been set shall execute the bail bond and deposit with the clerk of the court before which the proceeding is pending a sum of money equal to 10% of the bail, but in no event

shall such deposit be less than \$25. The clerk of the court shall provide a space on each form for a person other than the accused who has provided the money for the posting of bail to so indicate and a space signed by an accused who has executed the bail bond indicating whether a person other than the accused has provided the money for the posting of bail. The form shall also include a written notice to such person who has provided the defendant with the money for the posting of bail indicating that the bail may be used to pay costs, attorney's fees, fines, or other purposes authorized by the court and if the defendant fails to comply with the conditions of the bail bond, the court shall enter an order declaring the bail to be forfeited. The written notice must be: (1) distinguishable from the surrounding text; (2) in bold type or underscored; and (3) in a type size at least 2 points larger than the surrounding type. When a person for whom bail has been set is charged with an offense under the "Illinois Controlled Substances Act or the Methamphetamine Control and Community Protection Act" which is a Class X felony, the court may require the defendant to deposit a sum equal to 100% of the bail. Where any person is charged with a forcible felony while free on bail and is the subject of proceedings under Section 109-3 of this Code the judge conducting the preliminary examination may also conduct a hearing upon the application of the State pursuant to the provisions of Section 110-6 of this Code to increase or revoke the bail for that person's prior alleged offense.

(b) Upon depositing this sum and any bond fee authorized by law, the person shall be released from custody subject to the conditions of the bail bond.

(c) Once bail has been given and a charge is pending or is thereafter filed in or transferred to a court of competent jurisdiction the latter court shall continue the original bail in that court subject to the provisions of Section 110-6 of this Code.

(d) After conviction the court may order that the original bail stand as bail pending appeal or deny, increase or reduce bail subject to the provisions of Section 110-6.2.

(e) After the entry of an order by the trial court allowing or denying bail pending appeal either party may apply to the reviewing court having jurisdiction or to a justice thereof sitting in vacation for an order increasing or decreasing the amount of bail or allowing or denying bail pending appeal subject to the provisions of Section 110-6.2.

(f) When the conditions of the bail bond have been performed and the accused has been discharged from all obligations in the cause the clerk of the court shall return to the accused or to the defendant's designee by an assignment executed at the time the bail amount is deposited, unless the court orders otherwise, 90% of the sum which had been deposited and shall retain as bail bond costs 10% of the amount deposited. However, in no event shall the amount retained by the clerk as bail bond costs be less than \$5. Bail bond deposited by or on behalf of a defendant in one case may be used, in the court's discretion, to satisfy financial obligations of that same defendant incurred in a different case due to a fine, court costs, restitution or fees of the defendant's attorney of record. In counties with a population of 3,000,000 or more, the court shall not order bail bond deposited by or on behalf of a defendant in one case to be used to satisfy financial obligations of that same defendant in a different case until the bail bond is first used to satisfy court costs and attorney's fees in the case in which the bail bond has been deposited and any other unpaid child support obligations are satisfied. In counties with a population of less than 3,000,000, the court shall not order bail bond deposited by or on behalf of a defendant in one case to be used to satisfy financial obligations of that same defendant in a different case until the bail bond is first used to satisfy court costs in the case in which the bail bond has been deposited.

At the request of the defendant the court may order such 90% of defendant's bail deposit, or whatever amount is repayable to defendant from such deposit, to be paid to defendant's attorney of record.

(g) If the accused does not comply with the conditions of the bail bond the court having jurisdiction shall enter an order declaring the bail to be forfeited. Notice of such order of forfeiture shall be mailed forthwith to the accused at his last known address. If the accused does not appear and surrender to the court having jurisdiction within 30 days from the date of the forfeiture or within such period satisfy the court that appearance and surrender by the accused is impossible and without his fault the court shall enter judgment for the State if the charge for which the bond was given was a felony or misdemeanor, or if the charge was quasi-criminal or traffic, judgment for the political subdivision of the State which prosecuted the case, against the accused for the amount of the bail and costs of the court proceedings; however, in counties with a population of less than 3,000,000, instead of the court entering a judgment for the full amount of the bond the court may, in its discretion, enter judgment for the cash deposit on the bond, less costs, retain the deposit for further disposition or, if a cash bond was posted for failure to appear in a matter involving enforcement of child support or maintenance, the amount of the cash deposit on the bond, less outstanding costs, may be awarded to the person or entity to whom the child support or maintenance is due. The deposit made in accordance with paragraph (a) shall be applied to the payment of costs. If judgment is entered and any amount of such deposit remains after the payment of

costs it shall be applied to payment of the judgment and transferred to the treasury of the municipal corporation wherein the bond was taken if the offense was a violation of any penal ordinance of a political subdivision of this State, or to the treasury of the county wherein the bond was taken if the offense was a violation of any penal statute of this State. The balance of the judgment may be enforced and collected in the same manner as a judgment entered in a civil action.

(h) After a judgment for a fine and court costs or either is entered in the prosecution of a cause in which a deposit had been made in accordance with paragraph (a) the balance of such deposit, after deduction of bail bond costs, shall be applied to the payment of the judgment.

(Source: P.A. 92-16, eff. 6-28-01; 93-371, eff. 1-1-04; 93-760, eff. 1-1-05.)

(725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

Sec. 110-10. Conditions of bail bond.

(a) If a person is released prior to conviction, either upon payment of bail security or on his or her own recognizance, the conditions of the bail bond shall be that he or she will:

- (1) Appear to answer the charge in the court having jurisdiction on a day certain and thereafter as ordered by the court until discharged or final order of the court;
- (2) Submit himself or herself to the orders and process of the court;
- (3) Not depart this State without leave of the court;
- (4) Not violate any criminal statute of any jurisdiction;
- (5) At a time and place designated by the court, surrender all firearms in his or her

possession to a law enforcement officer designated by the court to take custody of and impound the firearms and physically surrender his or her Firearm Owner's Identification Card to the clerk of the circuit court when the offense the person has been charged with is a forcible felony, stalking, aggravated stalking, domestic battery, any violation of ~~either the Illinois Controlled Substances Act~~ the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act that is classified as a Class 2 or greater felony, or any felony violation of Article 24 of the Criminal Code of 1961; the court may, however, forgo the imposition of this condition when the circumstances of the case clearly do not warrant it or when its imposition would be impractical; all legally possessed firearms shall be returned to the person upon that person completing a sentence for a conviction on a misdemeanor domestic battery, upon the charges being dismissed, or if the person is found not guilty, unless the finding of not guilty is by reason of insanity; and

(6) At a time and place designated by the court, submit to a psychological evaluation when the person has been charged with a violation of item (4) of subsection (a) of Section 24-1 of the Criminal Code of 1961 and that violation occurred in a school or in any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school.

Psychological evaluations ordered pursuant to this Section shall be completed promptly and made available to the State, the defendant, and the court. As a further condition of bail under these circumstances, the court shall order the defendant to refrain from entering upon the property of the school, including any conveyance owned, leased, or contracted by a school to transport students to or from school or a school-related activity, or on any public way within 1,000 feet of real property comprising any school. Upon receipt of the psychological evaluation, either the State or the defendant may request a change in the conditions of bail, pursuant to Section 110-6 of this Code. The court may change the conditions of bail to include a requirement that the defendant follow the recommendations of the psychological evaluation, including undergoing psychiatric treatment. The conclusions of the psychological evaluation and any statements elicited from the defendant during its administration are not admissible as evidence of guilt during the course of any trial on the charged offense, unless the defendant places his or her mental competency in issue.

(b) The court may impose other conditions, such as the following, if the court finds that such conditions are reasonably necessary to assure the defendant's appearance in court, protect the public from the defendant, or prevent the defendant's unlawful interference with the orderly administration of justice:

- (1) Report to or appear in person before such person or agency as the court may direct;
- (2) Refrain from possessing a firearm or other dangerous weapon;
- (3) Refrain from approaching or communicating with particular persons or classes of persons;
- (4) Refrain from going to certain described geographical areas or premises;
- (5) Refrain from engaging in certain activities or indulging in intoxicating liquors or in certain drugs;
- (6) Undergo treatment for drug addiction or alcoholism;

[May 30, 2005]

- (7) Undergo medical or psychiatric treatment;
- (8) Work or pursue a course of study or vocational training;
- (9) Attend or reside in a facility designated by the court;
- (10) Support his or her dependents;

(11) If a minor resides with his or her parents or in a foster home, attend school, attend a non-residential program for youths, and contribute to his or her own support at home or in a foster home;

- (12) Observe any curfew ordered by the court;

(13) Remain in the custody of such designated person or organization agreeing to supervise his release. Such third party custodian shall be responsible for notifying the court if the defendant fails to observe the conditions of release which the custodian has agreed to monitor, and shall be subject to contempt of court for failure so to notify the court;

(14) Be placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with or without the use of an approved electronic monitoring device subject to Article 8A of Chapter V of the Unified Code of Corrections;

(14.1) The court shall impose upon a defendant who is charged with any alcohol, cannabis, methamphetamine, or controlled substance violation and is placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee that represents costs incidental to the electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code;

(14.2) The court shall impose upon all defendants, including those defendants subject to paragraph (14.1) above, placed under direct supervision of the Pretrial Services Agency, Probation Department or Court Services Department in a pretrial bond home supervision capacity with the use of an approved monitoring device, as a condition of such bail bond, a fee which shall represent costs incidental to such electronic monitoring for each day of such bail supervision ordered by the court, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be;

(14.3) The Chief Judge of the Judicial Circuit may establish reasonable fees to be paid by a person receiving pretrial services while under supervision of a pretrial services agency, probation department, or court services department. Reasonable fees may be charged for pretrial services including, but not limited to, pretrial supervision, diversion programs, electronic monitoring, victim impact services, drug and alcohol testing, and victim mediation services. The person receiving pretrial services may be ordered to pay all costs incidental to pretrial services in accordance with his or her ability to pay those costs;

(14.4) For persons charged with violating Section 11-501 of the Illinois Vehicle Code, refrain from operating a motor vehicle not equipped with an ignition interlock device, as defined in Section 1-129.1 of the Illinois Vehicle Code, pursuant to the rules promulgated by the Secretary of State for the installation of ignition interlock devices. Under this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment;

(15) Comply with the terms and conditions of an order of protection issued by the court under the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of another state, tribe, or United States territory;

- (16) Under Section 110-6.5 comply with the conditions of the drug testing program; and

(17) Such other reasonable conditions as the court may impose.

(c) When a person is charged with an offense under Section 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of 1961", involving a victim who is a minor under 18 years of age living in the same household with the defendant at the time of the offense, in granting bail or releasing the defendant on his own recognizance, the judge shall impose conditions to restrict the defendant's access to the victim which may include, but are not limited to conditions that he will:

1. Vacate the Household.
2. Make payment of temporary support to his dependents.
3. Refrain from contact or communication with the child victim, except as ordered by the court.

(d) When a person is charged with a criminal offense and the victim is a family or household member as defined in Article 112A, conditions shall be imposed at the time of the defendant's release on bond that restrict the defendant's access to the victim. Unless provided otherwise by the court, the restrictions shall include requirements that the defendant do the following:

- (1) refrain from contact or communication with the victim for a minimum period of 72 hours following the defendant's release; and
- (2) refrain from entering or remaining at the victim's residence for a minimum period of 72 hours following the defendant's release.

(e) Local law enforcement agencies shall develop standardized bond forms for use in cases involving family or household members as defined in Article 112A, including specific conditions of bond as provided in subsection (d). Failure of any law enforcement department to develop or use those forms shall in no way limit the applicability and enforcement of subsections (d) and (f).

(f) If the defendant is admitted to bail after conviction the conditions of the bail bond shall be that he will, in addition to the conditions set forth in subsections (a) and (b) hereof:

- (1) Duly prosecute his appeal;
- (2) Appear at such time and place as the court may direct;
- (3) Not depart this State without leave of the court;
- (4) Comply with such other reasonable conditions as the court may impose; and
- (5) If the judgment is affirmed or the cause reversed and remanded for a new trial, forthwith surrender to the officer from whose custody he was bailed.

(g) Upon a finding of guilty for any felony offense, the defendant shall physically surrender, at a time and place designated by the court, any and all firearms in his or her possession and his or her Firearm Owner's Identification Card as a condition of remaining on bond pending sentencing.

(Source: P.A. 92-329, eff. 8-9-01; 92-442, eff. 8-17-01; 92-651, eff. 7-11-02; 93-184, eff. 1-1-04.)
(725 ILCS 5/115-10.5)

Sec. 115-10.5. Hearsay exception regarding safe zone testimony.

(a) In any prosecution for any offense charged as a violation of Section 407 of the Illinois Controlled Substances Act, Section 55 of the Methamphetamine Control and Community Protection Act, or Section 5-130 of the Juvenile Court Act of 1987 the following evidence shall be admitted as an exception to the hearsay rule any testimony by any qualified individual regarding the status of any property as:

- (1) a truck stop or safety rest area, or
- (2) a school or conveyance owned, leased or contracted by a school to transport students to or from school, or
- (3) residential property owned, operated, and managed by a public housing agency, or
- (4) a public park, or
- (5) the real property comprising any church, synagogue, or other building, structure, or place used primarily for religious worship, or
- (6) the real property comprising any of the following places, buildings, or structures

used primarily for housing or providing space for activities for senior citizens: nursing homes, assisted-living centers, senior citizen housing complexes, or senior centers oriented toward daytime activities.

(b) As used in this Section, "qualified individual" means any person who (i) lived or worked within the territorial jurisdiction where the offense took place when the offense took place; and (ii) is familiar with various public places within the territorial jurisdiction where the offense took place when the offense took place.

(c) For the purposes of this Section, "qualified individual" includes any peace officer, or any member of any duly organized State, county, or municipal peace unit, assigned to the territorial jurisdiction where the offense took place when the offense took place.

(d) This Section applies to all prosecutions pending at the time this amendatory Act of the 91st General Assembly takes effect and to all prosecutions commencing on or after its effective date.

(Source: P.A. 91-899, eff. 1-1-01.)

(725 ILCS 5/115-15)

Sec. 115-15. Laboratory reports.

(a) In any criminal prosecution for a violation of ~~either~~ the Cannabis Control Act ~~or~~ the Illinois Controlled Substances Act , or the Methamphetamine Control and Community Protection Act, a

laboratory report from the Department of State Police, Division of Forensic Services, that is signed and sworn to by the person performing an analysis and that states (1) that the substance that is the basis of the alleged violation has been weighed and analyzed, and (2) the person's findings as to the contents, weight and identity of the substance, and (3) that it contains any amount of a controlled substance or cannabis is prima facie evidence of the contents, identity and weight of the substance. Attached to the report shall be a copy of a notarized statement by the signer of the report giving the name of the signer and stating (i) that he or she is an employee of the Department of State Police, Division of Forensic Services, (ii) the name and location of the laboratory where the analysis was performed, (iii) that performing the analysis is a part of his or her regular duties, and (iv) that the signer is qualified by education, training and experience to perform the analysis. The signer shall also allege that scientifically accepted tests were performed with due caution and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory.

(a-5) In any criminal prosecution for reckless homicide under Section 9-3 of the Criminal Code of 1961 or driving under the influence of alcohol, other drug, or combination of both, in violation of Section 11-501 of the Illinois Vehicle Code or in any civil action held under a statutory summary suspension hearing under Section 2-118.1 of the Illinois Vehicle Code, a laboratory report from the Department of State Police, Division of Forensic Services, that is signed and sworn to by the person performing an analysis, and that states that the sample of blood or urine was tested for alcohol or drugs, and contains the person's findings as to the presence and amount of alcohol or drugs and type of drug is prima facie evidence of the presence, content, and amount of the alcohol or drugs analyzed in the blood or urine. Attached to the report must be a copy of a notarized statement by the signer of the report giving the name of the signer and stating (1) that he or she is an employee of the Department of State Police, Division of Forensic Services, (2) the name and location of the laboratory where the analysis was performed, (3) that performing the analysis is a part of his or her regular duties, (4) that the signer is qualified by education, training, and experience to perform the analysis, and (5) that scientifically accepted tests were performed with due caution and that the evidence was handled in accordance with established and accepted procedures while in the custody of the laboratory.

(b) The State's Attorney shall serve a copy of the report on the attorney of record for the accused, or on the accused if he or she has no attorney, before any proceeding in which the report is to be used against the accused other than at a preliminary hearing or grand jury hearing when the report may be used without having been previously served upon the accused.

(c) The report shall not be prima facie evidence if the accused or his or her attorney demands the testimony of the person signing the report by serving the demand upon the State's Attorney within 7 days from the accused or his or her attorney's receipt of the report.

(Source: P.A. 90-130, eff. 1-1-98; 91-563, eff. 1-1-00.)

Section 1085. The Drug Asset Forfeiture Procedure Act is amended by changing Sections 2, 3, 5, 6, 7, and 9 as follows:

(725 ILCS 150/2) (from Ch. 56 1/2, par. 1672)

Sec. 2. Legislative Declaration. The General Assembly finds that the civil forfeiture of property which is used or intended to be used in, is attributable to or facilitates the manufacture, sale, transportation, distribution, possession or use of substances in certain violations of the Illinois Controlled Substances Act, ~~or the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act~~ will have a significant beneficial effect in deterring the rising incidence of the abuse and trafficking of such substances within this State. While forfeiture may secure for State and local units of government some resources for deterring drug abuse and drug trafficking, forfeiture is not intended to be an alternative means of funding the administration of criminal justice. The General Assembly further finds that the federal narcotics civil forfeiture statute upon which this Act is based has been very successful in deterring the use and distribution of controlled substances within this State and throughout the country. It is therefore the intent of the General Assembly that the forfeiture provisions of this Act be construed in light of the federal forfeiture provisions contained in 21 U.S.C. 881 as interpreted by the federal courts, except to the extent that the provisions of this Act expressly differ therefrom.

(Source: P.A. 86-1382; 87-614.)

(725 ILCS 150/3) (from Ch. 56 1/2, par. 1673)

Sec. 3. Applicability. The provisions of this Act are applicable to all property forfeitable under the Illinois Controlled Substances Act, ~~or the Cannabis Control Act~~, or the Methamphetamine Control and Community Protection Act.

(Source: P.A. 86-1382.)

(725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

Sec. 5. Notice to State's Attorney. The law enforcement agency seizing property for forfeiture under the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, ~~or~~ the Methamphetamine Control and Community Protection Act shall, within 52 days of seizure, notify the State's Attorney for the county in which an act or omission giving rise to the forfeiture occurred or in which the property was seized of the seizure of the property and the facts and circumstances giving rise to the seizure and shall provide the State's Attorney with the inventory of the property and its estimated value. When the property seized for forfeiture is a vehicle, the law enforcement agency seizing the property shall immediately notify the Secretary of State that forfeiture proceedings are pending regarding such vehicle.

(Source: P.A. 86-1382.)

(725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

Sec. 6. Non-Judicial Forfeiture. If non-real property that exceeds \$20,000 in value excluding the value of any conveyance, or if real property is seized under the provisions of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, ~~or~~ the Methamphetamine Control and Community Protection Act, the State's Attorney shall institute judicial in rem forfeiture proceedings as described in Section 9 of this Act within 45 days from receipt of notice of seizure from the seizing agency under Section 5 of this Act. However, if non-real property that does not exceed \$20,000 in value excluding the value of any conveyance is seized, the following procedure shall be used:

(A) If, after review of the facts surrounding the seizure, the State's Attorney is of the opinion that the seized property is subject to forfeiture, then within 45 days of the receipt of notice of seizure from the seizing agency, the State's Attorney shall cause notice of pending forfeiture to be given to the owner of the property and all known interest holders of the property in accordance with Section 4 of this Act.

(B) The notice of pending forfeiture must include a description of the property, the estimated value of the property, the date and place of seizure, the conduct giving rise to forfeiture or the violation of law alleged, and a summary of procedures and procedural rights applicable to the forfeiture action.

(C) (1) Any person claiming an interest in property which is the subject of notice under subsection (A) of Section 6 of this Act, may, within 45 days after the effective date of notice as described in Section 4 of this Act, file a verified claim with the State's Attorney expressing his or her interest in the property. The claim must set forth:

- (i) the caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;
- (ii) the address at which the claimant will accept mail;
- (iii) the nature and extent of the claimant's interest in the property;
- (iv) the date, identity of the transferor, and circumstances of the claimant's acquisition of the interest in the property;
- (v) the name and address of all other persons known to have an interest in the property;
- (vi) the specific provision of law relied on in asserting the property is not subject to forfeiture;
- (vii) all essential facts supporting each assertion; and
- (viii) the relief sought.

(2) If a claimant files the claim and deposits with the State's Attorney a cost bond, in the form of a cashier's check payable to the clerk of the court, in the sum of 10 percent of the reasonable value of the property as alleged by the State's Attorney or the sum of \$100, whichever is greater, upon condition that, in the case of forfeiture, the claimant must pay all costs and expenses of forfeiture proceedings, then the State's Attorney shall institute judicial in rem forfeiture proceedings and deposit the cost bond with the clerk of the court as described in Section 9 of this Act within 45 days after receipt of the claim and cost bond. In lieu of a cost bond, a person claiming interest in the seized property may file, under penalty of perjury, an indigency affidavit.

(3) If none of the seized property is forfeited in the judicial in rem proceeding, the clerk of the court shall return to the claimant, unless the court orders otherwise, 90% of the sum which has been deposited and shall retain as costs 10% of the money deposited. If any of the seized property is forfeited under the judicial forfeiture proceeding, the clerk of the court shall transfer 90% of the sum which has been deposited to the State's Attorney prosecuting the civil forfeiture to be applied to the costs of prosecution and the clerk shall retain as costs 10% of the sum deposited.

(D) If no claim is filed or bond given within the 45 day period as described in subsection (C) of Section 6 of this Act, the State's Attorney shall declare the property forfeited and shall promptly notify the owner and all known interest holders of the property and the Director of the Illinois Department of State Police of the declaration of forfeiture and the Director shall dispose of the property in accordance with law.

[May 30, 2005]

(Source: P.A. 86-1382; 87-614.)

(725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

Sec. 7. Presumptions. The following situations shall give rise to a presumption that the property described therein was furnished or intended to be furnished in exchange for a substance in violation of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, or is the proceeds of such an exchange, and therefore forfeitable under this Act, such presumptions being rebuttable by a preponderance of the evidence:

(1) All moneys, coin, or currency found in close proximity to forfeitable substances, to forfeitable drug manufacturing or distributing paraphernalia, or to forfeitable records of the importation, manufacture or distribution of substances;

(2) All property acquired or caused to be acquired by a person either between the dates of occurrence of two or more acts in felony violation of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, or an act committed in another state, territory or country which would be punishable as a felony under ~~either~~ the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act, committed by that person within 5 years of each other, or all property acquired by such person within a reasonable amount of time after the commission of such acts if:

- (a) At least one of the above acts was committed after the effective date of this Act;
and
- (b) At least one of the acts is or was punishable as a Class X, Class 1, or Class 2 felony; and
- (c) There was no likely source for such property other than a violation of the above Acts.

(Source: P.A. 86-1382.)

(725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

Sec. 9. Judicial in rem procedures. If property seized under the provisions of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act is non-real property that exceeds \$20,000 in value excluding the value of any conveyance, or is real property, or a claimant has filed a claim and a cost bond under subsection (C) of Section 6 of this Act, the following judicial in rem procedures shall apply:

(A) If, after a review of the facts surrounding the seizure, the State's Attorney is of the opinion that the seized property is subject to forfeiture, then within 45 days of the receipt of notice of seizure by the seizing agency or the filing of the claim and cost bond, whichever is later, the State's Attorney shall institute judicial forfeiture proceedings by filing a verified complaint for forfeiture and, if the claimant has filed a claim and cost bond, by depositing the cost bond with the clerk of the court. When authorized by law, a forfeiture must be ordered by a court on an action in rem brought by a State's Attorney under a verified complaint for forfeiture.

(B) During the probable cause portion of the judicial in rem proceeding wherein the State presents its case-in-chief, the court must receive and consider, among other things, all relevant hearsay evidence and information. The laws of evidence relating to civil actions shall apply to all other portions of the judicial in rem proceeding.

(C) Only an owner of or interest holder in the property may file an answer asserting a claim against the property in the action in rem. For purposes of this Section, the owner or interest holder shall be referred to as claimant.

(D) The answer must be signed by the owner or interest holder under penalty of perjury and must set forth:

- (i) the caption of the proceedings as set forth on the notice of pending forfeiture and the name of the claimant;
- (ii) the address at which the claimant will accept mail;
- (iii) the nature and extent of the claimant's interest in the property;
- (iv) the date, identity of transferor, and circumstances of the claimant's acquisition of the interest in the property;
- (v) the name and address of all other persons known to have an interest in the property;
- (vi) the specific provisions of Section 8 of this Act relied on in asserting it is not subject to forfeiture;
- (vii) all essential facts supporting each assertion; and
- (viii) the precise relief sought.

(E) The answer must be filed with the court within 45 days after service of the civil in rem complaint.

(F) The hearing must be held within 60 days after filing of the answer unless continued for good

cause.

(G) The State shall show the existence of probable cause for forfeiture of the property. If the State shows probable cause, the claimant has the burden of showing by a preponderance of the evidence that the claimant's interest in the property is not subject to forfeiture.

(H) If the State does not show existence of probable cause or a claimant has established by a preponderance of evidence that the claimant has an interest that is exempt under Section 8 of this Act, the court shall order the interest in the property returned or conveyed to the claimant and shall order all other property forfeited to the State. If the State does show existence of probable cause and the claimant does not establish by a preponderance of evidence that the claimant has an interest that is exempt under Section 8 of this Act, the court shall order all property forfeited to the State.

(I) A defendant convicted in any criminal proceeding is precluded from later denying the essential allegations of the criminal offense of which the defendant was convicted in any proceeding under this Act regardless of the pendency of an appeal from that conviction. However, evidence of the pendency of an appeal is admissible.

(J) An acquittal or dismissal in a criminal proceeding shall not preclude civil proceedings under this Act; however, for good cause shown, on a motion by the State's Attorney, the court may stay civil forfeiture proceedings during the criminal trial for a related criminal indictment or information alleging a violation of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act. Such a stay shall not be available pending an appeal. Property subject to forfeiture under the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act shall not be subject to return or release by a court exercising jurisdiction over a criminal case involving the seizure of such property unless such return or release is consented to by the State's Attorney.

(K) All property declared forfeited under this Act vests in this State on the commission of the conduct giving rise to forfeiture together with the proceeds of the property after that time. Any such property or proceeds subsequently transferred to any person remain subject to forfeiture and thereafter shall be ordered forfeited unless the transferee claims and establishes in a hearing under the provisions of this Act that the transferee's interest is exempt under Section 8 of this Act.

(L) A civil action under this Act must be commenced within 5 years after the last conduct giving rise to forfeiture became known or should have become known or 5 years after the forfeitable property is discovered, whichever is later, excluding any time during which either the property or claimant is out of the State or in confinement or during which criminal proceedings relating to the same conduct are in progress.

(Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

Section 1090. The Narcotics Profit Forfeiture Act is amended by changing Section 3 as follows:

(725 ILCS 175/3) (from Ch. 56 1/2, par. 1653)

Sec. 3. Definitions. (a) "Narcotics activity" means:

1. Any conduct punishable as a felony under the Cannabis Control Act or the Illinois Controlled Substances Act, or

2. Any conduct punishable, by imprisonment for more than one year, as an offense against the law of the United States or any State, concerning narcotics, controlled substances, dangerous drugs, or any substance or things scheduled or listed under the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act.

(b) "Pattern of narcotics activity" means 2 or more acts of narcotics activity of which at least 2 such acts were committed within 5 years of each other. At least one of those acts of narcotics activity must have been committed after the effective date of this Act and at least one of such acts shall be or shall have been punishable as a Class X, Class 1 or Class 2 felony.

(c) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property.

(d) "Enterprise" includes any individual, partnership, corporation, association, or other entity, or group of individuals associated in fact, although not a legal entity.

(Source: P.A. 82-940.)

Section 1095. The Sexually Violent Persons Commitment Act is amended by changing Section 40 as follows:

(725 ILCS 207/40)

Sec. 40. Commitment.

(a) If a court or jury determines that the person who is the subject of a petition under Section 15 of this

[May 30, 2005]

Act is a sexually violent person, the court shall order the person to be committed to the custody of the Department for control, care and treatment until such time as the person is no longer a sexually violent person.

(b) (1) The court shall enter an initial commitment order under this Section pursuant to a hearing held as soon as practicable after the judgment is entered that the person who is the subject of a petition under Section 15 is a sexually violent person. If the court lacks sufficient information to make the determination required by paragraph (b)(2) of this Section immediately after trial, it may adjourn the hearing and order the Department to conduct a predisposition investigation or a supplementary mental examination, or both, to assist the court in framing the commitment order. A supplementary mental examination under this Section shall be conducted in accordance with Section 3-804 of the Mental Health and Developmental Disabilities Code.

(2) An order for commitment under this Section shall specify either institutional care in a secure facility, as provided under Section 50 of this Act, or conditional release. In determining whether commitment shall be for institutional care in a secure facility or for conditional release, the court shall consider the nature and circumstances of the behavior that was the basis of the allegation in the petition under paragraph (b)(1) of Section 15, the person's mental history and present mental condition, where the person will live, how the person will support himself or herself, and what arrangements are available to ensure that the person has access to and will participate in necessary treatment. All treatment, whether in institutional care, in a secure facility, or while on conditional release, shall be conducted in conformance with the standards developed under the Sex Offender Management Board Act and conducted by a treatment provider approved by the Board. The Department shall arrange for control, care and treatment of the person in the least restrictive manner consistent with the requirements of the person and in accordance with the court's commitment order.

(3) If the court finds that the person is appropriate for conditional release, the court shall notify the Department. The Department shall prepare a plan that identifies the treatment and services, if any, that the person will receive in the community. The plan shall address the person's need, if any, for supervision, counseling, medication, community support services, residential services, vocational services, and alcohol or other drug abuse treatment. The Department may contract with a county health department, with another public agency or with a private agency to provide the treatment and services identified in the plan. The plan shall specify who will be responsible for providing the treatment and services identified in the plan. The plan shall be presented to the court for its approval within 60 days after the court finding that the person is appropriate for conditional release, unless the Department and the person to be released request additional time to develop the plan. The conditional release program operated under this Section is not subject to the provisions of the Mental Health and Developmental Disabilities Confidentiality Act.

(4) An order for conditional release places the person in the custody and control of the Department. A person on conditional release is subject to the conditions set by the court and to the rules of the Department. Before a person is placed on conditional release by the court under this Section, the court shall so notify the municipal police department and county sheriff for the municipality and county in which the person will be residing. The notification requirement under this Section does not apply if a municipal police department or county sheriff submits to the court a written statement waiving the right to be notified. If the Department alleges that a released person has violated any condition or rule, or that the safety of others requires that conditional release be revoked, he or she may be taken into custody under the rules of the Department.

At any time during which the person is on conditional release, if the Department determines that the person has violated any condition or rule, or that the safety of others requires that conditional release be revoked, the Department may request the Attorney General or State's Attorney to request the court to issue an emergency ex parte order directing any law enforcement officer to take the person into custody and transport the person to the county jail. The Department may request, or the Attorney General or State's Attorney may request independently of the Department, that a petition to revoke conditional release be filed. When a petition is filed, the court may order the Department to issue a notice to the person to be present at the Department or other agency designated by the court, order a summons to the person to be present, or order a body attachment for all law enforcement officers to take the person into custody and transport him or her to the county jail, hospital, or treatment facility. The Department shall submit a statement showing probable cause of the detention and a petition to revoke the order for conditional release to the committing court within 48 hours after the detention. The court shall hear the petition within 30 days, unless the hearing or time deadline is waived by the detained person. Pending the revocation hearing, the Department may detain the person in a jail, in a hospital or treatment facility. The State has the burden of proving by clear and

convincing evidence that any rule or condition of release has been violated, or that the safety of others requires that the conditional release be revoked. If the court determines after hearing that any rule or condition of release has been violated, or that the safety of others requires that conditional release be revoked, it may revoke the order for conditional release and order that the released person be placed in an appropriate institution until the person is discharged from the commitment under Section 65 of this Act or until again placed on conditional release under Section 60 of this Act.

(5) An order for conditional release places the person in the custody, care, and control of the Department. The court shall order the person be subject to the following rules of conditional release, in addition to any other conditions ordered, and the person shall be given a certificate setting forth the conditions of conditional release. These conditions shall be that the person:

- (A) not violate any criminal statute of any jurisdiction;
- (B) report to or appear in person before such person or agency as directed by the court and the Department;
- (C) refrain from possession of a firearm or other dangerous weapon;
- (D) not leave the State without the consent of the court or, in circumstances in which the reason for the absence is of such an emergency nature, that prior consent by the court is not possible without the prior notification and approval of the Department;
- (E) at the direction of the Department, notify third parties of the risks that may be occasioned by his or her criminal record or sexual offending history or characteristics, and permit the supervising officer or agent to make the notification requirement;
- (F) attend and fully participate in assessment, treatment, and behavior monitoring including, but not limited to, medical, psychological or psychiatric treatment specific to sexual offending, drug addiction, or alcoholism, to the extent appropriate to the person based upon the recommendation and findings made in the Department evaluation or based upon any subsequent recommendations by the Department;
- (G) waive confidentiality allowing the court and Department access to assessment or treatment results or both;
- (H) work regularly at a Department approved occupation or pursue a course of study or vocational training and notify the Department within 72 hours of any change in employment, study, or training;
- (I) not be employed or participate in any volunteer activity that involves contact with children, except under circumstances approved in advance and in writing by the Department officer;
- (J) submit to the search of his or her person, residence, vehicle, or any personal or real property under his or her control at any time by the Department;
- (K) financially support his or her dependents and provide the Department access to any requested financial information;
- (L) serve a term of home confinement, the conditions of which shall be that the person:
 - (i) remain within the interior premises of the place designated for his or her confinement during the hours designated by the Department;
 - (ii) admit any person or agent designated by the Department into the offender's place of confinement at any time for purposes of verifying the person's compliance with the condition of his or her confinement;
 - (iii) if deemed necessary by the Department, be placed on an electronic monitoring device;
- (M) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986. A copy of the order of protection shall be transmitted to the Department by the clerk of the court;
- (N) refrain from entering into a designated geographic area except upon terms the Department finds appropriate. The terms may include consideration of the purpose of the entry, the time of day, others accompanying the person, and advance approval by the Department;
- (O) refrain from having any contact, including written or oral communications, directly or indirectly, with certain specified persons including, but not limited to, the victim or the victim's family, and report any incidental contact with the victim or the victim's family to the Department within 72 hours; refrain from entering onto the premises of, traveling past, or loitering near the victim's residence, place of employment, or other places frequented by the victim;
- (P) refrain from having any contact, including written or oral communications, directly or indirectly, with particular types of persons, including but not limited to members of

street gangs, drug users, drug dealers, or prostitutes;

(Q) refrain from all contact, direct or indirect, personally, by telephone, letter, or through another person, with minor children without prior identification and approval of the Department;

(R) refrain from having in his or her body the presence of alcohol or any illicit drug prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her breath, saliva, blood, or urine for tests to determine the presence of alcohol or any illicit drug;

(S) not establish a dating, intimate, or sexual relationship with a person without prior written notification to the Department;

(T) neither possess or have under his or her control any material that is pornographic, sexually oriented, or sexually stimulating, or that depicts or alludes to sexual activity or depicts minors under the age of 18, including but not limited to visual, auditory, telephonic, electronic media, or any matter obtained through access to any computer or material linked to computer access use;

(U) not patronize any business providing sexually stimulating or sexually oriented entertainment nor utilize "900" or adult telephone numbers or any other sex-related telephone numbers;

(V) not reside near, visit, or be in or about parks, schools, day care centers, swimming pools, beaches, theaters, or any other places where minor children congregate without advance approval of the Department and report any incidental contact with minor children to the Department within 72 hours;

(W) not establish any living arrangement or residence without prior approval of the Department;

(X) not publish any materials or print any advertisements without providing a copy of the proposed publications to the Department officer and obtaining permission prior to publication;

(Y) not leave the county except with prior permission of the Department and provide the Department officer or agent with written travel routes to and from work and any other designated destinations;

(Z) not possess or have under his or her control certain specified items of contraband related to the incidence of sexually offending items including video or still camera items or children's toys;

(AA) provide a written daily log of activities as directed by the Department;

(BB) comply with all other special conditions that the Department may impose that restrict the person from high-risk situations and limit access or potential victims.

(6) A person placed on conditional release and who during the term undergoes mandatory drug or alcohol testing or is assigned to be placed on an approved electronic monitoring device may be ordered to pay all costs incidental to the mandatory drug or alcohol testing and all costs incidental to the approved electronic monitoring in accordance with the person's ability to pay those costs. The Department may establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing and all costs incidental to approved electronic monitoring.

(Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04.)

Section 1100. The State's Attorneys Appellate Prosecutor's Act is amended by changing Section 4.01 as follows:

(725 ILCS 210/4.01) (from Ch. 14, par. 204.01)

Sec. 4.01. The Office and all attorneys employed thereby may represent the People of the State of Illinois on appeal in all cases which emanate from a county containing less than 3,000,000 inhabitants, when requested to do so and at the direction of the State's Attorney, otherwise responsible for prosecuting the appeal, and may, with the advice and consent of the State's Attorney prepare, file and argue such appellate briefs in the Illinois Appellate Court and, when requested and authorized to do so by the Attorney General, in the Illinois Supreme Court. The Office may also assist County State's Attorneys in the discharge of their duties under the Illinois Controlled Substances Act, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, the Drug Asset Forfeiture Procedure Act, the Narcotics Profit Forfeiture Act, and the Illinois Public Labor Relations Act, including negotiations conducted on behalf of a county or pursuant to an intergovernmental agreement as well as

[May 30, 2005]

in the trial and appeal of said cases and of tax objections, and the counties which use services relating to labor relations shall reimburse the Office on pro-rated shares as determined by the board based upon the population and number of labor relations cases of the participating counties. In addition, the Office and all attorneys employed by the Office may also assist State's Attorneys in the discharge of their duties in the prosecution and trial of other cases when requested to do so by, and at the direction of, the State's Attorney otherwise responsible for the case. In addition, the Office and all attorneys employed by the Office may act as Special Prosecutor if duly appointed to do so by a court having jurisdiction. To be effective, the order appointing the Office or its attorneys as Special Prosecutor must (i) identify the case and its subject matter and (ii) state that the Special Prosecutor serves at the pleasure of the Attorney General, who may substitute himself or herself as the Special Prosecutor when, in his or her judgment, the interest of the people of the State so requires. Within 5 days after receiving a copy of an order from the court appointing the Office or any of its attorneys as a Special Prosecutor, the Office must forward a copy of the order to the Springfield office of the Attorney General.
(Source: P.A. 92-683, eff. 7-16-02.)

Section 1105. The Statewide Grand Jury Act is amended by changing Section 3 as follows:
(725 ILCS 215/3) (from Ch. 38, par. 1703)

Sec. 3. Written application for the appointment of a Circuit Judge to convene and preside over a Statewide Grand Jury, with jurisdiction extending throughout the State, shall be made to the Chief Justice of the Supreme Court. Upon such written application, the Chief Justice of the Supreme Court shall appoint a Circuit Judge from the circuit where the Statewide Grand Jury is being sought to be convened, who shall make a determination that the convening of a Statewide Grand Jury is necessary.

In such application the Attorney General shall state that the convening of a Statewide Grand Jury is necessary because of an alleged offense or offenses set forth in this Section involving more than one county of the State and identifying any such offense alleged; and

(a) that he or she believes that the grand jury function for the investigation and indictment of the offense or offenses cannot effectively be performed by a county grand jury together with the reasons for such belief, and

(b)(1) that each State's Attorney with jurisdiction over an offense or offenses to be investigated has consented to the impaneling of the Statewide Grand Jury, or

(2) if one or more of the State's Attorneys having jurisdiction over an offense or offenses to be investigated fails to consent to the impaneling of the Statewide Grand Jury, the Attorney General shall set forth good cause for impaneling the Statewide Grand Jury.

If the Circuit Judge determines that the convening of a Statewide Grand Jury is necessary, he or she shall convene and impanel the Statewide Grand Jury with jurisdiction extending throughout the State to investigate and return indictments:

(a) For violations of any of the following or for any other criminal offense committed in the course of violating any of the following: Article 29D of the Criminal Code of 1961, the Illinois Controlled Substances Act, the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, the Narcotics Profit Forfeiture Act, or the Cannabis and Controlled Substances Tax Act; a streetgang related felony offense; Section 24-2.1, 24-2.2, 24-3, 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a)(4), 24-1(a)(6), 24-1(a)(7), 24-1(a)(9), 24-1(a)(10), or 24-1(c) of the Criminal Code of 1961; or a money laundering offense; provided that the violation or offense involves acts occurring in more than one county of this State; and

(a-5) For violations facilitated by the use of a computer, including the use of the Internet, the World Wide Web, electronic mail, message board, newsgroup, or any other commercial or noncommercial on-line service, of any of the following offenses: indecent solicitation of a child, sexual exploitation of a child, soliciting for a juvenile prostitute, keeping a place of juvenile prostitution, juvenile pimping, or child pornography; and

(b) For the offenses of perjury, subornation of perjury, communicating with jurors and witnesses, and harassment of jurors and witnesses, as they relate to matters before the Statewide Grand Jury.

"Streetgang related" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

Upon written application by the Attorney General for the convening of an additional Statewide Grand Jury, the Chief Justice of the Supreme Court shall appoint a Circuit Judge from the circuit for which the additional Statewide Grand Jury is sought. The Circuit Judge shall determine the necessity for an additional Statewide Grand Jury in accordance with the provisions of this Section. No more than 2 Statewide Grand Juries may be empaneled at any time.

[May 30, 2005]

(Source: P.A. 91-225, eff. 1-1-00; 91-947, eff. 2-9-01; 92-854, eff. 12-5-02.)

Section 1110. The Unified Code of Corrections is amended by changing Sections 3-7-2.5, 5-4-1, 5-5-3, 5-5-3.2, 5-6-2, 5-6-3, 5-6-3.1, 5-8-4, 5-9-1, 5-9-1.1, 5-9-1.2, and 5-9-1.4 as follows:

(730 ILCS 5/3-7-2.5)

Sec. 3-7-2.5. Zero tolerance drug policy.

(a) Any person employed by the Department of Corrections who tests positive in accordance with established Departmental drug testing procedures for any substance prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act shall be discharged from employment. Refusal to submit to a drug test, ordered in accordance with Departmental procedures, by any person employed by the Department shall be construed as a positive test, and the person shall be discharged from employment.

Testing of employees shall be conducted in accordance with established Departmental drug testing procedures. Changes to established drug testing procedures that are inconsistent with the federal guidelines specified in the Mandatory Guidelines for Federal Workplace Drug Testing Program, 59 FR 29908, or that affect terms and conditions of employment, shall be negotiated with an exclusive bargaining representative in accordance with the Illinois Public Labor Relations Act.

(1) All samples used for the purpose of drug testing shall be collected by persons who

have at least 40 hours of initial training in the proper collection procedures and at least 8 hours of annual follow-up training. Proof of this training shall be available upon request. In order to ensure that these persons possess the necessary knowledge, skills, and experience to carry out their duties, their training must include guidelines and procedures used for the collection process and must also incorporate training on the appropriate interpersonal skills required during the collection process.

(2) With respect to any bargaining unit employee, the Department shall not initiate discipline of any employee who authorizes the testing of a split urine sample in accordance with established Departmental drug testing procedures until receipt by the Department of the test results from the split urine sample evidencing a positive test for any substance prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act.

(b) Any employee discharged in accordance with the provisions of subsection (a) shall not be eligible for rehire by the Department.

(Source: P.A. 92-80, eff. 1-1-02.)

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

Sec. 5-4-1. Sentencing Hearing.

(a) Except when the death penalty is sought under hearing procedures otherwise specified, after a determination of guilt, a hearing shall be held to impose the sentence. However, prior to the imposition of sentence on an individual being sentenced for an offense based upon a charge for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance, the individual must undergo a professional evaluation to determine if an alcohol or other drug abuse problem exists and the extent of such a problem. Programs conducting these evaluations shall be licensed by the Department of Human Services. However, if the individual is not a resident of Illinois, the court may, in its discretion, accept an evaluation from a program in the state of such individual's residence. The court may in its sentencing order approve an eligible defendant for placement in a Department of Corrections impact incarceration program as provided in Section 5-8-1.1 or 5-8-1.3. At the hearing the court shall:

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

(2) consider any presentence reports;

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

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

(5) hear arguments as to sentencing alternatives;

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

(7) afford the victim of a violent crime or a violation of Section 11-501 of the

Illinois Vehicle Code, or a similar provision of a local ordinance, or a qualified individual affected by: (i) a violation of Section 405, 405.1, 405.2, or 407 of the Illinois Controlled Substances Act or a violation of clause (b)(1)(A) or (b)(1)(C) of Section 55 or Section 65 of the Methamphetamine Control and Community Protection Act, or (ii) a Class 4 felony violation of Section 11-14, 11-15, 11-17, 11-18, 11-18.1, or 11-19 of the Criminal Code of 1961, committed by the defendant the opportunity to make a statement concerning the impact on the victim and to offer evidence in

aggravation or mitigation; provided that the statement and evidence offered in aggravation or mitigation must first be prepared in writing in conjunction with the State's Attorney before it may be presented orally at the hearing. Any sworn testimony offered by the victim is subject to the defendant's right to cross-examine. All statements and evidence offered under this paragraph (7) shall become part of the record of the court. For the purpose of this paragraph (7), "qualified individual" means any person who (i) lived or worked within the territorial jurisdiction where the offense took place when the offense took place; and (ii) is familiar with various public places within the territorial jurisdiction where the offense took place when the offense took place. For the purposes of this paragraph (7), "qualified individual" includes any peace officer, or any member of any duly organized State, county, or municipal peace unit assigned to the territorial jurisdiction where the offense took place when the offense took place;

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

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

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

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

(c-1) In imposing a sentence for the offense of aggravated kidnapping for ransom, home invasion, armed robbery, aggravated vehicular hijacking, aggravated discharge of a firearm, or armed violence with a category I weapon or category II weapon, the trial judge shall make a finding as to whether the conduct leading to conviction for the offense resulted in great bodily harm to a victim, and shall enter that finding and the basis for that finding in the record.

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

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

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, assuming the defendant receives all of his or her good conduct credit, the period of estimated actual custody is ... years and ... months, less up to 180 days additional good conduct credit for meritorious service. If the defendant, because of his or her own misconduct or failure to comply with the institutional regulations, does not receive those credits, the actual time served in prison will be longer. The defendant may also receive an additional one-half day good conduct credit for each day of participation in vocational, industry, substance abuse, and educational programs as provided for by Illinois statute."

When the sentence is imposed for one of the offenses enumerated in paragraph (a)(3) of Section 3-6-3, other than when the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3 committed on or after June 19, 1998, and other than when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was committed on or after January 1, 1999, and other than when the sentence is imposed for aggravated

arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176) ~~this amendatory Act of the 92nd 93rd General Assembly~~, the judge's statement, to be given after pronouncing the sentence, shall include the following:

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

When the sentence is imposed for one of the offenses enumerated in paragraph (a)(2) of Section 3-6-3, other than first degree murder, and the offense was committed on or after June 19, 1998, and when the sentence is imposed for reckless homicide as defined in subsection (e) of Section 9-3 of the Criminal Code of 1961 if the offense was committed on or after January 1, 1999, and when the sentence is imposed for aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof as defined in subparagraph (F) of paragraph (1) of subsection (d) of Section 11-501 of the Illinois Vehicle Code, and when the sentence is imposed for aggravated arson if the offense was committed on or after July 27, 2001 (the effective date of Public Act 92-176) ~~this amendatory Act of the 92nd 93rd General Assembly~~, the judge's statement, to be given after pronouncing the sentence, shall include the following:

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

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

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

When the sentence is imposed for any offense that results in incarceration in a Department of Corrections facility committed as a result of the use of, abuse of, or addition to alcohol or a controlled substance and the crime was committed on or after September 1, 2003 (the effective date of Public Act 93-354) ~~this amendatory Act of the 93rd General Assembly~~, the judge's statement, in addition to any other judge's statement required under this Section, to be given after pronouncing the sentence, shall include the following:

"The purpose of this statement is to inform the public of the actual period of time this defendant is likely to spend in prison as a result of this sentence. The actual period of prison time served is determined by the statutes of Illinois as applied to this sentence by the Illinois Department of Corrections and the Illinois Prisoner Review Board. In this case, the defendant shall receive no good conduct credit until he or she participates in and completes a substance abuse treatment program."

(d) When the defendant is committed to the Department of Corrections, the State's Attorney shall and counsel for the defendant may file a statement with the clerk of the court to be transmitted to the department, agency or institution to which the defendant is committed to furnish such department, agency or institution with the facts and circumstances of the offense for which the person was committed together with all other factual information accessible to them in regard to the person prior to his commitment relative to his habits, associates, disposition and reputation and any other facts and circumstances which may aid such department, agency or institution during its custody of such person. The clerk shall within 10 days after receiving any such statements transmit a copy to such department,

agency or institution and a copy to the other party, provided, however, that this shall not be cause for delay in conveying the person to the department, agency or institution to which he has been committed.

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

- (1) the sentence imposed;
- (2) any statement by the court of the basis for imposing the sentence;
- (3) any presentence reports;
- (3.5) any sex offender evaluations;
- (4) the number of days, if any, which the defendant has been in custody and for which he is entitled to credit against the sentence, which information shall be provided to the clerk by the sheriff;
- (4.1) any finding of great bodily harm made by the court with respect to an offense enumerated in subsection (c-1);
- (5) all statements filed under subsection (d) of this Section;
- (6) any medical or mental health records or summaries of the defendant;
- (7) the municipality where the arrest of the offender or the commission of the offense has occurred, where such municipality has a population of more than 25,000 persons;
- (8) all statements made and evidence offered under paragraph (7) of subsection (a) of this Section; and
- (9) all additional matters which the court directs the clerk to transmit.

(Source: P.A. 92-176, eff. 7-27-01; 92-806, eff. 1-1-03; 93-213, eff. 7-18-03; 93-317, eff. 1-1-04; 93-354, eff. 9-1-03; 93-616, eff. 1-1-04; revised 12-9-03.)

(730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

Sec. 5-5-3. Disposition.

(a) Except as provided in Section 11-501 of the Illinois Vehicle Code, every person convicted of an offense shall be sentenced as provided in this Section.

(b) The following options shall be appropriate dispositions, alone or in combination, for all felonies and misdemeanors other than those identified in subsection (c) of this Section:

- (1) A period of probation.
- (2) A term of periodic imprisonment.
- (3) A term of conditional discharge.
- (4) A term of imprisonment.
- (5) An order directing the offender to clean up and repair the damage, if the offender was convicted under paragraph (h) of Section 21-1 of the Criminal Code of 1961 (now repealed).
- (6) A fine.
- (7) An order directing the offender to make restitution to the victim under Section 5-5-6 of this Code.
- (8) A sentence of participation in a county impact incarceration program under Section 5-8-1.2 of this Code.

(9) A term of imprisonment in combination with a term of probation when the offender has been admitted into a drug court program under Section 20 of the Drug Court Treatment Act. Neither a fine nor restitution shall be the sole disposition for a felony and either or both may be imposed only in conjunction with another disposition.

(c) (1) When a defendant is found guilty of first degree murder the State may either seek a sentence of imprisonment under Section 5-8-1 of this Code, or where appropriate seek a sentence of death under Section 9-1 of the Criminal Code of 1961.

(2) A period of probation, a term of periodic imprisonment or conditional discharge shall not be imposed for the following offenses. The court shall sentence the offender to not less than the minimum term of imprisonment set forth in this Code for the following offenses, and may order a fine or restitution or both in conjunction with such term of imprisonment:

- (A) First degree murder where the death penalty is not imposed.
- (B) Attempted first degree murder.
- (C) A Class X felony.
- (D) A violation of Section 401.1 or 407 of the Illinois Controlled Substances Act, or a violation of subdivision (c)(1) or (c)(2) of Section 401 of that Act which relates to more than 5 grams of a substance containing heroin or cocaine or an analog thereof.
- (E) A violation of Section 5.1 or 9 of the Cannabis Control Act.

(E-1) A violation of subdivision (b)(1)(A), (b)(1)(B), or (b)(1)(F) of Section 55 of the Methamphetamine Control and Community Protection Act.

(F) A Class 2 or greater felony if the offender had been convicted of a Class 2 or greater felony within 10 years of the date on which the offender committed the offense for which he or she is being sentenced, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(G) Residential burglary, except as otherwise provided in Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(H) Criminal sexual assault.

(I) Aggravated battery of a senior citizen.

(J) A forcible felony if the offense was related to the activities of an organized gang.

Before July 1, 1994, for the purposes of this paragraph, "organized gang" means an association of 5 or more persons, with an established hierarchy, that encourages members of the association to perpetrate crimes or provides support to the members of the association who do commit crimes.

Beginning July 1, 1994, for the purposes of this paragraph, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(K) Vehicular hijacking.

(L) A second or subsequent conviction for the offense of hate crime when the underlying offense upon which the hate crime is based is felony aggravated assault or felony mob action.

(M) A second or subsequent conviction for the offense of institutional vandalism if the damage to the property exceeds \$300.

(N) A Class 3 felony violation of paragraph (1) of subsection (a) of Section 2 of the Firearm Owners Identification Card Act.

(O) A violation of Section 12-6.1 of the Criminal Code of 1961.

(P) A violation of paragraph (1), (2), (3), (4), (5), or (7) of subsection (a) of Section 11-20.1 of the Criminal Code of 1961.

(Q) A violation of Section 20-1.2 or 20-1.3 of the Criminal Code of 1961.

(R) A violation of Section 24-3A of the Criminal Code of 1961.

(S) (Blank).

(T) A second or subsequent violation of ~~clause (b)(1)(F) of paragraph (6.6) of subsection (a), subsection (e 5), or subsection (d 5) of Section 55 or Section 65 404 of the Methamphetamine Control and Community Protection Act Illinois Controlled Substances Act.~~

(3) (Blank).

(4) A minimum term of imprisonment of not less than 10 consecutive days or 30 days of community service shall be imposed for a violation of paragraph (c) of Section 6-303 of the Illinois Vehicle Code.

(4.1) (Blank).

(4.2) Except as provided in paragraph (4.3) of this subsection (c), a minimum of 100 hours of community service shall be imposed for a second violation of Section 6-303 of the Illinois Vehicle Code.

(4.3) A minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a second violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.4) Except as provided in paragraph (4.5) and paragraph (4.6) of this subsection (c), a minimum term of imprisonment of 30 days or 300 hours of community service, as determined by the court, shall be imposed for a third or subsequent violation of Section 6-303 of the Illinois Vehicle Code.

(4.5) A minimum term of imprisonment of 30 days shall be imposed for a third violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(4.6) A minimum term of imprisonment of 180 days shall be imposed for a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code.

(5) The court may sentence an offender convicted of a business offense or a petty offense or a corporation or unincorporated association convicted of any offense to:

(A) a period of conditional discharge;

(B) a fine;

(C) make restitution to the victim under Section 5-5-6 of this Code.

(5.1) In addition to any penalties imposed under paragraph (5) of this subsection (c),

and except as provided in paragraph (5.2) or (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 90 days but not more than one year, if the violation resulted in damage to the property of another person.

(5.2) In addition to any penalties imposed under paragraph (5) of this subsection (c), and except as provided in paragraph (5.3), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for at least 180 days but not more than 2 years, if the violation resulted in injury to another person.

(5.3) In addition to any penalties imposed under paragraph (5) of this subsection (c), a person convicted of violating subsection (c) of Section 11-907 of the Illinois Vehicle Code shall have his or her driver's license, permit, or privileges suspended for 2 years, if the violation resulted in the death of another person.

(6) In no case shall an offender be eligible for a disposition of probation or conditional discharge for a Class 1 felony committed while he was serving a term of probation or conditional discharge for a felony.

(7) When a defendant is adjudged a habitual criminal under Article 33B of the Criminal Code of 1961, the court shall sentence the defendant to a term of natural life imprisonment.

(8) When a defendant, over the age of 21 years, is convicted of a Class 1 or Class 2 felony, after having twice been convicted in any state or federal court of an offense that contains the same elements as an offense now classified in Illinois as a Class 2 or greater Class felony and such charges are separately brought and tried and arise out of different series of acts, such defendant shall be sentenced as a Class X offender. This paragraph shall not apply unless (1) the first felony was committed after the effective date of this amendatory Act of 1977; and (2) the second felony was committed after conviction on the first; and (3) the third felony was committed after conviction on the second. A person sentenced as a Class X offender under this paragraph is not eligible to apply for treatment as a condition of probation as provided by Section 40-10 of the Alcoholism and Other Drug Abuse and Dependency Act.

(9) A defendant convicted of a second or subsequent offense of ritualized abuse of a child may be sentenced to a term of natural life imprisonment.

(10) (Blank).

(11) The court shall impose a minimum fine of \$1,000 for a first offense and \$2,000 for a second or subsequent offense upon a person convicted of or placed on supervision for battery when the individual harmed was a sports official or coach at any level of competition and the act causing harm to the sports official or coach occurred within an athletic facility or within the immediate vicinity of the athletic facility at which the sports official or coach was an active participant of the athletic contest held at the athletic facility. For the purposes of this paragraph (11), "sports official" means a person at an athletic contest who enforces the rules of the contest, such as an umpire or referee; "athletic facility" means an indoor or outdoor playing field or recreational area where sports activities are conducted; and "coach" means a person recognized as a coach by the sanctioning authority that conducted the sporting event.

(12) ~~(11)~~ A person may not receive a disposition of court supervision for a violation of Section 5-16 of the Boat Registration and Safety Act if that person has previously received a disposition of court supervision for a violation of that Section.

(d) In any case in which a sentence originally imposed is vacated, the case shall be remanded to the trial court. The trial court shall hold a hearing under Section 5-4-1 of the Unified Code of Corrections which may include evidence of the defendant's life, moral character and occupation during the time since the original sentence was passed. The trial court shall then impose sentence upon the defendant. The trial court may impose any sentence which could have been imposed at the original trial subject to Section 5-5-4 of the Unified Code of Corrections. If a sentence is vacated on appeal or on collateral attack due to the failure of the trier of fact at trial to determine beyond a reasonable doubt the existence of a fact (other than a prior conviction) necessary to increase the punishment for the offense beyond the statutory maximum otherwise applicable, either the defendant may be re-sentenced to a term within the range otherwise provided or, if the State files notice of its intention to again seek the extended sentence, the defendant shall be afforded a new trial.

(e) In cases where prosecution for aggravated criminal sexual abuse under Section 12-16 of the Criminal Code of 1961 results in conviction of a defendant who was a family member of the victim at the time of the commission of the offense, the court shall consider the safety and welfare of the victim and may impose a sentence of probation only where:

[May 30, 2005]

(1) the court finds (A) or (B) or both are appropriate:

(A) the defendant is willing to undergo a court approved counseling program for a minimum duration of 2 years; or

(B) the defendant is willing to participate in a court approved plan including but not limited to the defendant's:

(i) removal from the household;

(ii) restricted contact with the victim;

(iii) continued financial support of the family;

(iv) restitution for harm done to the victim; and

(v) compliance with any other measures that the court may deem appropriate; and

(2) the court orders the defendant to pay for the victim's counseling services, to the

extent that the court finds, after considering the defendant's income and assets, that the defendant is financially capable of paying for such services, if the victim was under 18 years of age at the time the offense was committed and requires counseling as a result of the offense.

Probation may be revoked or modified pursuant to Section 5-6-4; except where the court determines at the hearing that the defendant violated a condition of his or her probation restricting contact with the victim or other family members or commits another offense with the victim or other family members, the court shall revoke the defendant's probation and impose a term of imprisonment.

For the purposes of this Section, "family member" and "victim" shall have the meanings ascribed to them in Section 12-12 of the Criminal Code of 1961.

(f) This Article shall not deprive a court in other proceedings to order a forfeiture of property, to suspend or cancel a license, to remove a person from office, or to impose any other civil penalty.

(g) Whenever a defendant is convicted of an offense under Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961, the defendant shall undergo medical testing to determine whether the defendant has any sexually transmissible disease, including a test for infection with human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Any such medical test shall be performed only by appropriately licensed medical practitioners and may include an analysis of any bodily fluids as well as an examination of the defendant's person. Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the victim and the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The court shall notify the defendant of the test results. The court shall also notify the victim if requested by the victim, and if the victim is under the age of 15 and if requested by the victim's parents or legal guardian, the court shall notify the victim's parents or legal guardian of the test results. The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(g-5) When an inmate is tested for an airborne communicable disease, as determined by the Illinois Department of Public Health including but not limited to tuberculosis, the results of the test shall be personally delivered by the warden or his or her designee in a sealed envelope to the judge of the court in which the inmate must appear for the judge's inspection in camera if requested by the judge. Acting in accordance with the best interests of those in the courtroom, the judge shall have the discretion to determine what if any precautions need to be taken to prevent transmission of the disease in the courtroom.

(h) Whenever a defendant is convicted of an offense under Section 1 or 2 of the Hypodermic Syringes and Needles Act, the defendant shall undergo medical testing to determine whether the defendant has been exposed to human immunodeficiency virus (HIV) or any other identified causative agent of acquired immunodeficiency syndrome (AIDS). Except as otherwise provided by law, the results of such test shall be kept strictly confidential by all medical personnel involved in the testing and must be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed. The

court shall notify the defendant of a positive test showing an infection with the human immunodeficiency virus (HIV). The court shall provide information on the availability of HIV testing and counseling at Department of Public Health facilities to all parties to whom the results of the testing are revealed and shall direct the State's Attorney to provide the information to the victim when possible. A State's Attorney may petition the court to obtain the results of any HIV test administered under this Section, and the court shall grant the disclosure if the State's Attorney shows it is relevant in order to prosecute a charge of criminal transmission of HIV under Section 12-16.2 of the Criminal Code of 1961 against the defendant. The court shall order that the cost of any such test shall be paid by the county and may be taxed as costs against the convicted defendant.

(i) All fines and penalties imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(j) In cases when prosecution for any violation of Section 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal Code of 1961, any violation of the Illinois Controlled Substances Act, ~~or~~ any violation of the Cannabis Control Act, or any violation of the Methamphetamine Control and Community Protection Act results in conviction, a disposition of court supervision, or an order of probation granted under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois Controlled Substance Act, or Section 70 of the Methamphetamine Control and Community Protection Act of a defendant, the court shall determine whether the defendant is employed by a facility or center as defined under the Child Care Act of 1969, a public or private elementary or secondary school, or otherwise works with children under 18 years of age on a daily basis. When a defendant is so employed, the court shall order the Clerk of the Court to send a copy of the judgment of conviction or order of supervision or probation to the defendant's employer by certified mail. If the employer of the defendant is a school, the Clerk of the Court shall direct the mailing of a copy of the judgment of conviction or order of supervision or probation to the appropriate regional superintendent of schools. The regional superintendent of schools shall notify the State Board of Education of any notification under this subsection.

(j-5) A defendant at least 17 years of age who is convicted of a felony and who has not been previously convicted of a misdemeanor or felony and who is sentenced to a term of imprisonment in the Illinois Department of Corrections shall as a condition of his or her sentence be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program offered by the Department of Corrections. If a defendant fails to complete the educational training required by his or her sentence during the term of incarceration, the Prisoner Review Board shall, as a condition of mandatory supervised release, require the defendant, at his or her own expense, to pursue a course of study toward a high school diploma or passage of the GED test. The Prisoner Review Board shall revoke the mandatory supervised release of a defendant who wilfully fails to comply with this subsection (j-5) upon his or her release from confinement in a penal institution while serving a mandatory supervised release term; however, the inability of the defendant after making a good faith effort to obtain financial aid or pay for the educational training shall not be deemed a wilful failure to comply. The Prisoner Review Board shall recommit the defendant whose mandatory supervised release term has been revoked under this subsection (j-5) as provided in Section 3-3-9. This subsection (j-5) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (j-5) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(k) A court may not impose a sentence or disposition for a felony or misdemeanor that requires the defendant to be implanted or injected with or to use any form of birth control.

(l) (A) Except as provided in paragraph (C) of subsection (l), whenever a defendant, who is an alien as defined by the Immigration and Nationality Act, is convicted of any felony or misdemeanor offense, the court after sentencing the defendant may, upon motion of the State's Attorney, hold sentence in abeyance and remand the defendant to the custody of the Attorney General of the United States or his or her designated agent to be deported when:

- (1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and
- (2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

Otherwise, the defendant shall be sentenced as provided in this Chapter V.

(B) If the defendant has already been sentenced for a felony or misdemeanor offense, or has been placed on probation under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act, the court may, upon motion of the State's Attorney to suspend the sentence imposed, commit the defendant to the custody of the Attorney General of the United States or his or her designated agent when:

(1) a final order of deportation has been issued against the defendant pursuant to proceedings under the Immigration and Nationality Act, and

(2) the deportation of the defendant would not deprecate the seriousness of the defendant's conduct and would not be inconsistent with the ends of justice.

(C) This subsection (1) does not apply to offenders who are subject to the provisions of paragraph (2) of subsection (a) of Section 3-6-3.

(D) Upon motion of the State's Attorney, if a defendant sentenced under this Section returns to the jurisdiction of the United States, the defendant shall be recommitted to the custody of the county from which he or she was sentenced. Thereafter, the defendant shall be brought before the sentencing court, which may impose any sentence that was available under Section 5-5-3 at the time of initial sentencing. In addition, the defendant shall not be eligible for additional good conduct credit for meritorious service as provided under Section 3-6-6.

(m) A person convicted of criminal defacement of property under Section 21-1.3 of the Criminal Code of 1961, in which the property damage exceeds \$300 and the property damaged is a school building, shall be ordered to perform community service that may include cleanup, removal, or painting over the defacement.

(n) The court may sentence a person convicted of a violation of Section 12-19, 12-21, or 16-1.3 of the Criminal Code of 1961 (i) to an impact incarceration program if the person is otherwise eligible for that program under Section 5-8-1.1, (ii) to community service, or (iii) if the person is an addict or alcoholic, as defined in the Alcoholism and Other Drug Abuse and Dependency Act, to a substance or alcohol abuse program licensed under that Act.

(Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01; 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698, eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169, eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546, eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800, eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

(730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

Sec. 5-5-3.2. Factors in Aggravation.

(a) The following factors shall be accorded weight in favor of imposing a term of imprisonment or may be considered by the court as reasons to impose a more severe sentence under Section 5-8-1:

(1) the defendant's conduct caused or threatened serious harm;

(2) the defendant received compensation for committing the offense;

(3) the defendant has a history of prior delinquency or criminal activity;

(4) the defendant, by the duties of his office or by his position, was obliged to prevent the particular offense committed or to bring the offenders committing it to justice;

(5) the defendant held public office at the time of the offense, and the offense related to the conduct of that office;

(6) the defendant utilized his professional reputation or position in the community to commit the offense, or to afford him an easier means of committing it;

(7) the sentence is necessary to deter others from committing the same crime;

(8) the defendant committed the offense against a person 60 years of age or older or such person's property;

(9) the defendant committed the offense against a person who is physically handicapped or such person's property;

(10) by reason of another individual's actual or perceived race, color, creed, religion, ancestry, gender, sexual orientation, physical or mental disability, or national origin, the defendant committed the offense against (i) the person or property of that individual; (ii) the person or property of a person who has an association with, is married to, or has a friendship with the other individual; or (iii) the person or property of a relative (by blood or marriage) of a person described in clause (i) or (ii). For the purposes of this Section, "sexual orientation" means heterosexuality, homosexuality, or bisexuality;

(11) the offense took place in a place of worship or on the grounds of a place of worship, immediately prior to, during or immediately following worship services. For purposes of this

subparagraph, "place of worship" shall mean any church, synagogue or other building, structure or place used primarily for religious worship;

(12) the defendant was convicted of a felony committed while he was released on bail or his own recognizance pending trial for a prior felony and was convicted of such prior felony, or the defendant was convicted of a felony committed while he was serving a period of probation, conditional discharge, or mandatory supervised release under subsection (d) of Section 5-8-1 for a prior felony;

(13) the defendant committed or attempted to commit a felony while he was wearing a bulletproof vest. For the purposes of this paragraph (13), a bulletproof vest is any device which is designed for the purpose of protecting the wearer from bullets, shot or other lethal projectiles;

(14) the defendant held a position of trust or supervision such as, but not limited to, family member as defined in Section 12-12 of the Criminal Code of 1961, teacher, scout leader, baby sitter, or day care worker, in relation to a victim under 18 years of age, and the defendant committed an offense in violation of Section 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 against that victim;

(15) the defendant committed an offense related to the activities of an organized gang. For the purposes of this factor, "organized gang" has the meaning ascribed to it in Section 10 of the Streetgang Terrorism Omnibus Prevention Act;

(16) the defendant committed an offense in violation of one of the following Sections while in a school, regardless of the time of day or time of year; on any conveyance owned, leased, or contracted by a school to transport students to or from school or a school related activity; on the real property of a school; or on a public way within 1,000 feet of the real property comprising any school: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(16.5) the defendant committed an offense in violation of one of the following Sections while in a day care center, regardless of the time of day or time of year; on the real property of a day care center, regardless of the time of day or time of year; or on a public way within 1,000 feet of the real property comprising any day care center, regardless of the time of day or time of year: Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1, 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or 33A-2 of the Criminal Code of 1961;

(17) the defendant committed the offense by reason of any person's activity as a community policing volunteer or to prevent any person from engaging in activity as a community policing volunteer. For the purpose of this Section, "community policing volunteer" has the meaning ascribed to it in Section 2-3.5 of the Criminal Code of 1961;

(18) the defendant committed the offense in a nursing home or on the real property comprising a nursing home. For the purposes of this paragraph (18), "nursing home" means a skilled nursing or intermediate long term care facility that is subject to license by the Illinois Department of Public Health under the Nursing Home Care Act; or

(19) the defendant was a federally licensed firearm dealer and was previously convicted of a violation of subsection (a) of Section 3 of the Firearm Owners Identification Card Act and has now committed either a felony violation of the Firearm Owners Identification Card Act or an act of armed violence while armed with a firearm.

For the purposes of this Section:

"School" is defined as a public or private elementary or secondary school, community college, college, or university.

"Day care center" means a public or private State certified and licensed day care center as defined in Section 2.09 of the Child Care Act of 1969 that displays a sign in plain view stating that the property is a day care center.

(b) The following factors may be considered by the court as reasons to impose an extended term sentence under Section 5-8-2 upon any offender:

(1) When a defendant is convicted of any felony, after having been previously convicted in Illinois or any other jurisdiction of the same or similar class felony or greater class felony, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(2) When a defendant is convicted of any felony and the court finds that the offense was accompanied by exceptionally brutal or heinous behavior indicative of wanton cruelty; or

(3) When a defendant is convicted of voluntary manslaughter, second degree murder, involuntary manslaughter or reckless homicide in which the defendant has been convicted of causing

the death of more than one individual; or

(4) When a defendant is convicted of any felony committed against:

- (i) a person under 12 years of age at the time of the offense or such person's property;
- (ii) a person 60 years of age or older at the time of the offense or such person's property; or
- (iii) a person physically handicapped at the time of the offense or such person's property; or

(5) In the case of a defendant convicted of aggravated criminal sexual assault or criminal sexual assault, when the court finds that aggravated criminal sexual assault or criminal sexual assault was also committed on the same victim by one or more other individuals, and the defendant voluntarily participated in the crime with the knowledge of the participation of the others in the crime, and the commission of the crime was part of a single course of conduct during which there was no substantial change in the nature of the criminal objective; or

(6) When a defendant is convicted of any felony and the offense involved any of the following types of specific misconduct committed as part of a ceremony, rite, initiation, observance, performance, practice or activity of any actual or ostensible religious, fraternal, or social group:

- (i) the brutalizing or torturing of humans or animals;
- (ii) the theft of human corpses;
- (iii) the kidnapping of humans;
- (iv) the desecration of any cemetery, religious, fraternal, business, governmental, educational, or other building or property; or
- (v) ritualized abuse of a child; or

(7) When a defendant is convicted of first degree murder, after having been previously convicted in Illinois of any offense listed under paragraph (c)(2) of Section 5-5-3, when such conviction has occurred within 10 years after the previous conviction, excluding time spent in custody, and such charges are separately brought and tried and arise out of different series of acts; or

(8) When a defendant is convicted of a felony other than conspiracy and the court finds that the felony was committed under an agreement with 2 or more other persons to commit that offense and the defendant, with respect to the other individuals, occupied a position of organizer, supervisor, financier, or any other position of management or leadership, and the court further finds that the felony committed was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's leadership in an organized gang; or

(9) When a defendant is convicted of a felony violation of Section 24-1 of the Criminal Code of 1961 and the court finds that the defendant is a member of an organized gang; or

(10) When a defendant committed the offense using a firearm with a laser sight attached to it. For purposes of this paragraph (10), "laser sight" has the meaning ascribed to it in Section 24.6-5 of the Criminal Code of 1961; or

(11) When a defendant who was at least 17 years of age at the time of the commission of the offense is convicted of a felony and has been previously adjudicated a delinquent minor under the Juvenile Court Act of 1987 for an act that if committed by an adult would be a Class X or Class 1 felony when the conviction has occurred within 10 years after the previous adjudication, excluding time spent in custody; or

(12) When a defendant commits an offense involving the illegal manufacture of a controlled substance under Section 401 of the Illinois Controlled Substances Act, the illegal manufacture of methamphetamine under Section 25 of the Methamphetamine Control and Community Protection Act, or the illegal possession of explosives and an emergency response officer in the performance of his or her duties is killed or injured at the scene of the offense while responding to the emergency caused by the commission of the offense. In this paragraph (12), "emergency" means a situation in which a person's life, health, or safety is in jeopardy; and "emergency response officer" means a peace officer, community policing volunteer, fireman, emergency medical technician-ambulance, emergency medical technician-intermediate, emergency medical technician-paramedic, ambulance driver, other medical assistance or first aid personnel, or hospital emergency room personnel.

(b-1) For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of aggravated criminal sexual assault or predatory criminal sexual assault of a child under subsection (a)(1) of Section 12-14.1 of the Criminal Code of 1961 where the victim was under 18 years

of age at the time of the commission of the offense.

(d) The court may impose an extended term sentence under Section 5-8-2 upon any offender who was convicted of unlawful use of weapons under Section 24-1 of the Criminal Code of 1961 for possessing a weapon that is not readily distinguishable as one of the weapons enumerated in Section 24-1 of the Criminal Code of 1961.

(Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99; 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00; 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696, eff. 4-13-00; 92-266, eff. 1-1-02.)

(730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)

Sec. 5-6-2. Incidents of Probation and of Conditional Discharge.

(a) When an offender is sentenced to probation or conditional discharge, the court shall impose a period under paragraph (b) of this Section, and shall specify the conditions under Section 5-6-3.

(b) Unless terminated sooner as provided in paragraph (c) of this Section or extended pursuant to paragraph (e) of this Section, the period of probation or conditional discharge shall be as follows:

- (1) for a Class 1 or Class 2 felony, not to exceed 4 years;
- (2) for a Class 3 or Class 4 felony, not to exceed 30 months;
- (3) for a misdemeanor, not to exceed 2 years;
- (4) for a petty offense, not to exceed 6 months.

Multiple terms of probation imposed at the same time shall run concurrently.

(c) The court may at any time terminate probation or conditional discharge if warranted by the conduct of the offender and the ends of justice, as provided in Section 5-6-4.

(d) Upon the expiration or termination of the period of probation or of conditional discharge, the court shall enter an order discharging the offender.

(e) The court may extend any period of probation or conditional discharge beyond the limits set forth in paragraph (b) of this Section upon a violation of a condition of the probation or conditional discharge, for the payment of an assessment required by Section 10.3 of the Cannabis Control Act, ~~or~~ Section 411.2 of the Illinois Controlled Substances Act, or Section 80 of the Methamphetamine Control and Community Protection Act, or for the payment of restitution as provided by an order of restitution under Section 5-5-6 of this Code.

(f) The court may impose a term of probation that is concurrent or consecutive to a term of imprisonment so long as the maximum term imposed does not exceed the maximum term provided under Article 8 of this Chapter. The court may provide that probation may commence while an offender is on mandatory supervised release, participating in a day release program, or being monitored by an electronic monitoring device.

(Source: P.A. 93-1014, eff. 1-1-05.)

(730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

Sec. 5-6-3. Conditions of Probation and of Conditional Discharge.

(a) The conditions of probation and of conditional discharge shall be that the person:

- (1) not violate any criminal statute of any jurisdiction;
- (2) report to or appear in person before such person or agency as directed by the court;
- (3) refrain from possessing a firearm or other dangerous weapon;
- (4) not leave the State without the consent of the court or, in circumstances in which

the reason for the absence is of such an emergency nature that prior consent by the court is not possible, without the prior notification and approval of the person's probation officer. Transfer of a person's probation or conditional discharge supervision to another state is subject to acceptance by the other state pursuant to the Interstate Compact for Adult Offender Supervision;

- (5) permit the probation officer to visit him at his home or elsewhere to the extent necessary to discharge his duties;
- (6) perform no less than 30 hours of community service and not more than 120 hours of

community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, where the offense was related to or in furtherance of the criminal activities of an organized gang and was motivated by the offender's membership in or allegiance to an organized gang. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by a violation of Section 21-1.3 of the Criminal Code of 1961 and similar damage to property located within the municipality or county in which the violation occurred. When possible and reasonable, the community service should be performed in the offender's neighborhood. For purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act;

(7) if he or she is at least 17 years of age and has been sentenced to probation or conditional discharge for a misdemeanor or felony in a county of 3,000,000 or more inhabitants and

has not been previously convicted of a misdemeanor or felony, may be required by the sentencing court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The person on probation or conditional discharge must attend a public institution of education to obtain the educational or vocational training required by this clause (7). The court shall revoke the probation or conditional discharge of a person who wilfully fails to comply with this clause (7). The person on probation or conditional discharge shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall resentence the offender whose probation or conditional discharge has been revoked as provided in Section 5-6-4. This clause (7) does not apply to a person who has a high school diploma or has successfully passed the GED test. This clause (7) does not apply to a person who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program;

(8) if convicted of possession of a substance prohibited by the Cannabis Control Act, ~~the or~~ Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act or Illinois Controlled Substances Act or after a sentence of probation under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act and upon a finding by the court that the person is addicted, undergo treatment at a substance abuse program approved by the court;

(8.5) if convicted of a felony sex offense as defined in the Sex Offender Management Board Act, the person shall undergo and successfully complete sex offender treatment by a treatment provider approved by the Board and conducted in conformance with the standards developed under the Sex Offender Management Board Act; and

(9) if convicted of a felony, physically surrender at a time and place designated by the court, his or her Firearm Owner's Identification Card and any and all firearms in his or her possession.

(b) The Court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the Court require that the person:

(1) serve a term of periodic imprisonment under Article 7 for a period not to exceed that specified in paragraph (d) of Section 5-7-1;

(2) pay a fine and costs;

(3) work or pursue a course of study or vocational training;

(4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;

(5) attend or reside in a facility established for the instruction or residence of defendants on probation;

(6) support his dependents;

(7) and in addition, if a minor:

(i) reside with his parents or in a foster home;

(ii) attend school;

(iii) attend a non-residential program for youth;

(iv) contribute to his own support at home or in a foster home;

(v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is convicted of a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;

(8) make restitution as provided in Section 5-5-6 of this Code;

(9) perform some reasonable public or community service;

(10) serve a term of home confinement. In addition to any other applicable condition of probation or conditional discharge, the conditions of home confinement shall be that the offender:

(i) remain within the interior premises of the place designated for his confinement during the hours designated by the court;

(ii) admit any person or agent designated by the court into the offender's place of confinement at any time for purposes of verifying the offender's compliance with the conditions of his confinement; and

(iii) if further deemed necessary by the court or the Probation or Court Services Department, be placed on an approved electronic monitoring device, subject to Article 8A of Chapter V;

(iv) for persons convicted of any alcohol, cannabis or controlled substance violation who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the offender to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the substance abuse services fund under Section 5-1086.1 of the Counties Code; and

(v) for persons convicted of offenses other than those referenced in clause (iv) above and who are placed on an approved monitoring device as a condition of probation or conditional discharge, the court shall impose a reasonable fee for each day of the use of the device, as established by the county board in subsection (g) of this Section, unless after determining the inability of the defendant to pay the fee, the court assesses a lesser fee or no fee as the case may be. This fee shall be imposed in addition to the fees imposed under subsections (g) and (i) of this Section. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer who shall use the monies collected to defray the costs of corrections. The county treasurer shall deposit the fee collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986, as now or hereafter amended, or an order of protection issued by the court of another state, tribe, or United States territory. A copy of the order of protection shall be transmitted to the probation officer or agency having responsibility for the case;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer, if the defendant has been placed on probation or advance approval by the court, if the defendant was placed on conditional discharge;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of persons, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug.

(c) The court may as a condition of probation or of conditional discharge require that a person under 18 years of age found guilty of any alcohol, cannabis or controlled substance violation, refrain from acquiring a driver's license during the period of probation or conditional discharge. If such person is in possession of a permit or license, the court may require that the minor refrain from driving or operating any motor vehicle during the period of probation or conditional discharge, except as may be necessary in the course of the minor's lawful employment.

(d) An offender sentenced to probation or to conditional discharge shall be given a certificate setting forth the conditions thereof.

(e) Except where the offender has committed a fourth or subsequent violation of subsection (c) of Section 6-303 of the Illinois Vehicle Code, the court shall not require as a condition of the sentence of probation or conditional discharge that the offender be committed to a period of imprisonment in excess of 6 months. This 6 month limit shall not include periods of confinement given pursuant to a sentence of county impact incarceration under Section 5-8-1.2. This 6 month limit does not apply to a person

sentenced to probation as a result of a conviction of a fourth or subsequent violation of subsection (c-4) of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance.

Persons committed to imprisonment as a condition of probation or conditional discharge shall not be committed to the Department of Corrections.

(f) The court may combine a sentence of periodic imprisonment under Article 7 or a sentence to a county impact incarceration program under Article 8 with a sentence of probation or conditional discharge.

(g) An offender sentenced to probation or to conditional discharge and who during the term of either undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay all costs incidental to such mandatory drug or alcohol testing, or both, and all costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, involved in a successful probation program for the county. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) Jurisdiction over an offender may be transferred from the sentencing court to the court of another circuit with the concurrence of both courts. Further transfers or retransfers of jurisdiction are also authorized in the same manner. The court to which jurisdiction has been transferred shall have the same powers as the sentencing court.

(i) The court shall impose upon an offender sentenced to probation after January 1, 1989 or to conditional discharge after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of such probation or conditional discharge or supervised community service, a fee of \$50 for each month of probation or conditional discharge supervision or supervised community service ordered by the court, unless after determining the inability of the person sentenced to probation or conditional discharge or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon an offender who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund under Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee under this subsection (i) in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, up to \$5 of that fee collected per month may be used to provide services to crime victims and their families.

This amendatory Act of the 93rd General Assembly deletes the \$10 increase in the fee under this subsection that was imposed by Public Act 93-616. This deletion is intended to control over any other Act of the 93rd General Assembly that retains or incorporates that fee increase.

(i-5) In addition to the fees imposed under subsection (i) of this Section, in the case of an offender convicted of a felony sex offense (as defined in the Sex Offender Management Board Act) or an offense that the court or probation department has determined to be sexually motivated (as defined in the Sex Offender Management Board Act), the court or the probation department shall assess additional fees to pay for all costs of treatment, assessment, evaluation for risk and treatment, and monitoring the offender, based on that offender's ability to pay those costs either as they occur or under a payment plan.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) Any offender who is sentenced to probation or conditional discharge for a felony sex offense as

defined in the Sex Offender Management Board Act or any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(Source: P.A. 92-282, eff. 8-7-01; 92-340, eff. 8-10-01; 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571, eff. 6-26-02; 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-616, eff. 1-1-04; 93-970, eff. 8-20-04.)

(730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

Sec. 5-6-3.1. Incidents and Conditions of Supervision.

(a) When a defendant is placed on supervision, the court shall enter an order for supervision specifying the period of such supervision, and shall defer further proceedings in the case until the conclusion of the period.

(b) The period of supervision shall be reasonable under all of the circumstances of the case, but may not be longer than 2 years, unless the defendant has failed to pay the assessment required by Section 10.3 of the Cannabis Control Act, or Section 411.2 of the Illinois Controlled Substances Act, or Section 80 of the Methamphetamine Control and Community Protection Act, in which case the court may extend supervision beyond 2 years. Additionally, the court shall order the defendant to perform no less than 30 hours of community service and not more than 120 hours of community service, if community service is available in the jurisdiction and is funded and approved by the county board where the offense was committed, when the offense (1) was related to or in furtherance of the criminal activities of an organized gang or was motivated by the defendant's membership in or allegiance to an organized gang; or (2) is a violation of any Section of Article 24 of the Criminal Code of 1961 where a disposition of supervision is not prohibited by Section 5-6-1 of this Code. The community service shall include, but not be limited to, the cleanup and repair of any damage caused by violation of Section 21-1.3 of the Criminal Code of 1961 and similar damages to property located within the municipality or county in which the violation occurred. Where possible and reasonable, the community service should be performed in the offender's neighborhood.

For the purposes of this Section, "organized gang" has the meaning ascribed to it in Section 10 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

(c) The court may in addition to other reasonable conditions relating to the nature of the offense or the rehabilitation of the defendant as determined for each defendant in the proper discretion of the court require that the person:

- (1) make a report to and appear in person before or participate with the court or such courts, person, or social service agency as directed by the court in the order of supervision;
- (2) pay a fine and costs;
- (3) work or pursue a course of study or vocational training;
- (4) undergo medical, psychological or psychiatric treatment; or treatment for drug addiction or alcoholism;
- (5) attend or reside in a facility established for the instruction or residence of defendants on probation;
- (6) support his dependents;
- (7) refrain from possessing a firearm or other dangerous weapon;
- (8) and in addition, if a minor:
 - (i) reside with his parents or in a foster home;
 - (ii) attend school;
 - (iii) attend a non-residential program for youth;
 - (iv) contribute to his own support at home or in a foster home; or
 - (v) with the consent of the superintendent of the facility, attend an educational program at a facility other than the school in which the offense was committed if he or she is placed on supervision for a crime of violence as defined in Section 2 of the Crime Victims Compensation Act committed in a school, on the real property comprising a school, or within 1,000 feet of the real property comprising a school;
- (9) make restitution or reparation in an amount not to exceed actual loss or damage to property and pecuniary loss or make restitution under Section 5-5-6 to a domestic violence shelter. The court shall determine the amount and conditions of payment;
- (10) perform some reasonable public or community service;
- (11) comply with the terms and conditions of an order of protection issued by the court pursuant to the Illinois Domestic Violence Act of 1986 or an order of protection issued by the court of

another state, tribe, or United States territory. If the court has ordered the defendant to make a report and appear in person under paragraph (1) of this subsection, a copy of the order of protection shall be transmitted to the person or agency so designated by the court;

(12) reimburse any "local anti-crime program" as defined in Section 7 of the Anti-Crime Advisory Council Act for any reasonable expenses incurred by the program on the offender's case, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced;

(13) contribute a reasonable sum of money, not to exceed the maximum amount of the fine authorized for the offense for which the defendant was sentenced, to a "local anti-crime program", as defined in Section 7 of the Anti-Crime Advisory Council Act;

(14) refrain from entering into a designated geographic area except upon such terms as the court finds appropriate. Such terms may include consideration of the purpose of the entry, the time of day, other persons accompanying the defendant, and advance approval by a probation officer;

(15) refrain from having any contact, directly or indirectly, with certain specified persons or particular types of person, including but not limited to members of street gangs and drug users or dealers;

(16) refrain from having in his or her body the presence of any illicit drug prohibited by the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act, unless prescribed by a physician, and submit samples of his or her blood or urine or both for tests to determine the presence of any illicit drug;

(17) refrain from operating any motor vehicle not equipped with an ignition interlock device as defined in Section 1-129.1 of the Illinois Vehicle Code. Under this condition the court may allow a defendant who is not self-employed to operate a vehicle owned by the defendant's employer that is not equipped with an ignition interlock device in the course and scope of the defendant's employment.

(d) The court shall defer entering any judgment on the charges until the conclusion of the supervision.

(e) At the conclusion of the period of supervision, if the court determines that the defendant has successfully complied with all of the conditions of supervision, the court shall discharge the defendant and enter a judgment dismissing the charges.

(f) Discharge and dismissal upon a successful conclusion of a disposition of supervision shall be deemed without adjudication of guilt and shall not be termed a conviction for purposes of disqualification or disabilities imposed by law upon conviction of a crime. Two years after the discharge and dismissal under this Section, unless the disposition of supervision was for a violation of Sections 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a similar provision of a local ordinance, or for a violation of Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which case it shall be 5 years after discharge and dismissal, a person may have his record of arrest sealed or expunged as may be provided by law. However, any defendant placed on supervision before January 1, 1980, may move for sealing or expungement of his arrest record, as provided by law, at any time after discharge and dismissal under this Section. A person placed on supervision for a sexual offense committed against a minor as defined in subsection (g) of Section 5 of the Criminal Identification Act or for a violation of Section 11-501 of the Illinois Vehicle Code or a similar provision of a local ordinance shall not have his or her record of arrest sealed or expunged.

(g) A defendant placed on supervision and who during the period of supervision undergoes mandatory drug or alcohol testing, or both, or is assigned to be placed on an approved electronic monitoring device, shall be ordered to pay the costs incidental to such mandatory drug or alcohol testing, or both, and costs incidental to such approved electronic monitoring in accordance with the defendant's ability to pay those costs. The county board with the concurrence of the Chief Judge of the judicial circuit in which the county is located shall establish reasonable fees for the cost of maintenance, testing, and incidental expenses related to the mandatory drug or alcohol testing, or both, and all costs incidental to approved electronic monitoring, of all defendants placed on supervision. The concurrence of the Chief Judge shall be in the form of an administrative order. The fees shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all moneys collected from these fees to the county treasurer who shall use the moneys collected to defray the costs of drug testing, alcohol testing, and electronic monitoring. The county treasurer shall deposit the fees collected in the county working cash fund under Section 6-27001 or Section 6-29002 of the Counties Code, as the case may be.

(h) A disposition of supervision is a final order for the purposes of appeal.

(i) The court shall impose upon a defendant placed on supervision after January 1, 1992 or to community service under the supervision of a probation or court services department after January 1, 2004, as a condition of supervision or supervised community service, a fee of \$50 for each month of

supervision or supervised community service ordered by the court, unless after determining the inability of the person placed on supervision or supervised community service to pay the fee, the court assesses a lesser fee. The court may not impose the fee on a minor who is made a ward of the State under the Juvenile Court Act of 1987 while the minor is in placement. The fee shall be imposed only upon a defendant who is actively supervised by the probation and court services department. The fee shall be collected by the clerk of the circuit court. The clerk of the circuit court shall pay all monies collected from this fee to the county treasurer for deposit in the probation and court services fund pursuant to Section 15.1 of the Probation and Probation Officers Act.

A circuit court may not impose a probation fee in excess of \$25 per month unless: (1) the circuit court has adopted, by administrative order issued by the chief judge, a standard probation fee guide determining an offender's ability to pay, under guidelines developed by the Administrative Office of the Illinois Courts; and (2) the circuit court has authorized, by administrative order issued by the chief judge, the creation of a Crime Victim's Services Fund, to be administered by the Chief Judge or his or her designee, for services to crime victims and their families. Of the amount collected as a probation fee, not to exceed \$5 of that fee collected per month may be used to provide services to crime victims and their families.

(j) All fines and costs imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(k) A defendant at least 17 years of age who is placed on supervision for a misdemeanor in a county of 3,000,000 or more inhabitants and who has not been previously convicted of a misdemeanor or felony may as a condition of his or her supervision be required by the court to attend educational courses designed to prepare the defendant for a high school diploma and to work toward a high school diploma or to work toward passing the high school level Test of General Educational Development (GED) or to work toward completing a vocational training program approved by the court. The defendant placed on supervision must attend a public institution of education to obtain the educational or vocational training required by this subsection (k). The defendant placed on supervision shall be required to pay for the cost of the educational courses or GED test, if a fee is charged for those courses or test. The court shall revoke the supervision of a person who wilfully fails to comply with this subsection (k). The court shall resentence the defendant upon revocation of supervision as provided in Section 5-6-4. This subsection (k) does not apply to a defendant who has a high school diploma or has successfully passed the GED test. This subsection (k) does not apply to a defendant who is determined by the court to be developmentally disabled or otherwise mentally incapable of completing the educational or vocational program.

(l) The court shall require a defendant placed on supervision for possession of a substance prohibited by the Cannabis Control Act, ~~the~~ the Illinois Controlled Substances Act, ~~or the Methamphetamine Control and Community Protection Act~~ after a previous conviction or disposition of supervision for possession of a substance prohibited by the Cannabis Control Act, ~~the~~ the Illinois Controlled Substances Act, ~~or the Methamphetamine Control and Community Protection Act~~ or a sentence of probation under Section 10 of the Cannabis Control Act or Section 410 of the Illinois Controlled Substances Act and after a finding by the court that the person is addicted, to undergo treatment at a substance abuse program approved by the court.

(m) The Secretary of State shall require anyone placed on court supervision for a violation of Section 3-707 of the Illinois Vehicle Code or a similar provision of a local ordinance to give proof of his or her financial responsibility as defined in Section 7-315 of the Illinois Vehicle Code. The proof shall be maintained by the individual in a manner satisfactory to the Secretary of State for a minimum period of one year after the date the proof is first filed. The proof shall be limited to a single action per arrest and may not be affected by any post-sentence disposition. The Secretary of State shall suspend the driver's license of any person determined by the Secretary to be in violation of this subsection.

(n) Any offender placed on supervision for any offense that the court or probation department has determined to be sexually motivated as defined in the Sex Offender Management Board Act shall be required to refrain from any contact, directly or indirectly, with any persons specified by the court and shall be available for all evaluations and treatment programs required by the court or the probation department.

(Source: P.A. 92-282, eff. 8-7-01; 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-970, eff. 8-20-04.)

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

Sec. 5-8-4. Concurrent and Consecutive Terms of Imprisonment.

(a) When multiple sentences of imprisonment are imposed on a defendant at the same time, or when a term of imprisonment is imposed on a defendant who is already subject to sentence in this State or in another state, or for a sentence imposed by any district court of the United States, the sentences shall run concurrently or consecutively as determined by the court. When a term of imprisonment is imposed on a defendant by an Illinois circuit court and the defendant is subsequently sentenced to a term of imprisonment by another state or by a district court of the United States, the Illinois circuit court which imposed the sentence may order that the Illinois sentence be made concurrent with the sentence imposed by the other state or district court of the United States. The defendant must apply to the circuit court within 30 days after the defendant's sentence imposed by the other state or district of the United States is finalized. The court shall impose consecutive sentences if:

(i) one of the offenses for which defendant was convicted was first degree murder or a Class X or Class 1 felony and the defendant inflicted severe bodily injury, or

(ii) the defendant was convicted of a violation of Section 12-13, 12-14, or 12-14.1 of the Criminal Code of 1961, or

(iii) the defendant was convicted of armed violence based upon the predicate offense of solicitation of murder, solicitation of murder for hire, heinous battery, aggravated battery of a senior citizen, criminal sexual assault, a violation of subsection (g) of Section 5 of the Cannabis Control Act, cannabis trafficking, a violation of subsection (a) of Section 401 of the Illinois Controlled Substances Act, controlled substance trafficking involving a Class X felony amount of controlled substance under Section 401 of the Illinois Controlled Substances Act, a violation of the Methamphetamine Control and Community Protection Act, calculated criminal drug conspiracy, or streetgang criminal drug conspiracy, or

(iv) the defendant was convicted of the offense of leaving the scene of a motor vehicle accident involving death or personal injuries under Section 11-401 and either: (A) aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof under Section 11-501 of the Illinois Vehicle Code, or (B) reckless homicide under Section 9-3 of the Criminal Code of 1961, or both an offense described in subdivision (A) and an offense described in subdivision (B), or

(v) the defendant was convicted of a violation of Section 9-3.1 (concealment of homicidal death) or Section 12-20.5 (dismembering a human body) of the Criminal Code of 1961, in which event the court shall enter sentences to run consecutively. Sentences shall run concurrently unless otherwise specified by the court.

(b) Except in cases where consecutive sentences are mandated, the court shall impose concurrent sentences unless, having regard to the nature and circumstances of the offense and the history and character of the defendant, it is of the opinion that consecutive sentences are required to protect the public from further criminal conduct by the defendant, the basis for which the court shall set forth in the record.

(c) (1) For sentences imposed under law in effect prior to February 1, 1978 the aggregate maximum of consecutive sentences shall not exceed the maximum term authorized under Section 5-8-1 for the 2 most serious felonies involved. The aggregate minimum period of consecutive sentences shall not exceed the highest minimum term authorized under Section 5-8-1 for the 2 most serious felonies involved. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(2) For sentences imposed under the law in effect on or after February 1, 1978, the aggregate of consecutive sentences for offenses that were committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective shall not exceed the sum of the maximum terms authorized under Section 5-8-2 for the 2 most serious felonies involved, but no such limitation shall apply for offenses that were not committed as part of a single course of conduct during which there was no substantial change in the nature of the criminal objective. When sentenced only for misdemeanors, a defendant shall not be consecutively sentenced to more than the maximum for one Class A misdemeanor.

(d) An offender serving a sentence for a misdemeanor who is convicted of a felony and sentenced to imprisonment shall be transferred to the Department of Corrections, and the misdemeanor sentence shall be merged in and run concurrently with the felony sentence.

(e) In determining the manner in which consecutive sentences of imprisonment, one or more of which is for a felony, will be served, the Department of Corrections shall treat the offender as though he had been committed for a single term with the following incidents:

(1) the maximum period of a term of imprisonment shall consist of the aggregate of the maximums of the imposed indeterminate terms, if any, plus the aggregate of the imposed determinate

sentences for felonies plus the aggregate of the imposed determinate sentences for misdemeanors subject to paragraph (c) of this Section;

(2) the parole or mandatory supervised release term shall be as provided in paragraph (e) of Section 5-8-1 of this Code for the most serious of the offenses involved;

(3) the minimum period of imprisonment shall be the aggregate of the minimum and determinate periods of imprisonment imposed by the court, subject to paragraph (c) of this Section; and

(4) the offender shall be awarded credit against the aggregate maximum term and the aggregate minimum term of imprisonment for all time served in an institution since the commission of the offense or offenses and as a consequence thereof at the rate specified in Section 3-6-3 of this Code.

(f) A sentence of an offender committed to the Department of Corrections at the time of the commission of the offense shall be served consecutive to the sentence under which he is held by the Department of Corrections. However, in case such offender shall be sentenced to punishment by death, the sentence shall be executed at such time as the court may fix without regard to the sentence under which such offender may be held by the Department.

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

(h) If a person charged with a felony commits a separate felony while on pre-trial release or in pretrial detention in a county jail facility or county detention facility, the sentences imposed upon conviction of these felonies shall be served consecutively regardless of the order in which the judgments of conviction are entered.

(i) If a person admitted to bail following conviction of a felony commits a separate felony while free on bond or if a person detained in a county jail facility or county detention facility following conviction of a felony commits a separate felony while in detention, any sentence following conviction of the separate felony shall be consecutive to that of the original sentence for which the defendant was on bond or detained.

(Source: P.A. 92-16, eff. 6-28-01; 92-674, eff. 1-1-03; 93-160, eff. 7-10-03; 93-768, eff. 7-20-04.)

(730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

Sec. 5-9-1. Authorized fines.

(a) An offender may be sentenced to pay a fine which shall not exceed for each offense:

(1) for a felony, \$25,000 or the amount specified in the offense, whichever is greater, or where the offender is a corporation, \$50,000 or the amount specified in the offense, whichever is greater;

(2) for a Class A misdemeanor, \$2,500 or the amount specified in the offense, whichever is greater;

(3) for a Class B or Class C misdemeanor, \$1,500;

(4) for a petty offense, \$1,000 or the amount specified in the offense, whichever is less;

(5) for a business offense, the amount specified in the statute defining that offense.

(b) A fine may be imposed in addition to a sentence of conditional discharge, probation, periodic imprisonment, or imprisonment.

(c) There shall be added to every fine imposed in sentencing for a criminal or traffic offense, except an offense relating to parking or registration, or offense by a pedestrian, an additional penalty of \$5 for each \$40, or fraction thereof, of fine imposed. The additional penalty of \$5 for each \$40, or fraction thereof, of fine imposed, if not otherwise assessed, shall also be added to every fine imposed upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision in criminal, traffic, local ordinance, county ordinance, and conservation cases (except parking, registration, or pedestrian violations), or upon a sentence of probation without entry of judgment under Section 10 of the Cannabis Control Act, or Section 410 of the Controlled Substances Act, or Section 70 of the Methamphetamine Control and Community Protection Act.

Such additional amounts shall be assessed by the court imposing the fine and shall be collected by the Circuit Clerk in addition to the fine and costs in the case. Each such additional penalty shall be remitted by the Circuit Clerk within one month after receipt to the State Treasurer. The State Treasurer shall deposit \$1 for each \$40, or fraction thereof, of fine imposed into the LEADS Maintenance Fund. The remaining surcharge amount shall be deposited into the Traffic and Criminal Conviction Surcharge Fund, unless the fine, costs or additional amounts are subject to disbursement by the circuit clerk under Section 27.5 of the Clerks of Courts Act. Such additional penalty shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later

than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c) during the preceding calendar year. Except as otherwise provided by Supreme Court Rules, if a court in imposing a fine against an offender levies a gross amount for fine, costs, fees and penalties, the amount of the additional penalty provided for herein shall be computed on the amount remaining after deducting from the gross amount levied all fees of the Circuit Clerk, the State's Attorney and the Sheriff. After deducting from the gross amount levied the fees and additional penalty provided for herein, less any other additional penalties provided by law, the clerk shall remit the net balance remaining to the entity authorized by law to receive the fine imposed in the case. For purposes of this Section "fees of the Circuit Clerk" shall include, if applicable, the fee provided for under Section 27.3a of the Clerks of Courts Act and the fee, if applicable, payable to the county in which the violation occurred pursuant to Section 5-1101 of the Counties Code.

(c-5) In addition to the fines imposed by subsection (c), any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional \$100 fee to the clerk. This additional fee, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Trauma Center Fund. This additional fee of \$100 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c-5) during the preceding calendar year.

The Circuit Clerk may accept payment of fines and costs by credit card from an offender who has been convicted of a traffic offense, petty offense or misdemeanor and may charge the service fee permitted where fines and costs are paid by credit card provided for in Section 27.3b of the Clerks of Courts Act.

(c-7) In addition to the fines imposed by subsection (c), any person convicted or receiving an order of supervision for driving under the influence of alcohol or drugs shall pay an additional \$5 fee to the clerk. This additional fee, less 2 1/2% that shall be used to defray administrative costs incurred by the clerk, shall be remitted by the clerk to the Treasurer within 60 days after receipt for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing. Not later than March 1 of each year the Circuit Clerk shall submit a report of the amount of funds remitted to the State Treasurer under this subsection (c-7) during the preceding calendar year.

(c-9) There shall be added to every fine imposed in sentencing for a criminal or traffic offense, except an offense relating to parking or registration, or offense by a pedestrian, an additional penalty of \$4 imposed. The additional penalty of \$4 shall also be added to every fine imposed upon a plea of guilty, stipulation of facts or findings of guilty, resulting in a judgment of conviction, or order of supervision in criminal, traffic, local ordinance, county ordinance, or conservation cases (except parking, registration, or pedestrian violations), or upon a sentence of probation without entry of judgment under Section 10 of the Cannabis Control Act, ~~or~~ Section 410 of the Controlled Substances Act or Section 70 of the Methamphetamine Control and Community Protection Act. Such additional penalty of \$4 shall be assessed by the court imposing the fine and shall be collected by the circuit clerk in addition to any other fine, costs, fees, and penalties in the case. Each such additional penalty of \$4 shall be remitted to the State Treasurer by the circuit clerk within one month after receipt. The State Treasurer shall deposit the additional penalty of \$4 into the Traffic and Criminal Conviction Surcharge Fund. The additional penalty of \$4 shall be in addition to any other fine, costs, fees, and penalties and shall not reduce or affect the distribution of any other fine, costs, fees, and penalties.

(d) In determining the amount and method of payment of a fine, except for those fines established for violations of Chapter 15 of the Illinois Vehicle Code, the court shall consider:

- (1) the financial resources and future ability of the offender to pay the fine; and
- (2) whether the fine will prevent the offender from making court ordered restitution or reparation to the victim of the offense; and
- (3) in a case where the accused is a dissolved corporation and the court has appointed

counsel to represent the corporation, the costs incurred either by the county or the State for such representation.

(e) The court may order the fine to be paid forthwith or within a specified period of time or in installments.

(f) All fines, costs and additional amounts imposed under this Section for any violation of Chapters 3, 4, 6, and 11 of the Illinois Vehicle Code, or a similar provision of a local ordinance, and any violation of the Child Passenger Protection Act, or a similar provision of a local ordinance, shall be collected and disbursed by the circuit clerk as provided under Section 27.5 of the Clerks of Courts Act.

(Source: P.A. 92-431, eff. 1-1-02; 93-32, eff. 6-20-03.)

(730 ILCS 5/5-9-1.1) (from Ch. 38, par. 1005-9-1.1)

Sec. 5-9-1.1. Drug related offenses.

(a) When a person has been adjudged guilty of a drug related offense involving possession or delivery of cannabis or possession or delivery of a controlled substance as defined in the Cannabis Control Act, ~~as amended, or the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act as amended,~~ in addition to any other penalty imposed, a fine shall be levied by the court at not less than the full street value of the cannabis or controlled substances seized.

"Street value" shall be determined by the court on the basis of testimony of law enforcement personnel and the defendant as to the amount seized and such testimony as may be required by the court as to the current street value of the cannabis or controlled substance seized.

(b) In addition to any penalty imposed under subsection (a) of this Section, a fine of \$100 shall be levied by the court, the proceeds of which shall be collected by the Circuit Clerk and remitted to the State Treasurer under Section 27.6 of the Clerks of Courts Act for deposit into the Trauma Center Fund for distribution as provided under Section 3.225 of the Emergency Medical Services (EMS) Systems Act.

(c) In addition to any penalty imposed under subsection (a) of this Section, a fee of \$5 shall be assessed by the court, the proceeds of which shall be collected by the Circuit Clerk and remitted to the State Treasurer under Section 27.6 of the Clerks of Courts Act for deposit into the Spinal Cord Injury Paralysis Cure Research Trust Fund. This additional fee of \$5 shall not be considered a part of the fine for purposes of any reduction in the fine for time served either before or after sentencing.

(Source: P.A. 92-431, eff. 1-1-02.)

(730 ILCS 5/5-9-1.2) (from Ch. 38, par. 1005-9-1.2)

Sec. 5-9-1.2. (a) Twelve and one-half percent of all amounts collected as fines pursuant to Section 5-9-1.1 shall be paid into the Youth Drug Abuse Prevention Fund, which is hereby created in the State treasury, to be used by the Department of Human Services for the funding of programs and services for drug-abuse treatment, and prevention and education services, for juveniles.

(b) Eighty-seven and one-half percent of the proceeds of all fines received pursuant to Section 5-9-1.1 shall be transmitted to and deposited in the treasurer's office at the level of government as follows:

(1) If such seizure was made by a combination of law enforcement personnel representing differing units of local government, the court levying the fine shall equitably allocate 50% of the fine among these units of local government and shall allocate 37 1/2% to the county general corporate fund. In the event that the seizure was made by law enforcement personnel representing a unit of local government from a municipality where the number of inhabitants exceeds 2 million in population, the court levying the fine shall allocate 87 1/2% of the fine to that unit of local government. If the seizure was made by a combination of law enforcement personnel representing differing units of local government, and at least one of those units represents a municipality where the number of inhabitants exceeds 2 million in population, the court shall equitably allocate 87 1/2% of the proceeds of the fines received among the differing units of local government.

(2) If such seizure was made by State law enforcement personnel, then the court shall allocate 37 1/2% to the State treasury and 50% to the county general corporate fund.

(3) If a State law enforcement agency in combination with a law enforcement agency or agencies of a unit or units of local government conducted the seizure, the court shall equitably allocate 37 1/2% of the fines to or among the law enforcement agency or agencies of the unit or units of local government which conducted the seizure and shall allocate 50% to the county general corporate fund.

(c) The proceeds of all fines allocated to the law enforcement agency or agencies of the unit or units of local government pursuant to subsection (b) shall be made available to that law enforcement agency as expendable receipts for use in the enforcement of laws regulating controlled substances and cannabis. The proceeds of fines awarded to the State treasury shall be deposited in a special fund known as the Drug Traffic Prevention Fund. Monies from this fund may be used by the Department of State Police for use in the enforcement of laws regulating controlled substances and cannabis; to satisfy funding provisions of the Intergovernmental Drug Laws Enforcement Act; and to defray costs and expenses associated with returning violators of the Cannabis Control Act, ~~and~~ the Illinois Controlled Substances Act, ~~and~~ the Methamphetamine Control and Community Protection Act only, as provided in those Acts, when punishment of the crime shall be confinement of the criminal in the penitentiary. Moneys in the Drug Traffic Prevention Fund deposited from fines awarded as a direct result of enforcement efforts of the Illinois Conservation Police may be used by the Department of Natural Resources Office of Law Enforcement for use in enforcing laws regulating controlled substances and cannabis on Department of Natural Resources regulated lands and waterways. All other monies shall be paid into the general

revenue fund in the State treasury.

(Source: P.A. 92-601, eff. 7-1-02.)

(730 ILCS 5/5-9-1.4) (from Ch. 38, par. 1005-9-1.4)

Sec. 5-9-1.4. (a) "Crime laboratory" means any not-for-profit laboratory registered with the Drug Enforcement Administration of the United States Department of Justice, substantially funded by a unit or combination of units of local government or the State of Illinois, which regularly employs at least one person engaged in the analysis of controlled substances, cannabis, methamphetamine, or steroids for criminal justice agencies in criminal matters and provides testimony with respect to such examinations.

(b) When a person has been adjudged guilty of an offense in violation of the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Steroid Control Act, in addition to any other disposition, penalty or fine imposed, a criminal laboratory analysis fee of \$100 for each offense for which he was convicted shall be levied by the court. Any person placed on probation pursuant to Section 10 of the Cannabis Control Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community Protection Act, or Section 10 of the Steroid Control Act or placed on supervision for a violation of the Cannabis Control Act, the Illinois Controlled Substances Act or the Steroid Control Act shall be assessed a criminal laboratory analysis fee of \$100 for each offense for which he was charged. Upon verified petition of the person, the court may suspend payment of all or part of the fee if it finds that the person does not have the ability to pay the fee.

(c) In addition to any other disposition made pursuant to the provisions of the Juvenile Court Act of 1987, any minor adjudicated delinquent for an offense which if committed by an adult would constitute a violation of the Cannabis Control Act, the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Steroid Control Act shall be assessed a criminal laboratory analysis fee of \$100 for each adjudication. Upon verified petition of the minor, the court may suspend payment of all or part of the fee if it finds that the minor does not have the ability to pay the fee. The parent, guardian or legal custodian of the minor may pay some or all of such fee on the minor's behalf.

(d) All criminal laboratory analysis fees provided for by this Section shall be collected by the clerk of the court and forwarded to the appropriate crime laboratory fund as provided in subsection (f).

(e) Crime laboratory funds shall be established as follows:

(1) Any unit of local government which maintains a crime laboratory may establish a crime laboratory fund within the office of the county or municipal treasurer.

(2) Any combination of units of local government which maintains a crime laboratory may establish a crime laboratory fund within the office of the treasurer of the county where the crime laboratory is situated.

(3) The State Crime Laboratory Fund is hereby created as a special fund in the State Treasury.

(f) The analysis fee provided for in subsections (b) and (c) of this Section shall be forwarded to the office of the treasurer of the unit of local government that performed the analysis if that unit of local government has established a crime laboratory fund, or to the State Crime Laboratory Fund if the analysis was performed by a laboratory operated by the Illinois State Police. If the analysis was performed by a crime laboratory funded by a combination of units of local government, the analysis fee shall be forwarded to the treasurer of the county where the crime laboratory is situated if a crime laboratory fund has been established in that county. If the unit of local government or combination of units of local government has not established a crime laboratory fund, then the analysis fee shall be forwarded to the State Crime Laboratory Fund. The clerk of the circuit court may retain the amount of \$10 from each collected analysis fee to offset administrative costs incurred in carrying out the clerk's responsibilities under this Section.

(g) Fees deposited into a crime laboratory fund created pursuant to paragraphs (1) or (2) of subsection (e) of this Section shall be in addition to any allocations made pursuant to existing law and shall be designated for the exclusive use of the crime laboratory. These uses may include, but are not limited to, the following:

(1) costs incurred in providing analysis for controlled substances in connection with criminal investigations conducted within this State;

(2) purchase and maintenance of equipment for use in performing analyses; and

(3) continuing education, training and professional development of forensic scientists regularly employed by these laboratories.

(h) Fees deposited in the State Crime Laboratory Fund created pursuant to paragraph (3) of subsection (d) of this Section shall be used by State crime laboratories as designated by the Director of State Police.

These funds shall be in addition to any allocations made pursuant to existing law and shall be designated for the exclusive use of State crime laboratories. These uses may include those enumerated in subsection (g) of this Section.

(Source: P.A. 92-312, eff. 1-1-02.)

Section 1115. The Code of Civil Procedure is amended by changing Sections 9-118 and 12-903.5 as follows:

(735 ILCS 5/9-118) (from Ch. 110, par. 9-118)

Sec. 9-118. Emergency housing eviction proceedings.

(a) As used in this Section:

"Cannabis" has the meaning ascribed to that term in the Cannabis Control Act.

"Narcotics" and "controlled substance" have the meanings ascribed to those terms in the Illinois Controlled Substances Act.

(b) This Section applies only if all of the following conditions are met:

(1) The complaint seeks possession of premises that are owned or managed by a housing authority established under the Housing Authorities Act or privately owned and managed.

(2) The verified complaint alleges that there is direct evidence of any of the following:

(A) unlawful possessing, serving, storing, manufacturing, cultivating, delivering, using, selling, giving away, or trafficking in cannabis, methamphetamine, narcotics, or controlled substances within or upon the premises by or with the knowledge and consent of, or in concert with the person or persons named in the complaint; or

(B) the possession, use, sale, or delivery of a firearm which is otherwise prohibited by State law within or upon the premises by or with the knowledge and consent of, or in concert with, the person or persons named in the complaint; or

(C) murder, attempted murder, kidnapping, arson, attempted arson, aggravated battery, criminal sexual assault, attempted criminal sexual assault, aggravated criminal sexual assault, predatory criminal sexual assault of a child, or criminal sexual abuse within or upon the premises by or with the knowledge and consent of, or in concert with, the person or persons named in the complaint.

(3) Notice by verified complaint setting forth the relevant facts, and a demand for possession of the type specified in Section 9-104 is served on the tenant or occupant of the premises at least 14 days before a hearing on the complaint is held, and proof of service of the complaint is submitted by the plaintiff to the court.

(b-5) In all actions brought under this Section 9-118, no predicate notice of termination or demand for possession shall be required to initiate an eviction action.

(c) When a complaint has been filed under this Section, a hearing on the complaint shall be scheduled on any day after the expiration of 14 days following the filing of the complaint. The summons shall advise the defendant that a hearing on the complaint shall be held at the specified date and time, and that the defendant should be prepared to present any evidence on his or her behalf at that time.

If a plaintiff which is a public housing authority accepts rent from the defendant after an action is initiated under this Section, the acceptance of rent shall not be a cause for dismissal of the complaint.

(d) If the defendant does not appear at the hearing, judgment for possession of the premises in favor of the plaintiff shall be entered by default. If the defendant appears, a trial shall be held immediately as is prescribed in other proceedings for possession. The matter shall not be continued beyond 7 days from the date set for the first hearing on the complaint except by agreement of both the plaintiff and the defendant. After a trial, if the court finds, by a preponderance of the evidence, that the allegations in the complaint have been proven, the court shall enter judgment for possession of the premises in favor of the plaintiff and the court shall order that the plaintiff shall be entitled to re-enter the premises immediately.

(d-5) If cannabis, methamphetamine, narcotics, or controlled substances are found or used anywhere in the premises, there is a rebuttable presumption either (1) that the cannabis, methamphetamine, narcotics, or controlled substances were used or possessed by a tenant or occupant or (2) that a tenant or occupant permitted the premises to be used for that use or possession, and knew or should have reasonably known that the substance was used or possessed.

(e) A judgment for possession entered under this Section may not be stayed for any period in excess of 7 days by the court. Thereafter the plaintiff shall be entitled to re-enter the premises immediately. The sheriff or other lawfully deputized officers shall give priority to service and execution of orders entered under this Section over other possession orders.

(f) This Section shall not be construed to prohibit the use or possession of cannabis,

[May 30, 2005]

methamphetamine, narcotics, or a controlled substance that has been legally obtained in accordance with a valid prescription for the personal use of a lawful occupant of a dwelling unit.

(Source: P.A. 90-557, eff. 6-1-98; 90-768, eff. 8-14-98; 91-504, eff. 8-13-99.)

(735 ILCS 5/12-903.5)

Sec. 12-903.5. Drug asset forfeitures.

(a) The homestead exemption under this Part 9 of Article XII does not apply to property subject to forfeiture under Section 505 of the Illinois Controlled Substances Act, Section 12 of the Cannabis Control Act, Section 85 of the Methamphetamine Control and Community Protection Act, or Section 5 of the Narcotics Profit Forfeiture Act.

(b) This Section applies to actions pending on or commenced on or after the effective date of this Section.

(Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

Section 1120. The Cannabis and Controlled Substances Tort Claims Act is amended by changing Sections 2, 4, and 6 as follows:

(740 ILCS 20/2) (from Ch. 70, par. 902)

Sec. 2. Findings and intent.

(a) The General Assembly finds that the abuse of cannabis and controlled substances:

- (1) greatly increases incidents involving crimes of violence and threats of crimes of violence;
- (2) causes death or severe and often irreversible injuries to newborn children;
- (3) accounts for the commission of the majority of property crimes committed within this State;
- (4) causes motor vehicle, job related, and numerous other types of accidents that frequently result in death or permanent injuries;
- (5) contributes to the disintegration of the family;
- (6) interferes with the duty of parents and legal guardians to provide for the physical, mental, and emotional well-being of their unemancipated children and with the rights of parents and legal guardians to raise the children free from the physical, mental, and emotional trauma that is caused by the abuse of cannabis and controlled substances;
- (7) encourages and fosters the growth of urban gangs engaged in violent and nonviolent crime;
- (8) furthers the interests of elements of organized criminals;
- (9) increases the dropout, truancy, and failure rates of children attending schools within this State;
- (10) stifles educational opportunities for both drug users and nonusers;
- (11) contributes to the unemployment rate within this State;
- (12) reduces the productivity of employees, retards competitiveness within the established business community, and hinders the formation and growth of new businesses;
- (13) reduces the value of real property;
- (14) costs the citizens of this State billions of dollars in federal, State, and local taxes for increased costs for law enforcement, welfare, and education;
- (15) costs the citizens of this State billions of dollars in increased costs for consumer goods and services, insurance premiums, and medical treatment;
- (16) hinders citizens from freely using public parks, streets, schools, forest preserves, playgrounds, and other public areas; and
- (17) contributes to a lower quality of life and standard of living for the citizens of this State.

(b) The General Assembly finds that, in light of the findings made in subsection (a), any violation of the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, or the Illinois Controlled Substances Act that involves the nonconsensual use of the real or personal property of another person, whether that person is an individual or a governmental or private entity representing a collection of individuals, is so injurious to the property interests and the well-being of that person that the violation gives rise to a cause of action sounding in tort. The General Assembly also finds that the delivery of a controlled substance or cannabis in violation of the Illinois Controlled Substances Act, the Methamphetamine Control and Community Protection Act, or the Cannabis Control Act to an unemancipated minor under the age of 18 is so injurious to the rights and duties of parents and legal guardians relating to the physical, mental, and emotional well-being of that minor that the violation also gives rise to a cause of action sounding in tort. The General Assembly further finds that although the

damage a person suffers through the nonconsensual use of his property to facilitate such a violation or the damage a parent or legal guardian suffers as the result of the delivery to the minor of cannabis or a substance in violation of the Cannabis Control Act, the Methamphetamine Control and Community Protection Act, or the Illinois Controlled Substances Act is often subtle and incapable of precise articulation, that damage is nonetheless real and substantial. It is therefore the intent of the General Assembly to create a cause of action with statutorily prescribed damages for the conduct described in this Act.

(Source: P.A. 87-544.)

(740 ILCS 20/4) (from Ch. 70, par. 904)

Sec. 4. Civil liability.

(a) A person who uses or causes to be used any property without the consent of the owner of that property to facilitate in any manner a violation of the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act or any inchoate offense under either of those Acts is liable to the owner for civil damages as set forth in this Act.

(b) A person who delivers or causes to be delivered in violation of the Illinois Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine Control and Community Protection Act a controlled substance, ~~or~~ cannabis, or methamphetamine to an unemancipated minor under the age of 18 is liable to the parent or legal guardian of that minor as set forth in this Act.

(c) A person who knowingly delivers or causes to be delivered cannabis, ~~or~~ a controlled or counterfeit substance, or methamphetamine that is later involved in a transaction or activity that gives rise to a cause of action under subsection (a) or (b) of this Section is liable under subsection (a) or (b), as the case may be, in the same manner and amount as the person or persons whose conduct gives immediate rise to the cause of action.

(Source: P.A. 87-544.)

(740 ILCS 20/6) (from Ch. 70, par. 906)

Sec. 6. Damages.

(a) The damages to which an owner of property is entitled under subsection (a) of Section 4 shall be based on the highest classification of offense prescribed under the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act that involves the nonconsensual use of his property in an amount as follows:

- (1) When the property is used to facilitate the commission of a Class B or C misdemeanor, no less than \$1,000.
- (2) When the property is used to facilitate the commission of a Class A misdemeanor, no less than \$1,500.
- (3) When the property is used to facilitate the commission of a Class 4 felony, no less than \$2,500.
- (4) When the property is used to facilitate the commission of a Class 3 felony, no less than \$5,000.
- (5) When the property is used to facilitate the commission of a Class 2 felony, no less than \$10,000.
- (6) When the property is used to facilitate the commission of a Class 1 felony, no less than \$15,000.
- (7) When the property is used to facilitate the commission of a Class X felony, no less than \$20,000.

(b) The damages to which a parent or legal guardian is entitled under subsection (b) of Section 4 shall be based on the highest classification of offense prescribed under the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances Act, or the Methamphetamine Control and Community Protection Act committed by the person delivering the cannabis or controlled substance to the minor in an amount as follows:

- (1) When the delivery is classified as a Class B or C misdemeanor, no less than \$1,500.
- (2) When the delivery is classified as a Class A misdemeanor, no less than \$2,500.
- (3) When the delivery is classified as a Class 4 felony, no less than \$5,000.
- (4) When the delivery is classified as a Class 3 felony, no less than \$10,000.
- (5) When the delivery is classified as a Class 2 felony, no less than \$15,000.
- (6) When the delivery is classified as a Class 1 felony, no less than \$20,000.
- (7) When the delivery is classified as a Class X felony, no less than \$25,000.

(c) In addition to the amounts set forth in subsections (a) and (b), the owner of the property bringing a cause of action under subsection (a), other than a government or a governmental subdivision or agency, or the parent or legal guardian of the minor bringing a cause of action under subsection (b), may be

entitled to receive punitive damages.

(d) A party prevailing in a cause of action brought under this Act is entitled to reasonable attorneys fees in addition to damages awarded under subsections (a), (b), and (c) of this Section.
(Source: P.A. 87-544.)

Section 9999. Effective date. This Act takes effect 30 days after becoming law."

AMENDMENT NO. 2 TO SENATE BILL 562

AMENDMENT NO. 2. Amend Senate Bill 562, AS AMENDED, with reference to page and line numbers of House Amendment No. 1, on page 2, line 21, by inserting after the comma the following: "methamphetamine waste site or other methamphetamine-related site"; and

on page 2, line 22, by deleting "methamphetamine"; and

on page 2, by inserting immediately below line 30 the following:

"'Finished methamphetamine' means methamphetamine in a form commonly used for personal consumption."; and

on page 3, line 1, by replacing "or extract" with "extract, or package"; and

on page 3, by replacing lines 5 through 8 with the following:

"'Methamphetamine' means the chemical methamphetamine (a Schedule II controlled substance under the Illinois Controlled Substances Act) or any salt, optical isomer, salt of optical isomer, or analog thereof, with the exception of 3,4-Methylenedioxymethamphetamine (MDMA) or any other scheduled substance with a separate listing under the Illinois Controlled Substances Act."; and

on page 4, by replacing lines 3 and 4 with "."; and

on page 4, line 10, by replacing "or diluted" with ", diluted, or washed"; and

on page 4, by replacing lines 14 through 17 with the following:

"is left over from, results from, or is produced by the process of manufacturing methamphetamine, other than finished methamphetamine."; and

on page 4, line 31, by replacing "or extract" with "extract, or package"; and

on page 5, line 11, by inserting ", or to cause another to take such action" after "means"; and

on page 5, line 34, by inserting "anhydrous ammonia tankers," after "pipelines,"; and

on page 17, line 32, by replacing "over" with "at least"; and

on page 18, line 2, by replacing "over" with "at least"; and

on page 21, by replacing lines 11 and 12 with the following:

"(d) When any person is convicted under this Section of engaging in a methamphetamine conspiracy, the following shall be subject to forfeiture to the"; and

on page 21, line 13, by inserting ":" after "Illinois"; and

on page 34, by replacing line 2 with the following:

"Section 90. Methamphetamine restitution.

(a) If a person"; and

on page 34, line 7, by inserting after "response" the following:

", including but not limited to regular and overtime costs incurred by local law enforcement agencies and private contractors paid by the public agencies in securing the site"; and

on page 34, by inserting immediately below line 9 the following:

"(b) Any restitution payments made under this Section shall be disbursed equitably by the circuit clerk in the following order:

- (1) first, to the local agencies involved in the emergency response;
- (2) second, to the State agencies involved in the emergency response; and
- (3) third, to the federal agencies involved in the emergency response."; and

on page 231, line 31, by replacing "25" with "15"; and

on page 281, lines 11 and 12, by replacing "or counterfeit substance other than methamphetamine" with "substance other than methamphetamine or counterfeit substance"; and

on page 367, line 1, by deleting "clause (b)(1)(A) or (b)(1)(C) of"; and

on page 375, by deleting lines 14 through 16; and

on page 376, by replacing lines 27 through 32 with the following:

"(T) A second or subsequent violation of the Methamphetamine Control and Community Protection Act ~~paragraph (6.6) of subsection (a), subsection (c 5), or subsection (d 5) of Section 401 of the Illinois Controlled Substances Act.~~"

Under the rules, the foregoing **Senate Bill No. 562**, with House Amendments numbered 1 and 2, was referred to the Secretary's Desk.

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has refused to concur with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 832

A bill for AN ACT concerning local government.

Which amendment is as follows:

Senate Amendment No. 2 to HOUSE BILL NO. 832

Non-concurred in by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

Under the rules, the foregoing **House Bill No. 832**, with Senate Amendment No. 2, was referred to the Secretary's Desk.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 475

Motion to Concur in House Amendments 1 and 2 to Senate Bill 562

The following Joint Action Motion to the House Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Recede from Senate Amendment 2 to House Bill 832

INTRODUCTION OF BILL

SENATE BILL NO. 2124. Introduced by Senator Sandoval, a bill for AN ACT concerning safety.

[May 30, 2005]

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

MESSAGE FROM THE HOUSE

A message from the House by
Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 43

WHEREAS, The provision of a free appropriate public education (FAPE) for a student with hearing loss can only occur with full communication access to education; and

WHEREAS, Full communication access depends upon a language-rich environment that fosters age-appropriate communication and language development, utilizes language-proficient educational staff, and provides for direct communication with staff and peers; and

WHEREAS, Children and youth who are deaf or hard of hearing face unique and significant barriers related to language and communication that profoundly affect most aspects of the educational process; and

WHEREAS, Attending to a student's communication needs and language development is a vital prerequisite for access to educational opportunities that lead to literacy and academic achievement; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that there is created the Joint Task Force on Deaf and Hard of Hearing Education Options, consisting of fifteen members appointed as follows: the Speaker of the House of Representatives, Minority Leader of the House of Representatives, President of the Senate, and Minority Leader of the Senate shall each appoint one member; the following entities shall each appoint one member: the Illinois Deaf and Hard of Hearing Commission, the Illinois State Board of Education, the Illinois Supervisors of Programs for Individuals who are Deaf or Hard of Hearing, the Helen Keller National Center, the Early Intervention System, the Hearing and Vision Connections, the Illinois School for the Deaf, the Illinois Hands and Voices parent organization, and the Newborn Hearing Screening Program; the Deaf Education Program in Illinois at MacMurray College and the Illinois State University shall each appoint one member; and be it further

RESOLVED, That all members of the Task Force shall serve without compensation; and be it further

RESOLVED, That all members of the Communication Options Committee established by the Deaf and Hard of Hearing Commission with the collaboration of the State Board of Education shall continue in their representation on the Joint Task Force on Deaf and Hard of Hearing Education Options; and be it further

RESOLVED, That the Task Force can appoint members as it sees fit to serve as representatives of the deaf and hard of hearing population of Illinois or parents of children with hearing loss representing each of the following communication options: Oral/aural, Cued Speech, Total Communication, and American Sign Language; and be it further

RESOLVED, That the duty of the Task Force is to undertake a comprehensive and thorough review of education and services available to the deaf or hard of hearing children in Illinois with the intent of making recommendations that would recognize communication as fundamental to a deaf or hard of hearing child's most basic of needs; ensure communication-driven service delivery of the early intervention system and the public education system with programs and services addressing the unique

[May 30, 2005]

communication needs of each child through communication assessment, development, and access; establish uniform methods and procedures within the early intervention system and the public education system that shall be non-biased and well-informed when sharing information with children and their families on the available communication options and community resource awareness; and be it further

RESOLVED, That the Task Force, working with the Illinois Deaf and Hard of Hearing Commission, the Illinois State Board of Education, the Early Intervention System, the Illinois School for the Deaf, and the Newborn Hearing Screening Program, shall assist those entities in developing interagency agreements and programs and procedures regarding universal, early identification of hearing loss and effective interface between medical and educational services; and be it further

RESOLVED, That the Task Force may request assistance from any entity necessary or useful for the performance of its duties; and be it further

RESOLVED, That the Task Force shall issue a report with its recommendations to the General Assembly on or before January 1, 2007.

Adopted by the House, May 29, 2005.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 43, was referred to the Committee on Rules.

READING BILLS FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Harmon, **House Bill No. 2379**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Meeks	Sieben
Bomke	Geo-Karis	Munoz	Silverstein
Brady	Haine	Pankau	Sullivan, D.
Burzynski	Halvorson	Peterson	Sullivan, J.
Clayborne	Harmon	Petka	Syverson
Collins	Hendon	Radogno	Trotter
Cronin	Hunter	Raoul	Viverito
Crotty	Jacobs	Rauschenberger	Watson
Cullerton	Jones, J.	Righter	Wilhelmi
Dahl	Jones, W.	Risinger	Winkel
del Valle	Lauzen	Ronen	Wojcik
DeLeo	Lightford	Roskam	Mr. President
Demuzio	Link	Rutherford	
Dillard	Maloney	Sandoval	
Forby	Martinez	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

[May 30, 2005]

On motion of Senator Harmon, **House Bill No. 2595**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Shadid
Bomke	Geo-Karis	Meeks	Sieben
Brady	Haine	Munoz	Silverstein
Burzynski	Halvorson	Pankau	Sullivan, D.
Clayborne	Harmon	Peterson	Sullivan, J.
Collins	Hendon	Petka	Syverson
Cronin	Hunter	Radogno	Trotter
Crotty	Jacobs	Raoul	Viverito
Cullerton	Jones, J.	Rauschenberger	Watson
Dahl	Jones, W.	Risinger	Wilhelmi
del Valle	Lauzen	Ronen	Winkel
DeLeo	Lightford	Roskam	Wojcik
Demuzio	Link	Rutherford	Mr. President
Dillard	Luechtefeld	Sandoval	
Forby	Maloney	Schoenberg	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof.

HOUSE BILL RECALLED

On motion of Senator del Valle, **House Bill No. 881** was recalled from the order of third reading to the order of second reading.

Senator del Valle offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 881

AMENDMENT NO. 2. Amend House Bill 881 on page 1, line 4, after "amended", by inserting "by changing Section 10-22.3a and"; and

on page 1, immediately below line 5, by inserting the following:

"(105 ILCS 5/10-22.3a) (from Ch. 122, par. 10-22.3a)

Sec. 10-22.3a. To provide for or to participate in provisions for insurance protection and benefits for its employees and their dependents including but not limited to retirement annuities, medical, surgical and hospitalization benefits in such types and amounts, if any, as shall be determined by the board, for the purpose of aiding in securing and retaining the services of competent employees. Where employee participation in such provisions is involved, the board, with the consent of the employee, may withhold deductions from the employee's salary necessary to defray the employee's share of such insurance costs. Such insurance or benefits may be contracted for only with an insurance company authorized to do business in this State. Such insurance may include provisions for employees and their dependents who rely on treatment by prayer or spiritual means alone for healing, in accordance with the tenets and practice of a recognized religious denomination.

For purposes of this Section, the term "dependent" means an employee's spouse and any unmarried child (1) under the age of 19 years including (a) an adopted child and (b) a step-child or recognized child who lives with the employee in a regular parent-child relationship, or (2) under the age of 23 who is enrolled as a full-time student in any accredited school, college or university. Nothing contained in this Code may preclude an elected school board member from participating in a group health insurance program provided to an employee of the school district that the board member serves if the board

[May 30, 2005]

member is a dependent of that employee.

(Source: P.A. 90-655, eff. 7-30-98.)".

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator del Valle, **House Bill No. 881**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojeik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

At the hour of 6:07 o'clock p.m., Senator del Valle presiding.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Senate Amendment No. 2 to House Bill 806
 Senate Amendment No. 1 to House Bill 1197
 Senate Amendment No. 2 to House Bill 2244
 Senate Amendment No. 3 to House Bill 4053

MESSAGE FROM THE PRESIDENT

**OFFICE OF THE SENATE PRESIDENT
STATE OF ILLINOIS**

EMIL JONES, JR.
SENATE PRESIDENT

327 STATE CAPITOL
Springfield, Illinois 62706

May 30, 2005

Ms. Linda Hawker
Secretary of the Senate
Room 403, State House
Springfield, Illinois 62706

Dear Madam Secretary:

Pursuant to Senate Rule 2-10, I hereby establish May 31, 2005, as the Committee deadline and December 31, 2005 as the Third Reading deadline for House Bill 3092.

Sincerely,
s/Emil Jones, Jr.
Senate President

cc: Senate Minority Leader Frank Watson

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 30, 2005 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Education: **House Bill 3092.**

Executive: **Floor Amendment No. 2 to House Bill 806; Floor Amendment No. 3 to House Bill 4053.**

Senator Viverito, Chairperson of the Committee on Rules, during its May 30, 2005 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 1842**

Judiciary: **Motion to Concur in House Amendment 1 to Senate Bill 475; Motion to Concur in House Amendments 1 and 2 to Senate Bill 562**

Local Government: **Motion to Recede from Senate Amendments 1 and 2 to House Bill 655; Motion to Recede from Senate Amendment 2 to House Bill 832**

Senator Viverito, Chairperson of the Committee on Rules, reported that **Floor Amendment No. 2 to House Bill No. 4050** has been approved for consideration by the Rules Committee and referred to the Senate floor for consideration.

[May 30, 2005]

POSTING NOTICE WAIVED

Senator Halvorson moved to waive the six-day posting requirement on **House Bill No. 3092** so that the bill may be heard in the Committee on Education that is scheduled to meet today.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

Senator Lightford, Chairperson of the Committee on Education, announced that the Education Committee will meet today in Room 212 Capitol Building, at 7:15 o'clock p.m.

Senator Silverstein, Chairperson of the Committee on Executive, announced that the Executive Committee will meet today in Room 212 Capitol Building, at 7:30 o'clock p.m.

Senator Crotty, Chairperson of the Committee on Local Government, announced that the Local Government Committee will meet today in Room A-1 Stratton Building, at 7:15 o'clock p.m.

Senator Cullerton, Co-Chairperson of the Committee on Judiciary, announced that the Local Government Committee will meet today in Room 212 Capitol Building, at 7:45 o'clock p.m.

HOUSE BILL RECALLED

On motion of Senator Sandoval, **House Bill No. 4050** was recalled from the order of third reading to the order of second reading.

Senator Sandoval offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 4050

AMENDMENT NO. 1. Amend House Bill 4050 on page 11, by replacing lines 24 through 34 with the following:

"Pilot program area" means all areas designated as such by the Department due to the high rate of foreclosure on residential home mortgages that is primarily the result of predatory lending practices. The Department shall designate the pilot program area within 30 days after the effective date of this amendatory Act of the 94th General Assembly."; and

on page 12, by deleting lines 20 through 31; and

on page 12, line 32, by changing "(d)" to "(c)"; and

on page 13, line 19, by changing "(e)" to "(d)"; and

on page 13, line 20, by changing "(d)" to "(c)"; and

on page 13, line 33, by changing "(f)" to "(e)"; and

on page 14, line 2, by changing "(d)" to "(c)"; and

on page 14, line 6, by changing "(e)" to "(d)"; and

on page 14, line 7, by changing "(g)" to "(f)"; and

on page 14, line 11, by changing "(h)" to "(g)"; and

on page 14, line 25, by changing "(i)" to "(h)"; and

on page 15, between lines 1 and 2, by inserting the following:

"(i) Nothing in this Article is intended to prevent a borrower from making his or her own decision as

[May 30, 2005]

to whether to proceed with a transaction."; and

on page 15, immediately below line 4, by inserting the following:

"(k) Not later than one year after the Department designates the pilot program area and annually thereafter during the existence of the pilot program, the Department shall report to the Governor and to the General Assembly concerning its administration and the effectiveness of the pilot program."; and

on page 16, by deleting lines 12 and 13; and

on page 16, line 14, by changing "(9)" to "(8)"; and

on page 16, line 17, by changing "(10)" to "(9)"; and

on page 16, line 20, by changing "(11)" to "(10)".

The motion prevailed.

And the amendment was adopted, and ordered printed.

Senator Sandoval offered the following amendment and moved its adoption:

AMENDMENT NO. 2 TO HOUSE BILL 4050

AMENDMENT NO. 2. Amend House Bill 4050, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 1, line 4, after "all areas", by inserting "within Cook County".

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

At the hour of 6:27 o'clock p.m., Senator Link presiding.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Sandoval, **House Bill No. 4050**, having been printed as received from the House of Representatives, together with all Senate amendments adopted thereto, was taken up and read by title a third time.

Pending roll call, on motion of Senator Sandoval, further consideration of **House Bill No. 4050** was postponed.

MESSAGE FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has adopted the following joint resolution, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

HOUSE JOINT RESOLUTION NO. 37

WHEREAS, As elected officials of the State of Illinois, we have an obligation to uphold the laws that govern the State of Illinois, the Constitution of the United States of America, and all international treaties to which the United States is party, including the Geneva Conventions of 1949, the International Covenant on Civil and Political Rights, the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and related standards of international human rights; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon any person under the physical control of and inflicted by any federal authority, including civilian contractors, constitutes a violation of the law of nations in that customary international law prohibits torture as

[May 30, 2005]

reflected, expressed, and defined in multilateral treaties and other international instruments, international and domestic judicial decisions, and other authorities; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon any person under the physical control of and inflicted by any federal authority, including civilian contractors, constitutes a violation of the United States Constitution; these acts of mistreatment constitute a violation of the Fifth Amendment and of the Eighth Amendment's prohibition on cruel and unusual punishment; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon any person under the physical control of and inflicted by any federal authority, including civilian contractors, constitutes a violation of specific protections afforded by the Third and Fourth Geneva Conventions, including, but not limited to, Article 3 common to all 4 Geneva Conventions; violations of Article 3 of the Geneva Conventions are treaty violations as well as violations of customary international law; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon any person under the physical control of and inflicted by any federal authority, including civilian contractors, constitutes a violation of Articles 7 and 10 of the International Covenant on Civil and Political Rights (ICCPR); violations of these provisions of ICCPR are treaty violations as well as violations of customary international law; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon any person under the physical control of and inflicted by any federal authority, including civilian contractors, constitutes a violation of the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), and where applicable also constitute a violation of Section 2340A of Chapter 18 of the United States Code, enacted by Congress to fulfill obligations under CAT; violations of CAT are treaty violations as well as violations of customary international law; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment as a method of extracting intelligence information may lead to inaccurate and misleading information; the Army Field Manual on Intelligence Interrogation states, "the use of torture and other illegal methods is a poor technique that yields unreliable results, may damage subsequent collection efforts, and can induce the source to say what he thinks the interrogator wants to hear"; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon a foreign national in the custody of the United States may have the effect of radicalizing the victim's own moderate political, social, or religious ideologies; these acts of mistreatment may also have the effect of radicalizing the ideologies of the society from where the victim originates, and radicalized ideologies may increase the threat of terrorism against Americans; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment upon a foreign national in the custody of the United States may increase the likelihood that kidnapped or captured American citizens and military personnel will be subjected to similar acts of mistreatment; the U. S. Army Field Manual on Intelligence and Interrogation states, "[The use of torture and other illegal methods] may also place U.S. and allied personnel in enemy hands at a greater risk of abuse by their captors"; and

WHEREAS, The use of torture and other cruel, inhuman, or degrading treatment undermines the rule of law and delegitimizes the United States government as an advocate for democracy; the U.S. Army Field Manual on Intelligence Interrogation states, "Revelation of use of torture by U.S. personnel will bring discredit upon the U.S. and its armed forces while undermining domestic and international support for the war effort"; and

WHEREAS, The U.S. Army Field Manual on Intelligence and Interrogation states that binding international treaties and United States policy "expressly prohibit acts of violence or intimidation, including physical or mental torture, threats, insults, or exposure to inhumane treatment as a means of or aid to interrogation. Such illegal acts are not authorized and will not be condoned by the U.S. Army."; the Manual specifically defines physical torture to include "infliction of pain through chemicals or bondage", "forcing an individual to stand, sit or kneel in abnormal positions for prolonged periods of

[May 30, 2005]

time", "food deprivation", and "any form of beating"; therefore, be it

RESOLVED, BY THE HOUSE OF REPRESENTATIVES OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, THE SENATE CONCURRING HEREIN, that we condemn the use of torture and all cruel, inhuman, or degrading treatment upon any person under the physical control of any federal authority, including civilian contractors; and be it further

RESOLVED, That we call on the President of the United States and the Congress of the United States to affirm the domestic and international obligations of the United States of America to the rule of law and end the use of torture and all other cruel, inhuman, or degrading treatment as a matter of policy and to condemn the aforementioned acts of mistreatment; and be it further

RESOLVED, That suitable copies of this resolution be delivered to the President and Vice President of the United States, to the Speaker of the House of Representatives of the Congress of the United States, to the President pro tempore of the Senate of the Congress of the United States, and to each Senator and Representative from the State of Illinois in the Congress of the United States.

Adopted by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

The foregoing message from the House of Representatives, reporting House Joint Resolution No. 37, was referred to the Committee on Rules.

PRESENTATION OF RESOLUTION

Senator Link offered the following Senate Resolution, which was referred to the Committee on Rules:

SENATE RESOLUTION NO. 258

WHEREAS, Volunteering is a national effort focused on improving "communities" by utilizing the desire, commitment, and determination of individuals of all ages; and

WHEREAS, Volunteering was strongly expressed immediately after the 9/11 terrorist attack on the World Trade Center and the Pentagon, illustrating care and compassion, pulling together, and helping each other, holding fast to our united beliefs that there truly is strength in freedoms; and

WHEREAS, Volunteering exemplifies that spirit by enlisting individuals and groups in working together to keep American strong and beautiful; and

WHEREAS, The mere act of volunteering to help a fellow American encourages others to lend a helping hand where there is need; and

WHEREAS, Illinois citizens cannot turn their eyes away from illiteracy, poverty, hunger, pollution, loneliness, exclusion, and abuse; and

WHEREAS, Illinois citizens can get a list of available volunteer projects within their geographic area through VolunteerMatch.com and other programs; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we encourage all Illinois citizens to accept the challenge of improving their community; and be it further

RESOLVED, That all Illinois citizens are encouraged to accept the challenge of making Illinois a great place to live by volunteering in their own community.

[May 30, 2005]

REPORT FROM RULES COMMITTEE

Senator Viverito, Chairperson of the Committee on Rules, during its May 30, 2005 meeting, reported the following Legislative Measure has been assigned to the indicated Standing Committee of the Senate:

Executive: **Floor Amendment No. 1 to House Bill 1197.**

COMMITTEE MEETING ANNOUNCEMENT

Senator Cullerton, Vice-Chairperson of the Committee on Executive, announced that the Executive Committee will meet today in Room 212 Capitol Building, at 7:55 o'clock p.m.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Hendon, **Senate Bill No. 501**, with House Amendment No. 3 on the Secretary's Desk, was taken up for immediate consideration.

Senator Hendon moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 59; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Martinez	Schoenberg
Bomke	Geo-Karis	Meeks	Shadid
Brady	Haine	Munoz	Sieben
Burzynski	Halvorson	Pankau	Silverstein
Clayborne	Harmon	Peterson	Sullivan, D.
Collins	Hendon	Petka	Sullivan, J.
Cronin	Hunter	Radogno	Syverson
Crotty	Jacobs	Raoul	Trotter
Cullerton	Jones, J.	Rauschenberger	Viverito
Dahl	Jones, W.	Righter	Watson
del Valle	Lauzen	Risinger	Wilhelmi
DeLeo	Lightford	Ronen	Winkel
Demuzio	Link	Roskam	Wojcik
Dillard	Luechtefeld	Rutherford	Mr. President
Forby	Maloney	Sandoval	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 3 to **Senate Bill No. 501**.

Ordered that the Secretary inform the House of Representatives thereof.

MESSAGES FROM THE HOUSE

A message from the House by

Mr. Mahoney, Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:

SENATE JOINT RESOLUTION NO. 9

Concurred in by the House, May 30, 2005.

[May 30, 2005]

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:
SENATE JOINT RESOLUTION NO. 10
Concurred in by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:
SENATE JOINT RESOLUTION NO. 14
Concurred in by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:
SENATE JOINT RESOLUTION NO. 38
Concurred in by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:
SENATE JOINT RESOLUTION NO. 41
Concurred in by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

A message from the House by
Mr. Mahoney, Clerk:
Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of the following joint resolution, to-wit:
SENATE JOINT RESOLUTION NO. 45
Concurred in by the House, May 30, 2005.

MARK MAHONEY, Clerk of the House

COMMUNICATION

ILLINOIS STATE SENATE
SENATOR KATHLEEN L. WOJCIK

May 27, 2005

[May 30, 2005]

Linda Hawker
Secretary of the Senate
Room 401
State House
Springfield, IL 62706

Dear Linda:

This letter is to inform you of my resignation to the 28th District Senate seat effective June 30, 2005.

It has been an honor and a privilege to represent the people of the northwest suburbs in my various roles as a township official, State Representative and especially as an Illinois State Senator.

After 37 years in public service I am at the point where I feel the need to return to the private sector.

I have thoroughly enjoyed the time I have spent in the Illinois Senate and value the experience I have gained throughout these past couple of years. I truly appreciate the opportunity to serve in this capacity.

Sincerely,
s/Kathleen L. "Kay" Wojcik
Senator
28th District

PRESENTATION OF RESOLUTION

Senators Watson - E. Jones and all Senators offered the following Senate Resolution:

SENATE RESOLUTION NO. 259

WHEREAS, For 37 years, Kathleen L. "Kay" Wojcik dedicated her life to serving the people of the northwest suburbs of Chicago; and

WHEREAS, She won her first elective office in 1968 as Schaumburg Township Clerk; and

WHEREAS, She became a State legislator in 1983, serving in the Illinois House for 20 years; and

WHEREAS, Kay earned the respect and admiration of her colleagues in the House of Representatives, rising to the position of Assistant Majority Leader; and

WHEREAS, She advanced to the Illinois Senate in 2003, serving in the chamber until 2005; and

WHEREAS, She is a staunch defender of her constituents and always puts their interests above her own; and

WHEREAS, She fought hard for issues affecting health care, women, children, and the elderly; and

WHEREAS, She crafted legislation to change the 24-hour drive-through delivery policy, giving women and newborns at least 48 hours in the hospital after birth; and

WHEREAS, She has been a champion for the disabled and fought to raise awareness of special needs individuals; and

WHEREAS, Kay's dedication to improving the lives of Illinoisans earned her dozens of legislative awards from such groups as the Illinois Association of Homes for the Aging, the Illinois Hospital Association, the Western DuPage Special Recreation Association, the Illinois Nurses Association, and the Illinois Dietetic Association; and

[May 30, 2005]

WHEREAS, Her alma mater, Harper College in Palatine, named its state-of-the-art conference building the "Wojcik Conference Center" out of appreciation of the senator's ability to secure more than \$1.1 million for the facility's construction; and

WHEREAS, She was a leading force in aiding the State's growing winery and grape industry; and

WHEREAS, She is a strong advocate for fiscal responsibility in government and low taxation for Illinois residents; and

WHEREAS, She is a renowned world globetrotter, traveling to such exotic locales as Bangkok, Russia, and China; and

WHEREAS, Kay has a zestful love of life, enjoying good food, good wine, and good times with family and friends; and

WHEREAS, She is respected by her colleagues from both political parties for her honesty and integrity; and

WHEREAS, She is a loving wife, mother, and grandmother; and

WHEREAS, Kay will be remembered as a Senator who took her responsibility as an advocate for her district seriously; therefore, be it

RESOLVED, BY THE SENATE OF THE NINETY-FOURTH GENERAL ASSEMBLY OF THE STATE OF ILLINOIS, that we recognize Kathleen L. "Kay" Wojcik for her accomplishments as she leaves the Illinois Senate, and we wish her success in her future endeavors; and be it further

RESOLVED, That a suitable copy of this preamble and resolution be presented to Kathleen L. "Kay" Wojcik to honor her for her years of service to the citizens of Illinois.

Senators Watson and E. Jones, having asked and obtained unanimous consent to suspend the rules for the immediate consideration of the foregoing resolution, moved its adoption.

The motion prevailed.

And the resolution was adopted.

At the hour of 7:30 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 10:27 o'clock a.m., the Senate resumed consideration of business.

Senator Link, presiding.

REPORTS FROM STANDING COMMITTEES

Senator Crotty, Chairperson of the Committee on Local Government, to which was referred the Motion to Recede from Senate Amendment to the following House Bill, reported that the Committee recommends do adopt:

Motion to Recede from Senate Amendments 1 and 2 to House Bill 652

Motion to Recede from Senate Amendment No. 2 to House Bill 832

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Lightford, Chairperson of the Committee on Education, to which was referred **House Bill No. 3092**, reported the same back with the recommendation that the bill do pass.

Under the rules, the bill was ordered to a second reading.

[May 30, 2005]

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to Concur with House Amendment to the following Senate Bill, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 1842

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the following Senate floor amendments, reported that the Committee recommends do adopt:

Senate Amendment No. 2 to House Bill 806
Senate Amendment No. 1 to House Bill 1197
Senate Amendment No. 3 to House Bill 4053

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senators Cullerton and Dillard, Co-Chairpersons of the Committee on Judiciary, to which was referred the Motions to Concur with House Amendments to the following Senate Bills, reported that the Committee recommends do adopt:

Motion to Concur in House Amendment 1 to Senate Bill 475
Motion to Concur in House Amendments 1 and 2 to Senate Bill 562

Under the rules, the foregoing Motions are eligible for consideration by the Senate.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A SECOND TIME

On motion of Senator Halvorson, **House Bill No. 3092** was taken up, read by title a second time and ordered to a third reading.

HOUSE BILL RECALLED

On motion of Senator Trotter, **House Bill No. 1197** was recalled from the order of third reading to the order of second reading.

Senator Trotter offered the following amendment and moved its adoption:

AMENDMENT NO. 1 TO HOUSE BILL 1197

AMENDMENT NO. 1. Amend House Bill 1197 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the FY2006 Budget Implementation (Human Services) Act.

Section 5. Purpose. It is the purpose of this Act to implement the Governor's FY2006 budget recommendations concerning human services.

Section 10. The Illinois Administrative Procedure Act is amended by changing Section 5-45 as follows:

(5 ILCS 100/5-45) (from Ch. 127, par. 1005-45)

Sec. 5-45. Emergency rulemaking.

(a) "Emergency" means the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare.

(b) If any agency finds that an emergency exists that requires adoption of a rule upon fewer days than is required by Section 5-40 and states in writing its reasons for that finding, the agency may adopt an emergency rule without prior notice or hearing upon filing a notice of emergency rulemaking with the

[May 30, 2005]

Secretary of State under Section 5-70. The notice shall include the text of the emergency rule and shall be published in the Illinois Register. Consent orders or other court orders adopting settlements negotiated by an agency may be adopted under this Section. Subject to applicable constitutional or statutory provisions, an emergency rule becomes effective immediately upon filing under Section 5-65 or at a stated date less than 10 days thereafter. The agency's finding and a statement of the specific reasons for the finding shall be filed with the rule. The agency shall take reasonable and appropriate measures to make emergency rules known to the persons who may be affected by them.

(c) An emergency rule may be effective for a period of not longer than 150 days, but the agency's authority to adopt an identical rule under Section 5-40 is not precluded. No emergency rule may be adopted more than once in any 24 month period, except that this limitation on the number of emergency rules that may be adopted in a 24 month period does not apply to (i) emergency rules that make additions to and deletions from the Drug Manual under Section 5-5.16 of the Illinois Public Aid Code or the generic drug formulary under Section 3.14 of the Illinois Food, Drug and Cosmetic Act, (ii) emergency rules adopted by the Pollution Control Board before July 1, 1997 to implement portions of the Livestock Management Facilities Act, or (iii) emergency rules adopted by the Illinois Department of Public Health under subsections (a) through (i) of Section 2 of the Department of Public Health Act when necessary to protect the public's health. Two or more emergency rules having substantially the same purpose and effect shall be deemed to be a single rule for purposes of this Section.

(d) In order to provide for the expeditious and timely implementation of the State's fiscal year 1999 budget, emergency rules to implement any provision of Public Act 90-587 or 90-588 or any other budget initiative for fiscal year 1999 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (d). The adoption of emergency rules authorized by this subsection (d) shall be deemed to be necessary for the public interest, safety, and welfare.

(e) In order to provide for the expeditious and timely implementation of the State's fiscal year 2000 budget, emergency rules to implement any provision of this amendatory Act of the 91st General Assembly or any other budget initiative for fiscal year 2000 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (e). The adoption of emergency rules authorized by this subsection (e) shall be deemed to be necessary for the public interest, safety, and welfare.

(f) In order to provide for the expeditious and timely implementation of the State's fiscal year 2001 budget, emergency rules to implement any provision of this amendatory Act of the 91st General Assembly or any other budget initiative for fiscal year 2001 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (f). The adoption of emergency rules authorized by this subsection (f) shall be deemed to be necessary for the public interest, safety, and welfare.

(g) In order to provide for the expeditious and timely implementation of the State's fiscal year 2002 budget, emergency rules to implement any provision of this amendatory Act of the 92nd General Assembly or any other budget initiative for fiscal year 2002 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (g). The adoption of emergency rules authorized by this subsection (g) shall be deemed to be necessary for the public interest, safety, and welfare.

(h) In order to provide for the expeditious and timely implementation of the State's fiscal year 2003 budget, emergency rules to implement any provision of this amendatory Act of the 92nd General Assembly or any other budget initiative for fiscal year 2003 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (h). The adoption of emergency rules authorized by this subsection (h) shall be deemed to be necessary for the public interest, safety, and welfare.

(i) In order to provide for the expeditious and timely implementation of the State's fiscal year 2004 budget, emergency rules to implement any provision of this amendatory Act of the 93rd General Assembly or any other budget initiative for fiscal year 2004 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (i). The adoption of emergency rules authorized by this

subsection (i) shall be deemed to be necessary for the public interest, safety, and welfare.

(j) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2005 budget as provided under the Fiscal Year 2005 Budget Implementation (Human Services) Act, emergency rules to implement any provision of the Fiscal Year 2005 Budget Implementation (Human Services) Act may be adopted in accordance with this Section by the agency charged with administering that provision, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (j). The Department of Public Aid may also adopt rules under this subsection (j) necessary to administer the Illinois Public Aid Code and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (j) shall be deemed to be necessary for the public interest, safety, and welfare.

(k) In order to provide for the expeditious and timely implementation of the provisions of the State's fiscal year 2006 budget, emergency rules to implement any provision of this amendatory Act of the 94th General Assembly or any other budget initiative for fiscal year 2006 may be adopted in accordance with this Section by the agency charged with administering that provision or initiative, except that the 24-month limitation on the adoption of emergency rules and the provisions of Sections 5-115 and 5-125 do not apply to rules adopted under this subsection (k). The Department of Public Aid may also adopt rules under this subsection (k) necessary to administer the Illinois Public Aid Code, the Senior Citizens and Disabled Persons Property Tax Relief and Pharmaceutical Assistance Act, the Senior Citizens and Disabled Persons Prescription Drug Discount Program Act, and the Children's Health Insurance Program Act. The adoption of emergency rules authorized by this subsection (k) shall be deemed to be necessary for the public interest, safety, and welfare.

(Source: P.A. 92-10, eff. 6-11-01; 92-597, eff. 6-28-02; 93-20, eff. 6-20-03; 93-829, eff. 7-28-04; 93-841, eff. 7-30-04; revised 10-25-04.)

Section 12. The Illinois Act on the Aging is amended by changing Section 4.02 as follows:
(20 ILCS 105/4.02) (from Ch. 23, par. 6104.02)

Sec. 4.02. The Department shall establish a program of services to prevent unnecessary institutionalization of persons age 60 and older in need of long term care or who are established as persons who suffer from Alzheimer's disease or a related disorder under the Alzheimer's Disease Assistance Act, thereby enabling them to remain in their own homes or in other living arrangements. Such preventive services, which may be coordinated with other programs for the aged and monitored by area agencies on aging in cooperation with the Department, may include, but are not limited to, any or all of the following:

- (a) home health services;
- (b) home nursing services;
- (c) homemaker services;
- (d) chore and housekeeping services;
- (e) day care services;
- (f) home-delivered meals;
- (g) education in self-care;
- (h) personal care services;
- (i) adult day health services;
- (j) habilitation services;
- (k) respite care;
- (k-5) community reintegration services;
- (l) other nonmedical social services that may enable the person to become self-supporting; or
- (m) clearinghouse for information provided by senior citizen home owners who want to rent rooms to or share living space with other senior citizens.

The Department shall establish eligibility standards for such services taking into consideration the unique economic and social needs of the target population for whom they are to be provided. Such eligibility standards shall be based on the recipient's ability to pay for services; provided, however, that in determining the amount and nature of services for which a person may qualify, consideration shall not be given to the value of cash, property or other assets held in the name of the person's spouse pursuant to a written agreement dividing marital property into equal but separate shares or pursuant to a transfer of the person's interest in a home to his spouse, provided that the spouse's share of the marital property is not made available to the person seeking such services.

Beginning July 1, 2002, the Department shall require as a condition of eligibility that all financially

eligible applicants and recipients apply for medical assistance under Article V of the Illinois Public Aid Code in accordance with rules promulgated by the Department.

The Department shall, in conjunction with the Department of Public Aid, seek appropriate amendments under Sections 1915 and 1924 of the Social Security Act. The purpose of the amendments shall be to extend eligibility for home and community based services under Sections 1915 and 1924 of the Social Security Act to persons who transfer to or for the benefit of a spouse those amounts of income and resources allowed under Section 1924 of the Social Security Act. Subject to the approval of such amendments, the Department shall extend the provisions of Section 5-4 of the Illinois Public Aid Code to persons who, but for the provision of home or community-based services, would require the level of care provided in an institution, as is provided for in federal law. Those persons no longer found to be eligible for receiving noninstitutional services due to changes in the eligibility criteria shall be given 60 days notice prior to actual termination. Those persons receiving notice of termination may contact the Department and request the determination be appealed at any time during the 60 day notice period. With the exception of the lengthened notice and time frame for the appeal request, the appeal process shall follow the normal procedure. In addition, each person affected regardless of the circumstances for discontinued eligibility shall be given notice and the opportunity to purchase the necessary services through the Community Care Program. If the individual does not elect to purchase services, the Department shall advise the individual of alternative services. The target population identified for the purposes of this Section are persons age 60 and older with an identified service need. Priority shall be given to those who are at imminent risk of institutionalization. The services shall be provided to eligible persons age 60 and older to the extent that the cost of the services together with the other personal maintenance expenses of the persons are reasonably related to the standards established for care in a group facility appropriate to the person's condition. These non-institutional services, pilot projects or experimental facilities may be provided as part of or in addition to those authorized by federal law or those funded and administered by the Department of Human Services. The Departments of Human Services, Public Aid, Public Health, Veterans' Affairs, and Commerce and Economic Opportunity and other appropriate agencies of State, federal and local governments shall cooperate with the Department on Aging in the establishment and development of the non-institutional services. The Department shall require an annual audit from all chore/housekeeping and homemaker vendors contracting with the Department under this Section. The annual audit shall assure that each audited vendor's procedures are in compliance with Department's financial reporting guidelines requiring an administrative and employee wage and benefits cost split as defined in administrative rules ~~a 27% administrative cost split and a 73% employee wages and benefits cost split~~. The audit is a public record under the Freedom of Information Act. The Department shall execute, relative to the nursing home prescreening project, written inter-agency agreements with the Department of Human Services and the Department of Public Aid, to effect the following: (1) intake procedures and common eligibility criteria for those persons who are receiving non-institutional services; and (2) the establishment and development of non-institutional services in areas of the State where they are not currently available or are undeveloped. On and after July 1, 1996, all nursing home prescreenings for individuals 60 years of age or older shall be conducted by the Department.

The Department is authorized to establish a system of recipient copayment for services provided under this Section, such copayment to be based upon the recipient's ability to pay but in no case to exceed the actual cost of the services provided. Additionally, any portion of a person's income which is equal to or less than the federal poverty standard shall not be considered by the Department in determining the copayment. The level of such copayment shall be adjusted whenever necessary to reflect any change in the officially designated federal poverty standard.

The Department, or the Department's authorized representative, shall recover the amount of moneys expended for services provided to or in behalf of a person under this Section by a claim against the person's estate or against the estate of the person's surviving spouse, but no recovery may be had until after the death of the surviving spouse, if any, and then only at such time when there is no surviving child who is under age 21, blind, or permanently and totally disabled. This paragraph, however, shall not bar recovery, at the death of the person, of moneys for services provided to the person or in behalf of the person under this Section to which the person was not entitled; provided that such recovery shall not be enforced against any real estate while it is occupied as a homestead by the surviving spouse or other dependent, if no claims by other creditors have been filed against the estate, or, if such claims have been filed, they remain dormant for failure of prosecution or failure of the claimant to compel administration of the estate for the purpose of payment. This paragraph shall not bar recovery from the estate of a spouse, under Sections 1915 and 1924 of the Social Security Act and Section 5-4 of the Illinois Public Aid Code, who precedes a person receiving services under this Section in death. All moneys for services

paid to or in behalf of the person under this Section shall be claimed for recovery from the deceased spouse's estate. "Homestead", as used in this paragraph, means the dwelling house and contiguous real estate occupied by a surviving spouse or relative, as defined by the rules and regulations of the Illinois Department of Public Aid, regardless of the value of the property.

The Department shall develop procedures to enhance availability of services on evenings, weekends, and on an emergency basis to meet the respite needs of caregivers. Procedures shall be developed to permit the utilization of services in successive blocks of 24 hours up to the monthly maximum established by the Department. Workers providing these services shall be appropriately trained.

Beginning on the effective date of this Amendatory Act of 1991, no person may perform chore/housekeeping and homemaker services under a program authorized by this Section unless that person has been issued a certificate of pre-service to do so by his or her employing agency. Information gathered to effect such certification shall include (i) the person's name, (ii) the date the person was hired by his or her current employer, and (iii) the training, including dates and levels. Persons engaged in the program authorized by this Section before the effective date of this amendatory Act of 1991 shall be issued a certificate of all pre- and in-service training from his or her employer upon submitting the necessary information. The employing agency shall be required to retain records of all staff pre- and in-service training, and shall provide such records to the Department upon request and upon termination of the employer's contract with the Department. In addition, the employing agency is responsible for the issuance of certifications of in-service training completed to their employees.

The Department is required to develop a system to ensure that persons working as homemakers and chore housekeepers receive increases in their wages when the federal minimum wage is increased by requiring vendors to certify that they are meeting the federal minimum wage statute for homemakers and chore housekeepers. An employer that cannot ensure that the minimum wage increase is being given to homemakers and chore housekeepers shall be denied any increase in reimbursement costs.

The Department on Aging and the Department of Human Services shall cooperate in the development and submission of an annual report on programs and services provided under this Section. Such joint report shall be filed with the Governor and the General Assembly on or before September 30 each year.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of the General Assembly Organization Act and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act.

Those persons previously found eligible for receiving non-institutional services whose services were discontinued under the Emergency Budget Act of Fiscal Year 1992, and who do not meet the eligibility standards in effect on or after July 1, 1992, shall remain ineligible on and after July 1, 1992. Those persons previously not required to cost-share and who were required to cost-share effective March 1, 1992, shall continue to meet cost-share requirements on and after July 1, 1992. Beginning July 1, 1992, all clients will be required to meet eligibility, cost-share, and other requirements and will have services discontinued or altered when they fail to meet these requirements.

(Source: P.A. 92-597, eff. 6-28-02; 93-85, eff. 1-1-04; 93-902, eff. 8-10-04.)

Section 15. The Children's Health Insurance Program Act is amended by changing Section 30 as follows:

(215 ILCS 106/30)

Sec. 30. Cost sharing.

(a) Children enrolled in a health benefits program pursuant to subdivision (a)(2) of Section 25 and persons enrolled in a health benefits waiver program pursuant to Section 40 shall be subject to the following cost sharing requirements:

(1) There shall be no co-payment required for well-baby or well-child care, including age-appropriate immunizations as required under federal law.

(2) Health insurance premiums for family members, either children or adults, in families whose household income is

above 150% of the federal poverty level shall be payable monthly, subject to rules promulgated by the Department for grace periods and advance payments, and shall be as follows:

(A) \$15 per month for one family member ~~child~~.

(B) \$25 per month for 2 family members ~~children~~.

(C) \$30 per month for 3 family members ~~or more children~~.

(D) \$35 per month for 4 family members.

(E) \$40 per month for 5 or more family members.

(3) Co-payments for children or adults in families whose income is at or below 150% of the federal poverty level, at a minimum and to the extent permitted under federal law, shall be \$2 for all medical visits and prescriptions provided under this Act.

(4) Co-payments for children or adults in families whose income is above 150% of the federal poverty level, at a minimum and to the extent permitted under federal law shall be as follows:

(A) \$5 for medical visits.

(B) \$3 for generic prescriptions and \$5 for brand name prescriptions.

(C) \$25 for emergency room use for a non-emergency situation as defined by the Department by rule.

(5) The maximum amount of out-of-pocket expenses for co-payments shall be \$100 per family per year.

(b) Individuals enrolled in a privately sponsored health insurance plan pursuant to subdivision (a)(1) of Section 25 shall be subject to the cost sharing provisions as stated in the privately sponsored health insurance plan.

(Source: P.A. 90-736, eff. 8-12-98; 91-266, eff. 7-23-99.)

Section 20. The Illinois Public Aid Code is amended by changing Sections 5-5.4, 5-5.12, 5-11, and 12-4.35 as follows:

(305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Public Aid. The Department of Public Aid shall develop standards of payment of skilled nursing and intermediate care services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for skilled nursing and intermediate care services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, ~~2006~~ ~~2005~~, unless specifically provided for in this Section. The changes made by this amendatory Act of the 93rd General Assembly extending the duration of the prohibition against a rate increase or update for inflation are effective retroactive to July 1, 2004.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus \$1.10 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus \$3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by \$4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of the rate effective July 1, 2003. The Department of Public Aid shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information

concerning nursing home resident condition necessary to compute the rate. The Department of Public Aid shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 2 years after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, if the payment methodologies required under Section 5A-12 and the waiver granted under 42 CFR 433.68 are approved by the United States Centers for Medicare and Medicaid Services, the rates taking effect on July 1, 2004 shall be 3.0% greater than the rates in effect on June 30, 2004. These rates shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Notwithstanding any other provisions of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on January 1, 2005 shall be 3% more than the rates in effect on December 31, 2004.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or as long-term care facilities for residents under 22 years of age, the rates taking effect on July 1, 2003 shall include a statewide increase of 4%, as defined by the Department.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, effective January 1, 2005, facility rates shall be increased by the difference between (i) a facility's per diem property, liability, and malpractice insurance costs as reported in the cost report filed with the Department of Public Aid and used to establish rates effective July 1, 2001 and (ii) those same costs as reported in the facility's 2002 cost report. These costs shall be passed through to the facility without caps or limitations, except for adjustments required under normal auditing procedures.

Rates established effective each July 1 shall govern payment for services rendered throughout that

fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Public Aid shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

(Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597, eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20, eff. 6-20-03; 93-649, eff. 1-8-04; 93-659, eff. 2-3-04; 93-841, eff. 7-30-04; 93-1087, eff. 2-28-05.)

(305 ILCS 5/5-5.12) (from Ch. 23, par. 5-5.12)

Sec. 5-5.12. Pharmacy payments.

(a) Every request submitted by a pharmacy for reimbursement under this Article for prescription drugs provided to a recipient of aid under this Article shall include the name of the prescriber or an acceptable identification number as established by the Department.

(b) Pharmacies providing prescription drugs under this Article shall be reimbursed at a rate which shall include a professional dispensing fee as determined by the Illinois Department, plus the current acquisition cost of the prescription drug dispensed. The Illinois Department shall update its information on the acquisition costs of all prescription drugs no less frequently than every 30 days. However, the Illinois Department may set the rate of reimbursement for the acquisition cost, by rule, at a percentage of the current average wholesale acquisition cost.

~~(c) (Blank). Reimbursement under this Article for prescription drugs shall be limited to reimbursement for 4 brand name prescription drugs per patient per month. This subsection applies only if (i) the brand name drug was not prescribed for an acute or urgent condition, (ii) the brand name drug was not prescribed for Alzheimer's disease, arthritis, diabetes, HIV/AIDS, a mental health condition, or respiratory disease, and (iii) a therapeutically equivalent generic medication has been approved by the federal Food and Drug Administration.~~

(d) The Department shall not impose requirements for prior approval based on a preferred drug list for anti-retroviral, anti-hemophilic factor concentrates, or any atypical antipsychotics, conventional antipsychotics, or anticonvulsants used for the treatment of serious mental illnesses until 30 days after it has conducted a study of the impact of such requirements on patient care and submitted a report to the Speaker of the House of Representatives and the President of the Senate.

(Source: P.A. 92-597, eff. 6-28-02; 92-825, eff. 8-21-02; 93-106, eff. 7-8-03.)

(305 ILCS 5/5-11) (from Ch. 23, par. 5-11)

Sec. 5-11. Co-operative arrangements; contracts with other State agencies, health care and rehabilitation organizations, and fiscal intermediaries.

(a) The Illinois Department may enter into co-operative arrangements with State agencies responsible for administering or supervising the administration of health services and vocational rehabilitation services to the end that there may be maximum utilization of such services in the provision of medical assistance.

The Illinois Department shall, not later than June 30, 1993, enter into one or more co-operative arrangements with the Department of Mental Health and Developmental Disabilities providing that the

Department of Mental Health and Developmental Disabilities will be responsible for administering or supervising all programs for services to persons in community care facilities for persons with developmental disabilities, including but not limited to intermediate care facilities, that are supported by State funds or by funding under Title XIX of the federal Social Security Act. The responsibilities of the Department of Mental Health and Developmental Disabilities under these agreements are transferred to the Department of Human Services as provided in the Department of Human Services Act.

The Department may also contract with such State health and rehabilitation agencies and other public or private health care and rehabilitation organizations to act for it in supplying designated medical services to persons eligible therefor under this Article. Any contracts with health services or health maintenance organizations shall be restricted to organizations which have been certified as being in compliance with standards promulgated pursuant to the laws of this State governing the establishment and operation of health services or health maintenance organizations. The Department shall renegotiate the contracts with health maintenance organizations and managed care community networks that took effect August 1, 2003, so as to produce \$70,000,000 savings to the Department net of resulting increases to the fee-for-service program for State fiscal year 2006. The Department may also contract with insurance companies or other corporate entities serving as fiscal intermediaries in this State for the Federal Government in respect to Medicare payments under Title XVIII of the Federal Social Security Act to act for the Department in paying medical care suppliers. The provisions of Section 9 of "An Act in relation to State finance", approved June 10, 1919, as amended, notwithstanding, such contracts with State agencies, other health care and rehabilitation organizations, or fiscal intermediaries may provide for advance payments.

(b) For purposes of this subsection (b), "managed care community network" means an entity, other than a health maintenance organization, that is owned, operated, or governed by providers of health care services within this State and that provides or arranges primary, secondary, and tertiary managed health care services under contract with the Illinois Department exclusively to persons participating in programs administered by the Illinois Department.

The Illinois Department may certify managed care community networks, including managed care community networks owned, operated, managed, or governed by State-funded medical schools, as risk-bearing entities eligible to contract with the Illinois Department as Medicaid managed care organizations. The Illinois Department may contract with those managed care community networks to furnish health care services to or arrange those services for individuals participating in programs administered by the Illinois Department. The rates for those provider-sponsored organizations may be determined on a prepaid, capitated basis. A managed care community network may choose to contract with the Illinois Department to provide only pediatric health care services. The Illinois Department shall by rule adopt the criteria, standards, and procedures by which a managed care community network may be permitted to contract with the Illinois Department and shall consult with the Department of Insurance in adopting these rules.

A county provider as defined in Section 15-1 of this Code may contract with the Illinois Department to provide primary, secondary, or tertiary managed health care services as a managed care community network without the need to establish a separate entity and shall be deemed a managed care community network for purposes of this Code only to the extent it provides services to participating individuals. A county provider is entitled to contract with the Illinois Department with respect to any contracting region located in whole or in part within the county. A county provider is not required to accept enrollees who do not reside within the county.

In order to (i) accelerate and facilitate the development of integrated health care in contracting areas outside counties with populations in excess of 3,000,000 and counties adjacent to those counties and (ii) maintain and sustain the high quality of education and residency programs coordinated and associated with local area hospitals, the Illinois Department may develop and implement a demonstration program from managed care community networks owned, operated, managed, or governed by State-funded medical schools. The Illinois Department shall prescribe by rule the criteria, standards, and procedures for effecting this demonstration program.

A managed care community network that contracts with the Illinois Department to furnish health care services to or arrange those services for enrollees participating in programs administered by the Illinois Department shall do all of the following:

- (1) Provide that any provider affiliated with the managed care community network may also provide services on a fee-for-service basis to Illinois Department clients not enrolled in such managed care entities.
- (2) Provide client education services as determined and approved by the Illinois Department, including but not limited to (i) education regarding appropriate utilization of health care

services in a managed care system, (ii) written disclosure of treatment policies and restrictions or limitations on health services, including, but not limited to, physical services, clinical laboratory tests, hospital and surgical procedures, prescription drugs and biologics, and radiological examinations, and (iii) written notice that the enrollee may receive from another provider those covered services that are not provided by the managed care community network.

(3) Provide that enrollees within the system may choose the site for provision of services and the panel of health care providers.

(4) Not discriminate in enrollment or disenrollment practices among recipients of medical services or enrollees based on health status.

(5) Provide a quality assurance and utilization review program that meets the requirements established by the Illinois Department in rules that incorporate those standards set forth in the Health Maintenance Organization Act.

(6) Issue a managed care community network identification card to each enrollee upon enrollment. The card must contain all of the following:

(A) The enrollee's health plan.

(B) The name and telephone number of the enrollee's primary care physician or the site for receiving primary care services.

(C) A telephone number to be used to confirm eligibility for benefits and authorization for services that is available 24 hours per day, 7 days per week.

(7) Ensure that every primary care physician and pharmacy in the managed care community network meets the standards established by the Illinois Department for accessibility and quality of care. The Illinois Department shall arrange for and oversee an evaluation of the standards established under this paragraph (7) and may recommend any necessary changes to these standards.

(8) Provide a procedure for handling complaints that meets the requirements established by the Illinois Department in rules that incorporate those standards set forth in the Health Maintenance Organization Act.

(9) Maintain, retain, and make available to the Illinois Department records, data, and information, in a uniform manner determined by the Illinois Department, sufficient for the Illinois Department to monitor utilization, accessibility, and quality of care.

(10) Provide that the pharmacy formulary used by the managed care community network and its contract providers be no more restrictive than the Illinois Department's pharmaceutical program on the effective date of this amendatory Act of 1998 and as amended after that date.

The Illinois Department shall contract with an entity or entities to provide external peer-based quality assurance review for the managed health care programs administered by the Illinois Department. The entity shall be representative of Illinois physicians licensed to practice medicine in all its branches and have statewide geographic representation in all specialties of medical care that are provided in managed health care programs administered by the Illinois Department. The entity may not be a third party payer and shall maintain offices in locations around the State in order to provide service and continuing medical education to physician participants within those managed health care programs administered by the Illinois Department. The review process shall be developed and conducted by Illinois physicians licensed to practice medicine in all its branches. In consultation with the entity, the Illinois Department may contract with other entities for professional peer-based quality assurance review of individual categories of services other than services provided, supervised, or coordinated by physicians licensed to practice medicine in all its branches. The Illinois Department shall establish, by rule, criteria to avoid conflicts of interest in the conduct of quality assurance activities consistent with professional peer-review standards. All quality assurance activities shall be coordinated by the Illinois Department.

Each managed care community network must demonstrate its ability to bear the financial risk of serving individuals under this program. The Illinois Department shall by rule adopt standards for assessing the solvency and financial soundness of each managed care community network. Any solvency and financial standards adopted for managed care community networks shall be no more restrictive than the solvency and financial standards adopted under Section 1856(a) of the Social Security Act for provider-sponsored organizations under Part C of Title XVIII of the Social Security Act.

The Illinois Department may implement the amendatory changes to this Code made by this amendatory Act of 1998 through the use of emergency rules in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For purposes of that Act, the adoption of rules to implement these changes is deemed an emergency and necessary for the public interest, safety, and welfare.

(c) Not later than June 30, 1996, the Illinois Department shall enter into one or more cooperative arrangements with the Department of Public Health for the purpose of developing a single survey for nursing facilities, including but not limited to facilities funded under Title XVIII or Title XIX of the

federal Social Security Act or both, which shall be administered and conducted solely by the Department of Public Health. The Departments shall test the single survey process on a pilot basis, with both the Departments of Public Aid and Public Health represented on the consolidated survey team. The pilot will sunset June 30, 1997. After June 30, 1997, unless otherwise determined by the Governor, a single survey shall be implemented by the Department of Public Health which would not preclude staff from the Department of Public Aid from going on-site to nursing facilities to perform necessary audits and reviews which shall not replicate the single State agency survey required by this Act. This Section shall not apply to community or intermediate care facilities for persons with developmental disabilities.

(d) Nothing in this Code in any way limits or otherwise impairs the authority or power of the Illinois Department to enter into a negotiated contract pursuant to this Section with a managed care community network or a health maintenance organization, as defined in the Health Maintenance Organization Act, that provides for termination or nonrenewal of the contract without cause, upon notice as provided in the contract, and without a hearing.

(Source: P.A. 92-370, eff. 8-15-01.)

(305 ILCS 5/12-4.35)

Sec. 12-4.35. Medical services for certain noncitizens.

(a) ~~Notwithstanding~~ Subject to specific appropriation for this purpose, and notwithstanding Section 1-11 of this Code or Section 20(a) of the Children's Health Insurance Program Act, the Department of Public Aid may provide medical services to noncitizens who have not yet attained 19 years of age and who are not eligible for medical assistance under Article V of this Code or under the Children's Health Insurance Program created by the Children's Health Insurance Program Act due to their not meeting the otherwise applicable provisions of Section 1-11 of this Code or Section 20(a) of the Children's Health Insurance Program Act. The medical services available, standards for eligibility, and other conditions of participation under this Section shall be established by rule by the Department; however, any such rule shall be at least as restrictive as the rules for medical assistance under Article V of this Code or the Children's Health Insurance Program created by the Children's Health Insurance Program Act.

(b) The Department is authorized to take any action, including without limitation cessation of enrollment, reduction of available medical services, and changing standards for eligibility, that is deemed necessary by the Department during a State fiscal year to assure that payments under this Section do not exceed available funds ~~the amounts appropriated for this purpose~~.

(c) ~~Continued~~ In the event that the appropriation in any fiscal year for the Children's Health Insurance Program created by the Children's Health Insurance Program Act is determined by the Department to be insufficient to continue enrollment of otherwise eligible children under that Program during that fiscal year, the Department is authorized to use funds appropriated for the purposes of this Section to fund that Program and to take any other action necessary to continue the operation of that Program. Furthermore, ~~continued~~ enrollment of individuals into the program created under this Section in any fiscal year is contingent upon continued enrollment of individuals into the Children's Health Insurance Program during that fiscal year.

(d) (Blank). ~~The General Assembly finds that the adoption of rules to meet the purposes of subsections (a), (b), and (c) is an emergency and necessary for the public interest, safety, and welfare. The Department may adopt such rules through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act, except that the limitation on the number of emergency rules that may be adopted in a 24 month period shall not apply.~~

(Source: P.A. 90-588, eff. 7-1-98.)

Section 25. The All-Inclusive Care for the Elderly Act is amended by changing Sections 10 and 15 as follows:

(320 ILCS 40/10) (from Ch. 23, par. 6910)

Sec. 10. Services for eligible persons. Within the context of the PACE program established under this Act, the Illinois Department of Public Aid may include any or all of the services in Article 5 of the Illinois Public Aid Code.

An eligible person may elect to receive services from the PACE program. If such an election is made, the eligible person shall not remain eligible for payment through the regular Medicare or Medicaid program. All services and programs provided through the PACE program shall be provided in accordance with this Act. An eligible person may elect to disenroll from the PACE program at any time.

For purposes of this Act, "eligible person" means a frail elderly individual who voluntarily enrolls in the PACE program, whose income and resources do not exceed limits established by the Illinois Department of Public Aid and for whom a licensed physician certifies that such a program provides an appropriate alternative to institutionalized care. The term "frail elderly" means an individual who meets

~~the age and functional eligibility requirements, as established by the Illinois Department of Public Aid and the Department on Aging for nursing home care, and who is 65 years of age or older.~~

(Source: P.A. 87-411.)

(320 ILCS 40/15) (from Ch. 23, par. 6915)

Sec. 15. Program implementation.

(a) Upon receipt of federal approval waivers, the Illinois Department of Public Aid shall implement the PACE program ~~pursuant to the provisions of the approved Title XIX State plan as a demonstration program to provide the services set forth in Section 10 to eligible persons, as defined in Section 10, for a period of 3 years. After the 3 year demonstration, the General Assembly shall reexamine the PACE program and determine if the program should be implemented on a permanent basis.~~

(b) Using a risk-based financing model, the nonprofit organization providing the PACE program shall assume responsibility for all costs generated by the PACE program participants, and it shall create and maintain a risk reserve fund that will cover any cost overages for any participant. The PACE program is responsible for the entire range of services in the consolidated service model, including hospital and nursing home care, according to participant need as determined by a multidisciplinary team. The nonprofit organization providing the PACE program is responsible for the full financial risk ~~at the conclusion of the demonstration period and when permanent waivers from the federal Health Care Financing Administration are granted.~~ Specific arrangements of the risk-based financing model shall be adopted and negotiated by the federal Centers for Medicare and Medicaid Services ~~Health Care Financing Administration~~, the nonprofit organization providing the PACE program, and the Illinois Department of Public Aid.

(Source: P.A. 87-411.)

Section 99. Effective date. This Act takes effect July 1, 2005."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Trotter, **House Bill No. 1197**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 30; Nays 27; Present 1.

The following voted in the affirmative:

Clayborne	Garrett	Link	Silverstein
Collins	Haine	Maloney	Sullivan, J.
Crotty	Halvorson	Martinez	Trotter
Cullerton	Harmon	Meeks	Viverito
del Valle	Hendon	Munoz	Wilhelmi
DeLeo	Hunter	Raoul	Mr. President
Demuzio	Jacobs	Ronen	
Forby	Lightford	Schoenberg	

The following voted in the negative:

Althoff	Geo-Karis	Petka	Sieben
Bomke	Jones, J.	Radogno	Sullivan, D.
Brady	Jones, W.	Rauschenberger	Syverson
Burzynski	Lauzen	Righter	Watson
Cronin	Luechtefeld	Risinger	Winkel
Dahl	Pankau	Roskam	Wojcik

[May 30, 2005]

Dillard

Peterson

Rutherford

The following voted present:

Sandoval

This roll call verified.

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Clayborne, **Senate Bill No. 475**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Raoul requested a ruling from the Chair as to whether **Senate Bill No. 475** preempts the powers of Home Rule Units in accordance with Article VII, Section 6 of the Constitution of the State of Illinois.

The Chair ruled that **Senate Bill No. 475** does not preempt the powers of Home Rule Units; therefore, a vote of thirty of the members elected will be required for its passage.

Senator Clayborne moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 36; Nays 22.

The following voted in the affirmative:

Althoff	Garrett	Peterson	Sullivan, J.
Bomke	Geo-Karis	Petka	Syverson
Brady	Haine	Radogno	Watson
Burzynski	Halvorson	Rauschenberger	Wilhelmi
Clayborne	Jacobs	Righter	Winkel
Cronin	Jones, J.	Risinger	Wojcik
Dahl	Jones, W.	Roskam	
Demuzio	Lauzen	Rutherford	
Dillard	Luechtefeld	Sieben	
Forby	Pankau	Sullivan, D.	

The following voted in the negative:

Collins	Hendon	Meeks	Silverstein
Crotty	Hunter	Munoz	Trotter
Cullerton	Lightford	Raoul	Viverito
del Valle	Link	Ronen	Mr. President
DeLeo	Maloney	Sandoval	
Harmon	Martinez	Schoenberg	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 475**.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 12:33 o'clock a.m., the Chair announced that the Senate stand adjourned until Tuesday, May 31, 2005, at 12:00 o'clock noon.

[May 30, 2005]