

1 AN ACT concerning criminal law.

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

4 Section 5. The Unified Code of Corrections is amended by
5 changing Sections 5-3-2 and 5-4-1 as follows:

6 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)
7 Sec. 5-3-2. Presentence Report.

8 (a) In felony cases, the presentence report shall set
9 forth:

10 (1) the defendant's history of delinquency or
11 criminality, physical and mental history and condition,
12 family situation and background, economic status,
13 education, occupation and personal habits;

14 (2) information about special resources within the
15 community which might be available to assist the
16 defendant's rehabilitation, including treatment centers,
17 residential facilities, vocational training services,
18 correctional manpower programs, employment opportunities,
19 special educational programs, alcohol and drug abuse
20 programming, psychiatric and marriage counseling, and
21 other programs and facilities which could aid the
22 defendant's successful reintegration into society;

23 (3) the effect the offense committed has had upon the

1 victim or victims thereof, and any compensatory benefit
2 that various sentencing alternatives would confer on such
3 victim or victims;

4 (3.5) information provided by the victim's spouse,
5 guardian, parent, grandparent, and other immediate family
6 and household members about the effect the offense
7 committed has had on the victim and on the person providing
8 the information; if the victim's spouse, guardian, parent,
9 grandparent, or other immediate family or household member
10 has provided a written statement, the statement shall be
11 attached to the report;

12 (4) information concerning the defendant's status
13 since arrest, including his record if released on his own
14 recognizance, or the defendant's achievement record if
15 released on a conditional pre-trial supervision program;

16 (5) when appropriate, a plan, based upon the personal,
17 economic and social adjustment needs of the defendant,
18 utilizing public and private community resources as an
19 alternative to institutional sentencing;

20 (6) any other matters that the investigatory officer
21 deems relevant or the court directs to be included; ~~and~~

22 (7) information concerning defendant's eligibility for
23 a sentence to a county impact incarceration program under
24 Section 5-8-1.2 of this Code; and -

25 (8) information concerning defendant's eligibility for
26 a sentence to an impact incarceration program administered

1 by the Department under Section 5-8-1.1.

2 (b) The investigation shall include a physical and mental
3 examination of the defendant when so ordered by the court. If
4 the court determines that such an examination should be made,
5 it shall issue an order that the defendant submit to
6 examination at such time and place as designated by the court
7 and that such examination be conducted by a physician,
8 psychologist or psychiatrist designated by the court. Such an
9 examination may be conducted in a court clinic if so ordered by
10 the court. The cost of such examination shall be paid by the
11 county in which the trial is held.

12 (b-5) In cases involving felony sex offenses in which the
13 offender is being considered for probation only or any felony
14 offense that is sexually motivated as defined in the Sex
15 Offender Management Board Act in which the offender is being
16 considered for probation only, the investigation shall include
17 a sex offender evaluation by an evaluator approved by the Board
18 and conducted in conformance with the standards developed under
19 the Sex Offender Management Board Act. In cases in which the
20 offender is being considered for any mandatory prison sentence,
21 the investigation shall not include a sex offender evaluation.

22 (c) In misdemeanor, business offense or petty offense
23 cases, except as specified in subsection (d) of this Section,
24 when a presentence report has been ordered by the court, such
25 presentence report shall contain information on the
26 defendant's history of delinquency or criminality and shall

1 further contain only those matters listed in any of paragraphs
2 (1) through (6) of subsection (a) or in subsection (b) of this
3 Section as are specified by the court in its order for the
4 report.

5 (d) In cases under Sections 11-1.50, 12-15, and 12-3.4 or
6 12-30 of the Criminal Code of 1961 or the Criminal Code of
7 2012, the presentence report shall set forth information about
8 alcohol, drug abuse, psychiatric, and marriage counseling or
9 other treatment programs and facilities, information on the
10 defendant's history of delinquency or criminality, and shall
11 contain those additional matters listed in any of paragraphs
12 (1) through (6) of subsection (a) or in subsection (b) of this
13 Section as are specified by the court.

14 (e) Nothing in this Section shall cause the defendant to be
15 held without bail or to have his bail revoked for the purpose
16 of preparing the presentence report or making an examination.

17 (Source: P.A. 97-1109, eff. 1-1-13; 97-1150, eff. 1-25-13;
18 98-372, eff. 1-1-14.)

19 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

20 Sec. 5-4-1. Sentencing hearing.

21 (a) Except when the death penalty is sought under hearing
22 procedures otherwise specified, after a determination of
23 guilt, a hearing shall be held to impose the sentence. However,
24 prior to the imposition of sentence on an individual being
25 sentenced for an offense based upon a charge for a violation of

1 Section 11-501 of the Illinois Vehicle Code or a similar
2 provision of a local ordinance, the individual must undergo a
3 professional evaluation to determine if an alcohol or other
4 drug abuse problem exists and the extent of such a problem.
5 Programs conducting these evaluations shall be licensed by the
6 Department of Human Services. However, if the individual is not
7 a resident of Illinois, the court may, in its discretion,
8 accept an evaluation from a program in the state of such
9 individual's residence. The court shall make a specific finding
10 about whether the defendant is eligible for participation in a
11 Department impact incarceration program as provided in Section
12 5-8-1.1 or 5-8-1.3, and if not, provide an explanation as to
13 why a sentence to impact incarceration is not an appropriate
14 sentence ~~may in its sentencing order approve an eligible~~
15 ~~defendant for placement in a Department of Corrections impact~~
16 ~~incarceration program as provided in Section 5-8-1.1 or~~
17 ~~5-8-1.3.~~ The court may in its sentencing order recommend a
18 defendant for placement in a Department of Corrections
19 substance abuse treatment program as provided in paragraph (a)
20 of subsection (1) of Section 3-2-2 conditioned upon the
21 defendant being accepted in a program by the Department of
22 Corrections. At the hearing the court shall:

23 (1) consider the evidence, if any, received upon the
24 trial;

25 (2) consider any presentence reports;

26 (3) consider the financial impact of incarceration

1 based on the financial impact statement filed with the
2 clerk of the court by the Department of Corrections;

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

5 (4.5) consider substance abuse treatment, eligibility
6 screening, and an assessment, if any, of the defendant by
7 an agent designated by the State of Illinois to provide
8 assessment services for the Illinois courts;

9 (5) hear arguments as to sentencing alternatives;

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

12 (7) afford the victim of a violent crime or a violation
13 of Section 11-501 of the Illinois Vehicle Code, or a
14 similar provision of a local ordinance, the opportunity to
15 present an oral or written statement, as guaranteed by
16 Article I, Section 8.1 of the Illinois Constitution and
17 provided in Section 6 of the Rights of Crime Victims and
18 Witnesses Act. The court shall allow a victim to make an
19 oral statement if the victim is present in the courtroom
20 and requests to make an oral or written statement. An oral
21 or written statement includes the victim or a
22 representative of the victim reading the written
23 statement. The court may allow persons impacted by the
24 crime who are not victims under subsection (a) of Section 3
25 of the Rights of Crime Victims and Witnesses Act to present
26 an oral or written statement. A victim and any person

1 making an oral statement shall not be put under oath or
2 subject to cross-examination. All statements offered under
3 this paragraph (7) shall become part of the record of the
4 court. In this paragraph (7), "victim of a violent crime"
5 means a person who is a victim of a violent crime for which
6 the defendant has been convicted after a bench or jury
7 trial or a person who is the victim of a violent crime with
8 which the defendant was charged and the defendant has been
9 convicted under a plea agreement of a crime that is not a
10 violent crime as defined in subsection (c) of 3 of the
11 Rights of Crime Victims and Witnesses Act;

12 (7.5) afford a qualified person affected by: (i) a
13 violation of Section 405, 405.1, 405.2, or 407 of the
14 Illinois Controlled Substances Act or a violation of
15 Section 55 or Section 65 of the Methamphetamine Control and
16 Community Protection Act; or (ii) a Class 4 felony
17 violation of Section 11-14, 11-14.3 except as described in
18 subdivisions (a) (2) (A) and (a) (2) (B), 11-15, 11-17, 11-18,
19 11-18.1, or 11-19 of the Criminal Code of 1961 or the
20 Criminal Code of 2012, committed by the defendant the
21 opportunity to make a statement concerning the impact on
22 the qualified person and to offer evidence in aggravation
23 or mitigation; provided that the statement and evidence
24 offered in aggravation or mitigation shall first be
25 prepared in writing in conjunction with the State's
26 Attorney before it may be presented orally at the hearing.

1 Sworn testimony offered by the qualified person is subject
2 to the defendant's right to cross-examine. All statements
3 and evidence offered under this paragraph (7.5) shall
4 become part of the record of the court. In this paragraph
5 (7.5), "qualified person" means any person who: (i) lived
6 or worked within the territorial jurisdiction where the
7 offense took place when the offense took place; or (ii) is
8 familiar with various public places within the territorial
9 jurisdiction where the offense took place when the offense
10 took place. "Qualified person" includes any peace officer
11 or any member of any duly organized State, county, or
12 municipal peace officer unit assigned to the territorial
13 jurisdiction where the offense took place when the offense
14 took place;

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

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

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

25 (b) All sentences shall be imposed by the judge based upon
26 his independent assessment of the elements specified above and

1 any agreement as to sentence reached by the parties. The judge
2 who presided at the trial or the judge who accepted the plea of
3 guilty shall impose the sentence unless he is no longer sitting
4 as a judge in that court. Where the judge does not impose
5 sentence at the same time on all defendants who are convicted
6 as a result of being involved in the same offense, the
7 defendant or the State's Attorney may advise the sentencing
8 court of the disposition of any other defendants who have been
9 sentenced.

10 (b-1) In imposing a sentence of imprisonment or periodic
11 imprisonment for a Class 3 or Class 4 felony for which a
12 sentence of probation or conditional discharge is an available
13 sentence, if the defendant has no prior sentence of probation
14 or conditional discharge and no prior conviction for a violent
15 crime, the defendant shall not be sentenced to imprisonment
16 before review and consideration of a presentence report and
17 determination and explanation of why the particular evidence,
18 information, factor in aggravation, factual finding, or other
19 reasons support a sentencing determination that one or more of
20 the factors under subsection (a) of Section 5-6-1 of this Code
21 apply and that probation or conditional discharge is not an
22 appropriate sentence.

23 (c) In imposing a sentence for a violent crime or for an
24 offense of operating or being in physical control of a vehicle
25 while under the influence of alcohol, any other drug or any
26 combination thereof, or a similar provision of a local

1 ordinance, when such offense resulted in the personal injury to
2 someone other than the defendant, the trial judge shall specify
3 on the record the particular evidence, information, factors in
4 mitigation and aggravation or other reasons that led to his
5 sentencing determination. The full verbatim record of the
6 sentencing hearing shall be filed with the clerk of the court
7 and shall be a public record.

8 (c-1) In imposing a sentence for the offense of aggravated
9 kidnapping for ransom, home invasion, armed robbery,
10 aggravated vehicular hijacking, aggravated discharge of a
11 firearm, or armed violence with a category I weapon or category
12 II weapon, the trial judge shall make a finding as to whether
13 the conduct leading to conviction for the offense resulted in
14 great bodily harm to a victim, and shall enter that finding and
15 the basis for that finding in the record.

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

26 The judge's statement, to be given after pronouncing the

1 sentence, other than when the sentence is imposed for one of
2 the offenses enumerated in paragraph (a)(4) of Section 3-6-3,
3 shall include the following:

4 "The purpose of this statement is to inform the public of
5 the actual period of time this defendant is likely to spend in
6 prison as a result of this sentence. The actual period of
7 prison time served is determined by the statutes of Illinois as
8 applied to this sentence by the Illinois Department of
9 Corrections and the Illinois Prisoner Review Board. In this
10 case, assuming the defendant receives all of his or her
11 sentence credit, the period of estimated actual custody is ...
12 years and ... months, less up to 180 days additional earned
13 sentence credit. If the defendant, because of his or her own
14 misconduct or failure to comply with the institutional
15 regulations, does not receive those credits, the actual time
16 served in prison will be longer. The defendant may also receive
17 an additional one-half day sentence credit for each day of
18 participation in vocational, industry, substance abuse, and
19 educational programs as provided for by Illinois statute."

20 When the sentence is imposed for one of the offenses
21 enumerated in paragraph (a)(2) of Section 3-6-3, other than
22 first degree murder, and the offense was committed on or after
23 June 19, 1998, and when the sentence is imposed for reckless
24 homicide as defined in subsection (e) of Section 9-3 of the
25 Criminal Code of 1961 or the Criminal Code of 2012 if the
26 offense was committed on or after January 1, 1999, and when the

1 sentence is imposed for aggravated driving under the influence
2 of alcohol, other drug or drugs, or intoxicating compound or
3 compounds, or any combination thereof as defined in
4 subparagraph (F) of paragraph (1) of subsection (d) of Section
5 11-501 of the Illinois Vehicle Code, and when the sentence is
6 imposed for aggravated arson if the offense was committed on or
7 after July 27, 2001 (the effective date of Public Act 92-176),
8 and when the sentence is imposed for aggravated driving under
9 the influence of alcohol, other drug or drugs, or intoxicating
10 compound or compounds, or any combination thereof as defined in
11 subparagraph (C) of paragraph (1) of subsection (d) of Section
12 11-501 of the Illinois Vehicle Code committed on or after
13 January 1, 2011 (the effective date of Public Act 96-1230), the
14 judge's statement, to be given after pronouncing the sentence,
15 shall include the following:

16 "The purpose of this statement is to inform the public of
17 the actual period of time this defendant is likely to spend in
18 prison as a result of this sentence. The actual period of
19 prison time served is determined by the statutes of Illinois as
20 applied to this sentence by the Illinois Department of
21 Corrections and the Illinois Prisoner Review Board. In this
22 case, the defendant is entitled to no more than 4 1/2 days of
23 sentence credit for each month of his or her sentence of
24 imprisonment. Therefore, this defendant will serve at least 85%
25 of his or her sentence. Assuming the defendant receives 4 1/2
26 days credit for each month of his or her sentence, the period

1 of estimated actual custody is ... years and ... months. If the
2 defendant, because of his or her own misconduct or failure to
3 comply with the institutional regulations receives lesser
4 credit, the actual time served in prison will be longer."

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

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

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

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

1 the actual period of time this defendant is likely to spend in
2 prison as a result of this sentence. The actual period of
3 prison time served is determined by the statutes of Illinois as
4 applied to this sentence by the Illinois Department of
5 Corrections and the Illinois Prisoner Review Board. In this
6 case, the defendant shall receive no earned sentence credit
7 under clause (3) of subsection (a) of Section 3-6-3 until he or
8 she participates in and completes a substance abuse treatment
9 program or receives a waiver from the Director of Corrections
10 pursuant to clause (4.5) of subsection (a) of Section 3-6-3."

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

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

1 local programming; and

2 (2) consider the treatment recommendations of any
3 diagnosing or treating mental health professionals
4 together with the treatment options available to the
5 defendant in imposing sentence.

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

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

15 (d) When the defendant is committed to the Department of
16 Corrections, the State's Attorney shall and counsel for the
17 defendant may file a statement with the clerk of the court to
18 be transmitted to the department, agency or institution to
19 which the defendant is committed to furnish such department,
20 agency or institution with the facts and circumstances of the
21 offense for which the person was committed together with all
22 other factual information accessible to them in regard to the
23 person prior to his commitment relative to his habits,
24 associates, disposition and reputation and any other facts and
25 circumstances which may aid such department, agency or
26 institution during its custody of such person. The clerk shall

1 within 10 days after receiving any such statements transmit a
2 copy to such department, agency or institution and a copy to
3 the other party, provided, however, that this shall not be
4 cause for delay in conveying the person to the department,
5 agency or institution to which he has been committed.

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

9 (1) the sentence imposed;

10 (2) any statement by the court of the basis for
11 imposing the sentence;

12 (3) any presentence reports;

13 (3.5) any sex offender evaluations;

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

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

22 (4.1) any finding of great bodily harm made by the
23 court with respect to an offense enumerated in subsection
24 (c-1);

25 (5) all statements filed under subsection (d) of this
26 Section;

1 (6) any medical or mental health records or summaries
2 of the defendant;

3 (7) the municipality where the arrest of the offender
4 or the commission of the offense has occurred, where such
5 municipality has a population of more than 25,000 persons;

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

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

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

15 (Source: P.A. 99-861, eff. 1-1-17; 99-938, eff. 1-1-18;
16 100-961, eff. 1-1-19; revised 10-3-18.)