

1 AN ACT in relation to sex offenders.

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

4 Section 5. The Sex Offender Management Board Act is  
5 amended by changing Sections 10 and 15 and adding Sections  
6 16, 17, 18, and 19 as follows:

7 (20 ILCS 4026/10)

8 Sec. 10. Definitions. In this Act, unless the context  
9 otherwise requires:

10 (a) "Board" means the Sex Offender Management Board  
11 created in Section 15.

12 (b) "Sex offender" means any person who is convicted or  
13 found delinquent in the State of Illinois, or under any  
14 substantially similar federal law or law of another state, of  
15 any sex offense or attempt of a sex offense as defined in  
16 subsection (c) of this Section, or any former statute of this  
17 State that defined a felony sex offense, or who has been  
18 certified as a sexually dangerous person under the Sexually  
19 Dangerous Persons Act or declared a sexually violent person  
20 under the Sexually Violent Persons Commitment Act, or any  
21 substantially similar federal law or law of another state.

22 (c) "Sex offense" means any felony or misdemeanor  
23 offense described in this subsection (c) as follows:

24 (1) Indecent solicitation of a child, in violation  
25 of Section 11-6 of the Criminal Code of 1961;

26 (2) Indecent solicitation of an adult, in violation  
27 of Section 11-6.5 of the Criminal Code of 1961;

28 (3) Public indecency, in violation of Section 11-9  
29 of the Criminal Code of 1961;

30 (4) Sexual exploitation of a child, in violation of  
31 Section 11-9.1 of the Criminal Code of 1961;

- 1           (5) Sexual relations within families, in violation  
2 of Section 11-11 of the Criminal Code of 1961;
- 3           (6) Soliciting for a juvenile prostitute, in  
4 violation of Section 11-15.1 of the Criminal Code of  
5 1961;
- 6           (7) Keeping a place of juvenile prostitution, in  
7 violation of Section 11-17.1 of the Criminal Code of  
8 1961;
- 9           (8) Patronizing a juvenile prostitute, in violation  
10 of Section 11-18.1 of the Criminal Code of 1961;
- 11          (9) Juvenile pimping, in violation of Section  
12 11-19.1 of the Criminal Code of 1961;
- 13          (10) Exploitation of a child, in violation of  
14 Section 11-19.2 of the Criminal Code of 1961;
- 15          (11) Child pornography, in violation of Section  
16 11-20.1 of the Criminal Code of 1961;
- 17          (12) Harmful material, in violation of Section  
18 11-21 of the Criminal Code of 1961;
- 19          (13) Criminal sexual assault, in violation of  
20 Section 12-13 of the Criminal Code of 1961;
- 21          (14) Aggravated criminal sexual assault, in  
22 violation of Section 12-14 of the Criminal Code of 1961;
- 23          (15) Predatory criminal sexual assault of a child,  
24 in violation of Section 12-14.1 of the Criminal Code of  
25 1961;
- 26          (16) Criminal sexual abuse, in violation of Section  
27 12-15 of the Criminal Code of 1961;
- 28          (17) Aggravated criminal sexual abuse, in violation  
29 of Section 12-16 of the Criminal Code of 1961;
- 30          (18) Ritualized abuse of a child, in violation of  
31 Section 12-33 of the Criminal Code of 1961;
- 32          (19) An attempt to commit any of the offenses  
33 enumerated in this subsection (c); or-
- 34          (20) Any felony offense under Illinois law that is

1 sexually motivated.

2 (d) "Management" means counseling, monitoring, and  
3 supervision of any sex offender that conforms to the  
4 standards created by the Board under Section 15.

5 (e) "Sexually motivated" means one or more of the facts  
6 of the underlying offense indicates conduct that is of a  
7 sexual nature or that shows an intent to engage in behavior  
8 of a sexual nature.

9 (Source: P.A. 90-133, eff. 7-22-97; 90-793, eff. 8-14-98.)

10 (20 ILCS 4026/15)

11 Sec. 15. Sex Offender Management Board; creation;  
12 duties.

13 (a) There is created the Sex Offender Management Board,  
14 which shall consist of ~~24~~ 20 members. The membership of the  
15 Board shall consist of the following persons:

16 (1) Two members appointed by the Governor  
17 representing the judiciary, one representing juvenile  
18 court matters and one representing adult criminal court  
19 matters;

20 (2) One member appointed by the Governor  
21 representing Probation Services;

22 (3) One member appointed by the Governor  
23 representing the Department of Corrections;

24 (4) One member appointed by the Governor  
25 representing the Department of Human Services;

26 (5) One member appointed by the Governor  
27 representing the Illinois State Police;

28 (6) One member appointed by the Governor  
29 representing the Department of Children and Family  
30 Services;

31 (7) One member appointed by the Attorney General  
32 representing the Office of the Attorney General;

33 (8) Two members appointed by the Attorney General

1 who are licensed mental health professionals with  
2 documented expertise in the treatment of sex offenders;

3 (9) Two members appointed by the Attorney General  
4 who are State's Attorneys or assistant State's Attorneys,  
5 one representing juvenile court matters and one  
6 representing felony court matters;

7 (10) One member being the Cook County State's  
8 Attorney or his or her designee;

9 (11) One member being the Director of the State's  
10 Attorneys Appellate Prosecutor or his or her designee;

11 (12) One member being the Cook County Public  
12 Defender or his or her designee;

13 (13) Two members appointed by the Governor who are  
14 representatives of law enforcement, one juvenile officer  
15 and one sex crime investigator;

16 (14) Two members appointed by the Attorney General  
17 who are recognized experts in the field of sexual assault  
18 and who can represent sexual assault victims and victims'  
19 rights organizations; and

20 (15) One member being the State Appellate Defender  
21 or his or her designee;

22 (16) One member being the President of the Illinois  
23 Polygraph Society or his or her designee;

24 (17) One member being the Executive Director of the  
25 Criminal Justice Information Authority or his or her  
26 designee;

27 (18) One member being the President of the Illinois  
28 Chapter of the Association for the Treatment of Sexual  
29 Abusers or his or her designee; and

30 (19) One member representing the Illinois Principal  
31 Association.

32 (b) The Governor and the Attorney General shall appoint  
33 a presiding officer for the Board from among the board  
34 members appointed under subsection (a) of this Section, which

1 presiding officer shall serve at the pleasure of the Governor  
2 and the Attorney General.

3 (c) Each member of the Board shall demonstrate  
4 substantial expertise and experience in the field of sexual  
5 assault.

6 (d) (1) Any member of the Board created in subsection  
7 (a) of this Section who is appointed under paragraphs (1)  
8 through (7) of subsection (a) of this Section shall serve at  
9 the pleasure of the official who appointed that member, for a  
10 term of 5 years and may be reappointed. The members shall  
11 serve without additional compensation.

12 (2) Any member of the Board created in subsection (a) of  
13 this Section who is appointed under paragraphs (8) through  
14 (14) of subsection (a) of this Section shall serve for a term  
15 of 5 years and may be reappointed. The members shall serve  
16 without compensation.

17 (3) The travel costs associated with membership on the  
18 Board created in subsection (a) of this Section will be  
19 reimbursed subject to availability of funds.

20 (e) The first meeting of this Board shall be held within  
21 45 days of the effective date of this Act.

22 (f) The Board shall carry out the following duties:

23 (1) Not later than December 31, 2001, the Board  
24 shall develop and prescribe separate standardized  
25 procedures for the evaluation and identification of the  
26 offender and recommend behavior management, monitoring,  
27 and treatment counseling based upon the knowledge that  
28 sex offenders are extremely habituated and that there is  
29 no known cure for the propensity to commit sex abuse.  
30 The Board shall develop and implement measures of success  
31 based upon a no-cure policy for intervention. The Board  
32 shall develop and implement methods of intervention for  
33 sex offenders which have as a priority the physical and  
34 psychological safety of victims and potential victims and

1 which are appropriate to the needs of the particular  
2 offender, so long as there is no reduction of the safety  
3 of victims and potential victims.

4 (2) Not later than December 31, 2001, the Board  
5 shall develop separate guidelines and standards for a  
6 system of programs for the evaluation and treatment  
7 counseling of both juvenile and adult sex offenders which  
8 shall ~~can~~ be utilized by offenders who are placed on  
9 probation, committed to the Department of Corrections or  
10 Department of Human Services, or placed on mandatory  
11 supervised release or parole. The programs developed  
12 under this paragraph (f) shall be as flexible as possible  
13 so that the programs may be utilized by each offender to  
14 prevent the offender from harming victims and potential  
15 victims. The programs shall be structured in such a  
16 manner that the programs provide a continuing monitoring  
17 process as well as a continuum of counseling programs for  
18 each offender as that offender proceeds through the  
19 justice system. Also, the programs shall be developed in  
20 such a manner that, to the extent possible, the programs  
21 may be accessed by all offenders in the justice system.

22 (3) There is established the Sex Offender  
23 Management Board Fund in the State Treasury into which  
24 funds received under any provision of law or from public  
25 or private sources shall be deposited, and from which  
26 funds shall be appropriated for the purposes set forth in  
27 Section 19 of this Act, Section 5-6-3 of the Unified Code  
28 of Corrections, and Section 3 of the Sex Offender  
29 Registration Act, and the remainder shall be appropriated  
30 to the Sex Offender Management Board for planning and  
31 research.

32 (4) The Board shall develop and prescribe a plan to  
33 research and analyze the effectiveness of the evaluation,  
34 identification, and counseling procedures and programs

1 developed under this Act. The Board shall also develop  
2 and prescribe a system for implementation of the  
3 guidelines and standards developed under paragraph (2) of  
4 this subsection (f) and for tracking offenders who have  
5 been subjected to evaluation, identification, and  
6 treatment counseling under this Act. In addition, the  
7 Board shall develop a system for monitoring offender  
8 behaviors and offender adherence to prescribed behavioral  
9 changes. The results of the tracking and behavioral  
10 monitoring shall be a part of any analysis made under  
11 this paragraph (4).

12 (g) The Board may promulgate rules as are necessary to  
13 carry out the duties of the Board.

14 (h) The Board and the individual members of the Board  
15 shall be immune from any liability, whether civil or  
16 criminal, for the good faith performance of the duties of the  
17 Board as specified in this Section.

18 (Source: P.A. 90-133, eff. 7-22-97; 90-793, eff. 8-14-98;  
19 91-235, eff. 7-22-99; 91-798, eff. 7-9-00.)

20 (20 ILCS 4026/16 new)

21 Sec. 16. Sex offender evaluation and identification  
22 required.

23 (a) Beginning on the effective date of this amendatory  
24 Act of the 93rd General Assembly, each felony sex offender  
25 who is to be considered for probation shall be required as  
26 part of the pre-sentence or social investigation to submit to  
27 an evaluation for treatment, an evaluation for risk, and  
28 procedures for monitoring of behavior to protect victims and  
29 potential victims developed pursuant to item (1) of  
30 subsection (f) of Section 15 of this Act.

31 (b) The evaluation required by subsection (a) of this  
32 Section shall be by an evaluator approved by the Sex Offender  
33 Management Board and shall be at the expense of the person

1 evaluated, based upon that person's ability to pay for such  
2 treatment.

3 (20 ILCS 4026/17 new)

4 Sec. 17. Sentencing of sex offenders; treatment based  
5 upon evaluation and identification required.

6 (a) Each felony sex offender sentenced by the court for  
7 a sex offense shall be required as a part of any sentence to  
8 probation, conditional release, or periodic imprisonment to  
9 undergo treatment based upon the recommendations of the  
10 evaluation made pursuant to Section 16 or based upon any  
11 subsequent recommendations by the Administrative Office of  
12 the Illinois Courts or the county probation department,  
13 whichever is appropriate. Any such treatment and monitoring  
14 shall be at a facility or with a person approved by the Board  
15 and at such offender's own expense based upon the offender's  
16 ability to pay for such treatment.

17 (b) Beginning on the effective date of this amendatory  
18 Act of the 93rd General Assembly, each sex offender placed on  
19 parole or mandatory supervised release by the Prisoner Review  
20 Board shall be required as a condition of parole to undergo  
21 treatment based upon any evaluation or subsequent  
22 reevaluation regarding such offender during the offender's  
23 incarceration or any period of parole. Any such treatment  
24 shall be by an individual approved by the Board and at the  
25 offender's expense based upon the offender's ability to pay  
26 for such treatment.

27 (20 ILCS 4026/18 new)

28 Sec. 18. Sex offender treatment contracts with  
29 providers. The county probation department or the Department  
30 of Human Services shall not employ or contract with and shall  
31 not allow a sex offender to employ or contract with any  
32 individual or entity to provide sex offender evaluation or



1 treatment services pursuant to this Act unless the sex  
2 offender evaluation or treatment services provided are by an  
3 individual approved by the Board pursuant to item (2) of  
4 subsection (f) of Section 15 of this Act.

5 (20 ILCS 4026/19 new)

6 Sec. 19. Sex Offender Management Board Fund.

7 (a) Any and all practices endorsed or required under  
8 this Act, including but not limited to evaluation, treatment,  
9 or monitoring of programs that are or may be developed by the  
10 agency providing supervision, the Department of Corrections,  
11 or the Department of Human Services shall be at the expense  
12 of the person evaluated or treated, based upon the person's  
13 ability to pay. If it is determined by the agency providing  
14 supervision, the Department of Corrections, or the Department  
15 of Human Services that the person does not have the ability  
16 to pay for practices endorsed or required by this Act, the  
17 agency providing supervision of the sex offender shall  
18 request reimbursement for services. The Sex Offender  
19 Management Board shall provide the agency providing  
20 supervision, the Department of Corrections, or the Department  
21 of Human Services with factors to be considered and criteria  
22 to determine a person's ability to pay. The Sex Offender  
23 Management Board shall coordinate the expenditures of moneys  
24 from the Sex Offender Management Board Fund with any money  
25 expended by counties, the Department of Corrections or the  
26 Department of Human Services. The Board shall develop a plan  
27 for the allocation of moneys deposited in this Fund among the  
28 agency providing supervision, the Department of Corrections,  
29 or the Department of Human Services.

30 (b) Up to 20% of this Fund shall be retained by the Sex  
31 Offender Management Board for administrative costs, including  
32 staff, incurred pursuant to this Act.

33 (c) Monies expended for this Fund shall be used to

1 supplement, not replace offenders' self-pay, or county  
2 appropriations for probation and court services.

3 (d) Interest earned on monies deposited in this Fund may  
4 be used by the Board for its administrative costs and  
5 expenses.

6 (e) In addition to the funds provided by the sex  
7 offender, counties, or Departments providing treatment, the  
8 Board shall explore funding sources including but not limited  
9 to State, federal, and private funds.

10 Section 10. The Juvenile Court Act of 1987 is amended by  
11 changing Sections 5-701 and 5-715 as follows:

12 (705 ILCS 405/5-701)

13 Sec. 5-701. Social investigation report. Upon the order  
14 of the court, a social investigation report shall be prepared  
15 and delivered to the parties at least 3 days prior to the  
16 sentencing hearing. The written report of social  
17 investigation shall include an investigation and report of  
18 the minor's physical and mental history and condition, family  
19 situation and background, economic status, education,  
20 occupation, personal habits, minor's history of delinquency  
21 or criminality or other matters which have been brought to  
22 the attention of the juvenile court, information about  
23 special resources known to the person preparing the report  
24 which might be available to assist in the minor's  
25 rehabilitation, and any other matters which may be helpful to  
26 the court or which the court directs to be included.

27 Any minor found to be guilty of a sex offense as defined  
28 by the Sex Offender Management Board Act shall be required as  
29 part of the social investigation to submit to a sex offender  
30 evaluation. The evaluation shall be performed in conformance  
31 with the standards developed under the Sex Offender  
32 Management Board Act and by an evaluator approved by the

1 Board.

2 (Source: P.A. 90-590, eff. 1-1-99.)

3 (705 ILCS 405/5-715)

4 Sec. 5-715. Probation.

5 (1) The period of probation or conditional discharge  
6 shall not exceed 5 years or until the minor has attained the  
7 age of 21 years, whichever is less, except as provided in  
8 this Section for a minor who is found to be guilty for an  
9 offense which is first degree murder, a Class X felony or a  
10 forcible felony. The juvenile court may terminate probation  
11 or conditional discharge and discharge the minor at any time  
12 if warranted by the conduct of the minor and the ends of  
13 justice; provided, however, that the period of probation for  
14 a minor who is found to be guilty for an offense which is  
15 first degree murder, a Class X felony, or a forcible felony  
16 shall be at least 5 years.

17 (2) The court may as a condition of probation or of  
18 conditional discharge require that the minor:

19 (a) not violate any criminal statute of any  
20 jurisdiction;

21 (b) make a report to and appear in person before  
22 any person or agency as directed by the court;

23 (c) work or pursue a course of study or vocational  
24 training;

25 (d) undergo medical or psychiatric treatment,  
26 rendered by a psychiatrist or psychological treatment  
27 rendered by a clinical psychologist or social work  
28 services rendered by a clinical social worker, or  
29 treatment for drug addiction or alcoholism;

30 (e) attend or reside in a facility established for  
31 the instruction or residence of persons on probation;

32 (f) support his or her dependents, if any;

33 (g) refrain from possessing a firearm or other

1 dangerous weapon, or an automobile;

2 (h) permit the probation officer to visit him or  
3 her at his or her home or elsewhere;

4 (i) reside with his or her parents or in a foster  
5 home;

6 (j) attend school;

7 (j-5) with the consent of the superintendent of the  
8 facility, attend an educational program at a facility  
9 other than the school in which the offense was committed  
10 if he or she committed a crime of violence as defined in  
11 Section 2 of the Crime Victims Compensation Act in a  
12 school, on the real property comprising a school, or  
13 within 1,000 feet of the real property comprising a  
14 school;

15 (k) attend a non-residential program for youth;

16 (l) make restitution under the terms of subsection  
17 (4) of Section 5-710;

18 (m) contribute to his or her own support at home or  
19 in a foster home;

20 (n) perform some reasonable public or community  
21 service;

22 (o) participate with community corrections programs  
23 including unified delinquency intervention services  
24 administered by the Department of Human Services subject  
25 to Section 5 of the Children and Family Services Act;

26 (p) pay costs;

27 (q) serve a term of home confinement. In addition  
28 to any other applicable condition of probation or  
29 conditional discharge, the conditions of home confinement  
30 shall be that the minor:

31 (i) remain within the interior premises of the  
32 place designated for his or her confinement during  
33 the hours designated by the court;

34 (ii) admit any person or agent designated by

1 the court into the minor's place of confinement at  
2 any time for purposes of verifying the minor's  
3 compliance with the conditions of his or her  
4 confinement; and

5 (iii) use an approved electronic monitoring  
6 device if ordered by the court subject to Article 8A  
7 of Chapter V of the Unified Code of Corrections;

8 (r) refrain from entering into a designated  
9 geographic area except upon terms as the court finds  
10 appropriate. The terms may include consideration of the  
11 purpose of the entry, the time of day, other persons  
12 accompanying the minor, and advance approval by a  
13 probation officer, if the minor has been placed on  
14 probation, or advance approval by the court, if the minor  
15 has been placed on conditional discharge;

16 (s) refrain from having any contact, directly or  
17 indirectly, with certain specified persons or particular  
18 types of persons, including but not limited to members of  
19 street gangs and drug users or dealers;

20 (s-5) undergo a medical or other procedure to have  
21 a tattoo symbolizing allegiance to a street gang removed  
22 from his or her body;

23 (t) refrain from having in his or her body the  
24 presence of any illicit drug prohibited by the Cannabis  
25 Control Act or the Illinois Controlled Substances Act,  
26 unless prescribed by a physician, and shall submit  
27 samples of his or her blood or urine or both for tests to  
28 determine the presence of any illicit drug; or

29 (u) comply with other conditions as may be ordered  
30 by the court.

31 (3) The court may as a condition of probation or of  
32 conditional discharge require that a minor found guilty on  
33 any alcohol, cannabis, or controlled substance violation,  
34 refrain from acquiring a driver's license during the period

1 of probation or conditional discharge. If the minor is in  
2 possession of a permit or license, the court may require that  
3 the minor refrain from driving or operating any motor vehicle  
4 during the period of probation or conditional discharge,  
5 except as may be necessary in the course of the minor's  
6 lawful employment.

7 (3.5) The court shall, as a condition of probation or of  
8 conditional discharge, require that a minor found to be  
9 guilty and placed on probation for reasons that include a  
10 violation of Section 3.02 or Section 3.03 of the Humane Care  
11 for Animals Act or paragraph (d) of subsection (1) of Section  
12 21-1 of the Criminal Code of 1961 undergo medical or  
13 psychiatric treatment rendered by a psychiatrist or  
14 psychological treatment rendered by a clinical psychologist.  
15 The condition may be in addition to any other condition.

16 (3.10) The court shall order that a minor placed on  
17 probation or conditional discharge for a sex offense as  
18 defined in the Sex Offender Management Board Act undergo and  
19 successfully complete sex offender treatment. The treatment  
20 shall be in conformance with the standards developed under  
21 the Sex Offender Management Board Act and conducted by a  
22 treatment provider approved by the Board. The treatment  
23 shall be at the expense of the person evaluated based upon  
24 that person's ability to pay for the treatment.

25 (4) A minor on probation or conditional discharge shall  
26 be given a certificate setting forth the conditions upon  
27 which he or she is being released.

28 (5) The court shall impose upon a minor placed on  
29 probation or conditional discharge, as a condition of the  
30 probation or conditional discharge, a fee of \$25 for each  
31 month of probation or conditional discharge supervision  
32 ordered by the court, unless after determining the inability  
33 of the minor placed on probation or conditional discharge to  
34 pay the fee, the court assesses a lesser amount. The court

1 may not impose the fee on a minor who is made a ward of the  
2 State under this Act while the minor is in placement. The  
3 fee shall be imposed only upon a minor who is actively  
4 supervised by the probation and court services department.  
5 The court may order the parent, guardian, or legal custodian  
6 of the minor to pay some or all of the fee on the minor's  
7 behalf.

8 (6) The General Assembly finds that in order to protect  
9 the public, the juvenile justice system must compel  
10 compliance with the conditions of probation by responding to  
11 violations with swift, certain, and fair punishments and  
12 intermediate sanctions. The Chief Judge of each circuit  
13 shall adopt a system of structured, intermediate sanctions  
14 for violations of the terms and conditions of a sentence of  
15 supervision, probation or conditional discharge, under this  
16 Act.

17 The court shall provide as a condition of a disposition  
18 of probation, conditional discharge, or supervision, that the  
19 probation agency may invoke any sanction from the list of  
20 intermediate sanctions adopted by the chief judge of the  
21 circuit court for violations of the terms and conditions of  
22 the sentence of probation, conditional discharge, or  
23 supervision, subject to the provisions of Section 5-720 of  
24 this Act.

25 (Source: P.A. 91-98, eff. 1-1-00; 92-282, eff. 8-7-01;  
26 92-454, eff. 1-1-02; 92-651, eff. 7-11-02.)

27 Section 15. The Sexually Dangerous Persons Act is  
28 amended by changing Section 8 as follows:

29 (725 ILCS 205/8) (from Ch. 38, par. 105-8)

30 Sec. 8. If the respondent is found to be a sexually  
31 dangerous person then the court shall appoint the Director of  
32 Corrections guardian of the person found to be sexually

1 dangerous and such person shall stand committed to the  
2 custody of such guardian. The Director of Corrections as  
3 guardian shall keep safely the person so committed until the  
4 person has recovered and is released as hereinafter provided.  
5 The Director of Corrections as guardian shall provide care  
6 and treatment for the person committed to him designed to  
7 effect recovery. Any treatment provided under this Section  
8 shall be in conformance with the standards promulgated by the  
9 Sex Offender Management Board Act and conducted by a  
10 treatment provider approved by the Board. The Director may  
11 place that ward in any facility in the Department of  
12 Corrections or portion thereof set aside for the care and  
13 treatment of sexually dangerous persons. The Department of  
14 Corrections may also request another state Department or  
15 Agency to examine such person and upon such request, such  
16 Department or Agency shall make such examination and the  
17 Department of Corrections may, with the consent of the chief  
18 executive officer of such other Department or Agency,  
19 thereupon place such person in the care and treatment of such  
20 other Department or Agency.  
21 (Source: P.A. 92-786, eff. 8-6-02.)

22 Section 20. The Sexually Violent Persons Commitment Act  
23 is amended by changing Sections 10, 25, 30, 40, 55, 60, and  
24 65 as follows:

25 (725 ILCS 207/10)

26 Sec. 10. Notice to the Attorney General and State's  
27 Attorney.

28 (a) In this Act, "agency with jurisdiction" means the  
29 agency with the authority or duty to release or discharge the  
30 person.

31 (b) If an agency with jurisdiction has control or  
32 custody over a person who may meet the criteria for



1 commitment as a sexually violent person, the agency with  
2 jurisdiction shall inform the Attorney General and the  
3 State's Attorney in a position to file a petition under  
4 paragraph (a)(2) of Section 15 of this Act regarding the  
5 person as soon as possible beginning 3 months prior to the  
6 applicable date of the following:

7 (1) The anticipated release from imprisonment or  
8 the anticipated entry into mandatory supervised release  
9 of a person who has been convicted of a sexually violent  
10 offense.

11 (2) The anticipated release from a Department of  
12 Corrections correctional facility or juvenile  
13 correctional facility of a person adjudicated delinquent  
14 under Section 5-20 of the Juvenile Court Act of 1987 (now  
15 repealed) or found guilty under Section 5-620 of that  
16 Act, on the basis of a sexually violent offense.

17 (3) The discharge or conditional release of a  
18 person who has been found not guilty of a sexually  
19 violent offense by reason of insanity under Section 5-2-4  
20 of the Unified Code of Corrections.

21 (c) The agency with jurisdiction shall provide the  
22 Attorney General and the State's Attorney with all of the  
23 following:

24 (1) The person's name, identifying factors,  
25 anticipated future residence and offense history;

26 (2) A comprehensive evaluation of the person's  
27 mental condition, the basis upon which a determination  
28 has been made that the person is subject to commitment  
29 under subsection (b) of Section 15 of this Act and a  
30 recommendation for action in furtherance of the purposes  
31 of this Act. The evaluation shall be conducted in  
32 conformance with the standards developed under the Sex  
33 Offender Management Board Act and by an evaluator  
34 approved by the Board; and

1           (3) If applicable, documentation of any treatment  
2           and the person's adjustment to any institutional  
3           placement.

4           (d) Any agency or officer, employee or agent of an  
5           agency is immune from criminal or civil liability for any  
6           acts or omissions as the result of a good faith effort to  
7           comply with this Section.

8           (Source: P.A. 90-40, eff. 1-1-98; 90-793, eff. 8-14-98;  
9           91-357, eff. 7-29-99.)

10           (725 ILCS 207/25)

11           Sec. 25. Rights of persons subject to petition.

12           (a) Any person who is the subject of a petition filed  
13           under Section 15 of this Act shall be served with a copy of  
14           the petition in accordance with the Civil Practice Law.

15           (b) The circuit court in which a petition under Section  
16           15 of this Act is filed shall conduct all hearings under this  
17           Act. The court shall give the person who is the subject of  
18           the petition reasonable notice of the time and place of each  
19           such hearing. The court may designate additional persons to  
20           receive these notices.

21           (c) Except as provided in paragraph (b)(1) of Section 65  
22           and Section 70 of this Act, at any hearing conducted under  
23           this Act, the person who is the subject of the petition has  
24           the right to:

25           (1) To be present and to be represented by counsel.  
26           If the person is indigent, the court shall appoint  
27           counsel.

28           (2) Remain silent.

29           (3) Present and cross-examine witnesses.

30           (4) Have the hearing recorded by a court reporter.

31           (d) The person who is the subject of the petition, the  
32           person's attorney, the Attorney General or the State's  
33           Attorney may request that a trial under Section 35 of this

1 Act be to a jury. A verdict of a jury under this Act is not  
2 valid unless it is unanimous.

3 (e) Whenever the person who is the subject of the  
4 petition is required to submit to an examination under this  
5 Act, he or she may retain experts or professional persons to  
6 perform an examination. The respondent's chosen evaluator  
7 must be approved by the Sex Offender Management Board and the  
8 evaluation must be conducted in conformance with the  
9 standards developed under the Sex Offender Management Board  
10 Act. If the person retains a qualified expert or  
11 professional person of his or her own choice to conduct an  
12 examination, the examiner shall have reasonable access to the  
13 person for the purpose of the examination, as well as to the  
14 person's past and present treatment records and patient  
15 health care records. If the person is indigent, the court  
16 shall, upon the person's request, appoint a qualified and  
17 available expert or professional person to perform an  
18 examination. Upon the order of the circuit court, the county  
19 shall pay, as part of the costs of the action, the costs of a  
20 court-appointed expert or professional person to perform an  
21 examination and participate in the trial on behalf of an  
22 indigent person.

23 (Source: P.A. 90-40, eff. 1-1-98.)

24 (725 ILCS 207/30)

25 Sec. 30. Detention; probable cause hearing; transfer for  
26 examination.

27 (a) Upon the filing of a petition under Section 15 of  
28 this Act, the court shall review the petition to determine  
29 whether to issue an order for detention of the person who is  
30 the subject of the petition. The person shall be detained  
31 only if there is cause to believe that the person is eligible  
32 for commitment under subsection (f) of Section 35 of this  
33 Act. A person detained under this Section shall be held in a

1 facility approved by the Department. If the person is  
2 serving a sentence of imprisonment, is in a Department of  
3 Corrections correctional facility or juvenile correctional  
4 facility or is committed to institutional care, and the court  
5 orders detention under this Section, the court shall order  
6 that the person be transferred to a detention facility  
7 approved by the Department. A detention order under this  
8 Section remains in effect until the person is discharged  
9 after a trial under Section 35 of this Act or until the  
10 effective date of a commitment order under Section 40 of this  
11 Act, whichever is applicable.

12 (b) Whenever a petition is filed under Section 15 of  
13 this Act, the court shall hold a hearing to determine whether  
14 there is probable cause to believe that the person named in  
15 the petition is a sexually violent person. If the person  
16 named in the petition is in custody, the court shall hold the  
17 probable cause hearing within 72 hours after the petition is  
18 filed, excluding Saturdays, Sundays and legal holidays. The  
19 court may grant a continuance of the probable cause hearing  
20 for no more than 7 additional days upon the motion of the  
21 respondent, for good cause. If the person named in the  
22 petition has been released, is on parole, is on mandatory  
23 supervised release, or otherwise is not in custody, the court  
24 shall hold the probable cause hearing within a reasonable  
25 time after the filing of the petition. At the probable cause  
26 hearing, the court shall admit and consider all relevant  
27 hearsay evidence.

28 (c) If the court determines after a hearing that there  
29 is probable cause to believe that the person named in the  
30 petition is a sexually violent person, the court shall order  
31 that the person be taken into custody if he or she is not in  
32 custody and shall order the person to be transferred within a  
33 reasonable time to an appropriate facility for an evaluation  
34 as to whether the person is a sexually violent person. If the

1 person who is named in the petition refuses to speak to,  
2 communicate with, or otherwise fails to cooperate with the  
3 examining evaluator from the Department of Human Services or  
4 the Department of Corrections, that person may only introduce  
5 evidence and testimony from any expert or professional person  
6 who is retained or court-appointed to conduct an examination  
7 of the person that results from a review of the records and  
8 may not introduce evidence resulting from an examination of  
9 the person. Any evaluation conducted under this Section shall  
10 be by an evaluator approved by the Sex Offender Management  
11 Board and conducted in conformance with the standards  
12 developed under the Sex Offender Management Board Act.  
13 Notwithstanding the provisions of Section 10 of the Mental  
14 Health and Developmental Disabilities Confidentiality Act,  
15 all evaluations conducted pursuant to this Act and all  
16 Illinois Department of Corrections treatment records shall be  
17 admissible at all proceedings held pursuant to this Act,  
18 including the probable cause hearing and the trial.

19 If the court determines that probable cause does not  
20 exist to believe that the person is a sexually violent  
21 person, the court shall dismiss the petition.

22 (d) The Department shall promulgate rules that provide  
23 the qualifications for persons conducting evaluations under  
24 subsection (c) of this Section.

25 (e) If the person named in the petition claims or  
26 appears to be indigent, the court shall, prior to the  
27 probable cause hearing under subsection (b) of this Section,  
28 appoint counsel.

29 (Source: P.A. 92-415, eff. 8-17-01.)

30 (725 ILCS 207/40)

31 Sec. 40. Commitment.

32 (a) If a court or jury determines that the person who is  
33 the subject of a petition under Section 15 of this Act is a

1 sexually violent person, the court shall order the person to  
2 be committed to the custody of the Department for control,  
3 care and treatment until such time as the person is no longer  
4 a sexually violent person.

5 (b) (1) The court shall enter an initial commitment  
6 order under this Section pursuant to a hearing held as  
7 soon as practicable after the judgment is entered that  
8 the person who is the subject of a petition under Section  
9 15 is a sexually violent person. If the court lacks  
10 sufficient information to make the determination required  
11 by paragraph (b)(2) of this Section immediately after  
12 trial, it may adjourn the hearing and order the  
13 Department to conduct a predisposition investigation or a  
14 supplementary mental examination, or both, to assist the  
15 court in framing the commitment order. A supplementary  
16 mental examination under this Section shall be conducted  
17 in accordance with Section 3-804 of the Mental Health and  
18 Developmental Disabilities Code.

19 (2) An order for commitment under this Section  
20 shall specify either institutional care in a secure  
21 facility, as provided under Section 50 of this Act, or  
22 conditional release. In determining whether commitment  
23 shall be for institutional care in a secure facility or  
24 for conditional release, the court shall consider the  
25 nature and circumstances of the behavior that was the  
26 basis of the allegation in the petition under paragraph  
27 (b)(1) of Section 15, the person's mental history and  
28 present mental condition, where the person will live, how  
29 the person will support himself or herself, and what  
30 arrangements are available to ensure that the person has  
31 access to and will participate in necessary treatment.  
32 All treatment, whether in institutional care, in a secure  
33 facility, or while on conditional release, shall be  
34 conducted in conformance with the standards developed

1       under the Sex Offender Management Board Act and conducted  
2       by a treatment provider approved by the Board. The  
3       Department shall arrange for control, care and treatment  
4       of the person in the least restrictive manner consistent  
5       with the requirements of the person and in accordance  
6       with the court's commitment order.

7           (3) If the court finds that the person is  
8       appropriate for conditional release, the court shall  
9       notify the Department. The Department shall prepare a  
10      plan that identifies the treatment and services, if any,  
11      that the person will receive in the community. The plan  
12      shall address the person's need, if any, for supervision,  
13      counseling, medication, community support services,  
14      residential services, vocational services, and alcohol or  
15      other drug abuse treatment. The Department may contract  
16      with a county health department, with another public  
17      agency or with a private agency to provide the treatment  
18      and services identified in the plan. The plan shall  
19      specify who will be responsible for providing the  
20      treatment and services identified in the plan. The plan  
21      shall be presented to the court for its approval within  
22      60 days after the court finding that the person is  
23      appropriate for conditional release, unless the  
24      Department and the person to be released request  
25      additional time to develop the plan. The conditional  
26      release program operated under this Section is not  
27      subject to the provisions of the Mental Health and  
28      Developmental Disabilities Confidentiality Act.

29           (4) An order for conditional release places the  
30      person in the custody and control of the Department. A  
31      person on conditional release is subject to the  
32      conditions set by the court and to the rules of the  
33      Department. Before a person is placed on conditional  
34      release by the court under this Section, the court shall

1 so notify the municipal police department and county  
2 sheriff for the municipality and county in which the  
3 person will be residing. The notification requirement  
4 under this Section does not apply if a municipal police  
5 department or county sheriff submits to the court a  
6 written statement waiving the right to be notified. If  
7 the Department alleges that a released person has  
8 violated any condition or rule, or that the safety of  
9 others requires that conditional release be revoked, he  
10 or she may be taken into custody under the rules of the  
11 Department.

12 At any time during which the person is on  
13 conditional release, if the Department determines that  
14 the person has violated any condition or rule, or that  
15 the safety of others requires that conditional release be  
16 revoked, the Department may request the Attorney General  
17 or State's Attorney to request the court to issue an  
18 emergency ex parte order directing any law enforcement  
19 officer to take the person into custody and transport the  
20 person to the county jail. The Department may request, or  
21 the Attorney General or State's Attorney may request  
22 independently of the Department, that a petition to  
23 revoke conditional release be filed. When a petition is  
24 filed, the court may order the Department to issue a  
25 notice to the person to be present at the Department or  
26 other agency designated by the court, order a summons to  
27 the person to be present, or order a body attachment for  
28 all law enforcement officers to take the person into  
29 custody and transport him or her to the county jail,  
30 hospital, or treatment facility. The Department shall  
31 submit a statement showing probable cause of the  
32 detention and a petition to revoke the order for  
33 conditional release to the committing court within 48  
34 hours after the detention. The court shall hear the



1 petition within 30 days, unless the hearing or time  
2 deadline is waived by the detained person. Pending the  
3 revocation hearing, the Department may detain the person  
4 in a jail, in a hospital or treatment facility. The  
5 State has the burden of proving by clear and convincing  
6 evidence that any rule or condition of release has been  
7 violated, or that the safety of others requires that the  
8 conditional release be revoked. If the court determines  
9 after hearing that any rule or condition of release has  
10 been violated, or that the safety of others requires that  
11 conditional release be revoked, it may revoke the order  
12 for conditional release and order that the released  
13 person be placed in an appropriate institution until the  
14 person is discharged from the commitment under Section 65  
15 of this Act or until again placed on conditional release  
16 under Section 60 of this Act.

17 (5) An order for conditional release places the  
18 person in the custody, care, and control of the  
19 Department. The court shall order the person be subject  
20 to the following rules of conditional release, in  
21 addition to any other conditions ordered, and the person  
22 shall be given a certificate setting forth the conditions  
23 of conditional release. These conditions shall be that  
24 the person:

25 (A) not violate any criminal statute of any  
26 jurisdiction;

27 (B) report to or appear in person before such  
28 person or agency as directed by the court and the  
29 Department;

30 (C) refrain from possession of a firearm or  
31 other dangerous weapon;

32 (D) not leave the State without the consent of  
33 the court or, in circumstances in which the reason  
34 for the absence is of such an emergency nature, that

1 prior consent by the court is not possible without  
2 the prior notification and approval of the  
3 Department;

4 (E) at the direction of the Department, notify  
5 third parties of the risks that may be occasioned by  
6 his or her criminal record or sexual offending  
7 history or characteristics, and permit the  
8 supervising officer or agent to make the  
9 notification requirement;

10 (F) attend and fully participate in  
11 assessment, treatment, and behavior monitoring  
12 including, but not limited to, medical,  
13 psychological or psychiatric treatment specific to  
14 sexual offending, drug addiction, or alcoholism, to  
15 the extent appropriate to the person based upon the  
16 recommendation and findings made in the Department  
17 evaluation or based upon any subsequent  
18 recommendations by the Department;

19 (G) waive confidentiality allowing the court  
20 and Department access to assessment or treatment  
21 results or both;

22 (H) work regularly at a Department approved  
23 occupation or pursue a course of study or vocational  
24 training and notify the Department within 72 hours  
25 of any change in employment, study, or training;

26 (I) not be employed or participate in any  
27 volunteer activity that involves contact with  
28 children, except under circumstances approved in  
29 advance and in writing by the Department officer;

30 (J) submit to the search of his or her person,  
31 residence, vehicle, or any personal or real property  
32 under his or her control at any time by the  
33 Department;

34 (K) financially support his or her dependents

1 and provide the Department access to any requested  
2 financial information;

3 (L) serve a term of home confinement, the  
4 conditions of which shall be that the person:

5 (i) remain within the interior premises  
6 of the place designated for his or her  
7 confinement during the hours designated by the  
8 Department;

9 (ii) admit any person or agent designated  
10 by the Department into the offender's place of  
11 confinement at any time for purposes of  
12 verifying the person's compliance with the  
13 condition of his or her confinement;

14 (iii) if deemed necessary by the  
15 Department, be placed on an electronic  
16 monitoring device;

17 (M) comply with the terms and conditions of an  
18 order of protection issued by the court pursuant to  
19 the Illinois Domestic Violence Act of 1986. A copy  
20 of the order of protection shall be transmitted to  
21 the Department by the clerk of the court;

22 (N) refrain from entering into a designated  
23 geographic area except upon terms the Department  
24 finds appropriate. The terms may include  
25 consideration of the purpose of the entry, the time  
26 of day, others accompanying the person, and advance  
27 approval by the Department;

28 (O) refrain from having any contact, including  
29 written or oral communications, directly or  
30 indirectly, with certain specified persons  
31 including, but not limited to, the victim or the  
32 victim's family, and report any incidental contact  
33 with the victim or the victim's family to the  
34 Department within 72 hours; refrain from entering

1 onto the premises of, traveling past, or loitering  
2 near the victim's residence, place of employment, or  
3 other places frequented by the victim;

4 (P) refrain from having any contact, including  
5 written or oral communications, directly or  
6 indirectly, with particular types of persons,  
7 including but not limited to members of street  
8 gangs, drug users, drug dealers, or prostitutes;

9 (Q) refrain from all contact, direct or  
10 indirect, personally, by telephone, letter, or  
11 through another person, with minor children without  
12 prior identification and approval of the Department;

13 (R) refrain from having in his or her body the  
14 presence of alcohol or any illicit drug prohibited  
15 by the Cannabis Control Act or the Illinois  
16 Controlled Substances Act, unless prescribed by a  
17 physician, and submit samples of his or her breath,  
18 saliva, blood, or urine for tests to determine the  
19 presence of alcohol or any illicit drug;

20 (S) not establish a dating, intimate, or  
21 sexual relationship with a person without prior  
22 written notification to the Department;

23 (T) neither possess or have under his or her  
24 control any material that is pornographic, sexually  
25 oriented, or sexually stimulating, or that depicts  
26 or alludes to sexual activity or depicts minors  
27 under the age of 18, including but not limited to  
28 visual, auditory, telephonic, electronic media, or  
29 any matter obtained through access to any computer  
30 or material linked to computer access use;

31 (U) not patronize any business providing  
32 sexually stimulating or sexually oriented  
33 entertainment nor utilize "900" or adult telephone  
34 numbers or any other sex-related telephone numbers;

1           (V) not reside near, visit, or be in or about  
2 parks, schools, day care centers, swimming pools,  
3 beaches, theaters, or any other places where minor  
4 children congregate without advance approval of the  
5 Department and report any incidental contact with  
6 minor children to the Department within 72 hours;

7           (W) not establish any living arrangement or  
8 residence without prior approval of the Department;

9           (X) not publish any materials or print any  
10 advertisements without providing a copy of the  
11 proposed publications to the Department officer and  
12 obtaining permission prior to publication;

13           (Y) not leave the county except with prior  
14 permission of the Department and provide the  
15 Department officer or agent with written travel  
16 routes to and from work and any other designated  
17 destinations;

18           (Z) not possess or have under his or her  
19 control certain specified items of contraband  
20 related to the incidence of sexually offending items  
21 including video or still camera items or children's  
22 toys;

23           (AA) provide a written daily log of activities  
24 as directed by the Department;

25           (BB) comply with all other special conditions  
26 that the Department may impose that restrict the  
27 person from high-risk situations and limit access or  
28 potential victims.

29           (6) A person placed on conditional release and who  
30 during the term undergoes mandatory drug or alcohol  
31 testing or is assigned to be placed on an approved  
32 electronic monitoring device may be ordered to pay all  
33 costs incidental to the mandatory drug or alcohol testing  
34 and all costs incidental to the approved electronic

1 monitoring in accordance with the person's ability to pay  
2 those costs. The Department may establish reasonable  
3 fees for the cost of maintenance, testing, and incidental  
4 expenses related to the mandatory drug or alcohol testing  
5 and all costs incidental to approved electronic  
6 monitoring.

7 (Source: P.A. 91-875, eff. 6-30-00; 92-415, eff. 8-17-01.)

8 (725 ILCS 207/55)

9 Sec. 55. Periodic reexamination; report.

10 (a) If a person has been committed under Section 40 of  
11 this Act and has not been discharged under Section 65 of this  
12 Act, the Department shall conduct an examination of his or  
13 her mental condition within 6 months after an initial  
14 commitment under Section 40 and then at least once every 12  
15 months from the completion of the last evaluation for the  
16 purpose of determining whether the person has made sufficient  
17 progress to be conditionally released or discharged. At the  
18 time of a reexamination under this Section, the person who  
19 has been committed may retain or, if he or she is indigent  
20 and so requests, the court may appoint a qualified expert or  
21 a professional person to examine him or her.

22 (b) Any examiner conducting an examination under this  
23 Section shall prepare a written report of the examination no  
24 later than 30 days after the date of the examination. The  
25 examiner shall place a copy of the report in the person's  
26 health care records and shall provide a copy of the report to  
27 the court that committed the person under Section 40. The  
28 examination shall be conducted in conformance with the  
29 standards developed under the Sex Offender Management Board  
30 Act and by an evaluator approved by the Board.

31 (c) Notwithstanding subsection (a) of this Section, the  
32 court that committed a person under Section 40 may order a  
33 reexamination of the person at any time during the period in

1 which the person is subject to the commitment order.

2 (d) Petitions for discharge after reexamination must  
3 follow the procedure outlined in Section 65 of this Act.

4 (Source: P.A. 90-40, eff. 1-1-98; 90-793, eff. 8-14-98;  
5 91-227, eff. 1-1-00; 91-875, eff. 6-30-00.)

6 (725 ILCS 207/60)

7 Sec. 60. Petition for conditional release.

8 (a) Any person who is committed for institutional care  
9 in a secure facility or other facility under Section 40 of  
10 this Act may petition the committing court to modify its  
11 order by authorizing conditional release if at least 6 months  
12 have elapsed since the initial commitment order was entered,  
13 the most recent release petition was denied or the most  
14 recent order for conditional release was revoked. The  
15 director of the facility at which the person is placed may  
16 file a petition under this Section on the person's behalf at  
17 any time.

18 (b) If the person files a timely petition without  
19 counsel, the court shall serve a copy of the petition on the  
20 Attorney General or State's Attorney, whichever is applicable  
21 and, subject to paragraph (c)(1) of Section 25 of this Act,  
22 appoint counsel. If the person petitions through counsel,  
23 his or her attorney shall serve the Attorney General or  
24 State's Attorney, whichever is applicable.

25 (c) Within 20 days after receipt of the petition, the  
26 court shall appoint one or more examiners having the  
27 specialized knowledge determined by the court to be  
28 appropriate, who shall examine the mental condition of the  
29 person and furnish a written report of the examination to the  
30 court within 30 days after appointment. The examiners shall  
31 have reasonable access to the person for purposes of  
32 examination and to the person's past and present treatment  
33 records and patient health care records. If any such

1 examiner believes that the person is appropriate for  
2 conditional release, the examiner shall report on the type of  
3 treatment and services that the person may need while in the  
4 community on conditional release. The State has the right to  
5 have the person evaluated by experts chosen by the State. Any  
6 examination or evaluation conducted under this Section shall  
7 be in conformance with the standards developed under the Sex  
8 Offender Management Board Act and conducted by an evaluator  
9 approved by the Board. The court shall set a probable cause  
10 hearing as soon as practical after the examiner's report is  
11 filed. If the court determines at the probable cause hearing  
12 that cause exists to believe that it is not substantially  
13 probable that the person will engage in acts of sexual  
14 violence if on release or conditional release, the court  
15 shall set a hearing on the issue.

16 (d) The court, without a jury, shall hear the petition  
17 within 30 days after the report of the court-appointed  
18 examiner is filed with the court, unless the petitioner  
19 waives this time limit. The court shall grant the petition  
20 unless the State proves by clear and convincing evidence that  
21 the person has not made sufficient progress to be  
22 conditionally released. In making a decision under this  
23 subsection, the court must consider the nature and  
24 circumstances of the behavior that was the basis of the  
25 allegation in the petition under paragraph (b)(1) of Section  
26 15 of this Act, the person's mental history and present  
27 mental condition, where the person will live, how the person  
28 will support himself or herself and what arrangements are  
29 available to ensure that the person has access to and will  
30 participate in necessary treatment.

31 (e) Before the court may enter an order directing  
32 conditional release to a less restrictive alternative it must  
33 find the following: (1) the person will be treated by a  
34 Department approved treatment provider, (2) the treatment



1 provider has presented a specific course of treatment and has  
2 agreed to assume responsibility for the treatment and will  
3 report progress to the Department on a regular basis, and  
4 will report violations immediately to the Department,  
5 consistent with treatment and supervision needs of the  
6 respondent, (3) housing exists that is sufficiently secure to  
7 protect the community, and the person or agency providing  
8 housing to the conditionally released person has agreed in  
9 writing to accept the person, to provide the level of  
10 security required by the court, and immediately to report to  
11 the Department if the person leaves the housing to which he  
12 or she has been assigned without authorization, (4) the  
13 person is willing to or has agreed to comply with the  
14 treatment provider, the Department, and the court, and (5)  
15 the person has agreed or is willing to agree to comply with  
16 the behavioral monitoring requirements imposed by the court  
17 and the Department.

18 (f) If the court finds that the person is appropriate  
19 for conditional release, the court shall notify the  
20 Department. The Department shall prepare a plan that  
21 identifies the treatment and services, if any, that the  
22 person will receive in the community. The plan shall address  
23 the person's need, if any, for supervision, counseling,  
24 medication, community support services, residential services,  
25 vocational services, and alcohol or other drug abuse  
26 treatment. The Department may contract with a county health  
27 department, with another public agency or with a private  
28 agency to provide the treatment and services identified in  
29 the plan. The plan shall specify who will be responsible for  
30 providing the treatment and services identified in the plan.  
31 The plan shall be presented to the court for its approval  
32 within 60 days after the court finding that the person is  
33 appropriate for conditional release, unless the Department  
34 and the person to be released request additional time to

1 develop the plan.

2 (g) The provisions of paragraph (b)(4) of Section 40 of  
3 this Act apply to an order for conditional release issued  
4 under this Section.

5 (Source: P.A. 91-875, eff. 6-30-00; 92-415, eff. 8-17-01.)

6 (725 ILCS 207/65)

7 Sec. 65. Petition for discharge; procedure.

8 (a)(1) If the Secretary determines at any time that a  
9 person committed under this Act is no longer a sexually  
10 violent person, the Secretary shall authorize the person to  
11 petition the committing court for discharge. The person  
12 shall file the petition with the court and serve a copy upon  
13 the Attorney General or the State's Attorney's office that  
14 filed the petition under subsection (a) of Section 15 of this  
15 Act, whichever is applicable. The court, upon receipt of the  
16 petition for discharge, shall order a hearing to be held  
17 within 45 days after the date of receipt of the petition.

18 (2) At a hearing under this subsection, the Attorney  
19 General or State's Attorney, whichever filed the original  
20 petition, shall represent the State and shall have the right  
21 to have the petitioner examined by an expert or professional  
22 person of his or her choice. The examination shall be  
23 conducted in conformance with the standards developed under  
24 the Sex Offender Management Board Act and by an evaluator  
25 approved by the Board. The committed person or the State may  
26 elect to have the hearing before a jury. The State has the  
27 burden of proving by clear and convincing evidence that the  
28 petitioner is still a sexually violent person.

29 (3) If the court or jury is satisfied that the State has  
30 not met its burden of proof under paragraph (a)(2) of this  
31 Section, the petitioner shall be discharged from the custody  
32 or supervision of the Department. If the court is satisfied  
33 that the State has met its burden of proof under paragraph

1 (a)(2), the court may proceed under Section 40 of this Act to  
2 determine whether to modify the petitioner's existing  
3 commitment order.

4 (b)(1) A person may petition the committing court for  
5 discharge from custody or supervision without the Secretary's  
6 approval. At the time of an examination under subsection (a)  
7 of Section 55 of this Act, the Secretary shall provide the  
8 committed person with a written notice of the person's right  
9 to petition the court for discharge over the Secretary's  
10 objection. The notice shall contain a waiver of rights. The  
11 Secretary shall forward the notice and waiver form to the  
12 court with the report of the Department's examination under  
13 Section 55 of this Act. If the person does not affirmatively  
14 waive the right to petition, the court shall set a probable  
15 cause hearing to determine whether facts exist that warrant a  
16 hearing on whether the person is still a sexually violent  
17 person. If a person does not file a petition for discharge,  
18 yet fails to waive the right to petition under this Section,  
19 then the probable cause hearing consists only of a review of  
20 the reexamination reports and arguments on behalf of the  
21 parties. The committed person has a right to have an attorney  
22 represent him or her at the probable cause hearing, but the  
23 person is not entitled to be present at the probable cause  
24 hearing. The probable cause hearing under this Section must  
25 be held within 45 days of the filing of the reexamination  
26 report under Section 55 of this Act.

27 (2) If the court determines at the probable cause  
28 hearing under paragraph (b)(1) of this Section that probable  
29 cause exists to believe that the committed person is no  
30 longer a sexually violent person, then the court shall set a  
31 hearing on the issue. At a hearing under this Section, the  
32 committed person is entitled to be present and to the benefit  
33 of the protections afforded to the person under Section 25 of  
34 this Act. The committed person or the State may elect to have

1 a hearing under this Section before a jury. A verdict of a  
2 jury under this Section is not valid unless it is unanimous.  
3 The Attorney General or State's Attorney, whichever filed the  
4 original petition, shall represent the State at a hearing  
5 under this Section. The State has the right to have the  
6 committed person evaluated by experts chosen by the State.  
7 The examination shall be conducted in conformance with the  
8 standards developed under the Sex Offender Management Board  
9 Act and by an evaluator approved by the Board. At the  
10 hearing, the State has the burden of proving by clear and  
11 convincing evidence that the committed person is still a  
12 sexually violent person.

13 (3) If the court or jury is satisfied that the State has  
14 not met its burden of proof under paragraph (b)(2) of this  
15 Section, the person shall be discharged from the custody or  
16 supervision of the Department. If the court or jury is  
17 satisfied that the State has met its burden of proof under  
18 paragraph (b)(2) of this Section, the court may proceed under  
19 Section 40 of this Act to determine whether to modify the  
20 person's existing commitment order.

21 (Source: P.A. 91-227, eff. 1-1-00; 92-415, eff. 8-17-01.)

22 Section 22. The Unified Code of Corrections is amended  
23 by changing Sections 3-3-7, 3-6-2, 3-9-7, 5-3-1, 5-3-2,  
24 5-4-1, 5-6-3, and 5-7-1 as follows:

25 (730 ILCS 5/3-3-7) (from Ch. 38, par. 1003-3-7)

26 Sec. 3-3-7. Conditions of Parole or Mandatory Supervised  
27 Release.

28 (a) The conditions of parole or mandatory supervised  
29 release shall be such as the Prisoner Review Board deems  
30 necessary to assist the subject in leading a law-abiding  
31 life. The conditions of every parole and mandatory supervised  
32 release are that the subject:

1 (1) not violate any criminal statute of any  
2 jurisdiction during the parole or release term;

3 (2) refrain from possessing a firearm or other  
4 dangerous weapon;

5 (3) report to an agent of the Department of  
6 Corrections;

7 (4) permit the agent to visit him or her at his or  
8 her home, employment, or elsewhere to the extent  
9 necessary for the agent to discharge his or her duties;

10 (5) attend or reside in a facility established for  
11 the instruction or residence of persons on parole or  
12 mandatory supervised release;

13 (6) secure permission before visiting or writing a  
14 committed person in an Illinois Department of Corrections  
15 facility;

16 (7) report all arrests to an agent of the  
17 Department of Corrections as soon as permitted by the  
18 arresting authority but in no event later than 24 hours  
19 after release from custody;

20 (7.5) if convicted of a sex offense as defined in  
21 the Sex Offender Management Board Act, the individual  
22 shall undergo and successfully complete sex offender  
23 treatment conducted in conformance with the standards  
24 developed by the Sex Offender Management Board Act by a  
25 treatment provider approved by the Board;

26 (8) obtain permission of an agent of the Department  
27 of Corrections before leaving the State of Illinois;

28 (9) obtain permission of an agent of the Department  
29 of Corrections before changing his or her residence or  
30 employment;

31 (10) consent to a search of his or her person,  
32 property, or residence under his or her control;

33 (11) refrain from the use or possession of  
34 narcotics or other controlled substances in any form, or

1 both, or any paraphernalia related to those substances  
2 and submit to a urinalysis test as instructed by a parole  
3 agent of the Department of Corrections;

4 (12) not frequent places where controlled  
5 substances are illegally sold, used, distributed, or  
6 administered;

7 (13) not knowingly associate with other persons on  
8 parole or mandatory supervised release without prior  
9 written permission of his or her parole agent and not  
10 associate with persons who are members of an organized  
11 gang as that term is defined in the Illinois Streetgang  
12 Terrorism Omnibus Prevention Act;

13 (14) provide true and accurate information, as it  
14 relates to his or her adjustment in the community while  
15 on parole or mandatory supervised release or to his or  
16 her conduct while incarcerated, in response to inquiries  
17 by his or her parole agent or of the Department of  
18 Corrections; and

19 (15) follow any specific instructions provided by  
20 the parole agent that are consistent with furthering  
21 conditions set and approved by the Prisoner Review Board  
22 or by law, exclusive of placement on electronic  
23 detention, to achieve the goals and objectives of his or  
24 her parole or mandatory supervised release or to protect  
25 the public. These instructions by the parole agent may be  
26 modified at any time, as the agent deems appropriate.

27 (b) The Board may in addition to other conditions  
28 require that the subject:

29 (1) work or pursue a course of study or vocational  
30 training;

31 (2) undergo medical or psychiatric treatment, or  
32 treatment for drug addiction or alcoholism;

33 (3) attend or reside in a facility established for  
34 the instruction or residence of persons on probation or

1 parole;

2 (4) support his dependents;

3 (5) (blank);

4 (6) (blank);

5 (7) comply with the terms and conditions of an  
6 order of protection issued pursuant to the Illinois  
7 Domestic Violence Act of 1986, enacted by the 84th  
8 General Assembly, or an order of protection issued by the  
9 court of another state, tribe, or United States  
10 territory; and

11 (8) in addition, if a minor:

12 (i) reside with his parents or in a foster  
13 home;

14 (ii) attend school;

15 (iii) attend a non-residential program for  
16 youth; or

17 (iv) contribute to his own support at home or  
18 in a foster home.

19 (c) The conditions under which the parole or mandatory  
20 supervised release is to be served shall be communicated to  
21 the person in writing prior to his release, and he shall sign  
22 the same before release. A signed copy of these conditions,  
23 including a copy of an order of protection where one had been  
24 issued by the criminal court, shall be retained by the person  
25 and another copy forwarded to the officer in charge of his  
26 supervision.

27 (d) After a hearing under Section 3-3-9, the Prisoner  
28 Review Board may modify or enlarge the conditions of parole  
29 or mandatory supervised release.

30 (e) The Department shall inform all offenders committed  
31 to the Department of the optional services available to them  
32 upon release and shall assist inmates in availing themselves  
33 of such optional services upon their release on a voluntary  
34 basis.

1 (Source: P.A. 91-903, eff. 1-1-01; 92-460, eff. 1-1-02.)

2 (730 ILCS 5/3-6-2) (from Ch. 38, par. 1003-6-2)

3 Sec. 3-6-2. Institutions and Facility Administration.

4 (a) Each institution and facility of the Department  
5 shall be administered by a chief administrative officer  
6 appointed by the Director. A chief administrative officer  
7 shall be responsible for all persons assigned to the  
8 institution or facility. The chief administrative officer  
9 shall administer the programs of the Department for the  
10 custody and treatment of such persons.

11 (b) The chief administrative officer shall have such  
12 assistants as the Department may assign.

13 (c) The Director or Assistant Director shall have the  
14 emergency powers to temporarily transfer individuals without  
15 formal procedures to any State, county, municipal or regional  
16 correctional or detention institution or facility in the  
17 State, subject to the acceptance of such receiving  
18 institution or facility, or to designate any reasonably  
19 secure place in the State as such an institution or facility  
20 and to make transfers thereto. However, transfers made under  
21 emergency powers shall be reviewed as soon as practicable  
22 under Article 8, and shall be subject to Section 5-905 of the  
23 Juvenile Court Act of 1987. This Section shall not apply to  
24 transfers to the Department of Human Services which are  
25 provided for under Section 3-8-5 or Section 3-10-5.

26 (d) The Department shall provide educational programs  
27 for all committed persons so that all persons have an  
28 opportunity to attain the achievement level equivalent to the  
29 completion of the twelfth grade in the public school system  
30 in this State. Other higher levels of attainment shall be  
31 encouraged and professional instruction shall be maintained  
32 wherever possible. The Department may establish programs of  
33 mandatory education and may establish rules and regulations



1 for the administration of such programs. A person committed  
2 to the Department who, during the period of his or her  
3 incarceration, participates in an educational program  
4 provided by or through the Department and through that  
5 program is awarded or earns the number of hours of credit  
6 required for the award of an associate, baccalaureate, or  
7 higher degree from a community college, college, or  
8 university located in Illinois shall reimburse the State,  
9 through the Department, for the costs incurred by the State  
10 in providing that person during his or her incarceration with  
11 the education that qualifies him or her for the award of that  
12 degree. The costs for which reimbursement is required under  
13 this subsection shall be determined and computed by the  
14 Department under rules and regulations that it shall  
15 establish for that purpose. However, interest at the rate of  
16 6% per annum shall be charged on the balance of those costs  
17 from time to time remaining unpaid, from the date of the  
18 person's parole, mandatory supervised release, or release  
19 constituting a final termination of his or her commitment to  
20 the Department until paid.

21 (e) A person committed to the Department who becomes in  
22 need of medical or surgical treatment but is incapable of  
23 giving consent thereto shall receive such medical or surgical  
24 treatment by the chief administrative officer consenting on  
25 the person's behalf. Before the chief administrative officer  
26 consents, he or she shall obtain the advice of one or more  
27 physicians licensed to practice medicine in all its branches  
28 in this State. If such physician or physicians advise:

29 (1) that immediate medical or surgical treatment is  
30 required relative to a condition threatening to cause  
31 death, damage or impairment to bodily functions, or  
32 disfigurement; and

33 (2) that the person is not capable of giving  
34 consent to such treatment; the chief administrative

1 officer may give consent for such medical or surgical  
2 treatment, and such consent shall be deemed to be the  
3 consent of the person for all purposes, including, but  
4 not limited to, the authority of a physician to give such  
5 treatment.

6 (f) In the event that the person requires medical care  
7 and treatment at a place other than the institution or  
8 facility, the person may be removed therefrom under  
9 conditions prescribed by the Department. The Department shall  
10 require the committed person receiving medical or dental  
11 services on a non-emergency basis to pay a \$2 co-payment to  
12 the Department for each visit for medical or dental services.  
13 The amount of each co-payment shall be deducted from the  
14 committed person's individual account. A committed person who  
15 has a chronic illness, as defined by Department rules and  
16 regulations, shall be exempt from the \$2 co-payment for  
17 treatment of the chronic illness. A committed person shall  
18 not be subject to a \$2 co-payment for follow-up visits  
19 ordered by a physician, who is employed by, or contracts  
20 with, the Department. A committed person who is indigent is  
21 exempt from the \$2 co-payment and is entitled to receive  
22 medical or dental services on the same basis as a committed  
23 person who is financially able to afford the co-payment.  
24 Notwithstanding any other provision in this subsection (f) to  
25 the contrary, any person committed to any facility operated  
26 by the Juvenile Division, as set forth in subsection (b) of  
27 Section 3-2-5 of this Code, is exempt from the co-payment  
28 requirement for the duration of confinement in those  
29 facilities.

30 (g) Any person having sole custody of a child at the  
31 time of commitment or any woman giving birth to a child after  
32 her commitment, may arrange through the Department of  
33 Children and Family Services for suitable placement of the  
34 child outside of the Department of Corrections. The Director

1 of the Department of Corrections may determine that there are  
2 special reasons why the child should continue in the custody  
3 of the mother until the child is 6 years old.

4 (h) The Department may provide Family Responsibility  
5 Services which may consist of, but not be limited to the  
6 following:

- 7 (1) family advocacy counseling;
- 8 (2) parent self-help group;
- 9 (3) parenting skills training;
- 10 (4) parent and child overnight program;
- 11 (5) parent and child reunification counseling,  
12 either separately or together, preceding the inmate's  
13 release; and
- 14 (6) a prerelease reunification staffing involving  
15 the family advocate, the inmate and the child's  
16 counselor, or both and the inmate.

17 (i) Prior to the release of any inmate who has a  
18 documented history of intravenous drug use, and upon the  
19 receipt of that inmate's written informed consent, the  
20 Department shall provide for the testing of such inmate for  
21 infection with human immunodeficiency virus (HIV) and any  
22 other identified causative agent of acquired immunodeficiency  
23 syndrome (AIDS). The testing provided under this subsection  
24 shall consist of an enzyme-linked immunosorbent assay (ELISA)  
25 test or such other test as may be approved by the Illinois  
26 Department of Public Health. If the test result is positive,  
27 the Western Blot Assay or more reliable confirmatory test  
28 shall be administered. All inmates tested in accordance with  
29 the provisions of this subsection shall be provided with  
30 pre-test and post-test counseling. Notwithstanding any  
31 provision of this subsection to the contrary, the Department  
32 shall not be required to conduct the testing and counseling  
33 required by this subsection unless sufficient funds to cover  
34 all costs of such testing and counseling are appropriated for

1 that purpose by the General Assembly.

2 (j) Any person convicted of a sex offense as defined in  
3 the Sex Offender Management Board Act shall be required to  
4 receive a sex offender evaluation prior to release into the  
5 community from the Department of Corrections. The sex  
6 offender evaluation shall be conducted in conformance with  
7 the standards and guidelines developed under the Sex Offender  
8 Management Board Act and by an evaluator approved by the  
9 Board.

10 (k) Any minor committed to the Department of  
11 Corrections-Juvenile Division for a sex offense as defined by  
12 the Sex Offender Management Board Act shall be required to  
13 undergo sex offender treatment by a treatment provider  
14 approved by the Board and conducted in conformance with the  
15 Sex Offender Management Board Act.

16 (Source: P.A. 91-912, eff. 7-7-00; 92-292, eff. 8-9-01.)

17 (730 ILCS 5/3-9-7) (from Ch. 38, par. 1003-9-7)

18 Sec. 3-9-7. Sexual abuse counseling programs.

19 (a) The Juvenile Division shall establish and offer  
20 sexual abuse counseling to both victims of sexual abuse and  
21 sexual offenders in as many facilities as necessary to insure  
22 sexual abuse counseling throughout the State.

23 (b) Any minor committed to the Department of  
24 Corrections-Juvenile Division for a sex offense as defined  
25 under the Sex Offender Management Board Act shall be required  
26 to undergo sex offender treatment by a treatment provider  
27 approved by the Board and conducted in conformance with the  
28 standards developed by the Sex Offender Management Board Act.

29 (Source: P.A. 87-444.)

30 (730 ILCS 5/5-3-1) (from Ch. 38, par. 1005-3-1)

31 Sec. 5-3-1. Presentence Investigation. A defendant shall  
32 not be sentenced for a felony before a written presentence

1 report of investigation is presented to and considered by the  
2 court.

3 However, in cases other than felony sex offenses as  
4 defined in the Sex Offender Management Board Act, the court  
5 need not order a presentence report of investigation where  
6 both parties agree to the imposition of a specific sentence,  
7 provided there is a finding made for the record as to the  
8 defendant's history of delinquency or criminality, including  
9 any previous sentence to a term of probation, periodic  
10 imprisonment, conditional discharge, or imprisonment.

11 The court may order a presentence investigation of any  
12 defendant.

13 (Source: P.A. 80-1099.)

14 (730 ILCS 5/5-3-2) (from Ch. 38, par. 1005-3-2)  
15 Sec. 5-3-2. Presentence Report.

16 (a) In felony cases, the presentence report shall set  
17 forth:

18 (1) the defendant's history of delinquency or  
19 criminality, physical and mental history and condition,  
20 family situation and background, economic status,  
21 education, occupation and personal habits;

22 (2) information about special resources within the  
23 community which might be available to assist the  
24 defendant's rehabilitation, including treatment centers,  
25 residential facilities, vocational training services,  
26 correctional manpower programs, employment opportunities,  
27 special educational programs, alcohol and drug abuse  
28 programming, psychiatric and marriage counseling, and  
29 other programs and facilities which could aid the  
30 defendant's successful reintegration into society;

31 (3) the effect the offense committed has had upon  
32 the victim or victims thereof, and any compensatory  
33 benefit that various sentencing alternatives would confer

1 on such victim or victims;

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

6 (5) when appropriate, a plan, based upon the  
7 personal, economic and social adjustment needs of the  
8 defendant, utilizing public and private community  
9 resources as an alternative to institutional sentencing;

10 (6) any other matters that the investigatory  
11 officer deems relevant or the court directs to be  
12 included; and

13 (7) information concerning defendant's eligibility  
14 for a sentence to a county impact incarceration program  
15 under Section 5-8-1.2 of this Code.

16 (b) The investigation shall include a physical and  
17 mental examination of the defendant when so ordered by the  
18 court. If the court determines that such an examination  
19 should be made, it shall issue an order that the defendant  
20 submit to examination at such time and place as designated by  
21 the court and that such examination be conducted by a  
22 physician, psychologist or psychiatrist designated by the  
23 court. Such an examination may be conducted in a court  
24 clinic if so ordered by the court. The cost of such  
25 examination shall be paid by the county in which the trial is  
26 held.

27 (b-5) In cases involving felony sex offenses or any  
28 felony offense that is sexually motivated as defined in the  
29 Sex Offender Management Board Act, the investigation shall  
30 include a sex offender evaluation by an evaluator approved by  
31 the Board and conducted in conformance with the standards  
32 developed under the Sex Offender Management Board Act.

33 (c) In misdemeanor, business offense or petty offense  
34 cases, except as specified in subsection (d) of this Section,

1 when a presentence report has been ordered by the court, such  
2 presentence report shall contain information on the  
3 defendant's history of delinquency or criminality and shall  
4 further contain only those matters listed in any of  
5 paragraphs (1) through (6) of subsection (a) or in subsection  
6 (b) of this Section as are specified by the court in its  
7 order for the report.

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

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

21 (Source: P.A. 89-587, eff. 7-31-96.)

22 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

24 (a) Except when the death penalty is sought under  
25 hearing procedures otherwise specified, after a determination  
26 of guilt, a hearing shall be held to impose the sentence.  
27 However, prior to the imposition of sentence on an individual  
28 being sentenced for an offense based upon a charge for a  
29 violation of Section 11-501 of the Illinois Vehicle Code or a  
30 similar provision of a local ordinance, the individual must  
31 undergo a professional evaluation to determine if an alcohol  
32 or other drug abuse problem exists and the extent of such a  
33 problem. Programs conducting these evaluations shall be

1 licensed by the Department of Human Services. However, if  
2 the individual is not a resident of Illinois, the court may,  
3 in its discretion, accept an evaluation from a program in the  
4 state of such individual's residence. The court may in its  
5 sentencing order approve an eligible defendant for placement  
6 in a Department of Corrections impact incarceration program  
7 as provided in Section 5-8-1.1 or 5-8-1.3. At the hearing  
8 the court shall:

9 (1) consider the evidence, if any, received upon  
10 the trial;

11 (2) consider any presentence reports;

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

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

17 (5) hear arguments as to sentencing alternatives;

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

20 (7) afford the victim of a violent crime or a  
21 violation of Section 11-501 of the Illinois Vehicle Code,  
22 or a similar provision of a local ordinance, or a  
23 qualified individual affected by a violation of Section  
24 405, 405.1, 405.2, or 407 of the Illinois Controlled  
25 Substances Act, committed by the defendant the  
26 opportunity to make a statement concerning the impact on  
27 the victim and to offer evidence in aggravation or  
28 mitigation; provided that the statement and evidence  
29 offered in aggravation or mitigation must first be  
30 prepared in writing in conjunction with the State's  
31 Attorney before it may be presented orally at the  
32 hearing. Any sworn testimony offered by the victim is  
33 subject to the defendant's right to cross-examine. All  
34 statements and evidence offered under this paragraph (7)



1 shall become part of the record of the court. For the  
2 purpose of this paragraph (7), "qualified individual"  
3 means any person who (i) lived or worked within the  
4 territorial jurisdiction where the offense took place  
5 when the offense took place; and (ii) is familiar with  
6 various public places within the territorial jurisdiction  
7 where the offense took place when the offense took place.  
8 For the purposes of this paragraph (7), "qualified  
9 individual" includes any peace officer, or any member of  
10 any duly organized State, county, or municipal peace unit  
11 assigned to the territorial jurisdiction where the  
12 offense took place when the offense took place; and

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

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

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

32 (c) In imposing a sentence for a violent crime or for an  
33 offense of operating or being in physical control of a  
34 vehicle while under the influence of alcohol, any other drug

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

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

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

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

32 "The purpose of this statement is to inform the public of  
33 the actual period of time this defendant is likely to spend  
34 in prison as a result of this sentence. The actual period of

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

15 When the sentence is imposed for one of the offenses  
16 enumerated in paragraph (a)(3) of Section 3-6-3, other than  
17 when the sentence is imposed for one of the offenses  
18 enumerated in paragraph (a)(2) of Section 3-6-3 committed on  
19 or after June 19, 1998, and other than when the sentence is  
20 imposed for reckless homicide as defined in subsection (e) of  
21 Section 9-3 of the Criminal Code of 1961 if the offense was  
22 committed on or after January 1, 1999, and other than when  
23 the sentence is imposed for aggravated arson if the offense  
24 was committed on or after the effective date of this  
25 amendatory Act of the 92nd General Assembly, the judge's  
26 statement, to be given after pronouncing the sentence, shall  
27 include the following:

28 "The purpose of this statement is to inform the public of  
29 the actual period of time this defendant is likely to spend  
30 in prison as a result of this sentence. The actual period of  
31 prison time served is determined by the statutes of Illinois  
32 as applied to this sentence by the Illinois Department of  
33 Corrections and the Illinois Prisoner Review Board. In this  
34 case, assuming the defendant receives all of his or her good

1     conduct credit, the period of estimated actual custody is ...  
2     years and ... months, less up to 90 days additional good  
3     conduct credit for meritorious service. If the defendant,  
4     because of his or her own misconduct or failure to comply  
5     with the institutional regulations, does not receive those  
6     credits, the actual time served in prison will be longer.  
7     The defendant may also receive an additional one-half day  
8     good conduct credit for each day of participation in  
9     vocational, industry, substance abuse, and educational  
10    programs as provided for by Illinois statute."

11         When the sentence is imposed for one of the offenses  
12    enumerated in paragraph (a)(2) of Section 3-6-3, other than  
13    first degree murder, and the offense was committed on or  
14    after June 19, 1998, and when the sentence is imposed for  
15    reckless homicide as defined in subsection (e) of Section 9-3  
16    of the Criminal Code of 1961 if the offense was committed on  
17    or after January 1, 1999, and when the sentence is imposed  
18    for aggravated arson if the offense was committed on or after  
19    the effective date of this amendatory Act of the 92nd General  
20    Assembly, the judge's statement, to be given after  
21    pronouncing the sentence, shall include the following:

22         "The purpose of this statement is to inform the public of  
23    the actual period of time this defendant is likely to spend  
24    in prison as a result of this sentence. The actual period of  
25    prison time served is determined by the statutes of Illinois  
26    as applied to this sentence by the Illinois Department of  
27    Corrections and the Illinois Prisoner Review Board. In this  
28    case, the defendant is entitled to no more than 4 1/2 days of  
29    good conduct credit for each month of his or her sentence of  
30    imprisonment. Therefore, this defendant will serve at least  
31    85% of his or her sentence. Assuming the defendant receives  
32    4 1/2 days credit for each month of his or her sentence, the  
33    period of estimated actual custody is ... years and ...  
34    months. If the defendant, because of his or her own

1 misconduct or failure to comply with the institutional  
2 regulations receives lesser credit, the actual time served in  
3 prison will be longer."

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

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

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

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

4 (1) the sentence imposed;

5 (2) any statement by the court of the basis for  
6 imposing the sentence;

7 (3) any presentence reports;

8 (3.5) any sex offender evaluations;

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

13 (4.1) any finding of great bodily harm made by the  
14 court with respect to an offense enumerated in subsection  
15 (c-1);

16 (5) all statements filed under subsection (d) of  
17 this Section;

18 (6) any medical or mental health records or  
19 summaries of the defendant;

20 (7) the municipality where the arrest of the  
21 offender or the commission of the offense has occurred,  
22 where such municipality has a population of more than  
23 25,000 persons;

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

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

28 (Source: P.A. 91-357, eff. 7-29-99; 91-899, eff. 1-1-01;  
29 92-176, eff. 7-27-01; 92-806, eff. 1-1-03; revised 9-18-02.)

30 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

31 Sec. 5-6-3. Conditions of Probation and of Conditional  
32 Discharge.

33 (a) The conditions of probation and of conditional

1 discharge shall be that the person:

2 (1) not violate any criminal statute of any  
3 jurisdiction;

4 (2) report to or appear in person before such  
5 person or agency as directed by the court;

6 (3) refrain from possessing a firearm or other  
7 dangerous weapon;

8 (4) not leave the State without the consent of the  
9 court or, in circumstances in which the reason for the  
10 absence is of such an emergency nature that prior consent  
11 by the court is not possible, without the prior  
12 notification and approval of the person's probation  
13 officer. Transfer of a person's probation or conditional  
14 discharge supervision to another state is subject to  
15 acceptance by the other state pursuant to the Interstate  
16 Compact for Adult Offender Supervision;

17 (5) permit the probation officer to visit him at  
18 his home or elsewhere to the extent necessary to  
19 discharge his duties;

20 (6) perform no less than 30 hours of community  
21 service and not more than 120 hours of community service,  
22 if community service is available in the jurisdiction and  
23 is funded and approved by the county board where the  
24 offense was committed, where the offense was related to  
25 or in furtherance of the criminal activities of an  
26 organized gang and was motivated by the offender's  
27 membership in or allegiance to an organized gang. The  
28 community service shall include, but not be limited to,  
29 the cleanup and repair of any damage caused by a  
30 violation of Section 21-1.3 of the Criminal Code of 1961  
31 and similar damage to property located within the  
32 municipality or county in which the violation occurred.  
33 When possible and reasonable, the community service  
34 should be performed in the offender's neighborhood. For

1 purposes of this Section, "organized gang" has the  
2 meaning ascribed to it in Section 10 of the Illinois  
3 Streetgang Terrorism Omnibus Prevention Act;

4 (7) if he or she is at least 17 years of age and  
5 has been sentenced to probation or conditional discharge  
6 for a misdemeanor or felony in a county of 3,000,000 or  
7 more inhabitants and has not been previously convicted of  
8 a misdemeanor or felony, may be required by the  
9 sentencing court to attend educational courses designed  
10 to prepare the defendant for a high school diploma and to  
11 work toward a high school diploma or to work toward  
12 passing the high school level Test of General Educational  
13 Development (GED) or to work toward completing a  
14 vocational training program approved by the court. The  
15 person on probation or conditional discharge must attend  
16 a public institution of education to obtain the  
17 educational or vocational training required by this  
18 clause (7). The court shall revoke the probation or  
19 conditional discharge of a person who wilfully fails to  
20 comply with this clause (7). The person on probation or  
21 conditional discharge shall be required to pay for the  
22 cost of the educational courses or GED test, if a fee is  
23 charged for those courses or test. The court shall  
24 resentence the offender whose probation or conditional  
25 discharge has been revoked as provided in Section 5-6-4.  
26 This clause (7) does not apply to a person who has a  
27 high school diploma or has successfully passed the GED  
28 test. This clause (7) does not apply to a person who is  
29 determined by the court to be developmentally disabled or  
30 otherwise mentally incapable of completing the  
31 educational or vocational program;

32 (8) if convicted of possession of a substance  
33 prohibited by the Cannabis Control Act or Illinois  
34 Controlled Substances Act after a previous conviction or



1 disposition of supervision for possession of a substance  
2 prohibited by the Cannabis Control Act or Illinois  
3 Controlled Substances Act or after a sentence of  
4 probation under Section 10 of the Cannabis Control Act or  
5 Section 410 of the Illinois Controlled Substances Act and  
6 upon a finding by the court that the person is addicted,  
7 undergo treatment at a substance abuse program approved  
8 by the court; and

9 (8.5) if convicted of a felony sex offense as  
10 defined in the Sex Offender Management Board Act, the  
11 person shall undergo and successfully complete sex  
12 offender treatment by a treatment provider approved by  
13 the Board and conducted in conformance with the standards  
14 developed under the Sex Offender Management Board Act;  
15 and

16 (9) if convicted of a felony, physically surrender  
17 at a time and place designated by the court, his or her  
18 Firearm Owner's Identification Card and any and all  
19 firearms in his or her possession.

20 (b) The Court may in addition to other reasonable  
21 conditions relating to the nature of the offense or the  
22 rehabilitation of the defendant as determined for each  
23 defendant in the proper discretion of the Court require that  
24 the person:

25 (1) serve a term of periodic imprisonment under  
26 Article 7 for a period not to exceed that specified in  
27 paragraph (d) of Section 5-7-1;

28 (2) pay a fine and costs;

29 (3) work or pursue a course of study or vocational  
30 training;

31 (4) undergo medical, psychological or psychiatric  
32 treatment; or treatment for drug addiction or alcoholism;

33 (5) attend or reside in a facility established for  
34 the instruction or residence of defendants on probation;

- 1           (6) support his dependents;
- 2           (7) and in addition, if a minor:
- 3                 (i) reside with his parents or in a foster
- 4           home;
- 5                 (ii) attend school;
- 6                 (iii) attend a non-residential program for
- 7           youth;
- 8                 (iv) contribute to his own support at home or
- 9           in a foster home;
- 10                (v) with the consent of the superintendent of
- 11           the facility, attend an educational program at a
- 12           facility other than the school in which the offense
- 13           was committed if he or she is convicted of a crime
- 14           of violence as defined in Section 2 of the Crime
- 15           Victims Compensation Act committed in a school, on
- 16           the real property comprising a school, or within
- 17           1,000 feet of the real property comprising a school;
- 18           (8) make restitution as provided in Section 5-5-6
- 19           of this Code;
- 20           (9) perform some reasonable public or community
- 21           service;
- 22           (10) serve a term of home confinement. In addition
- 23           to any other applicable condition of probation or
- 24           conditional discharge, the conditions of home confinement
- 25           shall be that the offender:
- 26                 (i) remain within the interior premises of the
- 27           place designated for his confinement during the
- 28           hours designated by the court;
- 29                 (ii) admit any person or agent designated by
- 30           the court into the offender's place of confinement
- 31           at any time for purposes of verifying the offender's
- 32           compliance with the conditions of his confinement;
- 33           and
- 34                 (iii) if further deemed necessary by the court

1 or the Probation or Court Services Department, be  
2 placed on an approved electronic monitoring device,  
3 subject to Article 8A of Chapter V;

4 (iv) for persons convicted of any alcohol,  
5 cannabis or controlled substance violation who are  
6 placed on an approved monitoring device as a  
7 condition of probation or conditional discharge, the  
8 court shall impose a reasonable fee for each day of  
9 the use of the device, as established by the county  
10 board in subsection (g) of this Section, unless  
11 after determining the inability of the offender to  
12 pay the fee, the court assesses a lesser fee or no  
13 fee as the case may be. This fee shall be imposed in  
14 addition to the fees imposed under subsections  
15 (g) and (i) of this Section. The fee shall be  
16 collected by the clerk of the circuit court. The  
17 clerk of the circuit court shall pay all monies  
18 collected from this fee to the county treasurer for  
19 deposit in the substance abuse services fund under  
20 Section 5-1086.1 of the Counties Code; and

21 (v) for persons convicted of offenses other  
22 than those referenced in clause (iv) above and who  
23 are placed on an approved monitoring device as a  
24 condition of probation or conditional discharge, the  
25 court shall impose a reasonable fee for each day of  
26 the use of the device, as established by the county  
27 board in subsection (g) of this Section, unless  
28 after determining the inability of the defendant to  
29 pay the fee, the court assesses a lesser fee or no  
30 fee as the case may be. This fee shall be imposed  
31 in addition to the fees imposed under subsections  
32 (g) and (i) of this Section. The fee shall be  
33 collected by the clerk of the circuit court. The  
34 clerk of the circuit court shall pay all monies

1 collected from this fee to the county treasurer who  
2 shall use the monies collected to defray the costs  
3 of corrections. The county treasurer shall deposit  
4 the fee collected in the county working cash fund  
5 under Section 6-27001 or Section 6-29002 of the  
6 Counties Code, as the case may be.

7 (11) comply with the terms and conditions of an  
8 order of protection issued by the court pursuant to the  
9 Illinois Domestic Violence Act of 1986, as now or  
10 hereafter amended, or an order of protection issued by  
11 the court of another state, tribe, or United States  
12 territory. A copy of the order of protection shall be  
13 transmitted to the probation officer or agency having  
14 responsibility for the case;

15 (12) reimburse any "local anti-crime program" as  
16 defined in Section 7 of the Anti-Crime Advisory Council  
17 Act for any reasonable expenses incurred by the program  
18 on the offender's case, not to exceed the maximum amount  
19 of the fine authorized for the offense for which the  
20 defendant was sentenced;

21 (13) contribute a reasonable sum of money, not to  
22 exceed the maximum amount of the fine authorized for the  
23 offense for which the defendant was sentenced, to a  
24 "local anti-crime program", as defined in Section 7 of  
25 the Anti-Crime Advisory Council Act;

26 (14) refrain from entering into a designated  
27 geographic area except upon such terms as the court finds  
28 appropriate. Such terms may include consideration of the  
29 purpose of the entry, the time of day, other persons  
30 accompanying the defendant, and advance approval by a  
31 probation officer, if the defendant has been placed on  
32 probation or advance approval by the court, if the  
33 defendant was placed on conditional discharge;

34 (15) refrain from having any contact, directly or

1 indirectly, with certain specified persons or particular  
2 types of persons, including but not limited to members of  
3 street gangs and drug users or dealers;

4 (16) refrain from having in his or her body the  
5 presence of any illicit drug prohibited by the Cannabis  
6 Control Act or the Illinois Controlled Substances Act,  
7 unless prescribed by a physician, and submit samples of  
8 his or her blood or urine or both for tests to determine  
9 the presence of any illicit drug.

10 (c) The court may as a condition of probation or of  
11 conditional discharge require that a person under 18 years of  
12 age found guilty of any alcohol, cannabis or controlled  
13 substance violation, refrain from acquiring a driver's  
14 license during the period of probation or conditional  
15 discharge. If such person is in possession of a permit or  
16 license, the court may require that the minor refrain from  
17 driving or operating any motor vehicle during the period of  
18 probation or conditional discharge, except as may be  
19 necessary in the course of the minor's lawful employment.

20 (d) An offender sentenced to probation or to conditional  
21 discharge shall be given a certificate setting forth the  
22 conditions thereof.

23 (e) Except where the offender has committed a fourth or  
24 subsequent violation of subsection (c) of Section 6-303 of  
25 the Illinois Vehicle Code, the court shall not require as a  
26 condition of the sentence of probation or conditional  
27 discharge that the offender be committed to a period of  
28 imprisonment in excess of 6 months. This 6 month limit shall  
29 not include periods of confinement given pursuant to a  
30 sentence of county impact incarceration under Section  
31 5-8-1.2. This 6 month limit does not apply to a person  
32 sentenced to probation as a result of a conviction of a  
33 fourth or subsequent violation of subsection (c-4) of Section  
34 11-501 of the Illinois Vehicle Code or a similar provision of

1 a local ordinance.

2 Persons committed to imprisonment as a condition of  
3 probation or conditional discharge shall not be committed to  
4 the Department of Corrections.

5 (f) The court may combine a sentence of periodic  
6 imprisonment under Article 7 or a sentence to a county impact  
7 incarceration program under Article 8 with a sentence of  
8 probation or conditional discharge.

9 (g) An offender sentenced to probation or to conditional  
10 discharge and who during the term of either undergoes  
11 mandatory drug or alcohol testing, or both, or is assigned to  
12 be placed on an approved electronic monitoring device, shall  
13 be ordered to pay all costs incidental to such mandatory drug  
14 or alcohol testing, or both, and all costs incidental to such  
15 approved electronic monitoring in accordance with the  
16 defendant's ability to pay those costs. The county board  
17 with the concurrence of the Chief Judge of the judicial  
18 circuit in which the county is located shall establish  
19 reasonable fees for the cost of maintenance, testing, and  
20 incidental expenses related to the mandatory drug or alcohol  
21 testing, or both, and all costs incidental to approved  
22 electronic monitoring, involved in a successful probation  
23 program for the county. The concurrence of the Chief Judge  
24 shall be in the form of an administrative order. The fees  
25 shall be collected by the clerk of the circuit court. The  
26 clerk of the circuit court shall pay all moneys collected  
27 from these fees to the county treasurer who shall use the  
28 moneys collected to defray the costs of drug testing, alcohol  
29 testing, and electronic monitoring. The county treasurer  
30 shall deposit the fees collected in the county working cash  
31 fund under Section 6-27001 or Section 6-29002 of the Counties  
32 Code, as the case may be.

33 (h) Jurisdiction over an offender may be transferred  
34 from the sentencing court to the court of another circuit

1 with the concurrence of both courts. Further transfers or  
2 retransfers of jurisdiction are also authorized in the same  
3 manner. The court to which jurisdiction has been transferred  
4 shall have the same powers as the sentencing court.

5 (i) The court shall impose upon an offender sentenced to  
6 probation after January 1, 1989 or to conditional discharge  
7 after January 1, 1992, as a condition of such probation or  
8 conditional discharge, a fee of \$35 \$25 for each month of  
9 probation or conditional discharge supervision ordered by the  
10 court, unless after determining the inability of the person  
11 sentenced to probation or conditional discharge to pay the  
12 fee, the court assesses a lesser fee. The court may not  
13 impose the fee on a minor who is made a ward of the State  
14 under the Juvenile Court Act of 1987 while the minor is in  
15 placement. The fee shall be imposed only upon an offender who  
16 is actively supervised by the probation and court services  
17 department. The fee shall be collected by the clerk of the  
18 circuit court. The clerk of the circuit court shall deposit  
19 the first \$25 pay-all-monies collected from this fee to the  
20 county treasurer for deposit in the probation and court  
21 services fund under Section 15.1 of the Probation and  
22 Probation Officers Act. The clerk of the court shall deposit  
23 \$10 collected from this fee into the Sex Offender Management  
24 Board Fund under Section 19 of the Sex Offender Management  
25 Board Act. Money deposited into the Sex Offender Management  
26 Board Fund shall be administered by the Sex Offender  
27 Management Board and be used to fund practices endorsed or  
28 required under the Sex Offender Management Board Act,  
29 including but not limited to sex offender evaluation,  
30 treatment, and monitoring programs that are or may be  
31 developed by the agency providing supervision, the Department  
32 of Corrections or the Department of Human Services. This Fund  
33 shall also be used for administrative costs, including staff,  
34 incurred by the Board.

1           (j) All fines and costs imposed under this Section for  
2 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
3 Vehicle Code, or a similar provision of a local ordinance,  
4 and any violation of the Child Passenger Protection Act, or a  
5 similar provision of a local ordinance, shall be collected  
6 and disbursed by the circuit clerk as provided under Section  
7 27.5 of the Clerks of Courts Act.

8           (Source: P.A. 91-325, eff. 7-29-99; 91-696, eff. 4-13-00;  
9 91-903, eff. 1-1-01; 92-282, eff. 8-7-01; 92-340, eff.  
10 8-10-01; 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571,  
11 eff. 6-26-02; 92-651, eff. 7-11-02.)

12           (730 ILCS 5/5-7-1) (from Ch. 38, par. 1005-7-1)

13           Sec. 5-7-1. Sentence of Periodic Imprisonment.

14           (a) A sentence of periodic imprisonment is a sentence of  
15 imprisonment during which the committed person may be  
16 released for periods of time during the day or night or for  
17 periods of days, or both, or if convicted of a felony, other  
18 than first degree murder, a Class X or Class 1 felony,  
19 committed to any county, municipal, or regional correctional  
20 or detention institution or facility in this State for such  
21 periods of time as the court may direct. Unless the court  
22 orders otherwise, the particular times and conditions of  
23 release shall be determined by the Department of Corrections,  
24 the sheriff, or the Superintendent of the house of  
25 corrections, who is administering the program.

26           (b) A sentence of periodic imprisonment may be imposed  
27 to permit the defendant to:

28                   (1) seek employment;

29                   (2) work;

30                   (3) conduct a business or other self-employed  
31 occupation including housekeeping;

32                   (4) attend to family needs;

33                   (5) attend an educational institution, including



1 vocational education;

2 (6) obtain medical or psychological treatment;

3 (7) perform work duties at a county, municipal, or  
4 regional correctional or detention institution or  
5 facility;

6 (8) continue to reside at home with or without  
7 supervision involving the use of an approved electronic  
8 monitoring device, subject to Article 8A of Chapter V; or

9 (9) for any other purpose determined by the court.

10 (c) Except where prohibited by other provisions of this  
11 Code, the court may impose a sentence of periodic  
12 imprisonment for a felony or misdemeanor on a person who is  
13 17 years of age or older. The court shall not impose a  
14 sentence of periodic imprisonment if it imposes a sentence of  
15 imprisonment upon the defendant in excess of 90 days.

16 (d) A sentence of periodic imprisonment shall be for a  
17 definite term of from 3 to 4 years for a Class 1 felony, 18  
18 to 30 months for a Class 2 felony, and up to 18 months, or  
19 the longest sentence of imprisonment that could be imposed  
20 for the offense, whichever is less, for all other offenses;  
21 however, no person shall be sentenced to a term of periodic  
22 imprisonment longer than one year if he is committed to a  
23 county correctional institution or facility, and in  
24 conjunction with that sentence participate in a county work  
25 release program comparable to the work and day release  
26 program provided for in Article 13 of the Unified Code of  
27 Corrections in State facilities. The term of the sentence  
28 shall be calculated upon the basis of the duration of its  
29 term rather than upon the basis of the actual days spent in  
30 confinement. No sentence of periodic imprisonment shall be  
31 subject to the good time credit provisions of Section 3-6-3  
32 of this Code.

33 (e) When the court imposes a sentence of periodic  
34 imprisonment, it shall state:

- 1 (1) the term of such sentence;
- 2 (2) the days or parts of days which the defendant
- 3 is to be confined;
- 4 (3) the conditions.

5 (f) The court may issue an order of protection pursuant  
6 to the Illinois Domestic Violence Act of 1986 as a condition  
7 of a sentence of periodic imprisonment. The Illinois Domestic  
8 Violence Act of 1986 shall govern the issuance, enforcement  
9 and recording of orders of protection issued under this  
10 Section. A copy of the order of protection shall be  
11 transmitted to the person or agency having responsibility for  
12 the case.

13 (f-5) An offender sentenced to a term of periodic  
14 imprisonment for a felony sex offense as defined in the Sex  
15 Offender Management Board Act shall be required to undergo  
16 and successfully complete sex offender treatment by a  
17 treatment provider approved by the Board and conducted in  
18 conformance with the standards developed under the Sex  
19 Offender Management Board Act.

20 (g) An offender sentenced to periodic imprisonment who  
21 undergoes mandatory drug or alcohol testing, or both, or is  
22 assigned to be placed on an approved electronic monitoring  
23 device, shall be ordered to pay the costs incidental to such  
24 mandatory drug or alcohol testing, or both, and costs  
25 incidental to such approved electronic monitoring in  
26 accordance with the defendant's ability to pay those costs.  
27 The county board with the concurrence of the Chief Judge of  
28 the judicial circuit in which the county is located shall  
29 establish reasonable fees for the cost of maintenance,  
30 testing, and incidental expenses related to the mandatory  
31 drug or alcohol testing, or both, and all costs incidental to  
32 approved electronic monitoring, of all offenders with a  
33 sentence of periodic imprisonment. The concurrence of the  
34 Chief Judge shall be in the form of an administrative order.

1 The fees shall be collected by the clerk of the circuit  
2 court. The clerk of the circuit court shall pay all moneys  
3 collected from these fees to the county treasurer who shall  
4 use the moneys collected to defray the costs of drug  
5 testing, alcohol testing, and electronic monitoring. The  
6 county treasurer shall deposit the fees collected in the  
7 county working cash fund under Section 6-27001 or Section  
8 6-29002 of the Counties Code, as the case may be.

9 (h) All fees and costs imposed under this Section for  
10 any violation of Chapters 3, 4, 6, and 11 of the Illinois  
11 Vehicle Code, or a similar provision of a local ordinance,  
12 and any violation of the Child Passenger Protection Act, or a  
13 similar provision of a local ordinance, shall be collected  
14 and disbursed by the circuit clerk as provided under Section  
15 27.5 of the Clerks of Courts Act.

16 (i) A defendant at least 17 years of age who is  
17 convicted of a misdemeanor or felony in a county of 3,000,000  
18 or more inhabitants and who has not been previously convicted  
19 of a misdemeanor or a felony and who is sentenced to a term  
20 of periodic imprisonment may as a condition of his or her  
21 sentence be required by the court to attend educational  
22 courses designed to prepare the defendant for a high school  
23 diploma and to work toward receiving a high school diploma or  
24 to work toward passing the high school level Test of General  
25 Educational Development (GED) or to work toward completing a  
26 vocational training program approved by the court. The  
27 defendant sentenced to periodic imprisonment must attend a  
28 public institution of education to obtain the educational or  
29 vocational training required by this subsection (i). The  
30 defendant sentenced to a term of periodic imprisonment shall  
31 be required to pay for the cost of the educational courses or  
32 GED test, if a fee is charged for those courses or test. The  
33 court shall revoke the sentence of periodic imprisonment of  
34 the defendant who wilfully fails to comply with this

1 subsection (i). The court shall resentence the defendant  
2 whose sentence of periodic imprisonment has been revoked as  
3 provided in Section 5-7-2. This subsection (i) does not  
4 apply to a defendant who has a high school diploma or has  
5 successfully passed the GED test. This subsection (i) does  
6 not apply to a defendant who is determined by the court to be  
7 developmentally disabled or otherwise mentally incapable of  
8 completing the educational or vocational program.

9 (Source: P.A. 89-688, eff. 6-1-97; 90-399, eff. 1-1-98;  
10 90-655, eff. 7-30-98.)

11 Section 25. The Probation and Probation Officers Act is  
12 amended by changing Section 15.1 as follows:

13 (730 ILCS 110/15.1) (from Ch. 38, par. 204-7.1)

14 Sec. 15.1. Probation and Court Services Fund.

15 (a) The county treasurer in each county shall establish  
16 a probation and court services fund consisting of fees  
17 collected pursuant to subsection (i) of Section 5-6-3 and  
18 subsection (i) of Section 5-6-3.1 of the Unified Code of  
19 Corrections, subsection (10) of Section 5-615 and subsection  
20 (5) of Section 5-715 of the Juvenile Court Act of 1987, and  
21 paragraph 14.3 of subsection (b) of Section 110-10 of the  
22 Code of Criminal Procedure of 1963. The county treasurer  
23 shall disburse monies from the fund only at the direction of  
24 the chief judge of the circuit court in such circuit where  
25 the county is located. The county treasurer of each county  
26 shall, on or before January 10 of each year, submit an annual  
27 report to the Supreme Court.

28 (b) Monies in the probation and court services fund  
29 shall be appropriated by the county board to be used within  
30 the county or jurisdiction where collected in accordance with  
31 policies and guidelines approved by the Supreme Court for the  
32 costs of operating the probation and court services

1 department or departments; however, monies in the probation  
2 and court services fund shall not be used for the payment of  
3 salaries of probation and court services personnel.

4 (c) Monies expended from the probation and court  
5 services fund shall be used to supplement, not supplant,  
6 county appropriations for probation and court services.

7 (d) Interest earned on monies deposited in a probation  
8 and court services fund may be used by the county for its  
9 ordinary and contingent expenditures.

10 (e) The county board may appropriate moneys from the  
11 probation and court services fund, upon the direction of the  
12 chief judge, to support programs that are part of the  
13 continuum of juvenile delinquency intervention programs which  
14 are or may be developed within the county. The grants from  
15 the probation and court services fund shall be for no more  
16 than one year and may be used for any expenses attributable  
17 to the program including administration and oversight of the  
18 program by the probation department.

19 (f) The county board may appropriate moneys from the  
20 probation and court services fund, upon the direction of the  
21 chief judge, to support practices endorsed or required under  
22 the Sex Offender Management Board Act, including but not  
23 limited to sex offender evaluation, treatment, and monitoring  
24 programs that are or may be developed within the county.

25 (Source: P.A. 92-329, eff. 8-9-01.)

26 Section 30. The Sex Offender Registration Act is  
27 amended by changing Section 3 as follows:

28 (730 ILCS 150/3) (from Ch. 38, par. 223)

29 Sec. 3. Duty to register.

30 (a) A sex offender, as defined in Section 2 of this Act,  
31 or sexual predator shall, within the time period prescribed  
32 in subsections (b) and (c), register in person and provide

1 accurate information as required by the Department of State  
2 Police. Such information shall include current address,  
3 current place of employment, and school attended. The sex  
4 offender or sexual predator shall register:

5 (1) with the chief of police in each of the  
6 municipalities in which he or she attends school, is  
7 employed, resides or is temporarily domiciled for a  
8 period of time of 10 or more days, unless the  
9 municipality is the City of Chicago, in which case he or  
10 she shall register at the Chicago Police Department  
11 Headquarters; or

12 (2) with the sheriff in each of the counties in  
13 which he or she attends school, is employed, resides or  
14 is temporarily domiciled in an unincorporated area or, if  
15 incorporated, no police chief exists.

16 For purposes of this Article, the place of residence or  
17 temporary domicile is defined as any and all places where the  
18 sex offender resides for an aggregate period of time of 10 or  
19 more days during any calendar year.

20 The sex offender or sexual predator shall provide  
21 accurate information as required by the Department of State  
22 Police. That information shall include the sex offender's or  
23 sexual predator's current place of employment.

24 (a-5) An out-of-state student or out-of-state employee  
25 shall, within 10 days after beginning school or employment in  
26 this State, register in person and provide accurate  
27 information as required by the Department of State Police.  
28 Such information will include current place of employment,  
29 school attended, and address in state of residence:

30 (1) with the chief of police in each of the  
31 municipalities in which he or she attends school or is  
32 employed for a period of time of 10 or more days or for  
33 an aggregate period of time of more than 30 days during  
34 any calendar year, unless the municipality is the City of

1 Chicago, in which case he or she shall register at the  
2 Chicago Police Department Headquarters; or

3 (2) with the sheriff in each of the counties in  
4 which he or she attends school or is employed for a  
5 period of time of 10 or more days or for an aggregate  
6 period of time of more than 30 days during any calendar  
7 year in an unincorporated area or, if incorporated, no  
8 police chief exists.

9 The out-of-state student or out-of-state employee shall  
10 provide accurate information as required by the Department of  
11 State Police. That information shall include the  
12 out-of-state student's current place of school attendance or  
13 the out-of-state employee's current place of employment.

14 (b) Any sex offender, as defined in Section 2 of this  
15 Act, or sexual predator, regardless of any initial, prior, or  
16 other registration, shall, within 10 days of beginning  
17 school, or establishing a residence, place of employment, or  
18 temporary domicile in any county, register in person as set  
19 forth in subsection (a) or (a-5).

20 (c) The registration for any person required to register  
21 under this Article shall be as follows:

22 (1) Any person registered under the Habitual Child  
23 Sex Offender Registration Act or the Child Sex Offender  
24 Registration Act prior to January 1, 1996, shall be  
25 deemed initially registered as of January 1, 1996;  
26 however, this shall not be construed to extend the  
27 duration of registration set forth in Section 7.

28 (2) Except as provided in subsection (c)(4), any  
29 person convicted or adjudicated prior to January 1, 1996,  
30 whose liability for registration under Section 7 has not  
31 expired, shall register in person prior to January 31,  
32 1996.

33 (2.5) Except as provided in subsection (c)(4), any  
34 person who has not been notified of his or her

1 responsibility to register shall be notified by a  
2 criminal justice entity of his or her responsibility to  
3 register. Upon notification the person must then  
4 register within 10 days of notification of his or her  
5 requirement to register. If notification is not made  
6 within the offender's 10 year registration requirement,  
7 and the Department of State Police determines no evidence  
8 exists or indicates the offender attempted to avoid  
9 registration, the offender will no longer be required to  
10 register under this Act.

11 (3) Except as provided in subsection (c)(4), any  
12 person convicted on or after January 1, 1996, shall  
13 register in person within 10 days after the entry of the  
14 sentencing order based upon his or her conviction.

15 (4) Any person unable to comply with the  
16 registration requirements of this Article because he or  
17 she is confined, institutionalized, or imprisoned in  
18 Illinois on or after January 1, 1996, shall register in  
19 person within 10 days of discharge, parole or release.

20 (5) The person shall provide positive  
21 identification and documentation that substantiates proof  
22 of residence at the registering address.

23 (6) The person shall pay a \$20 ~~\$10~~ initial  
24 registration fee and a \$10 \$5 annual renewal fee. The  
25 fees shall be used by the registering agency for official  
26 purposes. The agency shall establish procedures to  
27 document receipt and use of the funds. The law  
28 enforcement agency having jurisdiction may waive the  
29 registration fee if it determines that the person is  
30 indigent and unable to pay the registration fee. Ten  
31 dollars for the initial registration fee and \$5 of the  
32 annual renewal fee shall be used by the registering  
33 agency for official purposes. Ten dollars of the initial  
34 registration fee and \$5 of the annual fee shall be



1       deposited into the Sex Offender Management Board Fund  
2       under Section 19 of the Sex Offender Management Board  
3       Act. Money deposited into the Sex Offender Management  
4       Board Fund shall be administered by the Sex Offender  
5       Management Board and shall be used to fund practices  
6       endorsed or required by the Sex Offender Management Board  
7       Act including but not limited to sex offenders  
8       evaluation, treatment, or monitoring programs that are or  
9       may be developed, as well as for administrative costs,  
10       including staff, incurred by the Board.

11       (d) Within 10 days after obtaining or changing  
12       employment and, if employed on January 1, 2000, within 10  
13       days after that date, a person required to register under  
14       this Section must report, in person or in writing to the law  
15       enforcement agency having jurisdiction, the business name and  
16       address where he or she is employed. If the person has  
17       multiple businesses or work locations, every business and  
18       work location must be reported to the law enforcement agency  
19       having jurisdiction.

20       (Source: P.A. 91-48, eff. 7-1-99; 91-394, eff. 1-1-00;  
21       92-828, eff. 8-22-02.)

22       Section 99. Effective date. This Act takes effect  
23       January 1, 2004.