2025 CASE REPORT

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To the Honorable Members of the General Assembly:

This is the Legislative Reference Bureau's annual review of decisions of the "Federal courts, the Illinois Supreme Court, and the Illinois Appellate Court that affect the interpretation of the Illinois Constitution or statutes," as required by Section 5.05 of the Legislative Reference Bureau Act, 25 ILCS 135/5.05.

The Bureau's attorneys screened all court decisions and prepared the individual case summaries.

Respectfully submitted,

James D. Stivers
Executive Director

INTRODUCTION

This 2025 Case Report contains summaries of recent court decisions and is based on a review, in the summer and fall, of federal court, Illinois Supreme Court, and Illinois Appellate Court decisions published from the summer of 2024 through the summer of 2025.

QUICK GUIDE TO RECENT COURT DECISIONS

SUMMARIES OF RECENT COURT DECISIONS

CODE OF CIVIL PROCEDURE – ATTORNEY'S FEES

Under the Code and rules adopted in accordance with the Code, attorney's fees are not recoverable as costs in supplementary proceedings.

In *Fritz v. Ferry*, 2025 IL App (3d) 240489, the Illinois Appellate Court was asked to decide whether the circuit court erred when it denied the respondent's request for attorney's fees incurred as part of supplementary proceedings to discover assets of a judgment debtor. Subsection (h) of Section 2-1402 of the Code of Civil Procedure (735 ILCS 5/2-1402(h) (West 2022)) provides that "[costs] in [supplementary proceedings] . . . shall be allowed, assessed, and paid in accordance with rules [of the Supreme Court], provided that if the court determines, in its discretion, that costs incurred by the judgment creditor were improperly incurred, those costs shall be paid by the judgment creditor." In connection with its authority under Section 2-1402, the Illinois Supreme Court adopted Rule 277, which specifically lists certain costs that may be awarded in supplementary proceedings. The list in Rule 277 includes "a sum for witness', stenographer's, and officer's fees, telephone and video conference service fees, and the fees and outlays of the sheriff," but it does not mention attorney's fees. The respondent argued that the list in the rule is not exhaustive, and that the court should consult dictionaries to determine the meaning of the term "costs" in Section 2-1402. The court noted that Black's Law Dictionary provides definitions of "costs" that both support and oppose the respondent's reading of the statute. The court also examined Rule 277 and determined that "the implication of the drafter's omission [of attorney fees in the list] is that attorney fees may not be awarded as costs under Rule 277." The court also noted that reading a fee shifting provision into the statute would "contravene the axiom that, absent explicit statutory authority, parties to litigation bear their own attorney fees." The court, therefore, declined to read into the statute and the rule a provision that neither the legislature nor the Illinois Supreme Court expressed and affirmed the circuit court's denial of the respondent's request for attorney's fees.

CODE OF CRIMINAL PROCEDURE OF 1963 – PRETRIAL DETENTION PETITION

The State may file its petition to deny pretrial release at a defendant's first appearance before a judge and is not required to file such a petition at an earlier ex parte hearing.

In *People v. Clark*, 2024 IL 130364, the Illinois Supreme Court was asked to determine whether the Illinois Appellate Court erred when it found that the State's petition for pretrial detention of a criminal defendant was untimely because it was filed at the defendant's first appearance and not earlier at the State's first *ex parte* appearance before a judge. Section 110-6.1(c)(1) of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-6.1(c)(1) (West 2022)) governs the timing of the State's petition for pretrial detention when, as here, the defendant is not entitled to notice of the petition. It provides that "[a] petition may be filed without prior notice to the defendant at the first appearance before a judge." The defendant argued that the State's petition was untimely because the term "first appearance" includes the State's appearance at an *ex parte* hearing. The State argued that the term "first appearance" is limited to the first time a defendant is brought before a judge. The Illinois Supreme Court agreed with the State and found that its petition for pretrial

detention was timely. The court reasoned that the General Assembly's use of the passive voice in Section 110-6.1 indicates that "the legislature intended the term to focus on the occurrence of a specific event rather than any party's appearance in general." The court also reasoned that the term "first appearance" in this context is consistent with the use of the term "initial appearance" in Section 109-1 of the Code (725 ILCS 5/109-1 (West 2022)), referring to an event that occurs when a defendant is first brought before a judge. Ultimately, the court found that the State's interpretation is "the only interpretation that is consistent with the other relevant provisions governing pretrial release."

CODE OF CRIMINAL PROCEDURE OF 1963 – PRETRIAL DETENTION HEARING

The State may petition for the pretrial detention of a criminal defendant who was ordered released before the enactment of Public Act 101-652, subject to conditions that he was unable to complete, if the defendant reopens his conditions hearing.

In *People v. Watkins-Romaine,* 2025 IL 130618, the Illinois Supreme Court was asked to determine whether the Illinois Appellate Court erred when it reversed the circuit court's decision denying the defendant's petition for pretrial release and effectively granting the State's petition for pretrial detention. The defendant had been ordered released subject to a $350,000 bond before the enactment of Public Act 101-652 (commonly known as the Pretrial Fairness Act), but he remained in detention after the enactment of that Public Act due to an inability to meet the conditions of his release. Subsection (e) of Section 110-5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-5(e) (West 2022)) provides that, "[if] a person remains in pretrial detention 48 hours after having been ordered released with pretrial conditions, the court shall hold a hearing to determine the reason for continued detention." That Section also provides that "the court shall reopen the conditions of release hearing to determine what available pretrial conditions exist that will reasonably ensure the appearance of a defendant as required, the safety of any other person, and the likelihood of compliance by the defendant with all the conditions of pretrial release." Section 110-7.5 of the Code of Criminal Procedure of 1963 (725 ILCS 5/110-7.5 (West 2022)) provides that, "[on] and after January 1, 2023, any person who remains in pretrial detention after having been ordered released with pretrial conditions . . . shall be entitled to a hearing under subsection (e) of Section 110-5." The defendant argued that, at the conditions hearing, the State may only contest the proposed conditions for release and may not file a petition for pretrial detention. The State argued that a responsive petition to deny pretrial release was permissible. The court agreed with the State and held that "the State may petition to detain a defendant pretrial when a defendant, who was previously ordered released on an unsatisfied monetary bail, seeks to reopen the conditions of release hearing after September 18, 2023." Although the court noted that Illinois Appellate Court panels have split on the issue of whether the State may petition to detain a defendant who is in this defendant's position, the court found that "it would be unfair to estop the State from litigating its detention petition in this case" because (i) the circuit court order at issue in this case was the first to consider a petition to detain under this particular Section of the Code, (ii) the State "did not have a meaningful incentive to appeal the circuit court's initial order", and (iii) the defendant sought to relitigate an issue that was previously determined in the State's favor. A concurring opinion argued that nothing in the statute allows the State to file a petition for pretrial detention under these circumstances. The concurring justices reasoned that "[the] legislature could have, but did not, say that eligibility of such persons for pretrial release should be redetermined. The choice it made instead was to grant them a hearing under [S]ection 110-5(e)."

CODE OF CRIMINAL PROCEDURE OF 1963 – UNFIT DEFENDANT

A court fails to exercise its discretion under the Code if it does not rule on the placement and least physically restrictive treatment of a defendant who is eligible for pretrial release.

In *People v. Conner*, 2025 IL App (4th) 240972, the Illinois Appellate Court was asked to decide whether the trial court erred by failing to select the least physically restrictive form of treatment for a defendant who was found unfit to stand trial. Subsection (b) of Section 104-15 of the Code of Criminal Procedure of 1963 (725 ILCS 5/104-15(b) (West 2022)) provides that "[t]he [fitness to stand trial] report may include a general description of the type of treatment needed and of the least physically restrictive form of treatment therapeutically appropriate." The defendant argued that the trial court acquiesced to the treatment plan recommended by the State's expert who had performed a fitness evaluation on the defendant. In doing so, the defendant argued that the trial court failed to exercise its discretion to select the least physically restrictive form of treatment for the defendant. The court agreed with the defendant but for a different reason holding that the court failed to exercise its discretion by deferring to the Department of Human Services instead of ruling on the least physically restrictive form of treatment for the defendant. Although the court explained that there is no statutory obligation for either party to present evidence on the form of treatment most suitable for an unfit defendant under Section 104-15, the court looked to the language of subsection (a) of Section 104-17 of the Code of Criminal Procedure of 1963 (725 ILCS 5/104-17(a)(West 2022)), which provides that, where an unfit defendant is eligible for pretrial release, "the court shall select the least physically restrictive form of treatment therapeutically appropriate and consistent with the treatment plan . . ." and "placement may be ordered on an inpatient or an outpatient basis." Because the trial court did not specify in its findings whether the defendant should be treated in an inpatient or outpatient facility and failed to rule on the least physically restrictive form of treatment for the defendant, the court remanded the case so that both issues could be decided by the trial court.

CONSUMER FRAUD AND DECEPTIVE BUSINESS PRACTICES ACT – DAMAGES

A private person must prove actual damages to prevail on a claim for failure to comply with the implied warranty of merchantability brought under the Act.

In *Tangorra v. M & K Automotive, Inc.*, 2025 IL App (1st) 241002, the Illinois Appellate Court was asked to decide whether the circuit court erred when it dismissed the plaintiff's claim that the defendant failed to comply with the implied warranty of merchantability under Section 2L of the Consumer Fraud and Deceptive Business Practices Act (815 ILCS 505/2L (West 2022)) in connection with the sale of a used vehicle. Section 2L provides that "[a]n implied warranty of merchantability is met if a used motor vehicle functions for the purpose of ordinary transportation on the public highway and is substantially free of a defect in a power train component" for a period of 15 days after delivery or when a used motor vehicle is driven 500 miles after delivery, whichever is earlier. It also provides that a sale "may not exclude, modify, or disclaim" the implied warranty of merchantability and provides that "[a]ny person who violates this Section commits an unlawful practice within the meaning of this Act." Subsection (a) of Section 10a of the Act provides that "[a]ny person who suffers actual damage as a result of a

violation of this Act committed by any other person may bring an action against such person." The defendant argued that subsection (a) of Section 10a requires the plaintiff to prove actual damages to prevail on a claim brought under subsection (m) of Section 2L because the plain text of subsection (a) of Section 10a provides that the requirement that the person prove actual damages applies to every claim a person brings under the Act. The plaintiff argued that a violation of the implied warranty of merchantability under subsection (m) of Section 2L does not require proving actual damages because Section 2L is a new, self-contained statute. The court agreed with the defendant, holding that subsection (a) of Section 10a limits all claims brought by persons under the Consumer Fraud and Deceptive Business Practices Act. The court reasoned that the plain text of subsection (a) of Section 10a is unambiguous, and when it says "a violation of this Act" it means every claim under the Act. The court further reasoned that "nothing in the Act suggest[s] that Section 2L operates in a vacuum." Finally, the court noted that other provisions of the Act allow for other entities to prevail on claims under the Act without proving actual damages, but those provisions do not mention an exception to the rule that a claim brought by a person must include actual damages.

COUNTY JAIL GOOD BEHAVIOR ALLOWANCE ACT – SANCTIONS

A person imprisoned in a county jail for violating pretrial release is entitled to a good behavior allowance under the Act for the time the person is imprisoned.

In *People v. Seymore*, 2025 IL App (2d) 240616, the Illinois Appellate Court was asked to decide whether the trial court erred when it ordered that the defendant's sanction of 30 days of imprisonment for violating the terms of his pretrial release was to be served without a good behavior allowance. Subsection (f) of Section 110-6 of the Code of Criminal Procedure (725 ILCS 5/110-6(f)) provides for sanctions if the defendant violates the conditions of the defendant's pretrial release. Those sanctions may include a verbal or written admonishment by the court, imprisonment in the county jail for a period not to exceed 30 days, or a modification of pretrial conditions. Section 3 of the County Jail Good Behavior Allowance Act (730 ILCS 130/3 (West 2022)) provides that "[the] good behavior of any person who commences a sentence of confinement in a county jail for a fixed term of imprisonment shall entitle such person to a good behavior allowance," subject to specified exceptions. In ordering that a good-conduct credit does not apply in this case, the trial court reasoned that "if the legislature had intended that [a sanctions finding] was a finding of contempt that would also then entitle [the defendant] to [a good-conduct credit], they could have included that in the statute." On appeal, the defendant argued that he was entitled to a good behavior allowance because the County Jail Good Behavior Allowance Act applies to all incarcerations, and a violation of pretrial release is not a specified exception to that Act. On appeal, the State did not address the merits of the defendant's argument but argued that the Illinois Appellate Court did not have jurisdiction over the appeal. After finding that the Illinois Appellate Court did have jurisdiction, the court agreed with the defendant, holding that he was entitled to a good behavior allowance for his time spent imprisoned in a county jail as a result of his sanction for violation of pretrial release. The Court reasoned that: (i) the County Jail Good Behavior Allowance Act applies generally to sentences of confinement, and none of the six exceptions listed in that Act applied in this case; (ii) the nature of the sanction in this case was similar to criminal contempt, for which a good-conduct credit has been held to apply; and (iii) the General Assembly amended Section 3 of the County Jail Good Behavior Allowance Act in Public Act 101-652, but it did not include sanctions as a seventh exception to the Act. Accordingly, the court reasoned that it would not "read into [the statute] exceptions, conditions, or limitations that the legislature did not express."

CRIMINAL CODE OF 2012 – AGGRAVATED UNLAWFUL USE OF A WEAPON

The ban on unlicensed public carriage of a weapon, including the requirements to obtain a concealed carry license and a Firearm Owner's Identification Card, is not facially unconstitutional.

In *People v. Thompson*, 2025 IL 129965, the Illinois Supreme Court was asked to decide whether the Illinois Appellate Court erred when it upheld the constitutionality of the aggravated unlawful use of a weapon statute, Section 24-1.6(a)(1), (a)(3)(A-5) of the Criminal Code of 2012 (720 ILCS 5/24-1.6(a)(1), (a)(3)(A-5) (West 2020)), without first applying the text-and-history standard set forth in *New York State Rifle & Pistol Ass'n v. Bruen,* 597 U.S. 1, 142 S.Ct. 2111 (2022). Under Section 24-1.6(a)(1), a person commits aggravated unlawful use of a weapon when the person knowingly "carries on or about his person . . . a handgun, pistol, or revolver . . . [and] the person possessing the pistol, revolver, or handgun has not been issued a currently valid license under the Firearm Concealed Carry Act." In addition, the unlawful use of a weapon (UUW) statute, (720 ILCS 5/24-1(a)(10)(iv) (West 2020)), requires that a firearm must be "carried or possessed in accordance with the Firearm Concealed Carry Act." (430 ILCS 66/5 (West 2020)). The defendant argued that the Illinois Appellate Court's judgment should be reversed because his conviction was based on a statute that was facially unconstitutional. The defendant argued that, under the text-and-history standard established in *Bruen*, Section 24-1.6(a)(1) violates the Second Amendment of the United States Constitution (U.S. CONST. amend. II) by "categorically banning law-abiding citizens from openly carrying a handgun in public" and "enforcing an ahistorical double licensing process that mandates both a concealed carry license (CCL) and a Firearm Owner's Identification (FOID) card." The Illinois Supreme Court determined that, because the defendant was convicted under Section 24-1.6, the issue properly before the court was the constitutionality of the statute's enforcement of the CCL licensing regime, which also incorporated FOID card licensure. The CCL licensing regime and the FOID card licensure process both provide that the applicable regulating entity "shall issue" the relevant license if an applicant for the license meets certain criteria. In examining the decision made by the United States Supreme Court in *Bruen*, the Illinois Supreme Court found that the *Bruen* court declared that shall-issue licensing regimes, like those for CCLs and FOID cards in Illinois, are facially constitutional under the Second Amendment because they do not allow licensing discretion nor do they require a showing of an atypical need for self-defense by the applicant. The Illinois Supreme Court, using the findings of the *Bruen* court, declared that Section 24-1.6(a)(1) of the Criminal Code of 2012 was not facially unconstitutional. Nevertheless, the dissent argued that the majority reached an incorrect conclusion regarding the holding of *Bruen* and its applicability to the case at issue. The dissent reasoned that the holding in *Bruen* requires courts to apply the text-and-history standard when they are faced with the constitutional issue at hand in this case and that "only *after* the government meets its burden under the text-and-history test may a court conclude that the individual's conduct falls outside the Second Amendment's unqualified command." The dissent further reasoned that the *Bruen* court applied a text-and-history standard only to may-issue licensing schemes, such as New York's regulatory scheme, but it did not undertake a similar analysis with respect to shall-issue states.

CRIMINAL CODE OF 2012 – IDENTITY THEFT

A provision criminalizing identity theft is unconstitutional because it does not contain a criminal-purpose requirement, punishes innocent conduct, and is not a rational way of addressing the problem of identity theft.

In *People v. Cadengo*, 2025 IL App (4th) 240568, the Illinois Appellate Court was asked to decide whether the defendant's conviction for identity theft should be vacated because the statutory provision under which she was convicted is facially unconstitutional. Paragraph (7) of subsection (a) of Section 16-30 of the Criminal Code of 2012 (720 ILCS 5/16-30(a)(7)) provides that "[a] person commits identity theft when he or she knowingly . . . uses any personal identifying information or personal identification document of another for the purpose of gaining access to any record of the actions taken, communications made or received, or other activities or transactions of that person, without the prior express permission of that person[.]" The defendant argued that the provision is facially unconstitutional because it denies her due process of law and because the Illinois Supreme Court, in *People v. Madrigal*, 241 Ill. 2d 463 (2011), held that a substantially similar provision criminalizing "the offense of identity theft" was unconstitutional. The State conceded that the underlying identity theft statute in this case was facially unconstitutional. The court, relying on *Madrigal*, agreed with the parties, vacated the conviction, and held that there was no basis to distinguish the identity theft statute in this case from the identity theft statute that was declared unconstitutional in *Madrigal*. The court reasoned that, like the statute in *Madrigal,* Section 16-30(a)(7) does not contain a criminal-purpose requirement and "punishes as a felony a wide array of wholly innocent conduct." The court also reasoned that Section 16-30(a)(7) is not "a rational way of addressing the problem of identity theft."

CRIMINAL CODE OF 2012 — UNLAWFUL POSSESSION OF A WEAPON BY A FELON

A defendant's prior felony conviction as a juvenile may be used as a predicate offense to support a conviction for unlawful possession of a weapon by a felon.

In *People v. Shannon,* 2024 IL App (1st) 230042, the Illinois Appellate Court was asked to decide (i) whether the circuit court erred when it found the defendant guilty of both unlawful possession of a weapon by a felon and aggravated unlawful use of a weapon and (ii) whether the sentence imposed by the circuit court violates the one-act, one-crime doctrine. The defendant raised several arguments on appeal, including that the sentences imposed for his convictions violate the one-act, one-crime doctrine and that the State did not present sufficient evidence to prove that he was a felon. A person commits the offense of unlawful possession of a weapon by a felon under subsection (a) of Section 24-1.1 of the Criminal Code of 2012 (720 ILCS 5/24-1.1 (West 2022)) when the person "knowingly [possesses]. . . any firearm . . . if the person has been convicted of a felony under the laws of this State or any other jurisdiction." A person commits the offense of aggravated unlawful use of a weapon under Section 24-1.6 of the Criminal Code of 2012 (720 ILCS 5/24-1.6 (West 2022)) when he or she "knowingly . . . carries on or about his or her person or in any vehicle or concealed on or about his or her person . . . any pistol, revolver, stun gun or taser or other firearm . . . [and] the pistol, revolver, or handgun possessed was uncased, loaded, and immediately accessible at the time of the offense and the person possessing the pistol, revolver, or handgun has not been issued a currently valid license

under the Firearm Concealed Carry Act[.]" The defendant argued, and the State conceded, that one of his convictions should be vacated because both of his convictions arose out of the same act, possession of a single firearm. Nevertheless, the parties disagreed about which conviction should be vacated. Ultimately, the court held that the defendant's conviction for aggravated unlawful use of a weapon should be vacated because it was the less serious offense. The court reasoned that the General Assembly considered unlawful possession of a weapon by a felon to be a more serious offense because the General Assembly provided for a greater possible maximum punishment for that offense. The defendant also argued that the evidence was insufficient to prove beyond a reasonable doubt that the defendant "[had] been convicted of a felony." The defendant argued that his previous conviction occurred when he was 15 years of age. At the time of his previous conviction, the offense was required to be automatically transferred from juvenile court to adult court. Subsequent changes to the Juvenile Court Act of 1987 (705 ILCS 405/ Art. V) removed the offense of firearm possession in a school, when committed by a minor, from the statutory list of offenses that are automatically transferred from juvenile to adult court. The defendant asserted that, under the State's current juvenile justice standards, it is unlikely that his 2008 firearm possession case would have been transferred to adult court and resulted in a criminal conviction. The State argued that the defendant waived his right to challenge the sufficiency of the State's supporting evidence when the defendant stipulated at trial that he had a prior conviction for possession of a firearm at a school. The court agreed with the State and upheld the defendant's conviction, holding that the defendant's stipulation as to his 2008 firearm conviction "was sufficient to show beyond a reasonable doubt" that the defendant had a prior felony conviction within the meaning of subsection (a) of Section 24-1.1. The court reasoned that "the prior conviction element [under subsection (a) of Section 24-1.1] requires the prosecution to prove only the defendant's felon status at the time he committed the [offense under subsection (a) of Section 24-1.1]." (Internal quotation marks omitted). The court noted that, at the time the defendant was charged with an offense under subsection (a) of Section 24-1.1, his 2008 felony firearm conviction had not been overturned and was therefore still valid and enforceable as a predicate offense.

The dissent argued that the majority misinterpreted the plain language of subsection (a) of Section 24-1.1 and erroneously expanded its scope to include as a predicate offense any past offense that is no longer criminalized or classified as a felony under the laws of this State or in any other jurisdiction, such as certain sodomy and marijuana offenses. The dissent reasoned that subsection (a) of Section 24-1.1 "carries with it a present-sense component when it states, 'under the laws of this State or any other jurisdiction.'" Consequently, the dissent interpreted the scope of subsection (a) of Section 24-1.1 to include as predicate offenses only those offenses that are criminalized as felonies under the laws of this State, or in any other jurisdiction, at the time the Section 24-1.1 offense was committed. According to the dissent, any other interpretation would cause the General Assembly to "lose its preeminence to control and guide policy [through the revision of State laws] if courts interpreted [Section 24-1.1] in a way that turned back the clock to outdated or invalid statutes." The dissent acknowledged that it is not clear if the 2014 and 2016 amendments to the Juvenile Court Act of 1987 can be retroactively applied to a defendant's felony conviction as a juvenile. However, the dissent opined that the majority's finding that a past outdated juvenile felony can be used as a predicate offense to support a subsequent conviction under Section 24-1.1 is inconsistent with the spirit of the State's current juvenile justice system, which aims to rehabilitate young offenders and not impose restrictive penalties that unduly impair their future enjoyment of certain civil liberties.

FIREARM OWNERS IDENTIFICATION CARD ACT – RESTORATION OF RIGHTS

An Illinois court may not restore a petitioner's firearm rights under the Act that were lost due to a prior federal conviction if the petitioner does not provide evidence that his firearm rights were restored at the federal level.

In *Banks v. State's Attorney of Cook County*, 2025 IL App (1st) 232046, the Illinois Appellate Court was asked to determine whether the circuit court erred in restoring a petitioner's firearm rights that were lost due to a prior federal conviction, where the petitioner did not provide evidence that his firearm rights were restored at the federal level. Paragraph (4) of subsection (c) of Section 10 of the Firearm Owners Identification Card Act (430 ILCS 65/10(c)(4) (West 2022)) provides that, "[a]ny person prohibited from possessing a firearm . . . or acquiring a Firearm Owner's Identification Card . . . may apply to the Firearm Owner's Identification Card Review Board or petition the circuit court in the county where the petitioner resides . . . requesting relief from such prohibition and the Board or court may grant such relief if it is established by the applicant to the court's or the Board's satisfaction that granting relief . . . would not be contrary to federal law." The petitioner argued that, since he satisfied the other conditions of subsection (c) of Section 10 of the Firearm Owners Identification Card Act (430 ILCS 65/10(c) (West 2022)), the federal prohibition should be removed and his firearm rights should be restored. The respondent argued that the petitioner was ineligible for a Firearm Owners Identification Card because he was prohibited from possessing a firearm under federal law and because an Illinois court cannot restore the rights he lost based on the federal conviction. The court agreed with the respondent, holding that the circuit court erred in restoring the petitioner's firearm rights since doing so may be contrary to federal law. The court reasoned that the determination of whether a person should have his civil rights restored is governed by the law of the convicting jurisdiction. The court noted that, in this case, the petitioner had both federal and Illinois convictions. While the circuit court could restore his firearm rights lost due to his Illinois convictions, it lacked the jurisdiction to restore his firearm rights lost due to his federal convictions. The court concluded that the petitioner should be allowed to present to the circuit court any evidence that shows his federal convictions no longer prevent him from possessing a firearm under federal law. A concurring opinion agreed with the majority that there was no dispute that Illinois is not the convicting jurisdiction for the petitioner's federal conviction, nor has the petitioner presented any evidence that the petitioner's firearm rights were restored at the federal level; therefore, the petitioner was ineligible to possess a firearm under federal and Illinois law and cannot be issued a Firearm Owner's Identification Card.

FREEDOM OF INFORMATION ACT – DISCLOSURE OF ACADEMIC RECORDS

Personally identifiable information that is prohibited from disclosure under the federal Family Educational Rights and Privacy Act of 1974 is exempt from disclosure under the Freedom of Information Act; however, those records may be disclosed if that information is redacted.

In *Better Government Association v. City Colleges of Chicago,* 2024 IL App (1st) 221414, the Illinois Appellate Court was asked to decide whether the trial court erred when it entered summary judgment in favor of the plaintiff and held that certain records related to City Colleges' graduation rates were subject to disclosure under the Freedom of

Information Act (FOIA) (5 ILCS 140/1 *et seq.* (West 2018)). Subparagraph (a) of paragraph (1) of Section 7 of the Freedom of Information Act provides that "information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law" is exempt from disclosure under FOIA. The federal Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. 1232g) provides that "[no] funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein [other than certain specified information]) of students without the written consent of their parents to any individual, agency, or organization." The defendant argued that FERPA constitutes a prohibition on the disclosure of academic records under federal law, and that the exception to disclosure under FOIA therefore applied. The plaintiff argued that the prohibition under FERPA is not mandatory and is not a specific prohibition. The court agreed with the defendant, holding that the exception under FOIA applies to personal identifiable information contained within academic records. The court reasoned that FERPA was intended to prevent the disclosure of personally identifiable information contained within academic records. While the court agreed with the plaintiff that educational records that did not contain personally identifiable information were not protected from disclosure under FERPA, the court found that it was not clear whether the records the plaintiff was seeking contained such information. The court, therefore, reversed summary judgment and remanded the case to the circuit court for *in camera* inspection and redaction of any personally identifiable information contained within the requested records.

ILLINOIS EDUCATIONAL LABOR RELATIONS ACT – COLLECTION OF DUES

An employer's motive is relevant when determining whether the employer has violated the duty to bargain and committed an unfair labor practice by failing to withhold union dues from its employees and remit those dues to the union.

In *Harlem Consolidated School District 122, IFT-AFT, AFL-CIO v. Harlem Federation of Teachers Local 540*, 2025 IL App (4th) 240860, the Illinois Appellate Court was asked to decide whether the Illinois Educational Labor Relations Board erred in ruling that the defendant employer committed a violation of the employer's duty to bargain in good faith and an unfair labor practice when it failed to withhold certain union dues from its employees and remit those amounts to the union. Subsection (f) of Section 11.1 of the Illinois Educational Labor Relations Act (115 ILCS 5/11.1(f) (West 2020)) concerns the collection of union dues and provides that "[t]he failure of an educational employer to comply with the provisions of this Section shall be a violation of the duty to bargain and an unfair labor practice. Relief for the violation shall be reimbursement by the educational employer of dues that should have been deducted or paid based on a valid authorization given by the educational employee or employees." The plaintiff argued that the defendant failed to comply with the defendant's duty to bargain and committed an unfair labor practice because the defendant failed to deduct and remit union dues from bargaining union members' paychecks. It further argued that the defendant's motive was irrelevant under the statute. The defendant argued that the defendant's motive for not deducting and remitting union dues is relevant when determining whether the defendant violated the Section. The court agreed with the defendant, holding that motive is relevant when determining if an employer's failure to comply with subsection (f) of Section 11.1 constitutes a violation of the duty to bargain and an unfair labor practice. The court reasoned that subsection (f) does not create a strict liability offense, nor does it create a *per se* violation of the duty to bargain. The court reasoned that the terms "duty to bargain" and "unfair labor practice" in

subsection (f) are "terms within labor law unquestionably tied to the motive of the parties since they regularly form the basis of most labor litigation." The court also reasoned that those terms "link section 11.1(f) to other [S]ections in the Act where motive matters."

ILLINOIS INSURANCE CODE – UNDERINSURED MOTORIST COVERAGE

Plaintiff who was struck by an underinsured motorist's car while riding a bicycle was not an insured individual occupying a covered vehicle for purposes of his employer's commercial insurance policy.

In *Rahimzadeh v. Ace American Insurance Company*, 142 F.4th 972 (2025), the United States Court of Appeals for the Seventh Circuit was asked to decide whether the district court erred when it granted the defendant's motion to dismiss for failure to state a claim. The plaintiff was injured when he was struck by a vehicle while riding his bicycle, and his claim for underinsured motor vehicle coverage under his employer's commercial automobile policy was denied. Paragraph (4) of Section 143a-2 of the Illinois Insurance Code (215 ILCS 5/143a-2(4) (West 2022)) provides that "no policy insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be renewed or delivered or issued for delivery in this State with respect to any motor vehicle designed for use on public highways and required to be registered in this State unless underinsured motorist coverage is included in such policy in an amount equal to the total amount of uninsured motorist coverage provided in that policy where such uninsured motorist coverage exceeds the limits set forth in Section 7-203 of the Illinois Vehicle Code." The plaintiff argued that, in *Galarza v. Direct Auto Ins. Co.*, 2023 IL 129031, 234 N.E.3d 75, the insurance company denied coverage in connection with an accident because the injured party was not occupying an insured vehicle, yet the court in *Galarza* determined that the proper inquiry was whether the injuries were derived from the ownership, maintenance, or use of a motor vehicle, including the uninsured at-fault vehicle. The defendant argued that *Galarza* pertained to a personal automobile insurance policy while this case concerned a commercial automobile insurance policy. In *Stark v. Illinois Emcasco Ins. Co.*, 373 Ill. App. 3d 804, 869 N.E.2d 957 (2007), the named insured under the commercial automobile insurance policy was the company, not the individual plaintiff, and the plaintiff was not occupying a covered vehicle during the accident, as required by the policy. The court agreed with the defendant, holding the plaintiff was not an insured under his employer's policy and that he was not occupying a covered vehicle during the accident. The court reasoned that the previous decision in *Galarza* distinguished *Stark* instead of overturning it, and "the public policy concerns that animate commercial insurance policies are different from those that predominate in personal policies."

ILLINOIS PENSION CODE – DISABILITY BENEFITS

A police officer may prove that he is disabled under the Code if the officer can provide sufficient evidence of disability and the employer will not allow the officer to return to work, notwithstanding the findings of the physician appointed by the Retirement Board.

In *Moreland v. Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago*, 2024 IL App (1st) 240049, the Illinois Appellate Court was asked to decide whether the Retirement Board of the Policemen's Annuity and Benefit Fund of the City of Chicago (Board) erred when it denied the plaintiff's claim for disability benefits under Article 5 of the Illinois Pension Code. Section 5-156 of Article 5 of the Illinois Pension Code (40 ILCS 5/5-156 (West 2022)) provides that "[p]roof of duty, occupational

disease, or ordinary disability shall be furnished to the board by at least one licensed and practicing physician appointed by the board." In this case, the Board's appointed doctor concluded that the plaintiff could return to full, unrestricted duty after an injury, but the Department declined to offer him either a full reinstatement or a limited duty position due to his injuries. The plaintiff argued that this placed him in "an untenable Catch-22," where he could not return to work and also could not receive disability benefits. The Board found that the plaintiff was ineligible to receive benefits because the doctor appointed by the Board determined that the plaintiff could work full, unrestricted duty. The court agreed with the plaintiff, holding that the plaintiff was eligible to receive disability benefits. Although the court recognized that the Illinois Appellate Court in *Nowak v. Retirement Board of the Fireman's Annuity & Benefit Fund of Chicago*, 315 Ill. App.3d 403, 410, 248 Ill. Dec. 129, 733 N.E.2d 804 (2000), had interpreted an identical provision in Article 6 of the Illinois Pension Code (40 ILCS 5/6-153 (West 2022)) in a manner that would suggest that the Board had properly denied the plaintiff's disability benefits in this case, the court found that the particular facts of this case were closer to the facts in *Kouzoukas v. Retirement Board of the Policemen's Annuity & Benefit Fund of Chicago,* 234 Ill.2d 446 (2009), and *Ohlicher v. Retirement Board of the Policemen's Annuity and Benefit Fund of Chicago,* 2024 IL App 231699-U, because both of those cases involved plaintiffs who had not been granted positions by the Department that would accommodate their needs. In this case, the court found that the plaintiff had met his burden to prove that he is disabled within the meaning of the Illinois Pension Code, and that the decision of the Board was against the manifest weight of the evidence.

ILLINOIS POWER OF ATTORNEY ACT – SUCCESSOR IN INTEREST

A person who was never named as a beneficiary on a decedent's investment account is not a "successor in interest" for purposes of the Act and does not have standing to assert a claim for breach of fiduciary duty with respect to that property.

In *In re Estate of Piton*, 2024 IL App (3d) 240051, the Illinois Appellate Court was asked to decide whether the trial court erred when it granted the defendant's motion to dismiss based on the plaintiffs' lack of standing. Plaintiffs, who were several nieces and nephews of a decedent, had filed suit against their aunt, the decedent's sole surviving sibling, for breach of fiduciary duty, tortious interference with inheritance expectancy, undue influence, and fraud, alleging that their aunt had failed to name them as beneficiaries of certain of the decedent's investment accounts as the decedent had instructed her to do when she was acting as his agent. Subsection (c) of Section 2-7 of the Illinois Power of Attorney Act (755 ILCS 45/2-7 (West 2022)) provides that "[an] agent that violates this Act is liable to the principal or the principal's successors in interest for the amount required (i) to restore the value of the principal's property to what it would have been had the violation not occurred and (ii) to reimburse the principal or the principal's successors in interest for the attorney's fees and costs paid on the agent's behalf." The plaintiffs argued that they had standing because they were successors in interest under the Act. The defendant argued that the plaintiffs were not successors in interest under the Act. The court agreed with the defendant, holding that the plaintiffs did not have standing to assert their claims. In doing so, the court noted that the term "successor in interest" is not defined in the relevant statutory provisions. As a result, the court looked to the Black's Law Dictionary definition of the term to ascertain its ordinary and popularly understood meaning. After doing so, the court found that a person named as a beneficiary of an account is a successor in interest and would have standing to assert a claim "because a beneficiary follows an account holder in ownership of an account." However, because the plaintiffs were never named as beneficiaries, they "failed to establish that they had a right or interest

in the accounts that would qualify them as successors in interest who could bring a breach of fiduciary duty claim against [the defendant]." The dissent argued that "[if the decedent] had passed intestate, the petitioners would have inherited under the Probate Act, making them successors." The dissent also argued that "[failure] to afford individuals situated in this position standing would enable others to abuse their fiduciary relationship on a mere technicality."

ILLINOIS VEHICLE CODE – AUTOMATED SPEED ENFORCEMENT SYSTEM

The City of Chicago is not a "park district" for purposes of the placement of speed cameras near specified safety zones.

In *Levine v. City of Chicago*, 2024 IL App (1st) 231245, the Illinois Appellate Court was asked to decide whether the circuit court erred when it entered summary judgment in favor of the City of Chicago in a suit involving the placement of an automated speed enforcement system (speed camera) near specified parks in the City of Chicago. Section 11-208.8 of the Illinois Vehicle Code (625 ILCS 5/11-208.8 (West 2012)) provides that "an automated speed enforcement system is a system located in a safety zone . . . 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." That Section includes in the definition of "safety zone" property that is "within one-eighth of a mile from the nearest property line of any facility, area, or land owned by a park district [and] used for recreational purposes." The term "park district" is not defined in that Section. In this case, although the City of Chicago holds title to the land underneath the parks in question, the property is subject to various agreements conferring certain rights and privileges in the property to the Chicago Park District, and the Chicago Park District is the only party charged with the operation of the parks. The plaintiff argued that the speed cameras in question were not located within one-eighth of a mile from park district property because the parks in question are owned by the City and not by the Chicago Park District. The plaintiff also argued that the City of Chicago is not a "park district" within the meaning of Section 11-208.8 of the Illinois Vehicle Code. The City argued that the term "park district" has a broader meaning but is ultimately ambiguous. The City also argued that the Chicago Park District is an owner of the park's facilities, areas, and land, notwithstanding that the property is titled with the City. The court found that the City could be considered a "park district" in certain cases but not with respect to the particular parks in this case. In doing so, the court looked to the definition of "park district" in provisions of the Illinois Vehicle Code concerning speed limits applicable to vehicles passing parks and recreation facilities (625 ILCS 5/11-605.3 (West 2022)). That Section provides that municipalities that "[operate] a public recreation department or public recreation facilities" may be considered "park districts." Although the City does operate some public recreation facilities, it does not operate the parks in question in this case. The court then considered whether the Chicago Park District is an owner of the park property for the purpose of designating a safety zone. The court found that the Chicago Park District "owned" at least part of the parks in this case because the Park District had some control over the property, set rules with respect to the property, and owned some of the facilities on the property. Because the court identified genuine issues of material fact with respect to the ownership of the property, the court reversed the circuit court's order granting summary judgment in favor of the City and remanded the case for further proceedings.

ILLINOIS VEHICLE CODE – CANNABIS CONTAINER

The odor of raw cannabis, without more, is sufficient to establish probable cause to search a vehicle.

In *People v. Molina*, 2024 IL 129237, the Illinois Supreme Court was asked to decide whether the Illinois Appellate Court erred when it reversed the trial court's granting of the defendant's motion to suppress cannabis that was seized from the defendant during a traffic stop after a State trooper noticed the odor of raw cannabis coming from the vehicle. Possession of cannabis within a motor vehicle is governed by two statutory provisions that each contain distinct requirements. Although Section 10-5 of the Cannabis Regulation and Tax Act (410 ILCS 705/10-5 (West 2020)) legalized the possession of small amounts of cannabis, Section 10-35 of that Act (410 ILCS 705/10-35 (West 2020)) provides that the possession of cannabis may be prohibited "in a vehicle not open to the public unless the cannabis is in a reasonably secured, sealed, or resealable container and reasonably inaccessible while the vehicle is moving." At the same time, subsection (c) of Section 11-502.15 of the Illinois Vehicle Code (625 ILCS 5/11-502.15(c) (West 2020)) provides that "[n]o passenger may possess cannabis within any passenger area of any motor vehicle upon a highway in this State except in a secured, sealed or resealable, odor-proof, child-resistant cannabis container that is inaccessible." The defendant argued that the odor of raw cannabis, without more, is insufficient to establish probable cause to search a vehicle because of the right of Illinois citizens over the age of 21 to possess certain amounts of cannabis under the Cannabis Regulation and Tax Act. The defendant also argued that: (1) the provision governing the possession of cannabis in a motor vehicle under the Cannabis Regulation and Tax Act cannot be harmonized with the provisions governing the possession of cannabis in a motor vehicle under the Illinois Vehicle Code; (2) the Cannabis Regulation and Tax Act is both more specific and more recently enacted; and (3) as a result, the odor-proof container requirement, which appears in the Illinois Vehicle Code but does not appear in the Cannabis Regulation and Tax Act, is invalid. The court disagreed with the defendant, holding that the Illinois Vehicle Code's requirement that cannabis that is in a motor vehicle be stored in a sealed, odor-proof, child-resistant cannabis container is an exception to the Cannabis Regulation and Tax Act's general grant of immunity regarding the possession or transportation of up to 30 grams of cannabis by an Illinois citizen who is over the age of 21, and that the odor of raw cannabis is sufficient to establish probable cause to search a vehicle. The court reasoned that, because the relevant provisions in the Illinois Vehicle Code were in the same Public Act that created the Cannabis Regulation and Tax Act, the Illinois Vehicle Code provisions created an additional requirement that cannabis in an automobile must be stored in an odor-proof container. As a result, the odor of raw cannabis coming from a vehicle gives law enforcement probable cause to search the vehicle. The Illinois Supreme Court suggested that the General Assembly should amend both the Illinois Vehicle Code and the Cannabis Regulation and Tax Act to establish consistency, criticizing Senate Bill 125 and House Bill 1206 of the 103rd General Assembly. The dissent argued that there should be no probable cause to search a vehicle based on the odor of raw cannabis because "it makes no sense to treat raw cannabis as more probative when the odor of burnt cannabis may suggest recent use, whereas the odor of raw cannabis does not suggest consumption," citing the alternative outcome for burnt cannabis in *People v. Redmond*, 2024 IL 129201.

LAW ENFORCEMENT OFFICER-WORN BODY CAMERA ACT – DISCLOSURE

Crime victims and witnesses have a reasonable expectation that their recorded encounters with police captured by officer-worn body cameras will not be disclosed under the Act without their written consent.

In *NBC Subsidiary (WMAQ-TV) LLC v. Chicago Police Department,* 2025 IL App (1st) 240629, the Illinois Appellate Court was asked to determine if the circuit court erred in granting the defendant's cross-motion for summary judgment while finding that requested body camera recordings showing police interviews at the scene of a fatal hit-and-run accident were exempt from disclosure through the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2022)) by operation of Section 10-20(b)(1) of the Law Enforcement Officer-Worn Body Camera Act (50 ILCS 706/10-20(b)(1) (West 2022)) because the recorded victims and witnesses had a "reasonable expectation of privacy" and did not give written consent for their recorded interactions with police to be released to the media or the general public. Subsection (b) of Section 10-20 of the Law Enforcement Officer-Worn Body Camera Act provides that "[r]ecordings made with the use of an officer-worn body camera are not subject to disclosure under the Freedom of Information Act, except that: (1) if the subject of the encounter has a reasonable expectation of privacy, at the time of the recording, any recording which is flagged, due to . . . resulting death or bodily harm, shall be disclosed in accordance with the Freedom of Information Act if: (A) the subject of the encounter captured on the recording is a victim or witness; and (B) the law enforcement agency obtains written permission of the subject or the subject's legal representative." In contrast, Section 10-20(b)(2) provides that, "except as provided under paragraph (1), any recording which is flagged due to . . . resulting death or bodily harm shall be disclosed in accordance with the Freedom of Information Act." The plaintiff argued that the circuit court erred in its finding that Section 10-20(b)(1) barred public disclosure of the requested body camera recordings, asserting that Section 10-20(b)(1) was inapplicable because the victims and witnesses "had no reasonable expectation of privacy" since their interactions with police were recorded on a public street. Moreover, the plaintiff asserted that the "reasonable expectation of privacy" clause under Section 10-20(b)(1) is ambiguous and should be interpreted as having the same meaning as the Fourth Amendment privacy test set forth in *Katz v. United States*, 389 U.S. 347 (1967), which requires for a finding of Fourth Amendment infringement "(1) that a person . . . exhibited an actual (subjective) expectation of privacy and (2) that the expectation be one that society is prepared to recognize as reasonable." After applying the privacy test from *Katz*, the plaintiff argued that the requested body camera recordings were disclosable under the less stringent Section 10-20(b)(2) because "there [was] no basis for concluding" that the witnesses expected their recorded public encounters and statements to police to remain private and, therefore, no need for police to obtain the witnesses' written consent for public disclosure of the recordings as required under Section 10-20(b)(1). The defendant did not raise any arguments on appeal. The appellate court disagreed with the plaintiff and affirmed the circuit court's decision, holding that the victims and witnesses had a reasonable expectation of privacy at the time of their recorded encounters with police, thereby making the body camera recordings subject to Section 10-20(b)(1)'s requirement that the police first obtain the witnesses' written consent prior to the recordings public release. The appellate court reasoned that the "reasonable expectation of privacy" phrase under Section 10-20(b)(1) is not ambiguous as the plaintiff asserted and that when reading the plain language of the statute in its totality, it is evident that the General Assembly intends for that phrase "to have a broader meaning than it does under fourth amendment law." The appellate court noted that Section 10-20(b) "is specifically addressing the disclosure of body camera recordings

under [the Freedom of Information Act]" and is therefore concerned with protecting the reasonable privacy expectations of vulnerable crime victims and witnesses who risk possible retaliation for their statements to police. Consequently, the appellate court found that Section 10-20(b)(1)'s "reasonable expectation of privacy" prong "is intended . . . to account for the fact" that during a police investigation a crime victim or witness recognizes that body camera recordings of their interactions and conversations with police might be used in furtherance of the investigation. However, "the victim or witness does not necessarily forfeit the reasonable expectation, stemming from the right to privacy, that the law enforcement agency will not disseminate that recording to the news media or the public at large" given the possible sensitive information or images recorded. According to the appellate court, this interpretation of Section 10-20(b)(1) "most reasonably advances the legislative purpose of "protecting individual privacy" while also furthering the goals of helping to collect evidence, improving transparency and accountability, and strengthening public trust in law enforcement."

MEDICAL CORPORATION ACT – STATUTE OF REPOSE

For the purposes of the statute of repose in a wrongful death suit, a medical corporation is "duly licensed" if the treating physician is licensed under the Medical Practice Act of 1987.

In *Hamblin v. Ogunleye*, 2024 IL App (4th) 240645, the Illinois Appellate Court was asked to decide whether the trial court erred when it granted the defendant medical corporation's motion for summary judgment in a survival and wrongful death suit because the claims were barred by the statute of repose. Section 13-212 of the Code of Civil Procedure (735 ILCS 5/13-212 (West 2018)), which sets forth the statute of repose governing the claims in this case, applies to actions "for damages for injury or death against any physician, dentist, registered nurse, or hospital duly licensed under the laws of this State." Section 2 of the Medical Corporation Act (805 ILCS 15/2 (West 2018)) provides that "medical or surgical treatment, consultation or advice may be given by shareholders, directors, officers, agents, and employees of the corporation only if they are licensed pursuant to the Medical Practice Act of 1987." Although the Medical Corporation Act does not require medical corporations to be "licensed" and refers to the licensure of a medical corporation in only one place, Section 5 of that Act (805 ILCS 15/5 (West 2018)) provides that medical corporations must have a certificate of registration from the Department of Financial and Professional Regulation. The plaintiff argued that, because the defendant medical corporation did not have a certificate of registration from the Department of Financial and Professional Regulation, it was not "duly licensed" and, therefore, not subject to the statute of repose. The defendant argued that the statute of repose applies to the medical corporation because the treating physician was licensed under the Medical Practice Act of 1987. The court agreed with the defendant and held that (1) a certificate of registration is not a "license" for the purposes of the Medical Corporation Act and (2) a medical corporation is "duly licensed" for the purposes of the statute of repose if the practitioner from whose conduct the claim arises is properly licensed under the Medical Practice Act of 1987. After reviewing the relevant case law and the statutory language, the court reasoned that a certificate of registration is not the same as a license because a license is "a substantive and regulatory check intended to (1) ensure that an individual is qualified to practice and (2) protect the public health, safety, and welfare," while a certificate of registration is "intended to allow one or more individuals who are licensed . . . to perform the same professional or related services together and form a corporation through which they can render such services to the public." The court further reasoned that "it would certainly be an absurd and unjust result if a practitioner must be licensed in order to benefit

from the statute of repose, but a medical corporation may benefit indeterminately. It would also be absurd and against the intent of the General Assembly for a medical corporation to never benefit from the protections of the statute of repose."

MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE – INVOLUNTARY ADMISSION

Evidence introduced by the State in connection with a petition for involuntary admission to the hospital was insufficient to overcome the State's failure to submit a predispositional report, and respondent was prejudiced by the trial court's failure to hold a hearing within 5 days after the petition was received, as required by the Code.

In *In re Anne W.*, 2025 IL App (4th) 241257, the Illinois Appellate Court was asked to decide whether the trial court's order granting the State's petition for the respondent's involuntary admission to the hospital after a suicide attempt should be reversed in spite of the respondent's failure to object at trial because the State and the trial court did not strictly comply with the provisions of the Mental Health and Developmental Disabilities Code (405 ILCS 5/1-10 *et seq.* (West 2022)). The respondent raised several arguments on appeal, including that (i) the State failed to prepare a predispositional report before the hearing on the petition for involuntary admission and (ii) the trial court failed to conduct a timely hearing on the State's petition. The State argued that the respondent failed to object to the State's violations at trial. Section 3-810 of the Mental Health and Developmental Disabilities Code (405 ILCS 5/3-810 (West 2022)) provides that "[b]efore disposition is determined, the facility director or such other person as the court may direct shall prepare a written report including information on the appropriateness and availability of alternative treatment settings, a social investigation of the respondent, a preliminary treatment plan, and any other information which the court may order." In this case, the State did not provide such a report; however, the court cited *In re Robinson,* 151 Ill. 2d 126, for the proposition that "[w]here a respondent fails to object to the absence of a predispositional report, strict compliance with [S]ection 3-810 is required only when the legislative intent cannot otherwise be achieved." In this case, the court found that the trial court's order granting the State's petition should be reversed because the testimony by the treating physician was conclusory and insufficient to satisfy the legislative intent behind Section 3-810. Also, Section 3-611 of the Mental Health and Developmental Disabilities Code (405 ILCS 5/3-611 (West 2022)) provides that "[u]pon the filing of the petition and first certificate, the court shall set a hearing to be held within 5 days, excluding Saturdays, Sundays and holidays, after receipt of the petition." The respondent argued the hearing was untimely because the petition was filed on September 5, 2024 and the hearing did not take place until September 16, 2024. The court agreed with the respondent, holding that the respondent was prejudiced because the respondent was detained beyond the statutory deadline without a hearing. The court reasoned that the respondent was entitled to a hearing within 5 days after the filing of the petition and, because the respondent was detained for 11 days, the respondent was denied that right. The court further noted that this case is "added to a long list of appellate court opinions and orders highlighting the lack of adherence to the Code," and it expressed dismay at the "pervasive noncompliance with the Code."

UNIFIED CODE OF CORRECTIONS – MANDATORY MINIMUM

Provisions of the Code that permit the trial court to deviate from mandatory minimum sentences for offenses that "involve the use or possession of drugs" do not permit the trial court to deviate from a mandatory minimum sentence for drug-induced homicide.

In *People v. Hoffman*, 2025 IL 130344, the Illinois Supreme Court was asked to decide whether the Illinois Appellate Court erred when it vacated the defendant's sentence for drug-induced homicide on the basis that provisions of the Unified Code of Corrections that allow the trial court to deviate from a mandatory minimum prison term apply to sentences for drug-induced homicide. Subsection (c-1.5) of Section 5-4-1 of the Unified Code of Corrections (730 ILCS 5/5-4-1 (West 2022)) provides that, "in imposing a sentence for an offense that requires a mandatory minimum sentence of imprisonment, the court may instead sentence the offender to probation, conditional discharge, or a lesser term of imprisonment it deems appropriate if: (1) the offense involves the use or possession of drugs, retail theft, or driving on a revoked license due to unpaid financial obligations; (2) the court finds that the defendant does not pose a risk to public safety; and (3) the interest of justice requires imposing a term of probation, conditional discharge, or a lesser term of imprisonment." The State argued that the legislature used the term "involve" as an alternative to listing every statutory possession offense but did not intend to allow sentencing deviations for offenses that involve additional conduct beyond mere possession. The defendant argued that the legislature intended to include offenses beyond mere possession. The defendant further argued that, because drug-induced homicide requires the delivery of drugs, it falls within the scope of subsection (c-1.5). The court agreed with the State, holding that subsection (c-1.5) does not allow a sentencing deviation for drug-induced homicide. The court acknowledged that both the statutory language and the legislative history are ambiguous. Nevertheless, the court reasoned that the defendant's interpretation of the statute would lead to an absurd result because it would extend the same sentencing grace to a defendant who merely possesses drugs and a defendant whose actions lead to a death. Furthermore, the defendant's interpretation of the statute would "empower the trial court to return to society individuals who commit offenses by weaponizing drugs but deny the trial court's authority to do the same for defendants who commit the same offenses through other means." In closing, the majority urged the General Assembly "to revisit the statute to ensure that the language employed clearly reflects the legislature's intent." The dissent found that the sentence reduction statute is unambiguous and applies to the offense of drug-induced homicide because the offense involves both the use and possession of drugs.

UNIFIED CODE OF CORRECTIONS – HABITUAL CRIMINAL

A 2021 amendment to the Code that prohibits the use of predicate felonies that were committed before the defendant was 21 years of age when assigning habitual criminal status to a defendant does not apply retroactively.

In *People v. Fuller*, 2025 IL App (4th) 231457, the Illinois Appellate Court was asked to decide whether the circuit court erred when it denied the defendant's post-conviction petition. The defendant was sentenced in 2010 to life imprisonment as a habitual criminal; however, one of the defendant's predicate offenses was committed when the defendant was under 21 years of age. Subsection (a) of Section 5-4.5-95 of the Unified Code of Corrections (730 ILCS 5/5-4.5-95 (West 2010)), concerning habitual criminals, provides that a defendant who is convicted of a Class X felony and who was previously convicted of two or more qualifying predicate offenses shall be adjudged a habitual

criminal. Subsection (b) of that Section provides that certain defendants who have been convicted of a Class 1 or Class 2 felony may be sentenced as Class X offenders if they were previously convicted of certain qualifying predicate offenses. The 2010 version of that statute, under which the defendant was sentenced, did not mention the age of the defendant at the time of the commission of the predicate felonies as a limiting factor when determining the defendant's armed habitual criminal status. However, in 2021, as part of Public Act 101-652, the General Assembly amended subsections (a) and (b) of Section 5-4.5-95 to provide that the first predicate offense must have been committed when the person was 21 years of age or older. The defendant argued that the changes to the habitual criminal statute in Public Act 101-652 that prohibited the use of predicate offenses committed when the defendant was under the age of 21 applied retroactively. The State argued that those changes were substantive and only applied prospectively. The court agreed with the State, holding that, absent explicit legislative direction on the amendment's temporal reach, Section 4 of the Statute on Statutes (5 ILCS 70/4) (West 2016)) requires only procedural changes apply retroactively, while substantive changes apply prospectively. The court reasoned that the 2021 amendment articulates no intention that it apply retroactively. Also, there was a substantive change from the 2016 version of the statute, as the 18-year age requirement for the third offense was changed to a 21-year age requirement for the first offense. Application of these principles led the court to conclude that only a prospective application of the statute is warranted. Therefore, the court found that the defendant was not entitled to retroactive application of the 2021 amendment to subsection (a).

UNIFORM FRAUDULENT TRANSFER ACT – PUNITIVE DAMAGES

A court may award punitive damages for claims arising under the Uniform Fraudulent Transfer Act in specific circumstances.

In *Bremel v. Quedas, Inc.*, 2024 IL App (1st) 231209, the Illinois Appellate Court was asked to determine whether a trial court erred in finding that punitive damage awards were not available for claims arising under the Uniform Fraudulent Transfer Act. Subparagraph (C) of paragraph (3) of subsection (a) of Section 8 of the Uniform Fraudulent Transfer Act (740 ILCS 160/8(a)(3)(C)) provides that, "In an action for relief against a transfer or obligation under this Act, a creditor . . . may obtain . . . any other relief the circumstances may require." The plaintiff argued that the trial court should have considered an award of punitive damages under the "catch-all" provision of that Section, citing actions taken by courts in foreign jurisdictions under similar circumstances. The defendant argued that no Illinois decision has discussed the appropriateness of a court assessing punitive damages under the Uniform Fraudulent Transfer Act. The court agreed with the plaintiff, holding that the trial court erred in finding that punitive damages were not available for claims arising under the Uniform Fraudulent Transfer Act. The court reasoned that the plain language of the Uniform Fraudulent Transfer Act and the decisions of other jurisdictions permit the imposition of punitive damages in appropriate circumstances. The court noted that the "catch-all" provision of Section 8(a)(3)(C) is broad and allows the trial court considerable discretion in determining an appropriate remedy. The court determined that, while punitive damages are not favored in the law, it is well recognized that punitive damages may be appropriate when there has been fraud. The court also noted that the plaintiff's argument that the amount of any punitive damage award should, at a minimum, equal his attorney's fees does not amount to a standalone request for attorney's fees, which would otherwise only be appropriate if the statute expressly allowed for the recovery of attorney's fees. A concurring opinion agreed with the majority that although punitive damages are available under Section 8(a)(3)(C), that provision does not allow a court to

award attorney's fees. The concurring opinion further noted that the court may not award punitive damages "under the guise of a punitive damages award", citing, for example, that the plaintiff improperly contended that the appropriate amount of punitive damages would at least equal his attorney's fees.

CASES