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1 AMENDMENT TO SENATE BILL 562

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

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

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

21 Section 10. Definitions. As used in this Act:

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

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

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

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

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

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

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

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

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

33 "Manufacture" means to produce, prepare, compound,
34 convert, process, synthesize, concentrate, purify, separate,

1 or extract any methamphetamine, methamphetamine precursor,
2 methamphetamine manufacturing catalyst, methamphetamine
3 manufacturing reagent, methamphetamine manufacturing solvent,
4 or any substance containing any of the foregoing.

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

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

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

15 (1) methamphetamine is being or has been manufactured;

16 (2) chemicals that are being used, have been used, or
17 are intended to be used to manufacture methamphetamine are
18 stored;

19 (3) methamphetamine manufacturing materials that have
20 been used to manufacture methamphetamine are stored; or

21 (4) methamphetamine manufacturing waste is stored.

22 "Methamphetamine manufacturing material" means any
23 methamphetamine precursor, substance containing any
24 methamphetamine precursor, methamphetamine manufacturing
25 catalyst, substance containing any methamphetamine
26 manufacturing catalyst, methamphetamine manufacturing reagent,
27 substance containing any methamphetamine manufacturing
28 reagent, methamphetamine manufacturing solvent, substance
29 containing any methamphetamine manufacturing solvent, or any
30 other chemical, substance, ingredient, equipment, apparatus,
31 or item that is being used, has been used, or is intended to be
32 used in the manufacture of methamphetamine.

33 "Methamphetamine manufacturing reagent" means any
34 substance other than a methamphetamine manufacturing catalyst

1 that has been used, is being used, or is intended to be used to
2 react with and chemically alter any methamphetamine precursor
3 without itself becoming a substantial part of the finished
4 methamphetamine product.

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

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

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

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

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

29 "Participate" or "participation" in the manufacture of
30 methamphetamine means to produce, prepare, compound, convert,
31 process, synthesize, concentrate, purify, separate, or extract
32 any methamphetamine, methamphetamine precursor,
33 methamphetamine manufacturing catalyst, methamphetamine
34 manufacturing reagent, methamphetamine manufacturing solvent,

1 or any substance containing any of the foregoing, or to assist
2 in any of these actions, or to attempt to take any of these
3 actions, regardless of whether this action or these actions
4 result in the production of finished methamphetamine.

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

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

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

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

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

1 Section 15. Participation in methamphetamine
2 manufacturing.

3 (a) Participation in methamphetamine manufacturing.

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

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

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

13 (B) A person who participates in the manufacture of
14 15 or more grams but less than 100 grams of
15 methamphetamine or a substance containing
16 methamphetamine is guilty of a Class X felony, subject
17 to a term of imprisonment of not less than 6 years and
18 not more than 30 years, and subject to a fine not to
19 exceed \$100,000 or the street value of the
20 methamphetamine manufactured, whichever is greater.

21 (C) A person who participates in the manufacture of
22 100 or more grams but less than 400 grams of
23 methamphetamine or a substance containing
24 methamphetamine is guilty of a Class X felony, subject
25 to a term of imprisonment of not less than 9 years and
26 not more than 40 years, and subject to a fine not to
27 exceed \$200,000 or the street value of the
28 methamphetamine manufactured, whichever is greater.

29 (D) A person who participates in the manufacture of
30 400 or more grams but less than 900 grams of
31 methamphetamine or a substance containing
32 methamphetamine is guilty of a Class X felony, subject
33 to a term of imprisonment of not less than 12 years and

1 not more than 50 years, and subject to a fine not to
2 exceed \$300,000 or the street value of the
3 methamphetamine manufactured, whichever is greater.

4 (E) A person who participates in the manufacture of
5 900 grams or more of methamphetamine or a substance
6 containing methamphetamine is guilty of a Class X
7 felony, subject to a term of imprisonment of not less
8 than 15 years and not more than 60 years, and subject
9 to a fine not to exceed \$400,000 or the street value of
10 the methamphetamine, whichever is greater.

11 (b) Aggravated participation in methamphetamine
12 manufacturing.

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

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

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

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

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

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

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

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

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

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

23 (B) A person who participates in the manufacture of
24 15 or more grams but less than 100 grams of
25 methamphetamine or a substance containing
26 methamphetamine is guilty of a Class X felony, subject
27 to a term of imprisonment of not less than 9 years and
28 not more than 40 years, and subject to a fine not to
29 exceed \$200,000 or the street value of the
30 methamphetamine, whichever is greater.

31 (C) A person who participates in the manufacture of
32 100 or more grams but less than 400 grams of
33 methamphetamine or a substance containing
34 methamphetamine is guilty of a Class X felony, subject

1 to a term of imprisonment of not less than 12 years and
2 not more than 50 years, and subject to a fine not to
3 exceed \$300,000 or the street value of the
4 methamphetamine, whichever is greater.

5 (D) A person who participates in the manufacture of
6 400 grams or more of methamphetamine or a substance
7 containing methamphetamine is guilty of a Class X
8 felony, subject to a term of imprisonment of not less
9 than 15 years and not more than 60 years, and subject
10 to a fine not to exceed \$400,000 or the street value of
11 the methamphetamine, whichever is greater.

12 Section 20. Methamphetamine precursor.

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

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

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

23 (A) A person who possesses, procures, transports,
24 stores, or delivers less than 15 grams of
25 methamphetamine precursor or substance containing any
26 methamphetamine precursor is guilty of a Class 2
27 felony.

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

33 (C) A person who possesses, procures, transports,

1 stores, or delivers 30 or more grams but less than 150
2 grams of methamphetamine precursor or substance
3 containing any methamphetamine precursor is guilty of
4 a Class X felony, subject to a term of imprisonment of
5 not less than 6 years and not more than 30 years, and
6 subject to a fine not to exceed \$100,000.

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

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

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

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

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

32 (A) A person who violates paragraph (1) of this
33 subsection (b) with the intent that less than 10 grams
34 of methamphetamine or a substance containing

1 methamphetamine be manufactured is guilty of a Class 2
2 felony.

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

8 (C) A person who violates paragraph (1) of this
9 subsection (b) with the intent that 20 or more grams
10 but less than 100 grams of methamphetamine or a
11 substance containing methamphetamine be manufactured
12 is guilty of a Class X felony, subject to a term of
13 imprisonment of not less than 6 years and not more than
14 30 years, and subject to a fine not to exceed \$100,000.

15 (D) A person who violates paragraph (1) of this
16 subsection (b) with the intent that 100 or more grams
17 but less than 350 grams of methamphetamine or a
18 substance containing methamphetamine be manufactured
19 is guilty of a Class X felony, subject to a term of
20 imprisonment of not less than 8 years and not more than
21 40 years, and subject to a fine not to exceed \$200,000.

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

29 (c) Rule of evidence. The presence of any methamphetamine
30 precursor in a sealed, factory imprinted container, including,
31 but not limited to, a bottle, box, package, or blister pack, at
32 the time of seizure by law enforcement, is prima facie evidence
33 that the methamphetamine precursor located within the
34 container is in fact the material so described and in the

1 amount listed on the container. The factory imprinted container
2 is admissible for a violation of this Act for purposes of
3 proving the contents of the container.

4 Section 25. Anhydrous ammonia.

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

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

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

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

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

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

31 (B) the person knowingly does so in a structure or
32 vehicle where a child under the age of 18, or a person
33 with a disability, or a person who is 60 years of age

1 or older who is incapable of adequately providing for
2 his or her own health and personal care resides, is
3 present, or is endangered by the anhydrous ammonia;

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

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

13 (2) A person who violates paragraph (1) of this
14 subsection (b) is guilty of a Class X felony, subject to a
15 term of imprisonment of not less than 6 years and not more
16 than 30 years, and subject to a fine not to exceed
17 \$100,000.

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

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

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

25 (3) Affirmative defense. It is an affirmative defense
26 that the person charged possessed, procured, transported,
27 stored, or delivered anhydrous ammonia in a manner that
28 substantially complied with the rules governing anhydrous
29 ammonia equipment found in 8 Illinois Administrative Code
30 Section 215, in 92 Illinois Administrative Code Sections
31 171 through 180, or in any provision of the Code of Federal
32 Regulations incorporated by reference into these Sections
33 of the Illinois Administrative Code.

34 (d) Tampering with anhydrous ammonia equipment.

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

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

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

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

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

14 Section 30. Methamphetamine manufacturing material.

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

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

23 Section 35. Use of property.

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

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

30 Section 40. Protection of methamphetamine manufacturing.

31 (a) It is unlawful to engage in the protection of

1 methamphetamine manufacturing. A person engages in the
2 protection of methamphetamine manufacturing when:

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

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

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

12 Section 45. Methamphetamine manufacturing waste.

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

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

17 Section 50. Methamphetamine-related child endangerment.

18 (a) Methamphetamine-related child endangerment.

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

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

27 (b) Aggravated methamphetamine-related child endangerment.

28 (1) It is unlawful to engage in aggravated
29 methamphetamine-related child endangerment. A person
30 engages in aggravated methamphetamine-related child
31 endangerment when the person violates paragraph (1) of this
32 subsection (a) of this Section and the child experiences

1 death, great bodily harm, disability, or disfigurement as a
2 result of the methamphetamine-related child endangerment.

3 (2) A person who violates paragraph (1) of this
4 subsection (b) is guilty of a Class X felony, subject to a
5 term of imprisonment of not less than 6 years and not more
6 than 30 years, and subject to a fine not to exceed
7 \$100,000.

8 Section 55. Methamphetamine delivery.

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

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

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

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

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

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

32 (D) A person who delivers or possesses with intent
33 to deliver 100 or more grams but less than 400 grams of

1 methamphetamine or a substance containing
2 methamphetamine is guilty of a Class X felony, subject
3 to a term of imprisonment of not less than 9 years and
4 not more than 40 years, and subject to a fine not to
5 exceed \$200,000 or the street value of the
6 methamphetamine, whichever is greater.

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

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

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

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

32 (A) the person is over 18 years of age and
33 knowingly delivers or possesses with intent to deliver
34 the methamphetamine or substance containing

1 methamphetamine to a person under 18 years of age;

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

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

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

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

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

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

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

34 (B) A person who delivers or possesses with intent

1 to deliver 5 or more grams but less than 15 grams of
2 methamphetamine or a substance containing
3 methamphetamine is guilty of a Class X felony, subject
4 to a term of imprisonment of not less than 6 years and
5 not more than 30 years, and subject to a fine not to
6 exceed \$100,000 or the street value of the
7 methamphetamine, whichever is greater.

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

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

23 Section 60. Methamphetamine possession.

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

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

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

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

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

4 (4) A person who possesses 100 or more grams but less
5 than 400 grams of methamphetamine or a substance containing
6 methamphetamine is guilty of a Class X felony, subject to a
7 term of imprisonment of not less than 6 years and not more
8 than 30 years, and subject to a fine not to exceed
9 \$100,000.

10 (5) A person who possesses 400 or more grams but less
11 than 900 grams of methamphetamine or a substance containing
12 methamphetamine is guilty of a Class X felony, subject to a
13 term of imprisonment of not less than 8 years and not more
14 than 40 years, and subject to a fine not to exceed
15 \$200,000.

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

21 Section 65. Methamphetamine conspiracy.

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

25 (1) the person intends to violate one or more
26 provisions of this Act;

27 (2) the person agrees with one or more persons to
28 violate one or more provisions of this Act; and

29 (3) the person or any party to the agreement commits an
30 act in furtherance of the agreement.

31 (b) A person convicted of engaging in a methamphetamine
32 conspiracy shall face the penalty for the offense that is the
33 object of the conspiracy and may be held accountable for the

1 cumulative weight of any methamphetamine, substance containing
2 methamphetamine, methamphetamine precursor, or substance
3 containing methamphetamine precursor attributable to the
4 conspiracy for the duration of the conspiracy.

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

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

23 Section 70. Probation.

24 (a) Whenever any person who has not previously been
25 convicted of, or placed on probation or court supervision for
26 any offense under this Act, the Illinois Controlled Substances
27 Act, the Cannabis Control Act, or any law of the United States
28 or of any State relating to cannabis or controlled substances,
29 pleads guilty to or is found guilty of possession of less than
30 15 grams of methamphetamine under paragraph (1) or (2) of
31 subsection (b) of Section 60 of this Act, the court, without
32 entering a judgment and with the consent of the person, may
33 sentence him or her to probation.

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

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

7 (1) not violate any criminal statute of any
8 jurisdiction;

9 (2) refrain from possessing a firearm or other
10 dangerous weapon;

11 (3) submit to periodic drug testing at a time and in a
12 manner as ordered by the court, but no less than 3 times
13 during the period of the probation, with the cost of the
14 testing to be paid by the probationer; and

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

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

20 (1) make a report to and appear in person before or
21 participate with the court or such courts, person, or
22 social service agency as directed by the court in the order
23 of probation;

24 (2) pay a fine and costs;

25 (3) work or pursue a course of study or vocational
26 training;

27 (4) undergo medical or psychiatric treatment; or
28 treatment or rehabilitation approved by the Illinois
29 Department of Human Services;

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

32 (6) support his or her dependents;

33 (7) refrain from having in his or her body the presence
34 of any illicit drug prohibited by this Act, the Cannabis

1 Control Act, or the Illinois Controlled Substances Act,
2 unless prescribed by a physician, and submit samples of his
3 or her blood or urine or both for tests to determine the
4 presence of any illicit drug; or

5 (8) if a minor:

6 (i) reside with his or her parents or in a foster
7 home;

8 (ii) attend school;

9 (iii) attend a non-residential program for youth;

10 or

11 (iv) contribute to his or her own support at home
12 or in a foster home.

13 (e) Upon violation of a term or condition of probation, the
14 court may enter a judgment on its original finding of guilt and
15 proceed as otherwise provided.

16 (f) Upon fulfillment of the terms and conditions of
17 probation, the court shall discharge the person and dismiss the
18 proceedings against the person.

19 (g) A disposition of probation is considered to be a
20 conviction for the purposes of imposing the conditions of
21 probation and for appeal, however, discharge and dismissal
22 under this Section is not a conviction for purposes of this Act
23 or for purposes of disqualifications or disabilities imposed by
24 law upon conviction of a crime.

25 (h) There may be only one discharge and dismissal under
26 this Section, Section 410 of the Illinois Controlled Substances
27 Act, or Section 10 of the Cannabis Control Act with respect to
28 any person.

29 (i) If a person is convicted of an offense under this Act,
30 the Cannabis Control Act, or the Illinois Controlled Substances
31 Act within 5 years subsequent to a discharge and dismissal
32 under this Section, the discharge and dismissal under this
33 Section are admissible in the sentencing proceeding for that
34 conviction as evidence in aggravation.

1 Section 75. Fines.

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

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

9 (1) consider the defendant's income, regardless of
10 source, the defendant's earning capacity and the
11 defendant's financial resources, as well as the nature of
12 the burden the fine will impose on the defendant and any
13 person legally or financially dependent upon the
14 defendant;

15 (2) consider the proof received at trial, or as a
16 result of a plea of guilty, concerning the full street
17 value of the controlled substances seized and any profits
18 or other proceeds derived by the defendant from the
19 violation of this Act;

20 (3) take into account any other pertinent equitable
21 considerations; and

22 (4) give primary consideration to the need to deprive
23 the defendant of illegally obtained profits or other
24 proceeds from the offense.

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

31 (c) As a condition of a fine, the court may require that
32 payment be made in specified installments or within a specified
33 period of time, but the period shall not be greater than the

1 maximum applicable term of probation or imprisonment,
2 whichever is greater. Unless otherwise specified, payment of a
3 fine shall be due immediately.

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

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

13
14 (1) the circumstances that warranted payment by the
15 time or method specified no longer exist; or

16 (2) it is otherwise unjust to require payment of the
17 fine by the time or method specified.

18 Section 80. Assessment.

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

23 (1) \$3,000 for a Class X felony;

24 (2) \$2,000 for a Class 1 felony;

25 (3) \$1,000 for a Class 2 felony;

26 (4) \$500 for a Class 3 or Class 4 felony.

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

30 (c) As a condition of the assessment, the court may require
31 that payment be made in specified installments or within a
32 specified period of time. If the assessment is not paid within
33 the period of probation, conditional discharge, or supervision

1 to which the defendant was originally sentenced, the court may
2 extend the period of probation, conditional discharge, or
3 supervision pursuant to Section 5-6-2 or 5-6-3.1 of the Unified
4 Code of Corrections, as applicable, until the assessment is
5 paid or until successful completion of public or community
6 service set forth in subsection (e) or the successful
7 completion of the substance abuse intervention or treatment
8 program set forth in subsection (f). If a term of probation,
9 conditional discharge, or supervision is not imposed, the
10 assessment shall be payable upon judgment or as directed by the
11 court.

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

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

26 (f) The court may suspend the collection of the assessment
27 imposed under this Section if the defendant agrees to enter a
28 substance abuse intervention or treatment program approved by
29 the court and the defendant agrees to pay for all or some
30 portion of the costs associated with the intervention or
31 treatment program. In this case, the collection of the
32 assessment imposed under this Section shall be suspended during
33 the defendant's participation in the approved intervention or
34 treatment program. Upon successful completion of the program,

1 the defendant may apply to the court to reduce the assessment
2 imposed under this Section by any amount actually paid by the
3 defendant for his or her participation in the program. The
4 court shall not reduce the penalty under this subsection unless
5 the defendant establishes to the satisfaction of the court that
6 he or she has successfully completed the intervention or
7 treatment program. If the defendant's participation is for any
8 reason terminated before his or her successful completion of
9 the intervention or treatment program, collection of the entire
10 assessment imposed under this Section shall be enforced.
11 Nothing in this Section shall be deemed to affect or suspend
12 any other fines, restitution costs, forfeitures, or
13 assessments imposed under this or any other Act.

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

19 (h) In counties with a population under 3,000,000, all
20 moneys collected under this Section shall be forwarded by the
21 clerk of the circuit court to the State Treasurer for deposit
22 in the Drug Treatment Fund. The Department of Human Services
23 may make grants to persons licensed under Section 15-10 of the
24 Alcoholism and Other Drug Abuse and Dependency Act or to
25 municipalities or counties from funds appropriated to the
26 Department from the Drug Treatment Fund for the treatment of
27 pregnant women who are addicted to alcohol, cannabis or
28 controlled substances and for the needed care of minor,
29 unemancipated children of women undergoing residential drug
30 treatment. If the Department of Human Services grants funds to
31 a municipality or a county that the Department determines is
32 not experiencing a problem with pregnant women addicted to
33 alcohol, cannabis or controlled substances, or with care for
34 minor, unemancipated children of women undergoing residential

1 drug treatment, or intervention, the funds shall be used for
2 the treatment of any person addicted to alcohol, cannabis, or
3 controlled substances. The Department may adopt such rules as
4 it deems appropriate for the administration of such grants.

5 (i) In counties with a population of 3,000,000 or more, all
6 moneys collected under this Section shall be forwarded to the
7 County Treasurer for deposit into the County Health Fund. The
8 County Treasurer shall, no later than the 15th day of each
9 month, forward to the State Treasurer 30 percent of all moneys
10 collected under this Act and received into the County Health
11 Fund since the prior remittance to the State Treasurer. Funds
12 retained by the County shall be used for community-based
13 treatment of pregnant women who are addicted to alcohol,
14 cannabis, or controlled substances or for the needed care of
15 minor, unemancipated children of these women. Funds forwarded
16 to the State Treasurer shall be deposited into the State Drug
17 Treatment Fund maintained by the State Treasurer from which the
18 Department of Human Services may make grants to persons
19 licensed under Section 15-10 of the Alcoholism and Other Drug
20 Abuse and Dependency Act or to municipalities or counties from
21 funds appropriated to the Department from the Drug Treatment
22 Fund, provided that the moneys collected from each county be
23 returned proportionately to the counties through grants to
24 licensees located within the county from which the assessment
25 was received and moneys in the State Drug Treatment Fund shall
26 not supplant other local, State or federal funds. If the
27 Department of Human Services grants funds to a municipality or
28 county that the Department determines is not experiencing a
29 problem with pregnant women addicted to alcohol, cannabis or
30 controlled substances, or with care for minor, unemancipated
31 children or women undergoing residential drug treatment, the
32 funds shall be used for the treatment of any person addicted to
33 alcohol, cannabis or controlled substances. The Department may
34 adopt such rules as it deems appropriate for the administration

1 of such grants.

2 Section 85. Forfeiture.

3 (a) The following are subject to forfeiture:

4 (1) all substances containing methamphetamine which
5 have been produced, manufactured, delivered, or possessed
6 in violation of this Act;

7 (2) all methamphetamine manufacturing materials which
8 have been produced, delivered, or possessed in connection
9 with any substance containing methamphetamine in violation
10 of this Act;

11 (3) all conveyances, including aircraft, vehicles or
12 vessels, which are used, or intended for use, to transport,
13 or in any manner to facilitate the transportation, sale,
14 receipt, possession, or concealment of property described
15 in paragraph (1) or (2) that constitutes a felony violation
16 of the Act, but:

17 (i) no conveyance used by any person as a common
18 carrier in the transaction of business as a common
19 carrier is subject to forfeiture under this Section
20 unless it appears that the owner or other person in
21 charge of the conveyance is a consenting party or privy
22 to a violation of this Act;

23 (ii) no conveyance is subject to forfeiture under
24 this Section by reason of any act or omission which the
25 owner proves to have been committed or omitted without
26 his or her knowledge or consent;

27 (iii) a forfeiture of a conveyance encumbered by a
28 bona fide security interest is subject to the interest
29 of the secured party if he or she neither had knowledge
30 of nor consented to the act or omission;

31 (4) all money, things of value, books, records, and
32 research products and materials including formulas,
33 microfilm, tapes, and data which are used, or intended for

1 use in a felony violation of this Act;

2 (5) everything of value furnished or intended to be
3 furnished by any person in exchange for a substance in
4 violation of this Act, all proceeds traceable to such an
5 exchange, and all moneys, negotiable instruments, and
6 securities used, or intended to be used, to commit or in
7 any manner to facilitate any felony violation of this Act.

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

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

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

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

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

34 (4) in accordance with the Code of Criminal Procedure

1 of 1963.

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

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

16 (1) place the property under seal;

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

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

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

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

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

34 (e) No disposition may be made of property under seal until

1 the time for taking an appeal has elapsed or until all appeals
2 have been concluded unless a court, upon application therefor,
3 orders the sale of perishable substances and the deposit of the
4 proceeds of the sale with the court.

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

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

26 (1) 65% shall be distributed to the metropolitan
27 enforcement group, local, municipal, county, or State law
28 enforcement agency or agencies which conducted or
29 participated in the investigation resulting in the
30 forfeiture. The distribution shall bear a reasonable
31 relationship to the degree of direct participation of the
32 law enforcement agency in the effort resulting in the
33 forfeiture, taking into account the total value of the
34 property forfeited and the total law enforcement effort

1 with respect to the violation of the law upon which the
2 forfeiture is based. Amounts distributed to the agency or
3 agencies shall be used for the enforcement of laws
4 governing methamphetamine, cannabis, and controlled
5 substances, except that amounts distributed to the
6 Secretary of State shall be deposited into the Secretary of
7 State Evidence Fund to be used as provided in Section 2-115
8 of the Illinois Vehicle Code.

9 (2) (i) 12.5% shall be distributed to the Office of the
10 State's Attorney of the county in which the prosecution
11 resulting in the forfeiture was instituted, deposited in a
12 special fund in the county treasury and appropriated to the
13 State's Attorney for use in the enforcement of laws
14 governing methamphetamine, cannabis, and controlled
15 substances. In counties with a population over 3,000,000,
16 25% shall be distributed to the Office of the State's
17 Attorney for use in the enforcement of laws governing
18 methamphetamine, cannabis, and controlled substances. If
19 the prosecution is undertaken solely by the Attorney
20 General, the portion provided hereunder shall be
21 distributed to the Attorney General for use in the
22 enforcement of laws governing methamphetamine, cannabis,
23 and controlled substances.

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

33 (3) 10% shall be retained by the Department of State
34 Police for expenses related to the administration and sale

1 of seized and forfeited property.

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

10 Section 95. Youth Drug Abuse Prevention Fund.

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

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

22 (1) If such seizure was made by a combination of law
23 enforcement personnel representing differing units of
24 local government, the court levying the fine shall
25 equitably allocate 50% of the fine among these units of
26 local government and shall allocate 37.5% to the county
27 general corporate fund. If the seizure was made by law
28 enforcement personnel representing a unit of local
29 government from a municipality where the number of
30 inhabitants exceeds 2 million in population, the court
31 levying the fine shall allocate 87.5% of the fine to that
32 unit of local government. If the seizure was made by a

1 combination of law enforcement personnel representing
2 differing units of local government and if at least one of
3 those units represents a municipality where the number of
4 inhabitants exceeds 2 million in population, the court
5 shall equitably allocate 87.5% of the proceeds of the fines
6 received among the differing units of local government.

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

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

17 (c) The proceeds of all fines allocated to the law
18 enforcement agency or agencies of the unit or units of local
19 government pursuant to subsection (b) shall be made available
20 to that law enforcement agency as expendable receipts for use
21 in the enforcement of laws regulating controlled substances and
22 cannabis. The proceeds of fines awarded to the State treasury
23 shall be deposited in a special fund known as the Drug Traffic
24 Prevention Fund, except that amounts distributed to the
25 Secretary of State shall be deposited into the Secretary of
26 State Evidence Fund to be used as provided in Section 2-115 of
27 the Illinois Vehicle Code. Moneys from this Fund may be used by
28 the Department of State Police for use in the enforcement of
29 laws regulating controlled substances and cannabis; to satisfy
30 funding provisions of the Intergovernmental Drug Laws
31 Enforcement Act; to defray costs and expenses associated with
32 returning violators of the Cannabis Control Act and this Act
33 only, as provided in those Acts, when punishment of the crime
34 shall be confinement of the criminal in the penitentiary; and

1 all other moneys shall be paid into the General Revenue Fund in
2 the State treasury.

3 Section 100. Second or subsequent offenses.

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

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

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

20 Section 110. Scope of Act. Nothing in this Act limits any
21 authority or activity authorized by the Illinois Controlled
22 Substances Act, the Medical Practice Act of 1987, the Nursing
23 and Advanced Practice Nursing Act, the Pharmacy Practice Act of
24 1987, the Illinois Dental Practice Act, the Podiatric Medical
25 Practice Act of 1987, or the Veterinary Medicine and Surgery
26 Practice Act of 2004. Nothing in this Act limits the authority
27 or activity of any law enforcement officer acting within the
28 scope of his or her employment.

29 Section 901. The Alcoholism and Other Drug Abuse and
30 Dependency Act is amended by changing Sections 5-10, 40-5, and

1 50-35 as follows:

2 (20 ILCS 301/5-10)

3 Sec. 5-10. Functions of the Department.

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

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

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

24 (3) Coordinate a statewide strategy among State
25 agencies for the prevention, intervention, treatment and
26 rehabilitation of alcohol and other drug abuse and
27 dependency. This strategy shall include the development of
28 an annual comprehensive State plan for the provision of an
29 array of services for education, prevention, intervention,
30 treatment, relapse prevention and other services and
31 activities to alleviate alcoholism and other drug abuse and
32 dependency. The plan shall be based on local
33 community-based needs and upon data including, but not

1 limited to, that which defines the prevalence of and costs
2 associated with the abuse of and dependency upon alcohol
3 and other drugs. This comprehensive State plan shall
4 include identification of problems, needs, priorities,
5 services and other pertinent information, including the
6 needs of minorities and other specific populations in the
7 State, and shall describe how the identified problems and
8 needs will be addressed. For purposes of this paragraph,
9 the term "minorities and other specific populations" may
10 include, but shall not be limited to, groups such as women,
11 children, intravenous drug users, persons with AIDS or who
12 are HIV infected, African-Americans, Puerto Ricans,
13 Hispanics, Asian Americans, the elderly, persons in the
14 criminal justice system, persons who are clients of
15 services provided by other State agencies, persons with
16 disabilities and such other specific populations as the
17 Department may from time to time identify. In developing
18 the plan, the Department shall seek input from providers,
19 parent groups, associations and interested citizens.

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

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

34 Each State agency which provides or funds alcohol or

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

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

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

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

34 (C) Supply to the Department of Public Health and

1 prenatal care providers a list of all alcohol and other
2 drug abuse service providers for addicted pregnant
3 women in this State.

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

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

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

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

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

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

28 (G) Cooperate with and assist the State
29 Superintendent of Education, boards of education,
30 schools, police departments, the Illinois Department
31 of State Police, courts and other public and private
32 agencies and individuals in establishing prevention
33 programs statewide and preparing curriculum materials
34 for use at all levels of education. An agreement shall

1 be entered into with the State Superintendent of
2 Education to assist in the establishment of such
3 programs.

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

9 (I) Provide training recommendations to other
10 State agencies funding alcohol or other drug abuse
11 prevention, intervention, treatment or rehabilitation
12 services.

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

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

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

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

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

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

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

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

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

30 (14) Make such agreements, grants-in-aid and
31 purchase-care arrangements with any other department,
32 authority or commission of this State, or any other state
33 or the federal government or with any public or private
34 agency, including the disbursement of funds and furnishing

1 of staff, to effectuate the purposes of this Act.

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

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

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

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

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

32 (4) Develop and coordinate, with regional and local
33 agencies, education and training programs for persons
34 engaged in providing the array of services for persons

1 having alcoholism or other drug abuse and dependency
2 problems, which programs may include specific HIV
3 education and training for program personnel.

4 (5) Cooperate with and assist in the development of
5 education, prevention and treatment programs for employees
6 of State and local governments and businesses in the State.

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

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

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

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

34 (A) Information concerning risk assessments of

1 women seeking prenatal, natal, and postnatal medical
2 care.

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

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

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

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

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

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

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

33 (11) Fund, promote or assist programs, services,
34 demonstrations or research dealing with addictive or

1 habituating behaviors detrimental to the health of
2 Illinois citizens.

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

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

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

24 (Source: P.A. 88-80; incorporates 88-171; 88-670, eff.
25 12-2-94; 89-363, eff. 1-1-96; 89-507, eff. 7-1-97.)

26 (20 ILCS 301/40-5)

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

32 (1) the crime is a crime of violence;

33 (2) the crime is a violation of Section 401(a), 401(b),

1 401(c) where the person electing treatment has been
2 previously convicted of a non-probationable felony or the
3 violation is non-probationable, 401(d) where the violation
4 is non-probationable, 401.1, 402(a), 405 or 407 of the
5 Illinois Controlled Substances Act, or Section 4(d), 4(e),
6 4(f), 4(g), 5(d), 5(e), 5(f), 5(g), 5.1, 7 or 9 of the
7 Cannabis Control Act or Section 15, 20, 55, 60, or 65 of
8 the Methamphetamine Control and Community Protection Act;

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

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

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

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

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

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

25 (9) the crime is a reckless homicide or a reckless
26 homicide of an unborn child, as defined in Section 9-3 or
27 9-3.2 of the Criminal Code of 1961, in which the cause of
28 death consists of the driving of a motor vehicle by a
29 person under the influence of alcohol or any other drug or
30 drugs at the time of the violation.

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

32 (20 ILCS 301/50-35)

33 Sec. 50-35. Drug Treatment Fund.

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

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

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

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

18 (20 ILCS 310/310-5) (was 20 ILCS 5/9.29)

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

27 (1) The Cannabis Control Act.

28 (2) The Illinois Controlled Substances Act.

29 (3) The Community Mental Health Act.

30 (4) The Community Services Act.

31 (5) The Methamphetamine Control and Community
32 Protection Act.

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

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

5 (20 ILCS 2605/2605-555)

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

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

9 (b) Through the pilot program, the Department, in
10 coordination with local law enforcement agencies, State's
11 Attorneys, and United States Attorneys, shall, to the extent
12 possible, encourage the prosecution in federal court of all
13 persons who illegally use, attempt to use, or threaten to use
14 firearms against the person or property of another, of all
15 persons who use or possess a firearm in connection with a
16 violation of the Cannabis Control Act, ~~or~~ the Illinois
17 Controlled Substances Act, or the Methamphetamine Control and
18 Community Protection Act, all persons who have been convicted
19 of a felony under the laws of this State or any other
20 jurisdiction who possess any weapon prohibited under Section
21 24-1 of the Criminal Code of 1961 or any firearm or any firearm
22 ammunition, and of all persons who use or possess a firearm in
23 connection with a violation of an order of protection issued
24 under the Illinois Domestic Violence Act of 1986 or Article
25 112A of the Code of Criminal Procedure of 1963 or in connection
26 with the offense of domestic battery. The program shall also
27 encourage public outreach by law enforcement agencies.

28 (c) There is created the Project Exile Fund, a special fund
29 in the State treasury. Moneys appropriated for the purposes of
30 Project Exile and moneys from any other private or public
31 source, including without limitation grants from the
32 Department of Commerce and Economic Opportunity Community

1 ~~Affairs~~, shall be deposited into the Fund. Moneys in the Fund,
2 subject to appropriation, may be used by the Department of
3 State Police to develop and administer the Project Exile pilot
4 program.

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

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

20 (Source: P.A. 92-332, eff. 8-10-01; 92-342, eff. 8-10-01;
21 92-651, eff. 7-11-02; revised 12-6-03.)

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

24 (20 ILCS 2610/12.5)

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

1 person employed by the Department shall be construed as a
2 positive test, and the person shall be discharged from
3 employment.

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

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

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

8 Sec. 7. Expenditures; evidence; forfeited property.

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

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

27 (b) The Director is authorized to maintain one or more
28 commercial bank accounts with any State banking corporation or
29 corporations organized under or subject to the Illinois Banking
30 Act, as now or hereafter amended, for the deposit or withdrawal
31 of (i) moneys forfeited to the Department, including the
32 proceeds of the sale of forfeited property, as provided in

1 Section 2 of the State Officers and Employees Money Disposition
2 Act, as now or hereafter amended, pending disbursement to
3 participating agencies and deposit of the Department's share as
4 provided in subsection (c), and (ii) all moneys being held as
5 evidence by the Department, pending final court disposition;
6 provided that no check may be written on or any withdrawal made
7 from any such account except on the written signatures of 2
8 persons designated by the Director to write such checks and
9 make such withdrawals.

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

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

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

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

30 (20 ILCS 2620/8) (from Ch. 127, par. 55k)

31 Sec. 8. The Attorney General, upon the request of the
32 Department, shall prosecute any violation of this Act, and of
33 the "Illinois Controlled Substances Act", ~~and~~ the "Cannabis

1 Control Act" ~~enacted by the 77th General Assembly, and the~~
2 Methamphetamine Control and Community Protection Act ~~as now or~~
3 ~~hereafter amended.~~

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

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

7 (20 ILCS 2630/2.1) (from Ch. 38, par. 206-2.1)

8 Sec. 2.1. For the purpose of maintaining complete and
9 accurate criminal records of the Department of State Police, it
10 is necessary for all policing bodies of this State, the clerk
11 of the circuit court, the Illinois Department of Corrections,
12 the sheriff of each county, and State's Attorney of each county
13 to submit certain criminal arrest, charge, and disposition
14 information to the Department for filing at the earliest time
15 possible. Unless otherwise noted herein, it shall be the duty
16 of all policing bodies of this State, the clerk of the circuit
17 court, the Illinois Department of Corrections, the sheriff of
18 each county, and the State's Attorney of each county to report
19 such information as provided in this Section, both in the form
20 and manner required by the Department and within 30 days of the
21 criminal history event. Specifically:

22 (a) Arrest Information. All agencies making arrests for
23 offenses which are required by statute to be collected,
24 maintained or disseminated by the Department of State Police
25 shall be responsible for furnishing daily to the Department
26 fingerprints, charges and descriptions of all persons who are
27 arrested for such offenses. All such agencies shall also notify
28 the Department of all decisions by the arresting agency not to
29 refer such arrests for prosecution. With approval of the
30 Department, an agency making such arrests may enter into
31 arrangements with other agencies for the purpose of furnishing
32 daily such fingerprints, charges and descriptions to the

1 Department upon its behalf.

2 (b) Charge Information. The State's Attorney of each county
3 shall notify the Department of all charges filed and all
4 petitions filed alleging that a minor is delinquent, including
5 all those added subsequent to the filing of a case, and whether
6 charges were not filed in cases for which the Department has
7 received information required to be reported pursuant to
8 paragraph (a) of this Section. With approval of the Department,
9 the State's Attorney may enter into arrangements with other
10 agencies for the purpose of furnishing the information required
11 by this subsection (b) to the Department upon the State's
12 Attorney's behalf.

13 (c) Disposition Information. The clerk of the circuit court
14 of each county shall furnish the Department, in the form and
15 manner required by the Supreme Court, with all final
16 dispositions of cases for which the Department has received
17 information required to be reported pursuant to paragraph (a)
18 or (d) of this Section. Such information shall include, for
19 each charge, all (1) judgments of not guilty, judgments of
20 guilty including the sentence pronounced by the court, findings
21 that a minor is delinquent and any sentence made based on those
22 findings, discharges and dismissals in the court; (2) reviewing
23 court orders filed with the clerk of the circuit court which
24 reverse or remand a reported conviction or findings that a
25 minor is delinquent or that vacate or modify a sentence or
26 sentence made following a trial that a minor is delinquent; (3)
27 continuances to a date certain in furtherance of an order of
28 supervision granted under Section 5-6-1 of the Unified Code of
29 Corrections or an order of probation granted under Section 10
30 of the Cannabis Control Act, Section 410 of the Illinois
31 Controlled Substances Act, Section 70 of the Methamphetamine
32 Control and Community Protection Act, Section 12-4.3 of the
33 Criminal Code of 1961, Section 10-102 of the Illinois
34 Alcoholism and Other Drug Dependency Act, Section 40-10 of the

1 Alcoholism and Other Drug Abuse and Dependency Act, Section 10
2 of the Steroid Control Act, or Section 5-615 of the Juvenile
3 Court Act of 1987; and (4) judgments or court orders
4 terminating or revoking a sentence to or juvenile disposition
5 of probation, supervision or conditional discharge and any
6 resentencing or new court orders entered by a juvenile court
7 relating to the disposition of a minor's case involving
8 delinquency after such revocation.

9 (d) Fingerprints After Sentencing.

10 (1) After the court pronounces sentence, sentences a
11 minor following a trial in which a minor was found to be
12 delinquent or issues an order of supervision or an order of
13 probation granted under Section 10 of the Cannabis Control
14 Act, Section 410 of the Illinois Controlled Substances Act,
15 Section 70 of the Methamphetamine Control and Community
16 Protection Act, Section 12-4.3 of the Criminal Code of
17 1961, Section 10-102 of the Illinois Alcoholism and Other
18 Drug Dependency Act, Section 40-10 of the Alcoholism and
19 Other Drug Abuse and Dependency Act, Section 10 of the
20 Steroid Control Act, or Section 5-615 of the Juvenile Court
21 Act of 1987 for any offense which is required by statute to
22 be collected, maintained, or disseminated by the
23 Department of State Police, the State's Attorney of each
24 county shall ask the court to order a law enforcement
25 agency to fingerprint immediately all persons appearing
26 before the court who have not previously been fingerprinted
27 for the same case. The court shall so order the requested
28 fingerprinting, if it determines that any such person has
29 not previously been fingerprinted for the same case. The
30 law enforcement agency shall submit such fingerprints to
31 the Department daily.

32 (2) After the court pronounces sentence or makes a
33 disposition of a case following a finding of delinquency
34 for any offense which is not required by statute to be

1 collected, maintained, or disseminated by the Department
2 of State Police, the prosecuting attorney may ask the court
3 to order a law enforcement agency to fingerprint
4 immediately all persons appearing before the court who have
5 not previously been fingerprinted for the same case. The
6 court may so order the requested fingerprinting, if it
7 determines that any so sentenced person has not previously
8 been fingerprinted for the same case. The law enforcement
9 agency may retain such fingerprints in its files.

10 (e) Corrections Information. The Illinois Department of
11 Corrections and the sheriff of each county shall furnish the
12 Department with all information concerning the receipt,
13 escape, execution, death, release, pardon, parole, commutation
14 of sentence, granting of executive clemency or discharge of an
15 individual who has been sentenced or committed to the agency's
16 custody for any offenses which are mandated by statute to be
17 collected, maintained or disseminated by the Department of
18 State Police. For an individual who has been charged with any
19 such offense and who escapes from custody or dies while in
20 custody, all information concerning the receipt and escape or
21 death, whichever is appropriate, shall also be so furnished to
22 the Department.

23 (Source: P.A. 90-590, eff. 1-1-00.)

24 (20 ILCS 2630/5) (from Ch. 38, par. 206-5)

25 (This Section may contain text from a Public Act with a
26 delayed effective date)

27 Sec. 5. Arrest reports; expungement.

28 (a) All policing bodies of this State shall furnish to the
29 Department, daily, in the form and detail the Department
30 requires, fingerprints and descriptions of all persons who are
31 arrested on charges of violating any penal statute of this
32 State for offenses that are classified as felonies and Class A
33 or B misdemeanors and of all minors of the age of 10 and over

1 who have been arrested for an offense which would be a felony
2 if committed by an adult, and may forward such fingerprints and
3 descriptions for minors arrested for Class A or B misdemeanors.
4 Moving or nonmoving traffic violations under the Illinois
5 Vehicle Code shall not be reported except for violations of
6 Chapter 4, Section 11-204.1, or Section 11-501 of that Code. In
7 addition, conservation offenses, as defined in the Supreme
8 Court Rule 501(c), that are classified as Class B misdemeanors
9 shall not be reported.

10 Whenever an adult or minor prosecuted as an adult, not
11 having previously been convicted of any criminal offense or
12 municipal ordinance violation, charged with a violation of a
13 municipal ordinance or a felony or misdemeanor, is acquitted or
14 released without being convicted, whether the acquittal or
15 release occurred before, on, or after the effective date of
16 this amendatory Act of 1991, the Chief Judge of the circuit
17 wherein the charge was brought, any judge of that circuit
18 designated by the Chief Judge, or in counties of less than
19 3,000,000 inhabitants, the presiding trial judge at the
20 defendant's trial may upon verified petition of the defendant
21 order the record of arrest expunged from the official records
22 of the arresting authority and the Department and order that
23 the records of the clerk of the circuit court be sealed until
24 further order of the court upon good cause shown and the name
25 of the defendant obliterated on the official index required to
26 be kept by the circuit court clerk under Section 16 of the
27 Clerks of Courts Act, but the order shall not affect any index
28 issued by the circuit court clerk before the entry of the
29 order. The Department may charge the petitioner a fee
30 equivalent to the cost of processing any order to expunge or
31 seal the records, and the fee shall be deposited into the State
32 Police Services Fund. The records of those arrests, however,
33 that result in a disposition of supervision for any offense
34 shall not be expunged from the records of the arresting

1 authority or the Department nor impounded by the court until 2
2 years after discharge and dismissal of supervision. Those
3 records that result from a supervision for a violation of
4 Section 3-707, 3-708, 3-710, 5-401.3, or 11-503 of the Illinois
5 Vehicle Code or a similar provision of a local ordinance, or
6 for a violation of Section 12-3.2, 12-15 or 16A-3 of the
7 Criminal Code of 1961, or probation under Section 10 of the
8 Cannabis Control Act, Section 410 of the Illinois Controlled
9 Substances Act, Section 70 of the Methamphetamine Control and
10 Community Protection Act, Section 12-4.3(b)(1) and (2) of the
11 Criminal Code of 1961 (as those provisions existed before their
12 deletion by Public Act 89-313), Section 10-102 of the Illinois
13 Alcoholism and Other Drug Dependency Act when the judgment of
14 conviction has been vacated, Section 40-10 of the Alcoholism
15 and Other Drug Abuse and Dependency Act when the judgment of
16 conviction has been vacated, or Section 10 of the Steroid
17 Control Act shall not be expunged from the records of the
18 arresting authority nor impounded by the court until 5 years
19 after termination of probation or supervision. Those records
20 that result from a supervision for a violation of Section
21 11-501 of the Illinois Vehicle Code or a similar provision of a
22 local ordinance, shall not be expunged. All records set out
23 above may be ordered by the court to be expunged from the
24 records of the arresting authority and impounded by the court
25 after 5 years, but shall not be expunged by the Department, but
26 shall, on court order be sealed by the Department and may be
27 disseminated by the Department only as required by law or to
28 the arresting authority, the State's Attorney, and the court
29 upon a later arrest for the same or a similar offense or for
30 the purpose of sentencing for any subsequent felony. Upon
31 conviction for any offense, the Department of Corrections shall
32 have access to all sealed records of the Department pertaining
33 to that individual.

34 (a-5) Those records maintained by the Department for

1 persons arrested prior to their 17th birthday shall be expunged
2 as provided in Section 5-915 of the Juvenile Court Act of 1987.

3 (b) Whenever a person has been convicted of a crime or of
4 the violation of a municipal ordinance, in the name of a person
5 whose identity he has stolen or otherwise come into possession
6 of, the aggrieved person from whom the identity was stolen or
7 otherwise obtained without authorization, upon learning of the
8 person having been arrested using his identity, may, upon
9 verified petition to the chief judge of the circuit wherein the
10 arrest was made, have a court order entered nunc pro tunc by
11 the chief judge to correct the arrest record, conviction
12 record, if any, and all official records of the arresting
13 authority, the Department, other criminal justice agencies,
14 the prosecutor, and the trial court concerning such arrest, if
15 any, by removing his name from all such records in connection
16 with the arrest and conviction, if any, and by inserting in the
17 records the name of the offender, if known or ascertainable, in
18 lieu of the aggrieved's name. The records of the clerk of the
19 circuit court clerk shall be sealed until further order of the
20 court upon good cause shown and the name of the aggrieved
21 person obliterated on the official index required to be kept by
22 the circuit court clerk under Section 16 of the Clerks of
23 Courts Act, but the order shall not affect any index issued by
24 the circuit court clerk before the entry of the order. Nothing
25 in this Section shall limit the Department of State Police or
26 other criminal justice agencies or prosecutors from listing
27 under an offender's name the false names he or she has used.
28 For purposes of this Section, convictions for moving and
29 nonmoving traffic violations other than convictions for
30 violations of Chapter 4, Section 11-204.1 or Section 11-501 of
31 the Illinois Vehicle Code shall not be a bar to expunging the
32 record of arrest and court records for violation of a
33 misdemeanor or municipal ordinance.

34 (c) Whenever a person who has been convicted of an offense

1 is granted a pardon by the Governor which specifically
2 authorizes expungement, he may, upon verified petition to the
3 chief judge of the circuit where the person had been convicted,
4 any judge of the circuit designated by the Chief Judge, or in
5 counties of less than 3,000,000 inhabitants, the presiding
6 trial judge at the defendant's trial, may have a court order
7 entered expunging the record of arrest from the official
8 records of the arresting authority and order that the records
9 of the clerk of the circuit court and the Department be sealed
10 until further order of the court upon good cause shown or as
11 otherwise provided herein, and the name of the defendant
12 obliterated from the official index requested to be kept by the
13 circuit court clerk under Section 16 of the Clerks of Courts
14 Act in connection with the arrest and conviction for the
15 offense for which he had been pardoned but the order shall not
16 affect any index issued by the circuit court clerk before the
17 entry of the order. All records sealed by the Department may be
18 disseminated by the Department only as required by law or to
19 the arresting authority, the State's Attorney, and the court
20 upon a later arrest for the same or similar offense or for the
21 purpose of sentencing for any subsequent felony. Upon
22 conviction for any subsequent offense, the Department of
23 Corrections shall have access to all sealed records of the
24 Department pertaining to that individual. Upon entry of the
25 order of expungement, the clerk of the circuit court shall
26 promptly mail a copy of the order to the person who was
27 pardoned.

28 (c-5) Whenever a person has been convicted of criminal
29 sexual assault, aggravated criminal sexual assault, predatory
30 criminal sexual assault of a child, criminal sexual abuse, or
31 aggravated criminal sexual abuse, the victim of that offense
32 may request that the State's Attorney of the county in which
33 the conviction occurred file a verified petition with the
34 presiding trial judge at the defendant's trial to have a court

1 order entered to seal the records of the clerk of the circuit
2 court in connection with the proceedings of the trial court
3 concerning that offense. However, the records of the arresting
4 authority and the Department of State Police concerning the
5 offense shall not be sealed. The court, upon good cause shown,
6 shall make the records of the clerk of the circuit court in
7 connection with the proceedings of the trial court concerning
8 the offense available for public inspection.

9 (c-6) If a conviction has been set aside on direct review
10 or on collateral attack and the court determines by clear and
11 convincing evidence that the defendant was factually innocent
12 of the charge, the court shall enter an expungement order as
13 provided in subsection (b) of Section 5-5-4 of the Unified Code
14 of Corrections.

15 (d) Notice of the petition for subsections (a), (b), and
16 (c) shall be served upon the State's Attorney or prosecutor
17 charged with the duty of prosecuting the offense, the
18 Department of State Police, the arresting agency and the chief
19 legal officer of the unit of local government affecting the
20 arrest. Unless the State's Attorney or prosecutor, the
21 Department of State Police, the arresting agency or such chief
22 legal officer objects to the petition within 30 days from the
23 date of the notice, the court shall enter an order granting or
24 denying the petition. The clerk of the court shall promptly
25 mail a copy of the order to the person, the arresting agency,
26 the prosecutor, the Department of State Police and such other
27 criminal justice agencies as may be ordered by the judge.

28 (e) Nothing herein shall prevent the Department of State
29 Police from maintaining all records of any person who is
30 admitted to probation upon terms and conditions and who
31 fulfills those terms and conditions pursuant to Section 10 of
32 the Cannabis Control Act, Section 410 of the Illinois
33 Controlled Substances Act, Section 70 of the Methamphetamine
34 Control and Community Protection Act, Section 12-4.3 of the

1 Criminal Code of 1961, Section 10-102 of the Illinois
2 Alcoholism and Other Drug Dependency Act, Section 40-10 of the
3 Alcoholism and Other Drug Abuse and Dependency Act, or Section
4 10 of the Steroid Control Act.

5 (f) No court order issued under the expungement provisions
6 of this Section shall become final for purposes of appeal until
7 30 days after notice is received by the Department. Any court
8 order contrary to the provisions of this Section is void.

9 (g) Except as otherwise provided in subsection (c-5) of
10 this Section, the court shall not order the sealing or
11 expungement of the arrest records and records of the circuit
12 court clerk of any person granted supervision for or convicted
13 of any sexual offense committed against a minor under 18 years
14 of age. For the purposes of this Section, "sexual offense
15 committed against a minor" includes but is not limited to the
16 offenses of indecent solicitation of a child or criminal sexual
17 abuse when the victim of such offense is under 18 years of age.

18 (h) (1) Applicability. Notwithstanding any other provision
19 of this Act to the contrary and cumulative with any rights to
20 expungement of criminal records, this subsection authorizes
21 the sealing of criminal records of adults and of minors
22 prosecuted as adults.

23 (2) Sealable offenses. The following offenses may be
24 sealed:

25 (A) All municipal ordinance violations and
26 misdemeanors, with the exception of the following:

27 (i) violations of Section 11-501 of the Illinois
28 Vehicle Code or a similar provision of a local
29 ordinance;

30 (ii) violations of Article 11 of the Criminal Code
31 of 1961 or a similar provision of a local ordinance,
32 except Section 11-14 of the Criminal Code of 1961 as
33 provided in clause B(i) of this subsection (h);

34 (iii) violations of Section 12-15, 12-30, or 26-5

1 of the Criminal Code of 1961 or a similar provision of
2 a local ordinance;

3 (iv) violations that are a crime of violence as
4 defined in Section 2 of the Crime Victims Compensation
5 Act or a similar provision of a local ordinance;

6 (v) Class A misdemeanor violations of the Humane
7 Care for Animals Act; and

8 (vi) any offense or attempted offense that would
9 subject a person to registration under the Sex Offender
10 Registration Act.

11 (B) Misdemeanor and Class 4 felony violations of:

12 (i) Section 11-14 of the Criminal Code of 1961;

13 (ii) Section 4 of the Cannabis Control Act;

14 (iii) Section 402 of the Illinois Controlled
15 Substances Act; and

16 (iv) Section 60 of the Methamphetamine Control and
17 Community Protection Act.

18 ~~(iv)~~ However, for purposes of this subsection (h), a
19 sentence of first offender probation under Section 10 of
20 the Cannabis Control Act, ~~and~~ Section 410 of the Illinois
21 Controlled Substances Act, or Section 70 of the
22 Methamphetamine Control and Community Protection Act shall
23 be treated as a Class 4 felony conviction.

24 (3) Requirements for sealing. Records identified as
25 sealable under clause (h) (2) may be sealed when the individual
26 was:

27 (A) Acquitted of the offense or offenses or released
28 without being convicted.

29 (B) Convicted of the offense or offenses and the
30 conviction or convictions were reversed.

31 (C) Placed on misdemeanor supervision for an offense or
32 offenses; and

33 (i) at least 3 years have elapsed since the
34 completion of the term of supervision, or terms of

1 supervision, if more than one term has been ordered;
2 and

3 (ii) the individual has not been convicted of a
4 felony or misdemeanor or placed on supervision for a
5 misdemeanor or felony during the period specified in
6 clause (i).

7 (D) Convicted of an offense or offenses; and

8 (i) at least 4 years have elapsed since the last
9 such conviction or term of any sentence, probation,
10 parole, or supervision, if any, whichever is last in
11 time; and

12 (ii) the individual has not been convicted of a
13 felony or misdemeanor or placed on supervision for a
14 misdemeanor or felony during the period specified in
15 clause (i).

16 (4) Requirements for sealing of records when more than one
17 charge and disposition have been filed. When multiple offenses
18 are petitioned to be sealed under this subsection (h), the
19 requirements of the relevant provisions of clauses (h) (3) (A)
20 through (D) each apply. In instances in which more than one
21 waiting period is applicable under clauses (h) (C) (i) and (ii)
22 and (h) (D) (i) and (ii), the longer applicable period applies,
23 and the requirements of clause (h) (3) shall be considered met
24 when the petition is filed after the passage of the longer
25 applicable waiting period. That period commences on the date of
26 the completion of the last sentence or the end of supervision,
27 probation, or parole, whichever is last in time.

28 (5) Subsequent convictions. A person may not have
29 subsequent felony conviction records sealed as provided in this
30 subsection (h) if he or she is convicted of any felony offense
31 after the date of the sealing of prior felony records as
32 provided in this subsection (h).

33 (6) Notice of eligibility for sealing. Upon acquittal,
34 release without conviction, or being placed on supervision for

1 a sealable offense, or upon conviction of a sealable offense,
2 the person shall be informed by the court of the right to have
3 the records sealed and the procedures for the sealing of the
4 records.

5 (7) Procedure. Upon becoming eligible for the sealing of
6 records under this subsection (h), the person who seeks the
7 sealing of his or her records shall file a petition requesting
8 the sealing of records with the clerk of the court where the
9 charge or charges were brought. The records may be sealed by
10 the Chief Judge of the circuit wherein the charge was brought,
11 any judge of that circuit designated by the Chief Judge, or in
12 counties of less than 3,000,000 inhabitants, the presiding
13 trial judge at the defendant's trial, if any. If charges were
14 brought in multiple jurisdictions, a petition must be filed in
15 each such jurisdiction. The petitioner shall pay the applicable
16 fee, if not waived.

17 (A) Contents of petition. The petition shall contain
18 the petitioner's name, date of birth, current address, each
19 charge, each case number, the date of each charge, the
20 identity of the arresting authority, and such other
21 information as the court may require. During the pendency
22 of the proceeding, the petitioner shall promptly notify the
23 clerk of the court of any change of address.

24 (B) Drug test. A person filing a petition to have his
25 or her records sealed for a Class 4 felony violation of
26 Section 4 of the Cannabis Control Act or for a Class 4
27 felony violation of Section 402 of the Illinois Controlled
28 Substances Act must attach to the petition proof that the
29 petitioner has passed a test taken within the previous 30
30 days before the filing of the petition showing the absence
31 within his or her body of all illegal substances in
32 violation of either the Illinois Controlled Substances Act
33 or the Cannabis Control Act.

34 (C) Service of petition. The clerk shall promptly serve

1 a copy of the petition on the State's Attorney or
2 prosecutor charged with the duty of prosecuting the
3 offense, the Department of State Police, the arresting
4 agency and the chief legal officer of the unit of local
5 government effecting the arrest.

6 (D) Entry of order. Unless the State's Attorney or
7 prosecutor, the Department of State Police, the arresting
8 agency or such chief legal officer objects to sealing of
9 the records within 90 days of notice the court shall enter
10 an order sealing the defendant's records.

11 (E) Hearing upon objection. If an objection is filed,
12 the court shall set a date for a hearing and notify the
13 petitioner and the parties on whom the petition had been
14 served, and shall hear evidence on whether the sealing of
15 the records should or should not be granted, and shall make
16 a determination on whether to issue an order to seal the
17 records based on the evidence presented at the hearing.

18 (F) Service of order. After entering the order to seal
19 records, the court must provide copies of the order to the
20 Department, in a form and manner prescribed by the
21 Department, to the petitioner, to the State's Attorney or
22 prosecutor charged with the duty of prosecuting the
23 offense, to the arresting agency, to the chief legal
24 officer of the unit of local government effecting the
25 arrest, and to such other criminal justice agencies as may
26 be ordered by the court.

27 (8) Fees. Notwithstanding any provision of the Clerk of the
28 Courts Act to the contrary, and subject to the approval of the
29 county board, the clerk may charge a fee equivalent to the cost
30 associated with the sealing of records by the clerk and the
31 Department of State Police. The clerk shall forward the
32 Department of State Police portion of the fee to the Department
33 and it shall be deposited into the State Police Services Fund.

34 (i) Subject to available funding, the Illinois Department

1 of Corrections shall conduct a study of the impact of sealing,
2 especially on employment and recidivism rates, utilizing a
3 random sample of those who apply for the sealing of their
4 criminal records under Public Act 93-211, in accordance to
5 rules adopted by the Department. At the request of the Illinois
6 Department of Corrections, records of the Illinois Department
7 of Employment Security shall be utilized as appropriate to
8 assist in the study. The study shall not disclose any data in a
9 manner that would allow the identification of any particular
10 individual or employing unit. The study shall be made available
11 to the General Assembly no later than September 1, 2006.

12 (Source: P.A. 92-651, eff. 7-11-02; 93-210, eff. 7-18-03;
13 93-211, eff. 1-1-04; 93-1084, eff. 6-1-05.)

14 Section 925. The Illinois Uniform Conviction Information
15 Act is amended by changing Section 3 as follows:

16 (20 ILCS 2635/3) (from Ch. 38, par. 1603)

17 Sec. 3. Definitions. Whenever used in this Act, and for the
18 purposes of this Act, unless the context clearly indicates
19 otherwise:

20 (A) "Accurate" means factually correct, containing no
21 mistake or error of a material nature.

22 (B) The phrase "administer the criminal laws" includes any
23 of the following activities: intelligence gathering,
24 surveillance, criminal investigation, crime detection and
25 prevention (including research), apprehension, detention,
26 pretrial or post-trial release, prosecution, the correctional
27 supervision or rehabilitation of accused persons or criminal
28 offenders, criminal identification activities, or the
29 collection, maintenance or dissemination of criminal history
30 record information.

31 (C) "The Authority" means the Illinois Criminal Justice
32 Information Authority.

1 (D) "Automated" means the utilization of computers,
2 telecommunication lines, or other automatic data processing
3 equipment for data collection or storage, analysis,
4 processing, preservation, maintenance, dissemination, or
5 display and is distinguished from a system in which such
6 activities are performed manually.

7 (E) "Complete" means accurately reflecting all the
8 criminal history record information about an individual that is
9 required to be reported to the Department pursuant to Section
10 2.1 of the Criminal Identification Act.

11 (F) "Conviction information" means data reflecting a
12 judgment of guilt or nolo contendere. The term includes all
13 prior and subsequent criminal history events directly relating
14 to such judgments, such as, but not limited to: (1) the
15 notation of arrest; (2) the notation of charges filed; (3) the
16 sentence imposed; (4) the fine imposed; and (5) all related
17 probation, parole, and release information. Information ceases
18 to be "conviction information" when a judgment of guilt is
19 reversed or vacated.

20 For purposes of this Act, continuances to a date certain in
21 furtherance of an order of supervision granted under Section
22 5-6-1 of the Unified Code of Corrections or an order of
23 probation granted under either Section 10 of the Cannabis
24 Control Act, Section 410 of the Illinois Controlled Substances
25 Act, Section 70 of the Methamphetamine Control and Community
26 Protection Act, Section 12-4.3 of the Criminal Code of 1961,
27 Section 10-102 of the Illinois Alcoholism and Other Drug
28 Dependency Act, Section 40-10 of the Alcoholism and Other Drug
29 Abuse and Dependency Act, or Section 10 of the Steroid Control
30 Act shall not be deemed "conviction information".

31 (G) "Criminal history record information" means data
32 identifiable to an individual and consisting of descriptions or
33 notations of arrests, detentions, indictments, informations,
34 pretrial proceedings, trials, or other formal events in the

1 criminal justice system or descriptions or notations of
2 criminal charges (including criminal violations of local
3 municipal ordinances) and the nature of any disposition arising
4 therefrom, including sentencing, court or correctional
5 supervision, rehabilitation and release. The term does not
6 apply to statistical records and reports in which individual
7 are not identified and from which their identities are not
8 ascertainable, or to information that is for criminal
9 investigative or intelligence purposes.

10 (H) "Criminal justice agency" means (1) a government agency
11 or any subunit thereof which is authorized to administer the
12 criminal laws and which allocates a substantial part of its
13 annual budget for that purpose, or (2) an agency supported by
14 public funds which is authorized as its principal function to
15 administer the criminal laws and which is officially designated
16 by the Department as a criminal justice agency for purposes of
17 this Act.

18 (I) "The Department" means the Illinois Department of State
19 Police.

20 (J) "Director" means the Director of the Illinois
21 Department of State Police.

22 (K) "Disseminate" means to disclose or transmit conviction
23 information in any form, oral, written, or otherwise.

24 (L) "Exigency" means pending danger or the threat of
25 pending danger to an individual or property.

26 (M) "Non-criminal justice agency" means a State agency,
27 Federal agency, or unit of local government that is not a
28 criminal justice agency. The term does not refer to private
29 individuals, corporations, or non-governmental agencies or
30 organizations.

31 (M-5) "Request" means the submission to the Department, in
32 the form and manner required, the necessary data elements or
33 fingerprints, or both, to allow the Department to initiate a
34 search of its criminal history record information files.

1 (N) "Requester" means any private individual, corporation,
2 organization, employer, employment agency, labor organization,
3 or non-criminal justice agency that has made a request pursuant
4 to this Act to obtain conviction information maintained in the
5 files of the Department of State Police regarding a particular
6 individual.

7 (O) "Statistical information" means data from which the
8 identity of an individual cannot be ascertained,
9 reconstructed, or verified and to which the identity of an
10 individual cannot be linked by the recipient of the
11 information.

12 (Source: P.A. 88-368; 88-670, eff. 12-2-94.)

13 Section 926. The State Officers and Employees Money
14 Disposition Act is amended by changing Section 2 as follows:

15 (30 ILCS 230/2) (from Ch. 127, par. 171)

16 Sec. 2. Accounts of money received; payment into State
17 treasury.

18 (a) Every officer, board, commission, commissioner,
19 department, institution, arm or agency brought within the
20 provisions of this Act by Section 1 shall keep in proper books
21 a detailed itemized account of all moneys received for or on
22 behalf of the State of Illinois, showing the date of receipt,
23 the payor, and purpose and amount, and the date and manner of
24 disbursement as hereinafter provided, and, unless a different
25 time of payment is expressly provided by law or by rules or
26 regulations promulgated under subsection (b) of this Section,
27 shall pay into the State treasury the gross amount of money so
28 received on the day of actual physical receipt with respect to
29 any single item of receipt exceeding \$10,000, within 24 hours
30 of actual physical receipt with respect to an accumulation of
31 receipts of \$10,000 or more, or within 48 hours of actual
32 physical receipt with respect to an accumulation of receipts

1 exceeding \$500 but less than \$10,000, disregarding holidays,
2 Saturdays and Sundays, after the receipt of same, without any
3 deduction on account of salaries, fees, costs, charges,
4 expenses or claims of any description whatever; provided that:

5 (1) the provisions of (i) Section 2505-475 of the
6 Department of Revenue Law (20 ILCS 2505/2505-475), (ii) any
7 specific taxing statute authorizing a claim for credit
8 procedure instead of the actual making of refunds, (iii)
9 Section 505 of the Illinois Controlled Substances Act, (iv)
10 Section 85 of the Methamphetamine Control and Community
11 Protection Act, authorizing the Director of State Police to
12 dispose of forfeited property, which includes the sale and
13 disposition of the proceeds of the sale of forfeited
14 property, and the Department of Central Management
15 Services to be reimbursed for costs incurred with the sales
16 of forfeited vehicles, boats or aircraft and to pay to bona
17 fide or innocent purchasers, conditional sales vendors or
18 mortgagees of such vehicles, boats or aircraft their
19 interest in such vehicles, boats or aircraft, and (v) ~~(iv)~~
20 Section 6b-2 of the State Finance Act, establishing
21 procedures for handling cash receipts from the sale of
22 pari-mutuel wagering tickets, shall not be deemed to be in
23 conflict with the requirements of this Section;

24 (2) any fees received by the State Registrar of Vital
25 Records pursuant to the Vital Records Act which are
26 insufficient in amount may be returned by the Registrar as
27 provided in that Act;

28 (3) any fees received by the Department of Public
29 Health under the Food Handling Regulation Enforcement Act
30 that are submitted for renewal of an expired food service
31 sanitation manager certificate may be returned by the
32 Director as provided in that Act;

33 (3.5) the State Treasurer may permit the deduction of
34 fees by third-party unclaimed property examiners from the

1 property recovered by the examiners for the State of
2 Illinois during examinations of holders located outside
3 the State under which the Office of the Treasurer has
4 agreed to pay for the examinations based upon a percentage,
5 set by rule by the State Treasurer in accordance with the
6 Illinois Administrative Procedure Act, of the property
7 recovered during the examination; and

8 (4) if the amount of money received does not exceed
9 \$500, such money may be retained and need not be paid into
10 the State treasury until the total amount of money so
11 received exceeds \$500, or until the next succeeding 1st or
12 15th day of each month (or until the next business day if
13 these days fall on Sunday or a holiday), whichever is
14 earlier, at which earlier time such money shall be paid
15 into the State treasury, except that if a local bank or
16 savings and loan association account has been authorized by
17 law, any balances shall be paid into the State treasury on
18 Monday of each week if more than \$500 is to be deposited in
19 any fund.

20 Single items of receipt exceeding \$10,000 received after 2 p.m.
21 on a working day may be deemed to have been received on the
22 next working day for purposes of fulfilling the requirement
23 that the item be deposited on the day of actual physical
24 receipt.

25 No money belonging to or left for the use of the State
26 shall be expended or applied except in consequence of an
27 appropriation made by law and upon the warrant of the State
28 Comptroller. However, payments made by the Comptroller to
29 persons by direct deposit need not be made upon the warrant of
30 the Comptroller, but if not made upon a warrant, shall be made
31 in accordance with Section 9.02 of the State Comptroller Act.
32 All moneys so paid into the State treasury shall, unless
33 required by some statute to be held in the State treasury in a
34 separate or special fund, be covered into the General Revenue

1 Fund in the State treasury. Moneys received in the form of
2 checks, drafts or similar instruments shall be properly
3 endorsed, if necessary, and delivered to the State Treasurer
4 for collection. The State Treasurer shall remit such collected
5 funds to the depositing officer, board, commission,
6 commissioner, department, institution, arm or agency by
7 Treasurers Draft or through electronic funds transfer. The
8 draft or notification of the electronic funds transfer shall be
9 provided to the State Comptroller to allow deposit into the
10 appropriate fund.

11 (b) Different time periods for the payment of public funds
12 into the State treasury or to the State Treasurer, in excess of
13 the periods established in subsection (a) of this Section, but
14 not in excess of 30 days after receipt of such funds, may be
15 established and revised from time to time by rules or
16 regulations promulgated jointly by the State Treasurer and the
17 State Comptroller in accordance with the Illinois
18 Administrative Procedure Act. The different time periods
19 established by rule or regulation under this subsection may
20 vary according to the nature and amounts of the funds received,
21 the locations at which the funds are received, whether
22 compliance with the deposit requirements specified in
23 subsection (a) of this Section would be cost effective, and
24 such other circumstances and conditions as the promulgating
25 authorities consider to be appropriate. The Treasurer and the
26 Comptroller shall review all such different time periods
27 established pursuant to this subsection every 2 years from the
28 establishment thereof and upon such review, unless it is
29 determined that it is economically unfeasible for the agency to
30 comply with the provisions of subsection (a), shall repeal such
31 different time period.

32 (Source: P.A. 90-37, eff. 6-27-97; 90-655, eff. 7-30-98;
33 91-239, eff. 1-1-00; 91-862, eff. 1-1-01.)

1 Section 930. The Counties Code is amended by changing
2 Section 5-1103 as follows:

3 (55 ILCS 5/5-1103) (from Ch. 34, par. 5-1103)

4 Sec. 5-1103. Court services fee. A county board may enact
5 by ordinance or resolution a court services fee dedicated to
6 defraying court security expenses incurred by the sheriff in
7 providing court services or for any other court services deemed
8 necessary by the sheriff to provide for court security,
9 including without limitation court services provided pursuant
10 to Section 3-6023, as now or hereafter amended. Such fee shall
11 be paid in civil cases by each party at the time of filing the
12 first pleading, paper or other appearance; provided that no
13 additional fee shall be required if more than one party is
14 represented in a single pleading, paper or other appearance. In
15 criminal, local ordinance, county ordinance, traffic and
16 conservation cases, such fee shall be assessed against the
17 defendant upon a plea of guilty, stipulation of facts or
18 findings of guilty, resulting in a judgment of conviction, or
19 order of supervision, or sentence of probation without entry of
20 judgment pursuant to Section 10 of the Cannabis Control Act,
21 Section 410 of the Illinois Controlled Substances Act, Section
22 70 of the Methamphetamine Control and Community Protection Act,
23 Section 12-4.3 of the Criminal Code of 1961, Section 10-102 of
24 the Illinois Alcoholism and Other Drug Dependency Act, Section
25 40-10 of the Alcoholism and Other Drug Abuse and Dependency
26 Act, or Section 10 of the Steroid Control Act. In setting such
27 fee, the county board may impose, with the concurrence of the
28 Chief Judge of the judicial circuit in which the county is
29 located by administrative order entered by the Chief Judge,
30 differential rates for the various types or categories of
31 criminal and civil cases, but the maximum rate shall not exceed
32 \$25. All proceeds from this fee must be used to defray court
33 security expenses incurred by the sheriff in providing court

1 services. No fee shall be imposed or collected, however, in
2 traffic, conservation, and ordinance cases in which fines are
3 paid without a court appearance. The fees shall be collected in
4 the manner in which all other court fees or costs are collected
5 and shall be deposited into the county general fund for payment
6 solely of costs incurred by the sheriff in providing court
7 security or for any other court services deemed necessary by
8 the sheriff to provide for court security.

9 (Source: P.A. 93-558, eff. 12-1-03.)

10 Section 935. The Park District Code is amended by changing
11 Section 8-23 as follows:

12 (70 ILCS 1205/8-23)

13 Sec. 8-23. Criminal background investigations.

14 (a) An applicant for employment with a park district is
15 required as a condition of employment to authorize an
16 investigation to determine if the applicant has been convicted
17 of any of the enumerated criminal or drug offenses in
18 subsection (c) of this Section or has been convicted, within 7
19 years of the application for employment with the park district,
20 of any other felony under the laws of this State or of any
21 offense committed or attempted in any other state or against
22 the laws of the United States that, if committed or attempted
23 in this State, would have been punishable as a felony under the
24 laws of this State. Authorization for the investigation shall
25 be furnished by the applicant to the park district. Upon
26 receipt of this authorization, the park district shall submit
27 the applicant's name, sex, race, date of birth, and social
28 security number to the Department of State Police on forms
29 prescribed by the Department of State Police. The Department of
30 State Police shall conduct a search of the Illinois criminal
31 history records database to ascertain if the applicant being
32 considered for employment has been convicted of committing or

1 attempting to commit any of the enumerated criminal or drug
2 offenses in subsection (c) of this Section or has been
3 convicted of committing or attempting to commit, within 7 years
4 of the application for employment with the park district, any
5 other felony under the laws of this State. The Department of
6 State Police shall charge the park district a fee for
7 conducting the investigation, which fee shall be deposited in
8 the State Police Services Fund and shall not exceed the cost of
9 the inquiry. The applicant shall not be charged a fee by the
10 park district for the investigation.

11 (b) If the search of the Illinois criminal history record
12 database indicates that the applicant has been convicted of
13 committing or attempting to commit any of the enumerated
14 criminal or drug offenses in subsection (c) or has been
15 convicted of committing or attempting to commit, within 7 years
16 of the application for employment with the park district, any
17 other felony under the laws of this State, the Department of
18 State Police and the Federal Bureau of Investigation shall
19 furnish, pursuant to a fingerprint based background check,
20 records of convictions, until expunged, to the president of the
21 park district. Any information concerning the record of
22 convictions obtained by the president shall be confidential and
23 may only be transmitted to those persons who are necessary to
24 the decision on whether to hire the applicant for employment. A
25 copy of the record of convictions obtained from the Department
26 of State Police shall be provided to the applicant for
27 employment. Any person who releases any confidential
28 information concerning any criminal convictions of an
29 applicant for employment shall be guilty of a Class A
30 misdemeanor, unless the release of such information is
31 authorized by this Section.

32 (c) No park district shall knowingly employ a person who
33 has been convicted for committing attempted first degree murder
34 or for committing or attempting to commit first degree murder,

1 a Class X felony, or any one or more of the following offenses:

2 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,
3 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,
4 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15, and 12-16 of the
5 Criminal Code of 1961; (ii) those defined in the Cannabis
6 Control Act, except those defined in Sections 4(a), 4(b), and
7 5(a) of that Act; (iii) those defined in the Illinois
8 Controlled Substances Act; (iv) those defined in the
9 Methamphetamine Control and Community Protection Act; and (v)

10 ~~(iv)~~ any offense committed or attempted in any other state or
11 against the laws of the United States, which, if committed or
12 attempted in this State, would have been punishable as one or
13 more of the foregoing offenses. Further, no park district shall
14 knowingly employ a person who has been found to be the
15 perpetrator of sexual or physical abuse of any minor under 18
16 years of age pursuant to proceedings under Article II of the
17 Juvenile Court Act of 1987. No park district shall knowingly
18 employ a person for whom a criminal background investigation
19 has not been initiated.

20 (Source: P.A. 93-418, eff. 1-1-04.)

21 Section 940. The Chicago Park District Act is amended by
22 changing Section 16a-5 as follows:

23 (70 ILCS 1505/16a-5)

24 Sec. 16a-5. Criminal background investigations.

25 (a) An applicant for employment with the Chicago Park
26 District is required as a condition of employment to authorize
27 an investigation to determine if the applicant has been
28 convicted of any of the enumerated criminal or drug offenses in
29 subsection (c) of this Section or has been convicted, within 7
30 years of the application for employment with the Chicago Park
31 District, of any other felony under the laws of this State or
32 of any offense committed or attempted in any other state or

1 against the laws of the United States that, if committed or
2 attempted in this State, would have been punishable as a felony
3 under the laws of this State. Authorization for the
4 investigation shall be furnished by the applicant to the
5 Chicago Park District. Upon receipt of this authorization, the
6 Chicago Park District shall submit the applicant's name, sex,
7 race, date of birth, and social security number to the
8 Department of State Police on forms prescribed by the
9 Department of State Police. The Department of State Police
10 shall conduct a search of the Illinois criminal history record
11 information database to ascertain if the applicant being
12 considered for employment has been convicted of committing or
13 attempting to commit any of the enumerated criminal or drug
14 offenses in subsection (c) of this Section or has been
15 convicted, of committing or attempting to commit within 7 years
16 of the application for employment with the Chicago Park
17 District, any other felony under the laws of this State. The
18 Department of State Police shall charge the Chicago Park
19 District a fee for conducting the investigation, which fee
20 shall be deposited in the State Police Services Fund and shall
21 not exceed the cost of the inquiry. The applicant shall not be
22 charged a fee by the Chicago Park District for the
23 investigation.

24 (b) If the search of the Illinois criminal history record
25 database indicates that the applicant has been convicted of
26 committing or attempting to commit any of the enumerated
27 criminal or drug offenses in subsection (c) or has been
28 convicted of committing or attempting to commit, within 7 years
29 of the application for employment with the Chicago Park
30 District, any other felony under the laws of this State, the
31 Department of State Police and the Federal Bureau of
32 Investigation shall furnish, pursuant to a fingerprint based
33 background check, records of convictions, until expunged, to
34 the General Superintendent and Chief Executive Officer of the

1 Chicago Park District. Any information concerning the record of
2 convictions obtained by the General Superintendent and Chief
3 Executive Officer shall be confidential and may only be
4 transmitted to those persons who are necessary to the decision
5 on whether to hire the applicant for employment. A copy of the
6 record of convictions obtained from the Department of State
7 Police shall be provided to the applicant for employment. Any
8 person who releases any confidential information concerning
9 any criminal convictions of an applicant for employment shall
10 be guilty of a Class A misdemeanor, unless the release of such
11 information is authorized by this Section.

12 (c) The Chicago Park District may not knowingly employ a
13 person who has been convicted for committing attempted first
14 degree murder or for committing or attempting to commit first
15 degree murder, a Class X felony, or any one or more of the
16 following offenses: (i) those defined in Sections 11-6, 11-9,
17 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1,
18 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15,
19 and 12-16 of the Criminal Code of 1961; (ii) those defined in
20 the Cannabis Control Act, except those defined in Sections
21 4(a), 4(b), and 5(a) of that Act; (iii) those defined in the
22 Illinois Controlled Substances Act; (iv) those defined in the
23 Methamphetamine Control and Community Protection Act; and (v)
24 ~~(iv)~~ any offense committed or attempted in any other state or
25 against the laws of the United States, which, if committed or
26 attempted in this State, would have been punishable as one or
27 more of the foregoing offenses. Further, the Chicago Park
28 District may not knowingly employ a person who has been found
29 to be the perpetrator of sexual or physical abuse of any minor
30 under 18 years of age pursuant to proceedings under Article II
31 of the Juvenile Court Act of 1987. The Chicago Park District
32 may not knowingly employ a person for whom a criminal
33 background investigation has not been initiated.

34 (Source: P.A. 93-418, eff. 1-1-04.)

1 Section 945. The Metropolitan Transit Authority Act is
2 amended by changing Section 28b as follows:

3 (70 ILCS 3605/28b) (from Ch. 111 2/3, par. 328b)

4 Sec. 28b. Any person applying for a position as a driver of
5 a vehicle owned by a private carrier company which provides
6 public transportation pursuant to an agreement with the
7 Authority shall be required to authorize an investigation by
8 the private carrier company to determine if the applicant has
9 been convicted of any of the following offenses: (i) those
10 offenses defined in Sections 9-1, 9-1.2, 10-1, 10-2, 10-3.1,
11 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-14, 11-15, 11-15.1,
12 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1,
13 11-21, 11-22, 12-4.3, 12-4.4, 12-4.5, 12-6, 12-7.1, 12-11,
14 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.1, 18-1, 18-2, 20-1,
15 20-1.1, 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and
16 subsection (b), clause (1), of Section 12-4 of the Criminal
17 Code of 1961; (ii) those offenses defined in the Cannabis
18 Control Act except those offenses defined in subsections (a)
19 and (b) of Section 4, and subsection (a) of Section 5 of the
20 Cannabis Control Act (iii) those offenses defined in the
21 Illinois Controlled Substances Act; (iv) those offenses
22 defined in the Methamphetamine Control and Community
23 Protection Act; and (v) ~~(iv)~~ any offense committed or attempted
24 in any other state or against the laws of the United States,
25 which if committed or attempted in this State would be
26 punishable as one or more of the foregoing offenses. Upon
27 receipt of this authorization, the private carrier company
28 shall submit the applicant's name, sex, race, date of birth,
29 fingerprints and social security number to the Department of
30 State Police on forms prescribed by the Department. The
31 Department of State Police shall conduct an investigation to
32 ascertain if the applicant has been convicted of any of the

1 above enumerated offenses. The Department shall charge the
2 private carrier company a fee for conducting the investigation,
3 which fee shall be deposited in the State Police Services Fund
4 and shall not exceed the cost of the inquiry; and the applicant
5 shall not be charged a fee for such investigation by the
6 private carrier company. The Department of State Police shall
7 furnish, pursuant to positive identification, records of
8 convictions, until expunged, to the private carrier company
9 which requested the investigation. A copy of the record of
10 convictions obtained from the Department shall be provided to
11 the applicant. Any record of conviction received by the private
12 carrier company shall be confidential. Any person who releases
13 any confidential information concerning any criminal
14 convictions of an applicant shall be guilty of a Class A
15 misdemeanor, unless authorized by this Section.

16 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

17 Section 950. The School Code is amended by changing
18 Sections 10-21.9, 10-27.1B, 21-23a, 34-18.5, and 34-84b as
19 follows:

20 (105 ILCS 5/10-21.9) (from Ch. 122, par. 10-21.9)

21 Sec. 10-21.9. Criminal history records checks.

22 (a) Certified and noncertified applicants for employment
23 with a school district, except school bus driver applicants,
24 are required as a condition of employment to authorize a
25 fingerprint-based criminal history records check to determine
26 if such applicants have been convicted of any of the enumerated
27 criminal or drug offenses in subsection (c) of this Section or
28 have been convicted, within 7 years of the application for
29 employment with the school district, of any other felony under
30 the laws of this State or of any offense committed or attempted
31 in any other state or against the laws of the United States
32 that, if committed or attempted in this State, would have been

1 punishable as a felony under the laws of this State.
2 Authorization for the check shall be furnished by the applicant
3 to the school district, except that if the applicant is a
4 substitute teacher seeking employment in more than one school
5 district, a teacher seeking concurrent part-time employment
6 positions with more than one school district (as a reading
7 specialist, special education teacher or otherwise), or an
8 educational support personnel employee seeking employment
9 positions with more than one district, any such district may
10 require the applicant to furnish authorization for the check to
11 the regional superintendent of the educational service region
12 in which are located the school districts in which the
13 applicant is seeking employment as a substitute or concurrent
14 part-time teacher or concurrent educational support personnel
15 employee. Upon receipt of this authorization, the school
16 district or the appropriate regional superintendent, as the
17 case may be, shall submit the applicant's name, sex, race, date
18 of birth, social security number, fingerprint images, and other
19 identifiers, as prescribed by the Department of State Police,
20 to the Department. The regional superintendent submitting the
21 requisite information to the Department of State Police shall
22 promptly notify the school districts in which the applicant is
23 seeking employment as a substitute or concurrent part-time
24 teacher or concurrent educational support personnel employee
25 that the check of the applicant has been requested. The
26 Department of State Police and the Federal Bureau of
27 Investigation shall furnish, pursuant to a fingerprint-based
28 criminal history records check, records of convictions, until
29 expunged, to the president of the school board for the school
30 district that requested the check, or to the regional
31 superintendent who requested the check. The Department shall
32 charge the school district or the appropriate regional
33 superintendent a fee for conducting such check, which fee shall
34 be deposited in the State Police Services Fund and shall not

1 exceed the cost of the inquiry; and the applicant shall not be
2 charged a fee for such check by the school district or by the
3 regional superintendent. Subject to appropriations for these
4 purposes, the State Superintendent of Education shall
5 reimburse school districts and regional superintendents for
6 fees paid to obtain criminal history records checks under this
7 Section.

8 (b) Any information concerning the record of convictions
9 obtained by the president of the school board or the regional
10 superintendent shall be confidential and may only be
11 transmitted to the superintendent of the school district or his
12 designee, the appropriate regional superintendent if the check
13 was requested by the school district, the presidents of the
14 appropriate school boards if the check was requested from the
15 Department of State Police by the regional superintendent, the
16 State Superintendent of Education, the State Teacher
17 Certification Board or any other person necessary to the
18 decision of hiring the applicant for employment. A copy of the
19 record of convictions obtained from the Department of State
20 Police shall be provided to the applicant for employment. If a
21 check of an applicant for employment as a substitute or
22 concurrent part-time teacher or concurrent educational support
23 personnel employee in more than one school district was
24 requested by the regional superintendent, and the Department of
25 State Police upon a check ascertains that the applicant has not
26 been convicted of any of the enumerated criminal or drug
27 offenses in subsection (c) or has not been convicted, within 7
28 years of the application for employment with the school
29 district, of any other felony under the laws of this State or
30 of any offense committed or attempted in any other state or
31 against the laws of the United States that, if committed or
32 attempted in this State, would have been punishable as a felony
33 under the laws of this State and so notifies the regional
34 superintendent, then the regional superintendent shall issue

1 to the applicant a certificate evidencing that as of the date
2 specified by the Department of State Police the applicant has
3 not been convicted of any of the enumerated criminal or drug
4 offenses in subsection (c) or has not been convicted, within 7
5 years of the application for employment with the school
6 district, of any other felony under the laws of this State or
7 of any offense committed or attempted in any other state or
8 against the laws of the United States that, if committed or
9 attempted in this State, would have been punishable as a felony
10 under the laws of this State. The school board of any school
11 district located in the educational service region served by
12 the regional superintendent who issues such a certificate to an
13 applicant for employment as a substitute teacher in more than
14 one such district may rely on the certificate issued by the
15 regional superintendent to that applicant, or may initiate its
16 own criminal history records check of the applicant through the
17 Department of State Police as provided in subsection (a). Any
18 person who releases any confidential information concerning
19 any criminal convictions of an applicant for employment shall
20 be guilty of a Class A misdemeanor, unless the release of such
21 information is authorized by this Section.

22 (c) No school board shall knowingly employ a person who has
23 been convicted for committing attempted first degree murder or
24 for committing or attempting to commit first degree murder or a
25 Class X felony or any one or more of the following offenses:
26 (i) those defined in Sections 11-6, 11-9, 11-14, 11-15,
27 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20,
28 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15 and 12-16 of the
29 "Criminal Code of 1961"; (ii) those defined in the "Cannabis
30 Control Act" except those defined in Sections 4(a), 4(b) and
31 5(a) of that Act; (iii) those defined in the "Illinois
32 Controlled Substances Act"; (iv) those defined in the
33 Methamphetamine Control and Community Protection Act; and (v)
34 ~~(iv)~~ any offense committed or attempted in any other state or

1 against the laws of the United States, which if committed or
2 attempted in this State, would have been punishable as one or
3 more of the foregoing offenses. Further, no school board shall
4 knowingly employ a person who has been found to be the
5 perpetrator of sexual or physical abuse of any minor under 18
6 years of age pursuant to proceedings under Article II of the
7 Juvenile Court Act of 1987.

8 (d) No school board shall knowingly employ a person for
9 whom a criminal history records check has not been initiated.

10 (e) Upon receipt of the record of a conviction of or a
11 finding of child abuse by a holder of any certificate issued
12 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
13 Code, the appropriate regional superintendent of schools or the
14 State Superintendent of Education shall initiate the
15 certificate suspension and revocation proceedings authorized
16 by law.

17 (f) After January 1, 1990 the provisions of this Section
18 shall apply to all employees of persons or firms holding
19 contracts with any school district including, but not limited
20 to, food service workers, school bus drivers and other
21 transportation employees, who have direct, daily contact with
22 the pupils of any school in such district. For purposes of
23 criminal history records checks on employees of persons or
24 firms holding contracts with more than one school district and
25 assigned to more than one school district, the regional
26 superintendent of the educational service region in which the
27 contracting school districts are located may, at the request of
28 any such school district, be responsible for receiving the
29 authorization for a check prepared by each such employee and
30 submitting the same to the Department of State Police. Any
31 information concerning the record of conviction of any such
32 employee obtained by the regional superintendent shall be
33 promptly reported to the president of the appropriate school
34 board or school boards.

1 (Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04.)

2 (105 ILCS 5/10-27.1B)

3 Sec. 10-27.1B. Reporting drug-related incidents in
4 schools.

5 (a) In this Section:

6 "Drug" means "cannabis" as defined under subsection (a) of
7 Section 3 of the Cannabis Control Act, ~~or~~ "narcotic drug" as
8 defined under subsection (aa) of Section 102 of the Illinois
9 Controlled Substances Act, or "methamphetamine" as defined
10 under Section 10 of the Methamphetamine Control and Community
11 Protection Act.

12 "School" means any public or private elementary or
13 secondary school.

14 (b) Upon receipt of any written, electronic, or verbal
15 report from any school personnel regarding a verified incident
16 involving drugs in a school or on school owned or leased
17 property, including any conveyance owned, leased, or used by
18 the school for the transport of students or school personnel,
19 the superintendent or his or her designee, or other appropriate
20 administrative officer for a private school, shall report all
21 such drug-related incidents occurring in a school or on school
22 property to the local law enforcement authorities immediately
23 and to the Department of State Police in a form, manner, and
24 frequency as prescribed by the Department of State Police.

25 (c) The State Board of Education shall receive an annual
26 statistical compilation and related data associated with
27 drug-related incidents in schools from the Department of State
28 Police. The State Board of Education shall compile this
29 information by school district and make it available to the
30 public.

31 (Source: P.A. 91-491, eff. 8-13-99.)

32 (105 ILCS 5/21-23a) (from Ch. 122, par. 21-23a)

1 Sec. 21-23a. Conviction of sex or narcotics offense, first
2 degree murder, attempted first degree murder, or Class X felony
3 as grounds for revocation of certificate.

4 (a) Whenever the holder of any certificate issued pursuant
5 to this Article has been convicted of any sex offense or
6 narcotics offense as defined in this Section, the regional
7 superintendent or the State Superintendent of Education shall
8 forthwith suspend the certificate. If the conviction is
9 reversed and the holder is acquitted of the offense in a new
10 trial or the charges against him are dismissed, the suspending
11 authority shall forthwith terminate the suspension of the
12 certificate. When the conviction becomes final, the State
13 Superintendent of Education shall forthwith revoke the
14 certificate. "Sex offense" as used in this Section means any
15 one or more of the following offenses: (1) any offense defined
16 in Sections 11-6 and 11-9 and Sections 11-14 through 11-21,
17 inclusive, and Sections 12-13, 12-14, 12-14.1, 12-15 and 12-16
18 of the "Criminal Code of 1961"; (2) any attempt to commit any
19 of the foregoing offenses, and (3) any offense committed or
20 attempted in any other state which, if committed or attempted
21 in this State, would have been punishable as one or more of the
22 foregoing offenses. "Narcotics offense" as used in this Section
23 means any one or more of the following offenses: (1) any
24 offense defined in the "Cannabis Control Act" except those
25 defined in Sections 4(a), 4(b) and 5(a) of that Act and any
26 offense for which the holder of any certificate is placed on
27 probation under the provisions of Section 10 of that Act and
28 fulfills the terms and conditions of probation as may be
29 required by the court; (2) any offense defined in the "Illinois
30 Controlled Substances Act" except any offense for which the
31 holder of any certificate is placed on probation under the
32 provisions of Section 410 of that Act and fulfills the terms
33 and conditions of probation as may be required by the court;
34 (3) any offense defined in the Methamphetamine Control and

1 Community Protection Act except any offense for which the
2 holder of any certificate is placed on probation under the
3 provision of Section 70 of that Act and fulfills the terms and
4 conditions of probation as may be required by the court; (4)
5 ~~(3)~~ any attempt to commit any of the foregoing offenses; and
6 (5) ~~(4)~~ any offense committed or attempted in any other state
7 or against the laws of the United States which, if committed or
8 attempted in this State, would have been punishable as one or
9 more of the foregoing offenses.

10 (b) Whenever the holder of a certificate issued pursuant to
11 this Article has been convicted of first degree murder,
12 attempted first degree murder, or a Class X felony, the
13 regional superintendent or the State Superintendent of
14 Education shall forthwith suspend the certificate. If the
15 conviction is reversed and the holder is acquitted of that
16 offense in a new trial or the charges that he or she committed
17 that offense are dismissed, the suspending authority shall
18 forthwith terminate the suspension of the certificate. When the
19 conviction becomes final, the State Superintendent of
20 Education shall forthwith revoke the certificate. The stated
21 offenses of "first degree murder", "attempted first degree
22 murder", and "Class X felony" referred to in this Section
23 include any offense committed in another state that, if
24 committed in this State, would have been punishable as any one
25 of the stated offenses.

26 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;
27 89-610, eff. 8-6-96.)

28 (105 ILCS 5/34-18.5) (from Ch. 122, par. 34-18.5)

29 Sec. 34-18.5. Criminal history records checks.

30 (a) Certified and noncertified applicants for employment
31 with the school district are required as a condition of
32 employment to authorize a fingerprint-based criminal history
33 records check to determine if such applicants have been

1 convicted of any of the enumerated criminal or drug offenses in
2 subsection (c) of this Section or have been convicted, within 7
3 years of the application for employment with the school
4 district, of any other felony under the laws of this State or
5 of any offense committed or attempted in any other state or
6 against the laws of the United States that, if committed or
7 attempted in this State, would have been punishable as a felony
8 under the laws of this State. Authorization for the check shall
9 be furnished by the applicant to the school district, except
10 that if the applicant is a substitute teacher seeking
11 employment in more than one school district, or a teacher
12 seeking concurrent part-time employment positions with more
13 than one school district (as a reading specialist, special
14 education teacher or otherwise), or an educational support
15 personnel employee seeking employment positions with more than
16 one district, any such district may require the applicant to
17 furnish authorization for the check to the regional
18 superintendent of the educational service region in which are
19 located the school districts in which the applicant is seeking
20 employment as a substitute or concurrent part-time teacher or
21 concurrent educational support personnel employee. Upon
22 receipt of this authorization, the school district or the
23 appropriate regional superintendent, as the case may be, shall
24 submit the applicant's name, sex, race, date of birth, social
25 security number, fingerprint images, and other identifiers, as
26 prescribed by the Department of State Police, to the
27 Department. The regional superintendent submitting the
28 requisite information to the Department of State Police shall
29 promptly notify the school districts in which the applicant is
30 seeking employment as a substitute or concurrent part-time
31 teacher or concurrent educational support personnel employee
32 that the check of the applicant has been requested. The
33 Department of State Police and the Federal Bureau of
34 Investigation shall furnish, pursuant to a fingerprint-based

1 criminal history records check, records of convictions, until
2 expunged, to the president of the school board for the school
3 district that requested the check, or to the regional
4 superintendent who requested the check. The Department shall
5 charge the school district or the appropriate regional
6 superintendent a fee for conducting such check, which fee shall
7 be deposited in the State Police Services Fund and shall not
8 exceed the cost of the inquiry; and the applicant shall not be
9 charged a fee for such check by the school district or by the
10 regional superintendent. Subject to appropriations for these
11 purposes, the State Superintendent of Education shall
12 reimburse the school district and regional superintendent for
13 fees paid to obtain criminal history records checks under this
14 Section.

15 (b) Any information concerning the record of convictions
16 obtained by the president of the board of education or the
17 regional superintendent shall be confidential and may only be
18 transmitted to the general superintendent of the school
19 district or his designee, the appropriate regional
20 superintendent if the check was requested by the board of
21 education for the school district, the presidents of the
22 appropriate board of education or school boards if the check
23 was requested from the Department of State Police by the
24 regional superintendent, the State Superintendent of
25 Education, the State Teacher Certification Board or any other
26 person necessary to the decision of hiring the applicant for
27 employment. A copy of the record of convictions obtained from
28 the Department of State Police shall be provided to the
29 applicant for employment. If a check of an applicant for
30 employment as a substitute or concurrent part-time teacher or
31 concurrent educational support personnel employee in more than
32 one school district was requested by the regional
33 superintendent, and the Department of State Police upon a check
34 ascertains that the applicant has not been convicted of any of

1 the enumerated criminal or drug offenses in subsection (c) or
2 has not been convicted, within 7 years of the application for
3 employment with the school district, of any other felony under
4 the laws of this State or of any offense committed or attempted
5 in any other state or against the laws of the United States
6 that, if committed or attempted in this State, would have been
7 punishable as a felony under the laws of this State and so
8 notifies the regional superintendent, then the regional
9 superintendent shall issue to the applicant a certificate
10 evidencing that as of the date specified by the Department of
11 State Police the applicant has not been convicted of any of the
12 enumerated criminal or drug offenses in subsection (c) or has
13 not been convicted, within 7 years of the application for
14 employment with the school district, of any other felony under
15 the laws of this State or of any offense committed or attempted
16 in any other state or against the laws of the United States
17 that, if committed or attempted in this State, would have been
18 punishable as a felony under the laws of this State. The school
19 board of any school district located in the educational service
20 region served by the regional superintendent who issues such a
21 certificate to an applicant for employment as a substitute or
22 concurrent part-time teacher or concurrent educational support
23 personnel employee in more than one such district may rely on
24 the certificate issued by the regional superintendent to that
25 applicant, or may initiate its own criminal history records
26 check of the applicant through the Department of State Police
27 as provided in subsection (a). Any person who releases any
28 confidential information concerning any criminal convictions
29 of an applicant for employment shall be guilty of a Class A
30 misdemeanor, unless the release of such information is
31 authorized by this Section.

32 (c) The board of education shall not knowingly employ a
33 person who has been convicted for committing attempted first
34 degree murder or for committing or attempting to commit first

1 degree murder or a Class X felony or any one or more of the
2 following offenses: (i) those defined in Sections 11-6, 11-9,
3 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1,
4 11-19.2, 11-20, 11-20.1, 11-21, 12-13, 12-14, 12-14.1, 12-15
5 and 12-16 of the Criminal Code of 1961; (ii) those defined in
6 the Cannabis Control Act, except those defined in Sections
7 4(a), 4(b) and 5(a) of that Act; (iii) those defined in the
8 Illinois Controlled Substances Act; (iv) those defined in the
9 Methamphetamine Control and Community Protection Act; and (v)
10 ~~(iv)~~ any offense committed or attempted in any other state or
11 against the laws of the United States, which if committed or
12 attempted in this State, would have been punishable as one or
13 more of the foregoing offenses. Further, the board of education
14 shall not knowingly employ a person who has been found to be
15 the perpetrator of sexual or physical abuse of any minor under
16 18 years of age pursuant to proceedings under Article II of the
17 Juvenile Court Act of 1987.

18 (d) The board of education shall not knowingly employ a
19 person for whom a criminal history records check has not been
20 initiated.

21 (e) Upon receipt of the record of a conviction of or a
22 finding of child abuse by a holder of any certificate issued
23 pursuant to Article 21 or Section 34-8.1 or 34-83 of the School
24 Code, the board of education or the State Superintendent of
25 Education shall initiate the certificate suspension and
26 revocation proceedings authorized by law.

27 (f) After March 19, 1990, the provisions of this Section
28 shall apply to all employees of persons or firms holding
29 contracts with any school district including, but not limited
30 to, food service workers, school bus drivers and other
31 transportation employees, who have direct, daily contact with
32 the pupils of any school in such district. For purposes of
33 criminal history records checks on employees of persons or
34 firms holding contracts with more than one school district and

1 assigned to more than one school district, the regional
2 superintendent of the educational service region in which the
3 contracting school districts are located may, at the request of
4 any such school district, be responsible for receiving the
5 authorization for a check prepared by each such employee and
6 submitting the same to the Department of State Police. Any
7 information concerning the record of conviction of any such
8 employee obtained by the regional superintendent shall be
9 promptly reported to the president of the appropriate school
10 board or school boards.

11 (Source: P.A. 93-418, eff. 1-1-04; 93-909, eff. 8-12-04.)

12 (105 ILCS 5/34-84b) (from Ch. 122, par. 34-84b)

13 Sec. 34-84b. Conviction of sex or narcotics offense, first
14 degree murder, attempted first degree murder, or Class X felony
15 as grounds for revocation of certificate.

16 (a) Whenever the holder of any certificate issued by the
17 board of education has been convicted of any sex offense or
18 narcotics offense as defined in this Section, the board of
19 education shall forthwith suspend the certificate. If the
20 conviction is reversed and the holder is acquitted of the
21 offense in a new trial or the charges against him are
22 dismissed, the board shall forthwith terminate the suspension
23 of the certificate. When the conviction becomes final, the
24 board shall forthwith revoke the certificate. "Sex offense" as
25 used in this Section means any one or more of the following
26 offenses: (1) any offense defined in Sections 11-6 and 11-9 and
27 Sections 11-14 through 11-21, inclusive, and Sections 12-13,
28 12-14, 12-14.1, 12-15 and 12-16 of the "Criminal Code of 1961";
29 (2) any attempt to commit any of the foregoing offenses, and
30 (3) any offense committed or attempted in any other state
31 which, if committed or attempted in this State, would have been
32 punishable as one or more of the foregoing offenses. "Narcotics
33 offense" as used in this Section means any one or more of the

1 following offenses: (1) any offense defined in the "Cannabis
2 Control Act" except those defined in Sections 4(a), 4(b) and
3 5(a) of that Act and any offense for which the holder of any
4 certificate is placed on probation under the provisions of
5 Section 10 of that Act and fulfills the terms and conditions of
6 probation as may be required by the court; (2) any offense
7 defined in the "Illinois Controlled Substances Act" except any
8 offense for which the holder of any certificate is placed on
9 probation under the provisions of Section 410 of that Act and
10 fulfills the terms and conditions of probation as may be
11 required by the court; (3) any offense defined in the
12 Methamphetamine Control and Community Protection Act except
13 any offense for which the holder of any certificate is placed
14 on probation under the provision of Section 70 of that Act and
15 fulfills the terms and conditions of probation as may be
16 required by the court; (4) ~~(3)~~ any attempt to commit any of the
17 foregoing offenses; and (5) ~~(4)~~ any offense committed or
18 attempted in any other state or against the laws of the United
19 States which, if committed or attempted in this State, would
20 have been punishable as one or more of the foregoing offenses.

21 (b) Whenever the holder of any certificate issued by the
22 board of education or pursuant to Article 21 or any other
23 provisions of the School Code has been convicted of first
24 degree murder, attempted first degree murder, or a Class X
25 felony, the board of education or the State Superintendent of
26 Education shall forthwith suspend the certificate. If the
27 conviction is reversed and the holder is acquitted of that
28 offense in a new trial or the charges that he or she committed
29 that offense are dismissed, the suspending authority shall
30 forthwith terminate the suspension of the certificate. When the
31 conviction becomes final, the State Superintendent of
32 Education shall forthwith revoke the certificate. The stated
33 offenses of "first degree murder", "attempted first degree
34 murder", and "Class X felony" referred to in this Section

1 include any offense committed in another state that, if
2 committed in this State, would have been punishable as any one
3 of the stated offenses.

4 (Source: P.A. 89-428, eff. 12-13-95; 89-462, eff. 5-29-96;
5 89-610, eff. 8-6-96.)

6 Section 955. The School Reporting of Drug Violations Act is
7 amended by changing Section 2 as follows:

8 (105 ILCS 127/2)

9 Sec. 2. Duty of school administrators. It is the duty of
10 the principal of a public elementary or secondary school, or
11 his or her designee, and the chief administrative officer of a
12 private elementary or secondary school or a public or private
13 community college, college, or university, or his or her
14 designee, to report to the municipal police department or
15 office of the county sheriff of the municipality or county
16 where the school is located violations of Section 5.2 of the
17 Cannabis Control Act, ~~and~~ violations of Section 401 and
18 subsection (b) of Section 407 of the Illinois Controlled
19 Substances Act, and violations of the Methamphetamine Control
20 and Community Protection Act occurring in a school, on the real
21 property comprising any school, on a public way within 1,000
22 feet of a school, or in any conveyance owned, leased, or
23 contracted by a school to transport students to or from school
24 or a school related activity within 48 hours of becoming aware
25 of the incident.

26 (Source: P.A. 90-395, eff. 8-15-97.)

27 Section 960. The Acupuncture Practice Act is amended by
28 changing Section 135 as follows:

29 (225 ILCS 2/135)

30 (Section scheduled to be repealed on January 1, 2008)

1 Sec. 135. Criminal violations. Whoever knowingly practices
2 or offers to practice acupuncture in this State without being
3 licensed for that purpose shall be guilty of a Class A
4 misdemeanor and for each subsequent conviction shall be guilty
5 of a Class 4 felony. Notwithstanding any other provision of
6 this Act, all criminal fines, moneys, or other property
7 collected or received by the Department under this Section or
8 any other State or federal statute, including but not limited
9 to property forfeited to the Department under Section 505 of
10 the Illinois Controlled Substances Act or Section 85 of the
11 Methamphetamine Control and Community Protection Act, shall be
12 deposited into the Professional Regulation Evidence Fund.

13 (Source: P.A. 90-61, eff. 7-3-97.)

14 Section 965. The Child Care Act of 1969 is amended by
15 changing Section 4.2 as follows:

16 (225 ILCS 10/4.2) (from Ch. 23, par. 2214.2)

17 Sec. 4.2. (a) No applicant may receive a license from the
18 Department and no person may be employed by a licensed child
19 care facility who refuses to authorize an investigation as
20 required by Section 4.1.

21 (b) In addition to the other provisions of this Section, no
22 applicant may receive a license from the Department and no
23 person may be employed by a child care facility licensed by the
24 Department who has been declared a sexually dangerous person
25 under "An Act in relation to sexually dangerous persons, and
26 providing for their commitment, detention and supervision",
27 approved July 6, 1938, as amended, or convicted of committing
28 or attempting to commit any of the following offenses
29 stipulated under the Criminal Code of 1961:

30 (1) murder;

31 (1.1) solicitation of murder;

32 (1.2) solicitation of murder for hire;

- 1 (1.3) intentional homicide of an unborn child;
- 2 (1.4) voluntary manslaughter of an unborn child;
- 3 (1.5) involuntary manslaughter;
- 4 (1.6) reckless homicide;
- 5 (1.7) concealment of a homicidal death;
- 6 (1.8) involuntary manslaughter of an unborn child;
- 7 (1.9) reckless homicide of an unborn child;
- 8 (1.10) drug-induced homicide;
- 9 (2) a sex offense under Article 11, except offenses
- 10 described in Sections 11-7, 11-8, 11-12, and 11-13;
- 11 (3) kidnapping;
- 12 (3.1) aggravated unlawful restraint;
- 13 (3.2) forcible detention;
- 14 (3.3) harboring a runaway;
- 15 (3.4) aiding and abetting child abduction;
- 16 (4) aggravated kidnapping;
- 17 (5) child abduction;
- 18 (6) aggravated battery of a child;
- 19 (7) criminal sexual assault;
- 20 (8) aggravated criminal sexual assault;
- 21 (8.1) predatory criminal sexual assault of a child;
- 22 (9) criminal sexual abuse;
- 23 (10) aggravated sexual abuse;
- 24 (11) heinous battery;
- 25 (12) aggravated battery with a firearm;
- 26 (13) tampering with food, drugs, or cosmetics;
- 27 (14) drug induced infliction of great bodily harm;
- 28 (15) hate crime;
- 29 (16) stalking;
- 30 (17) aggravated stalking;
- 31 (18) threatening public officials;
- 32 (19) home invasion;
- 33 (20) vehicular invasion;
- 34 (21) criminal transmission of HIV;

1 (12) Felony violation of an order of protection.

2 (II) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

3 (1) Felony unlawful use of weapons.

4 (2) Aggravated discharge of a firearm.

5 (3) Reckless discharge of a firearm.

6 (4) Unlawful use of metal piercing bullets.

7 (5) Unlawful sale or delivery of firearms on the
8 premises of any school.

9 (6) Disarming a police officer.

10 (7) Obstructing justice.

11 (8) Concealing or aiding a fugitive.

12 (9) Armed violence.

13 (10) Felony contributing to the criminal delinquency
14 of a juvenile.

15 (III) DRUG OFFENSES

16 (1) Possession of more than 30 grams of cannabis.

17 (2) Manufacture of more than 10 grams of cannabis.

18 (3) Cannabis trafficking.

19 (4) Delivery of cannabis on school grounds.

20 (5) Unauthorized production of more than 5 cannabis
21 sativa plants.

22 (6) Calculated criminal cannabis conspiracy.

23 (7) Unauthorized manufacture or delivery of controlled
24 substances.

25 (8) Controlled substance trafficking.

26 (9) Manufacture, distribution, or advertisement of
27 look-alike substances.

28 (10) Calculated criminal drug conspiracy.

29 (11) Street gang criminal drug conspiracy.

30 (12) Permitting unlawful use of a building.

1 (13) Delivery of controlled, counterfeit, or
2 look-alike substances to persons under age 18, or at truck
3 stops, rest stops, or safety rest areas, or on school
4 property.

5 (14) Using, engaging, or employing persons under 18 to
6 deliver controlled, counterfeit, or look-alike substances.

7 (15) Delivery of controlled substances.

8 (16) Sale or delivery of drug paraphernalia.

9 (17) Felony possession, sale, or exchange of
10 instruments adapted for use of a controlled substance, l
11 methamphetamine, or cannabis by subcutaneous injection.

12 (18) Felony possession of a controlled substance.

13 (19) Any violation of the Methamphetamine Control and
14 Community Protection Act.

15 (b-2) For child care facilities other than foster family
16 homes, the Department may issue a new child care facility
17 license to or renew the existing child care facility license of
18 an applicant, a person employed by a child care facility, or an
19 applicant who has an adult residing in a home child care
20 facility who was convicted of an offense described in
21 subsection (b-1), provided that all of the following
22 requirements are met:

23 (1) The relevant criminal offense occurred more than 5
24 years prior to the date of application or renewal, except
25 for drug offenses. The relevant drug offense must have
26 occurred more than 10 years prior to the date of
27 application or renewal, unless the applicant passed a drug
28 test, arranged and paid for by the child care facility, no
29 less than 5 years after the offense.

30 (2) The Department must conduct a background check and
31 assess all convictions and recommendations of the child
32 care facility to determine if waiver shall apply in
33 accordance with Department administrative rules and
34 procedures.

1 (3) The applicant meets all other requirements and
2 qualifications to be licensed as the pertinent type of
3 child care facility under this Act and the Department's
4 administrative rules.

5 (c) In addition to the other provisions of this Section, no
6 applicant may receive a license from the Department to operate
7 a foster family home, and no adult person may reside in a
8 foster family home licensed by the Department, who has been
9 convicted of committing or attempting to commit any of the
10 following offenses stipulated under the Criminal Code of 1961,
11 the Cannabis Control Act, the Methamphetamine Control and
12 Community Protection Act, and the Illinois Controlled
13 Substances Act:

14 (I) OFFENSES DIRECTED AGAINST THE PERSON

15 (A) KIDNAPPING AND RELATED OFFENSES

16 (1) Unlawful restraint.

17 (B) BODILY HARM

18 (2) Felony aggravated assault.

19 (3) Vehicular endangerment.

20 (4) Felony domestic battery.

21 (5) Aggravated battery.

22 (6) Heinous battery.

23 (7) Aggravated battery with a firearm.

24 (8) Aggravated battery of an unborn child.

25 (9) Aggravated battery of a senior citizen.

26 (10) Intimidation.

27 (11) Compelling organization membership of persons.

28 (12) Abuse and gross neglect of a long term care
29 facility resident.

30 (13) Felony violation of an order of protection.

1 (II) OFFENSES DIRECTED AGAINST PROPERTY

2 (14) Felony theft.

3 (15) Robbery.

4 (16) Armed robbery.

5 (17) Aggravated robbery.

6 (18) Vehicular hijacking.

7 (19) Aggravated vehicular hijacking.

8 (20) Burglary.

9 (21) Possession of burglary tools.

10 (22) Residential burglary.

11 (23) Criminal fortification of a residence or
12 building.

13 (24) Arson.

14 (25) Aggravated arson.

15 (26) Possession of explosive or explosive incendiary
16 devices.

17 (III) OFFENSES AFFECTING PUBLIC HEALTH, SAFETY, AND DECENCY

18 (27) Felony unlawful use of weapons.

19 (28) Aggravated discharge of a firearm.

20 (29) Reckless discharge of a firearm.

21 (30) Unlawful use of metal piercing bullets.

22 (31) Unlawful sale or delivery of firearms on the
23 premises of any school.

24 (32) Disarming a police officer.

25 (33) Obstructing justice.

26 (34) Concealing or aiding a fugitive.

27 (35) Armed violence.

28 (36) Felony contributing to the criminal delinquency
29 of a juvenile.

30 (IV) DRUG OFFENSES

- 1 (37) Possession of more than 30 grams of cannabis.
- 2 (38) Manufacture of more than 10 grams of cannabis.
- 3 (39) Cannabis trafficking.
- 4 (40) Delivery of cannabis on school grounds.
- 5 (41) Unauthorized production of more than 5 cannabis
6 sativa plants.
- 7 (42) Calculated criminal cannabis conspiracy.
- 8 (43) Unauthorized manufacture or delivery of
9 controlled substances.
- 10 (44) Controlled substance trafficking.
- 11 (45) Manufacture, distribution, or advertisement of
12 look-alike substances.
- 13 (46) Calculated criminal drug conspiracy.
- 14 (46.5) Streetgang criminal drug conspiracy.
- 15 (47) Permitting unlawful use of a building.
- 16 (48) Delivery of controlled, counterfeit, or
17 look-alike substances to persons under age 18, or at truck
18 stops, rest stops, or safety rest areas, or on school
19 property.
- 20 (49) Using, engaging, or employing persons under 18 to
21 deliver controlled, counterfeit, or look-alike substances.
- 22 (50) Delivery of controlled substances.
- 23 (51) Sale or delivery of drug paraphernalia.
- 24 (52) Felony possession, sale, or exchange of
25 instruments adapted for use of a controlled substance,
26 methamphetamine, or cannabis by subcutaneous injection.
- 27 (53) Any violation of the Methamphetamine Control and
28 Community Protection Act.
- 29 (d) Notwithstanding subsection (c), the Department may
30 issue a new foster family home license or may renew an existing
31 foster family home license of an applicant who was convicted of
32 an offense described in subsection (c), provided all of the
33 following requirements are met:

1 (1) The relevant criminal offense or offenses occurred
2 more than 10 years prior to the date of application or
3 renewal.

4 (2) The applicant had previously disclosed the
5 conviction or convictions to the Department for purposes of
6 a background check.

7 (3) After the disclosure, the Department either placed
8 a child in the home or the foster family home license was
9 issued.

10 (4) During the background check, the Department had
11 assessed and waived the conviction in compliance with the
12 existing statutes and rules in effect at the time of the
13 waiver.

14 (5) The applicant meets all other requirements and
15 qualifications to be licensed as a foster family home under
16 this Act and the Department's administrative rules.

17 (6) The applicant has a history of providing a safe,
18 stable home environment and appears able to continue to
19 provide a safe, stable home environment.

20 (Source: P.A. 92-328, eff. 1-1-02; 93-151, eff. 7-10-03.)

21 Section 970. The Health Care Worker Background Check Act is
22 amended by changing Section 25 as follows:

23 (225 ILCS 46/25)

24 Sec. 25. Persons ineligible to be hired by health care
25 employers.

26 (a) After January 1, 1996, or January 1, 1997, as
27 applicable, no health care employer shall knowingly hire,
28 employ, or retain any individual in a position with duties
29 involving direct care for clients, patients, or residents, who
30 has been convicted of committing or attempting to commit one or
31 more of the offenses defined in Sections 8-1.1, 8-1.2, 9-1,
32 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, 10-1, 10-2, 10-3,

1 10-3.1, 10-4, 10-5, 10-7, 11-6, 11-9.1, 11-19.2, 11-20.1, 12-1,
2 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3,
3 12-4.4, 12-4.5, 12-4.6, 12-4.7, 12-7.4, 12-11, 12-13, 12-14,
4 12-14.1, 12-15, 12-16, 12-19, 12-21, 12-21.6, 12-32, 12-33,
5 16-1, 16-1.3, 16A-3, 17-3, 18-1, 18-2, 18-3, 18-4, 18-5, 19-1,
6 19-3, 19-4, 20-1, 20-1.1, 24-1, 24-1.2, 24-1.5, or 33A-2 of the
7 Criminal Code of 1961; those provided in Section 4 of the
8 Wrongs to Children Act; those provided in Section 53 of the
9 Criminal Jurisprudence Act; those defined in Section 5, 5.1,
10 5.2, 7, or 9 of the Cannabis Control Act; those defined in the
11 Methamphetamine Control and Community Protection Act; or those
12 defined in Sections 401, 401.1, 404, 405, 405.1, 407, or 407.1
13 of the Illinois Controlled Substances Act, unless the applicant
14 or employee obtains a waiver pursuant to Section 40.

15 (a-1) After January 1, 2004, no health care employer shall
16 knowingly hire any individual in a position with duties
17 involving direct care for clients, patients, or residents who
18 has (i) been convicted of committing or attempting to commit
19 one or more of the offenses defined in Section 12-3.3,
20 12-4.2-5, 16-2, 16G-15, 16G-20, 18-5, 20-1.2, 24-1.1,
21 24-1.2-5, 24-1.6, 24-3.2, or 24-3.3 of the Criminal Code of
22 1961; Section 4, 5, 6, 8, or 17.02 of the Illinois Credit Card
23 and Debit Card Act; or Section 5.1 of the Wrongs to Children
24 Act; or (ii) violated Section 10-5 of the Nursing and Advanced
25 Practice Nursing Act.

26 A UCIA criminal history record check need not be redone for
27 health care employees who have been continuously employed by a
28 health care employer since January 1, 2004, but nothing in this
29 Section prohibits a health care employer from initiating a
30 criminal history check for these employees.

31 A health care employer is not required to retain an
32 individual in a position with duties involving direct care for
33 clients, patients, or residents who has been convicted of
34 committing or attempting to commit one or more of the offenses

1 enumerated in this subsection.

2 (b) A health care employer shall not hire, employ, or
3 retain any individual in a position with duties involving
4 direct care of clients, patients, or residents if the health
5 care employer becomes aware that the individual has been
6 convicted in another state of committing or attempting to
7 commit an offense that has the same or similar elements as an
8 offense listed in subsection (a) or (a-1), as verified by court
9 records, records from a state agency, or an FBI criminal
10 history record check. This shall not be construed to mean that
11 a health care employer has an obligation to conduct a criminal
12 history records check in other states in which an employee has
13 resided.

14 (Source: P.A. 93-224, eff. 7-18-03.)

15 Section 975. The Medical Practice Act of 1987 is amended by
16 changing Section 22 as follows:

17 (225 ILCS 60/22) (from Ch. 111, par. 4400-22)

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

19 Sec. 22. Disciplinary action.

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

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

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

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

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

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

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

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

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

24 (4) Gross negligence in practice under this Act.

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

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

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

34 (8) Practicing under a false or, except as provided by

1 law, an assumed name.

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

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

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

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

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

24 (14) Dividing with anyone other than physicians with
25 whom the licensee practices in a partnership, Professional
26 Association, limited liability company, or Medical or
27 Professional Corporation any fee, commission, rebate or
28 other form of compensation for any professional services
29 not actually and personally rendered. Nothing contained in
30 this subsection prohibits persons holding valid and
31 current licenses under this Act from practicing medicine in
32 partnership under a partnership agreement, including a
33 limited liability partnership, in a limited liability
34 company under the Limited Liability Company Act, in a

1 corporation authorized by the Medical Corporation Act, as
2 an association authorized by the Professional Association
3 Act, or in a corporation under the Professional Corporation
4 Act or from pooling, sharing, dividing or apportioning the
5 fees and monies received by them or by the partnership,
6 corporation or association in accordance with the
7 partnership agreement or the policies of the Board of
8 Directors of the corporation or association. Nothing
9 contained in this subsection prohibits 2 or more
10 corporations authorized by the Medical Corporation Act,
11 from forming a partnership or joint venture of such
12 corporations, and providing medical, surgical and
13 scientific research and knowledge by employees of these
14 corporations if such employees are licensed under this Act,
15 or from pooling, sharing, dividing, or apportioning the
16 fees and monies received by the partnership or joint
17 venture in accordance with the partnership or joint venture
18 agreement. Nothing contained in this subsection shall
19 abrogate the right of 2 or more persons, holding valid and
20 current licenses under this Act, to each receive adequate
21 compensation for concurrently rendering professional
22 services to a patient and divide a fee; provided, the
23 patient has full knowledge of the division, and, provided,
24 that the division is made in proportion to the services
25 performed and responsibility assumed by each.

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

31 (16) Abandonment of a patient.

32 (17) Prescribing, selling, administering,
33 distributing, giving or self-administering any drug
34 classified as a controlled substance (designated product)

1 or narcotic for other than medically accepted therapeutic
2 purposes.

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

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

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

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

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

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

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

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

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

11 (27) Mental illness or disability which results in the
12 inability to practice under this Act with reasonable
13 judgment, skill or safety.

14 (28) Physical illness, including, but not limited to,
15 deterioration through the aging process, or loss of motor
16 skill which results in a physician's inability to practice
17 under this Act with reasonable judgment, skill or safety.

18 (29) Cheating on or attempt to subvert the licensing
19 examinations administered under this Act.

20 (30) Wilfully or negligently violating the
21 confidentiality between physician and patient except as
22 required by law.

23 (31) The use of any false, fraudulent, or deceptive
24 statement in any document connected with practice under
25 this Act.

26 (32) Aiding and abetting an individual not licensed
27 under this Act in the practice of a profession licensed
28 under this Act.

29 (33) Violating state or federal laws or regulations
30 relating to controlled substances.

31 (34) Failure to report to the Department any adverse
32 final action taken against them by another licensing
33 jurisdiction (any other state or any territory of the
34 United States or any foreign state or country), by any peer

1 review body, by any health care institution, by any
2 professional society or association related to practice
3 under this Act, by any governmental agency, by any law
4 enforcement agency, or by any court for acts or conduct
5 similar to acts or conduct which would constitute grounds
6 for action as defined in this Section.

7 (35) Failure to report to the Department surrender of a
8 license or authorization to practice as a medical doctor, a
9 doctor of osteopathy, a doctor of osteopathic medicine, or
10 doctor of chiropractic in another state or jurisdiction, or
11 surrender of membership on any medical staff or in any
12 medical or professional association or society, while
13 under disciplinary investigation by any of those
14 authorities or bodies, for acts or conduct similar to acts
15 or conduct which would constitute grounds for action as
16 defined in this Section.

17 (36) Failure to report to the Department any adverse
18 judgment, settlement, or award arising from a liability
19 claim related to acts or conduct similar to acts or conduct
20 which would constitute grounds for action as defined in
21 this Section.

22 (37) Failure to transfer copies of medical records as
23 required by law.

24 (38) Failure to furnish the Department, its
25 investigators or representatives, relevant information,
26 legally requested by the Department after consultation
27 with the Chief Medical Coordinator or the Deputy Medical
28 Coordinator.

29 (39) Violating the Health Care Worker Self-Referral
30 Act.

31 (40) Willful failure to provide notice when notice is
32 required under the Parental Notice of Abortion Act of 1995.

33 (41) Failure to establish and maintain records of
34 patient care and treatment as required by this law.

1 (42) Entering into an excessive number of written
2 collaborative agreements with licensed advanced practice
3 nurses resulting in an inability to adequately collaborate
4 and provide medical direction.

5 (43) Repeated failure to adequately collaborate with
6 or provide medical direction to a licensed advanced
7 practice nurse.

8 All proceedings to suspend, revoke, place on probationary
9 status, or take any other disciplinary action as the Department
10 may deem proper, with regard to a license on any of the
11 foregoing grounds, must be commenced within 3 years next after
12 receipt by the Department of a complaint alleging the
13 commission of or notice of the conviction order for any of the
14 acts described herein. Except for the grounds numbered (8), (9)
15 and (29), no action shall be commenced more than 5 years after
16 the date of the incident or act alleged to have violated this
17 Section. In the event of the settlement of any claim or cause
18 of action in favor of the claimant or the reduction to final
19 judgment of any civil action in favor of the plaintiff, such
20 claim, cause of action or civil action being grounded on the
21 allegation that a person licensed under this Act was negligent
22 in providing care, the Department shall have an additional
23 period of one year from the date of notification to the
24 Department under Section 23 of this Act of such settlement or
25 final judgment in which to investigate and commence formal
26 disciplinary proceedings under Section 36 of this Act, except
27 as otherwise provided by law. The time during which the holder
28 of the license was outside the State of Illinois shall not be
29 included within any period of time limiting the commencement of
30 disciplinary action by the Department.

31 The entry of an order or judgment by any circuit court
32 establishing that any person holding a license under this Act
33 is a person in need of mental treatment operates as a
34 suspension of that license. That person may resume their

1 practice only upon the entry of a Departmental order based upon
2 a finding by the Medical Disciplinary Board that they have been
3 determined to be recovered from mental illness by the court and
4 upon the Disciplinary Board's recommendation that they be
5 permitted to resume their practice.

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

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

17 (a) when a person will be deemed sufficiently
18 rehabilitated to warrant the public trust;

19 (b) what constitutes dishonorable, unethical or
20 unprofessional conduct of a character likely to deceive,
21 defraud, or harm the public;

22 (c) what constitutes immoral conduct in the commission
23 of any act, including, but not limited to, commission of an
24 act of sexual misconduct related to the licensee's
25 practice; and

26 (d) what constitutes gross negligence in the practice
27 of medicine.

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

31 In enforcing this Section, the Medical Disciplinary Board,
32 upon a showing of a possible violation, may compel any
33 individual licensed to practice under this Act, or who has
34 applied for licensure or a permit pursuant to this Act, to

1 submit to a mental or physical examination, or both, as
2 required by and at the expense of the Department. The examining
3 physician or physicians shall be those specifically designated
4 by the Disciplinary Board. The Medical Disciplinary Board or
5 the Department may order the examining physician to present
6 testimony concerning this mental or physical examination of the
7 licensee or applicant. No information shall be excluded by
8 reason of any common law or statutory privilege relating to
9 communication between the licensee or applicant and the
10 examining physician. The individual to be examined may have, at
11 his or her own expense, another physician of his or her choice
12 present during all aspects of the examination. Failure of any
13 individual to submit to mental or physical examination, when
14 directed, shall be grounds for suspension of his or her license
15 until such time as the individual submits to the examination if
16 the Disciplinary Board finds, after notice and hearing, that
17 the refusal to submit to the examination was without reasonable
18 cause. If the Disciplinary Board finds a physician unable to
19 practice because of the reasons set forth in this Section, the
20 Disciplinary Board shall require such physician to submit to
21 care, counseling, or treatment by physicians approved or
22 designated by the Disciplinary Board, as a condition for
23 continued, reinstated, or renewed licensure to practice. Any
24 physician, whose license was granted pursuant to Sections 9,
25 17, or 19 of this Act, or, continued, reinstated, renewed,
26 disciplined or supervised, subject to such terms, conditions or
27 restrictions who shall fail to comply with such terms,
28 conditions or restrictions, or to complete a required program
29 of care, counseling, or treatment, as determined by the Chief
30 Medical Coordinator or Deputy Medical Coordinators, shall be
31 referred to the Director for a determination as to whether the
32 licensee shall have their license suspended immediately,
33 pending a hearing by the Disciplinary Board. In instances in
34 which the Director immediately suspends a license under this

1 Section, a hearing upon such person's license must be convened
2 by the Disciplinary Board within 15 days after such suspension
3 and completed without appreciable delay. The Disciplinary
4 Board shall have the authority to review the subject
5 physician's record of treatment and counseling regarding the
6 impairment, to the extent permitted by applicable federal
7 statutes and regulations safeguarding the confidentiality of
8 medical records.

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

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

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

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

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

13 Section 980. The Naprapathic Practice Act is amended by
14 changing Section 123 as follows:

15 (225 ILCS 63/123)

16 (Section scheduled to be repealed on January 1, 2013)

17 Sec. 123. Violation; penalty. Whoever knowingly practices
18 or offers to practice naprapathy in this State without being
19 licensed for that purpose shall be guilty of a Class A
20 misdemeanor and for each subsequent conviction shall be guilty
21 of a Class 4 felony. Notwithstanding any other provision of
22 this Act, all criminal fines, moneys, or other property
23 collected or received by the Department under this Section or
24 any other State or federal statute, including, but not limited
25 to, property forfeited to the Department under Section 505 of
26 the Illinois Controlled Substances Act or Section 85 of the
27 Methamphetamine Control and Community Protection Act, shall be
28 deposited into the Professional Regulation Evidence Fund.

29 (Source: P.A. 89-61, eff. 6-30-95.)

30 Section 985. The Nursing and Advanced Practice Nursing Act
31 is amended by changing Section 20-75 as follows:

1 (225 ILCS 65/20-75)

2 (Section scheduled to be repealed on January 1, 2008)

3 Sec. 20-75. Injunctive remedies.

4 (a) If any person violates the provision of this Act, the
5 Director may, in the name of the People of the State of
6 Illinois, through the Attorney General of the State of
7 Illinois, or the State's Attorney of any county in which the
8 action is brought, petition for an order enjoining such
9 violation or for an order enforcing compliance with this Act.
10 Upon the filing of a verified petition in court, the court may
11 issue a temporary restraining order, without notice or bond,
12 and may preliminarily and permanently enjoin such violation,
13 and if it is established that such person has violated or is
14 violating the injunction, the court may punish the offender for
15 contempt of court. Proceedings under this Section shall be in
16 addition to, and not in lieu of, all other remedies and
17 penalties provided by this Act.

18 (b) If any person shall practice as a nurse or hold herself
19 or himself out as a nurse without being licensed under the
20 provisions of this Act, then any licensed nurse, any interested
21 party, or any person injured thereby may, in addition to the
22 Director, petition for relief as provided in subsection (a) of
23 this Section.

24 Whoever knowingly practices or offers to practice nursing
25 in this State without a license for that purpose shall be
26 guilty of a Class A misdemeanor and for each subsequent
27 conviction, shall be guilty of a Class 4 felony. All criminal
28 fines, monies, or other property collected or received by the
29 Department under this Section or any other State or federal
30 statute, including, but not limited to, property forfeited to
31 the Department under Section 505 of the Illinois Controlled
32 Substances Act or Section 85 of the Methamphetamine Control and
33 Community Protection Act, shall be deposited into the

1 Professional Regulation Evidence Fund.

2 (c) Whenever in the opinion of the Department any person
3 violates any provision of this Act, the Department may issue a
4 rule to show cause why an order to cease and desist should not
5 be entered against him. The rule shall clearly set forth the
6 grounds relied upon by the Department and shall provide a
7 period of 7 days from the date of the rule to file an answer to
8 the satisfaction of the Department. Failure to answer to the
9 satisfaction of the Department shall cause an order to cease
10 and desist to be issued forthwith.

11 (Source: P.A. 90-742, eff. 8-13-98.)

12 Section 990. The Illinois Optometric Practice Act of 1987
13 is amended by changing Section 26.1 as follows:

14 (225 ILCS 80/26.1) (from Ch. 111, par. 3926.1)

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

16 Sec. 26.1. Injunctions; criminal offenses; cease and
17 desist orders.

18 (a) If any person violates the provision of this Act, the
19 Director may, in the name of the People of the State of
20 Illinois, through the Attorney General of the State of
21 Illinois, or the State's Attorney of any county in which the
22 action is brought, petition for an order enjoining such
23 violation or for an order enforcing compliance with this Act.
24 Upon the filing of a verified petition in court, the court may
25 issue a temporary restraining order, without notice or bond,
26 and may preliminarily and permanently enjoin such violation,
27 and if it is established that such person has violated or is
28 violating the injunction, the Court may punish the offender for
29 contempt of court. Proceedings under this Section shall be in
30 addition to, and not in lieu of, all other remedies and
31 penalties provided by this Act.

32 (b) If any person shall practice as an optometrist or hold

1 himself or herself out as an optometrist without being licensed
2 under the provisions of this Act then any licensed optometrist,
3 any interested party or any person injured thereby may, in
4 addition to the Director, petition for relief as provided in
5 subsection (a) of this Section.

6 Whoever knowingly practices or offers to practice
7 optometry in this State without being licensed for that purpose
8 shall be guilty of a Class A misdemeanor and for each
9 subsequent conviction, shall be guilty of a Class 4 felony.
10 Notwithstanding any other provision of this Act, all criminal
11 fines, monies, or other property collected or received by the
12 Department under this Section or any other State or federal
13 statute, including, but not limited to, property forfeited to
14 the Department under Section 505 of the Illinois Controlled
15 Substances Act or Section 85 of the Methamphetamine Control and
16 Community Protection Act, shall be deposited into the
17 Professional Regulation Evidence Fund.

18 (c) Whenever in the opinion of the Department any person
19 violates any provision of this Act, the Department may issue a
20 rule to show cause why an order to cease and desist should not
21 be entered against him. The rule shall clearly set forth the
22 grounds relied upon by the Department and shall provide a
23 period of 7 days from the date of the rule to file an answer to
24 the satisfaction of the Department. Failure to answer to the
25 satisfaction of the Department shall cause an order to cease
26 and desist to be issued forthwith.

27 (Source: P.A. 89-702, eff. 7-1-97.)

28 Section 995. The Podiatric Medical Practice Act of 1987 is
29 amended by changing Section 41 as follows:

30 (225 ILCS 100/41) (from Ch. 111, par. 4841)

31 (Section scheduled to be repealed on January 1, 2008)

32 Sec. 41. Violations. Any person who is found to have

1 violated any provisions of this Act is guilty of a Class A
2 misdemeanor. All criminal fines, monies, or other property
3 collected or received by the Department under this Section or
4 any other State or federal statute, including, but not limited
5 to, property forfeited to the Department under Section 505 of
6 The Illinois Controlled Substances Act or Section 85 of the
7 Methamphetamine Control and Community Protection Act, shall be
8 deposited into the Professional Regulation Evidence Fund.

9 The Board, with the advice of the Director and attorneys
10 for the Department, may establish by rule a schedule of fines
11 payable by those who have violated any provisions of this Act.

12 Fines assessed and collected for violations of this Act
13 shall be deposited in the Illinois State Podiatric Medical
14 Disciplinary Fund.

15 (Source: P.A. 86-685.)

16 Section 1000. The Veterinary Medicine and Surgery Practice
17 Act of 2004 is amended by changing Section 25.16 as follows:

18 (225 ILCS 115/25.16) (from Ch. 111, par. 7025.16)

19 (Section scheduled to be repealed on January 1, 2014)

20 Sec. 25.16. Any person who is found to have violated any
21 provision of this Act is guilty of a Class A misdemeanor. On
22 conviction of a second or subsequent offense, the violator
23 shall be guilty of a Class 4 felony. All criminal fines,
24 monies, or other property collected or received by the
25 Department under this Section or any other State or federal
26 statute, including, but not limited to, property forfeited to
27 the Department under Section 505 of The Illinois Controlled
28 Substances Act or Section 85 of the Methamphetamine Control and
29 Community Protection Act, shall be deposited into the
30 Professional Regulation Evidence Fund.

31 (Source: P.A. 86-685.)

1 Section 1005. The Wholesale Drug Distribution Licensing
2 Act is amended by changing Sections 55 and 170 as follows:

3 (225 ILCS 120/55) (from Ch. 111, par. 8301-55)

4 (Section scheduled to be repealed on January 1, 2013)

5 Sec. 55. Discipline; grounds.

6 (a) The Department may refuse to issue, restore, or renew,
7 or may revoke, suspend, place on probation, reprimand or take
8 other disciplinary action as the Department may deem proper for
9 any of the following reasons:

10 (1) Violation of this Act or its rules.

11 (2) Aiding or assisting another person in violating any
12 provision of this Act or its rules.

13 (3) Failing, within 60 days, to respond to a written
14 requirement made by the Department for information.

15 (4) Engaging in dishonorable, unethical, or
16 unprofessional conduct of a character likely to deceive,
17 defraud, or harm the public. This includes violations of
18 "good faith" as defined by the Illinois Controlled
19 Substances Act and applies to all prescription drugs.

20 (5) Discipline by another U.S. jurisdiction or foreign
21 nation, if at least one of the grounds for the discipline
22 is the same or substantially equivalent to those set forth
23 in this Act.

24 (6) Selling or engaging in the sale of drug samples
25 provided at no cost by drug manufacturers.

26 (7) Conviction of the applicant or licensee, or any
27 officer, director, manager or shareholder who owns more
28 than 5% of stock, in State or federal court of any crime
29 that is a felony.

30 (8) Habitual or excessive use or addiction to alcohol,
31 narcotics, stimulants, or any other chemical agent or drug
32 that results in the inability to function with reasonable
33 judgment, skill, or safety.

1 (b) The Department may refuse to issue, restore, or renew,
2 or may revoke, suspend, place on probation, reprimand or take
3 other disciplinary action as the Department may deem property
4 including fines not to exceed \$1000 for any of the following
5 reasons:

6 (1) Material misstatement in furnishing information to
7 the Department.

8 (2) Making any misrepresentation for the purpose of
9 obtaining a license.

10 (3) A finding by the Department that the licensee,
11 after having his or her license placed on probationary
12 status, has violated the terms of probation.

13 (4) A finding that licensure or registration has been
14 applied for or obtained by fraudulent means.

15 (5) Willfully making or filing false records or
16 reports.

17 (6) A finding of a substantial discrepancy in a
18 Department audit of a prescription drug, including a
19 controlled substance as that term is defined in this Act or
20 in the Illinois Controlled Substances Act.

21 (c) The Department may refuse to issue or may suspend the
22 license or registration of any person who fails to file a
23 return, or to pay the tax, penalty or interest shown in a filed
24 return, or to pay any final assessment of tax, penalty or
25 interest, as required by any tax Act administered by the
26 Illinois Department of Revenue, until the time the requirements
27 of the tax Act are satisfied.

28 (d) The Department shall revoke the license or certificate
29 of registration issued under this Act or any prior Act of this
30 State of any person who has been convicted a second time of
31 committing any felony under the Illinois Controlled Substances
32 Act or the Methamphetamine Control and Community Protection Act
33 or who has been convicted a second time of committing a Class 1
34 felony under Sections 8A-3 and 8A-6 of the Illinois Public Aid

1 Code. A person whose license or certificate of registration
2 issued under this Act or any prior Act of this State is revoked
3 under this subsection (c) shall be prohibited from engaging in
4 the practice of pharmacy in this State.

5 (Source: P.A. 87-594.)

6 (225 ILCS 120/170) (from Ch. 111, par. 8301-170)

7 (Section scheduled to be repealed on January 1, 2013)

8 Sec. 170. Penalties. Any person who is found to have
9 violated any provision of this Act is guilty of a Class A
10 misdemeanor. On conviction of a second or subsequent offense,
11 the violator shall be guilty of a Class 4 felony. All criminal
12 fines, monies, or property collected or received by the
13 Department under this Section or any other State or federal
14 statute, including, but not limited to, property forfeited to
15 the Department under Section 505 of the Illinois Controlled
16 Substances Act or Section 85 of the Methamphetamine Control and
17 Community Protection Act, shall be deposited into the
18 Professional Regulation Evidence Fund.

19 (Source: P.A. 87-594.)

20 Section 1010. The Illinois Public Aid Code is amended by
21 changing Section 1-10 as follows:

22 (305 ILCS 5/1-10)

23 Sec. 1-10. Drug convictions.

24 (a) Persons convicted of an offense under the Illinois
25 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the
26 Methamphetamine Control and Community Protection Act which is a
27 Class X felony, or a Class 1 felony, or comparable federal
28 criminal law which has as an element the possession, use, or
29 distribution of a controlled substance, as defined in Section
30 102(6) of the federal Controlled Substances Act (21 U.S.C.
31 802(c)), shall not be eligible for cash assistance provided

1 under this Code.

2 (b) Persons convicted of any other felony under the
3 Illinois Controlled Substances Act, ~~or~~ the Cannabis Control
4 Act, or the Methamphetamine Control and Community Protection
5 Act which is not a Class X or Class 1 felony, or comparable
6 federal criminal law which has as an element the possession,
7 use, or distribution of a controlled substance, as defined in
8 Section 102(6) of the federal Controlled Substances Act (21
9 U.S.C. 802(c)), shall not be eligible for cash assistance
10 provided under this Code for 2 years from the date of
11 conviction. This prohibition shall not apply if the person is
12 in a drug treatment program, aftercare program, or similar
13 program as defined by rule.

14 (c) Persons shall not be determined ineligible for food
15 stamps provided under this Code based upon a conviction of any
16 felony or comparable federal or State criminal law which has an
17 element the possession, use or distribution of a controlled
18 substance, as defined in Section 102(6) of the federal
19 Controlled Substance Act (21 U.S.C. 802(c)).

20 (Source: P.A. 90-17, eff. 7-1-97.)

21 Section 1015. The Housing Authorities Act is amended by
22 changing Section 8.1a as follows:

23 (310 ILCS 10/8.1a) (from Ch. 67 1/2, par. 8.1a)

24 Sec. 8.1a. Police powers.

25 (a) A Housing Authority in any municipality having over
26 500,000 inhabitants has power to police its property and to
27 exercise police powers for the protection of the persons and
28 property of its residents, employees and visitors, for the
29 enforcement of any rule or regulation adopted by the Authority,
30 and in furtherance of the purposes for which such Authority was
31 organized. In particular, and subject to amounts appropriated
32 for that purpose, the Housing Authority in exercising its

1 police powers shall strive to eliminate or reduce the following
2 activities within the property or facilities of the Authority:
3 streetgang-related activities (as defined in the Illinois
4 Streetgang Terrorism Omnibus Prevention Act), illegal
5 activities involving controlled substances (as defined in the
6 Illinois Controlled Substances Act), illegal activities
7 involving cannabis (as defined in the Cannabis Control Act),
8 illegal activities involving methamphetamine (as defined in
9 the Methamphetamine Control and Community Protection Act), and
10 illegal activities involving firearms. Such Authority has
11 power to establish, appoint and support a police force for such
12 purposes.

13 (b) A Housing Authority in a municipality having 500,000 or
14 fewer inhabitants may establish, appoint, and support a police
15 force to police the Authority's property, to protect the
16 persons and property of the Authority's residents, employees,
17 and visitors, to enforce the Authority's adopted rules and
18 regulations, and to otherwise further the purposes for which
19 the Authority was organized. A police force may be established
20 under this subsection only with the approval of the mayor or
21 president of the municipality and only if, in the opinion of
22 the Authority and the mayor or president, the severity of
23 streetgang-related activities (as defined in the Illinois
24 Streetgang Terrorism Omnibus Prevention Act), illegal
25 activities involving controlled substances (as defined in the
26 Illinois Controlled Substances Act), illegal activities
27 involving cannabis (as defined in the Cannabis Control Act),
28 illegal activities involving methamphetamine (as defined in
29 the Methamphetamine Control and Community Protection Act), or
30 illegal activities involving firearms makes the establishment
31 of a police force desirable.

32 (c) Members of a Housing Authority police force shall be
33 conservators of the peace and shall have all powers possessed
34 by the police of cities, and sheriffs, including the power to

1 make arrests for violations of federal and state statutes, city
2 and county ordinances, and rules and regulations of the
3 Authority and governing federal agencies; provided, that they
4 may exercise such powers only within the property or facilities
5 of such Authority, and only (i) when such exercise is
6 appropriate for the protection of Authority properties and
7 interests, or its residents, employees and visitors, or (ii)
8 otherwise, within the municipality in which the Authority
9 operates, when specifically requested by appropriate federal,
10 state and local law enforcement officials. Unless expressly
11 limited by the Authority, when outside the property or
12 facilities of the Authority, the members of the police force
13 shall have the same powers as those conferred on the police of
14 organized cities and villages when acting outside of the
15 territorial limits of their city or village. "Property or
16 facilities of the Authority" means property owned or leased by
17 the Authority and property over which the Authority has
18 easement rights. The Authority shall establish minimum
19 standards for selection and training of members of such police
20 force, provided that the members of such police force shall be
21 certified and trained under the provisions of the Illinois
22 Police Training Act, as now or hereafter amended. The members
23 of such police force may serve and execute civil process. The
24 establishment of such a police force shall not affect the power
25 of the Authority to use or employ other security personnel as
26 permitted by law. Neither the Authority, the members of its
27 Board nor its officers or employees shall be held liable for
28 failure to provide a security or police force or, if a security
29 or police force is provided, for failure to provide adequate
30 police protection or security, failure to prevent the
31 commission of crimes or failure to apprehend criminals.

32 (Source: P.A. 89-351, eff. 1-1-96.)

33 Section 1020. The Abandoned Housing Rehabilitation Act is

1 amended by changing Section 2 as follows:

2 (310 ILCS 50/2) (from Ch. 67 1/2, par. 852)

3 Sec. 2. Definitions. As used in this Act:

4 (a) "Property" means any residential real estate which has
5 been continuously unoccupied by persons legally in possession
6 for the preceding 1 year.

7 (b) "Nuisance" means any property which because of its
8 physical condition or use is a public nuisance, or any property
9 which constitutes a blight on the surrounding area, or any
10 property which is not fit for human habitation under the
11 applicable fire, building and housing codes. "Nuisance" also
12 means any property on which any illegal activity involving
13 controlled substances (as defined in the Illinois Controlled
14 Substances Act), methamphetamine (as defined in the
15 Methamphetamine Control and Community Protection Act), or
16 cannabis (as defined in the Cannabis Control Act) takes place
17 or any property on which any streetgang-related activity (as
18 defined in the Illinois Streetgang Terrorism Omnibus
19 Prevention Act) takes place.

20 (c) "Organization" means any Illinois corporation, agency,
21 partnership, association, firm or other entity consisting of 2
22 or more persons organized and conducted on a not-for-profit
23 basis with no personal profit inuring to anyone as a result of
24 its operation which has among its purposes the improvement of
25 housing.

26 (d) "Parties in interest" means any owner or owners of
27 record, judgment creditor, tax purchaser or other party having
28 any legal or equitable title or interest in the property.

29 (e) "Last known address" includes the address where the
30 property is located, or the address as listed in the tax
31 records or as listed pursuant to any owner's registration
32 ordinance duly adopted by a home rule unit of government.

33 (f) "Low or moderate income housing" means housing for

1 persons and families with low or moderate incomes, provided
2 that the income limits for such persons and families shall be
3 the same as those established by rule by the Illinois Housing
4 Development Authority in accordance with subsection (g) of
5 Section 2 of the Illinois Housing Development Act, as amended.

6 (g) "Rehabilitation" means the process of improving the
7 property, including but not limited to bringing property into
8 compliance with applicable fire, housing and building codes.

9 (Source: P.A. 91-357, eff. 7-29-99; 91-807, eff. 1-1-01.)

10 Section 1025. The Abused and Neglected Child Reporting Act
11 is amended by changing Section 3 as follows:

12 (325 ILCS 5/3) (from Ch. 23, par. 2053)

13 Sec. 3. As used in this Act unless the context otherwise
14 requires:

15 "Child" means any person under the age of 18 years, unless
16 legally emancipated by reason of marriage or entry into a
17 branch of the United States armed services.

18 "Department" means Department of Children and Family
19 Services.

20 "Local law enforcement agency" means the police of a city,
21 town, village or other incorporated area or the sheriff of an
22 unincorporated area or any sworn officer of the Illinois
23 Department of State Police.

24 "Abused child" means a child whose parent or immediate
25 family member, or any person responsible for the child's
26 welfare, or any individual residing in the same home as the
27 child, or a paramour of the child's parent:

28 (a) inflicts, causes to be inflicted, or allows to be
29 inflicted upon such child physical injury, by other than
30 accidental means, which causes death, disfigurement,
31 impairment of physical or emotional health, or loss or
32 impairment of any bodily function;

1 (b) creates a substantial risk of physical injury to
2 such child by other than accidental means which would be
3 likely to cause death, disfigurement, impairment of
4 physical or emotional health, or loss or impairment of any
5 bodily function;

6 (c) commits or allows to be committed any sex offense
7 against such child, as such sex offenses are defined in the
8 Criminal Code of 1961, as amended, and extending those
9 definitions of sex offenses to include children under 18
10 years of age;

11 (d) commits or allows to be committed an act or acts of
12 torture upon such child;

13 (e) inflicts excessive corporal punishment;

14 (f) commits or allows to be committed the offense of
15 female genital mutilation, as defined in Section 12-34 of
16 the Criminal Code of 1961, against the child; or

17 (g) causes to be sold, transferred, distributed, or
18 given to such child under 18 years of age, a controlled
19 substance as defined in Section 102 of the Illinois
20 Controlled Substances Act in violation of Article IV of the
21 Illinois Controlled Substances Act or in violation of the
22 Methamphetamine Control and Community Protection Act,
23 except for controlled substances that are prescribed in
24 accordance with Article III of the Illinois Controlled
25 Substances Act and are dispensed to such child in a manner
26 that substantially complies with the prescription.

27 A child shall not be considered abused for the sole reason
28 that the child has been relinquished in accordance with the
29 Abandoned Newborn Infant Protection Act.

30 "Neglected child" means any child who is not receiving the
31 proper or necessary nourishment or medically indicated
32 treatment including food or care not provided solely on the
33 basis of the present or anticipated mental or physical
34 impairment as determined by a physician acting alone or in

1 consultation with other physicians or otherwise is not
2 receiving the proper or necessary support or medical or other
3 remedial care recognized under State law as necessary for a
4 child's well-being, or other care necessary for his or her
5 well-being, including adequate food, clothing and shelter; or
6 who is abandoned by his or her parents or other person
7 responsible for the child's welfare without a proper plan of
8 care; or who is a newborn infant whose blood, urine, or
9 meconium contains any amount of a controlled substance as
10 defined in subsection (f) of Section 102 of the Illinois
11 Controlled Substances Act or a metabolite thereof, with the
12 exception of a controlled substance or metabolite thereof whose
13 presence in the newborn infant is the result of medical
14 treatment administered to the mother or the newborn infant. A
15 child shall not be considered neglected for the sole reason
16 that the child's parent or other person responsible for his or
17 her welfare has left the child in the care of an adult relative
18 for any period of time. A child shall not be considered
19 neglected for the sole reason that the child has been
20 relinquished in accordance with the Abandoned Newborn Infant
21 Protection Act. A child shall not be considered neglected or
22 abused for the sole reason that such child's parent or other
23 person responsible for his or her welfare depends upon
24 spiritual means through prayer alone for the treatment or cure
25 of disease or remedial care as provided under Section 4 of this
26 Act. A child shall not be considered neglected or abused solely
27 because the child is not attending school in accordance with
28 the requirements of Article 26 of The School Code, as amended.

29 "Child Protective Service Unit" means certain specialized
30 State employees of the Department assigned by the Director to
31 perform the duties and responsibilities as provided under
32 Section 7.2 of this Act.

33 "Person responsible for the child's welfare" means the
34 child's parent; guardian; foster parent; relative caregiver;

1 any person responsible for the child's welfare in a public or
2 private residential agency or institution; any person
3 responsible for the child's welfare within a public or private
4 profit or not for profit child care facility; or any other
5 person responsible for the child's welfare at the time of the
6 alleged abuse or neglect, or any person who came to know the
7 child through an official capacity or position of trust,
8 including but not limited to health care professionals,
9 educational personnel, recreational supervisors, members of
10 the clergy, and volunteers or support personnel in any setting
11 where children may be subject to abuse or neglect.

12 "Temporary protective custody" means custody within a
13 hospital or other medical facility or a place previously
14 designated for such custody by the Department, subject to
15 review by the Court, including a licensed foster home, group
16 home, or other institution; but such place shall not be a jail
17 or other place for the detention of criminal or juvenile
18 offenders.

19 "An unfounded report" means any report made under this Act
20 for which it is determined after an investigation that no
21 credible evidence of abuse or neglect exists.

22 "An indicated report" means a report made under this Act if
23 an investigation determines that credible evidence of the
24 alleged abuse or neglect exists.

25 "An undetermined report" means any report made under this
26 Act in which it was not possible to initiate or complete an
27 investigation on the basis of information provided to the
28 Department.

29 "Subject of report" means any child reported to the central
30 register of child abuse and neglect established under Section
31 7.7 of this Act and his or her parent, guardian or other person
32 responsible who is also named in the report.

33 "Perpetrator" means a person who, as a result of
34 investigation, has been determined by the Department to have

1 caused child abuse or neglect.

2 "Member of the clergy" means a clergyman or practitioner of
3 any religious denomination accredited by the religious body to
4 which he or she belongs.

5 (Source: P.A. 91-802, eff. 1-1-01; 92-408, eff. 8-17-01;
6 92-432, eff. 8-17-01; 92-801, eff. 8-16-02.)

7 Section 1030. The Illinois Food, Drug and Cosmetic Act is
8 amended by changing Section 24 as follows:

9 (410 ILCS 620/24) (from Ch. 56 1/2, par. 524)

10 Sec. 24.

11 Nothing in this Act shall be construed to limit or repeal
12 any provisions of the Illinois Controlled Substances Act or the
13 Methamphetamine Control and Community Protection Act.

14 (Source: P.A. 77-765.)

15 Section 1035. The Firearm Owners Identification Card Act is
16 amended by changing Section 10 as follows:

17 (430 ILCS 65/10) (from Ch. 38, par. 83-10)

18 Sec. 10. (a) Whenever an application for a Firearm Owner's
19 Identification Card is denied, whenever the Department fails to
20 act on an application within 30 days of its receipt, or
21 whenever such a Card is revoked or seized as provided for in
22 Section 8 of this Act, the aggrieved party may appeal to the
23 Director of the Department of State Police for a hearing upon
24 such denial, revocation or seizure, unless the denial,
25 revocation, or seizure was based upon a forcible felony,
26 stalking, aggravated stalking, domestic battery, any violation
27 of ~~either~~ the Illinois Controlled Substances Act, the
28 Methamphetamine Control and Community Protection Act, or the
29 Cannabis Control Act that is classified as a Class 2 or greater
30 felony, any felony violation of Article 24 of the Criminal Code

1 of 1961, or any adjudication as a delinquent minor for the
2 commission of an offense that if committed by an adult would be
3 a felony, in which case the aggrieved party may petition the
4 circuit court in writing in the county of his or her residence
5 for a hearing upon such denial, revocation, or seizure.

6 (b) At least 30 days before any hearing in the circuit
7 court, the petitioner shall serve the relevant State's Attorney
8 with a copy of the petition. The State's Attorney may object to
9 the petition and present evidence. At the hearing the court
10 shall determine whether substantial justice has been done.
11 Should the court determine that substantial justice has not
12 been done, the court shall issue an order directing the
13 Department of State Police to issue a Card.

14 (c) Any person prohibited from possessing a firearm under
15 Sections 24-1.1 or 24-3.1 of the Criminal Code of 1961 or
16 acquiring a Firearm Owner's Identification Card under Section 8
17 of this Act may apply to the Director of the Department of
18 State Police or petition the circuit court in the county where
19 the petitioner resides, whichever is applicable in accordance
20 with subsection (a) of this Section, requesting relief from
21 such prohibition and the Director or court may grant such
22 relief if it is established by the applicant to the court's or
23 Director's satisfaction that:

24 (0.05) when in the circuit court, the State's Attorney
25 has been served with a written copy of the petition at
26 least 30 days before any such hearing in the circuit court
27 and at the hearing the State's Attorney was afforded an
28 opportunity to present evidence and object to the petition;

29 (1) the applicant has not been convicted of a forcible
30 felony under the laws of this State or any other
31 jurisdiction within 20 years of the applicant's
32 application for a Firearm Owner's Identification Card, or
33 at least 20 years have passed since the end of any period
34 of imprisonment imposed in relation to that conviction;

1 (2) the circumstances regarding a criminal conviction,
2 where applicable, the applicant's criminal history and his
3 reputation are such that the applicant will not be likely
4 to act in a manner dangerous to public safety; and

5 (3) granting relief would not be contrary to the public
6 interest.

7 (d) When a minor is adjudicated delinquent for an offense
8 which if committed by an adult would be a felony, the court
9 shall notify the Department of State Police.

10 (e) The court shall review the denial of an application or
11 the revocation of a Firearm Owner's Identification Card of a
12 person who has been adjudicated delinquent for an offense that
13 if committed by an adult would be a felony if an application
14 for relief has been filed at least 10 years after the
15 adjudication of delinquency and the court determines that the
16 applicant should be granted relief from disability to obtain a
17 Firearm Owner's Identification Card. If the court grants
18 relief, the court shall notify the Department of State Police
19 that the disability has been removed and that the applicant is
20 eligible to obtain a Firearm Owner's Identification Card.

21 (Source: P.A. 92-442, eff. 8-17-01; 93-367, eff. 1-1-04.)

22 Section 1040. The Illinois Vehicle Code is amended by
23 changing Sections 2-115, 6-103, 6-106.1, 6-107, 6-108, 6-201,
24 6-206, and 6-508 as follows:

25 (625 ILCS 5/2-115) (from Ch. 95 1/2, par. 2-115)

26 Sec. 2-115. Investigators.

27 (a) The Secretary of State, for the purpose of more
28 effectively carrying out the provisions of the laws in relation
29 to motor vehicles, shall have power to appoint such number of
30 investigators as he may deem necessary. It shall be the duty of
31 such investigators to investigate and enforce violations of the
32 provisions of this Act administered by the Secretary of State

1 and provisions of Chapters 11, 12, 13, 14 and 15 and to
2 investigate and report any violation by any person who operates
3 as a motor carrier of property as defined in Section 18-100 of
4 this Act and does not hold a valid certificate or permit. Such
5 investigators shall have and may exercise throughout the State
6 all of the powers of peace officers.

7 No person may be retained in service as an investigator
8 under this Section after he has reached 60 years of age.

9 The Secretary of State must authorize to each investigator
10 employed under this Section and to any other employee of the
11 Office of the Secretary of State exercising the powers of a
12 peace officer a distinct badge that, on its face, (i) clearly
13 states that the badge is authorized by the Office of the
14 Secretary of State and (ii) contains a unique identifying
15 number. No other badge shall be authorized by the Office of the
16 Secretary of State.

17 (b) The Secretary may expend such sums as he deems
18 necessary from Contractual Services appropriations for the
19 Department of Police for the purchase of evidence, for the
20 employment of persons to obtain evidence, and for the payment
21 for any goods or services related to obtaining evidence. Such
22 sums shall be advanced to investigators authorized by the
23 Secretary to expend funds, on vouchers signed by the Secretary.
24 In addition, the Secretary of State is authorized to maintain
25 one or more commercial checking accounts with any State banking
26 corporation or corporations organized under or subject to the
27 Illinois Banking Act for the deposit and withdrawal of moneys
28 to be used solely for the purchase of evidence and for the
29 employment of persons to obtain evidence, or for the payment
30 for any goods or services related to obtaining evidence;
31 provided that no check may be written on nor any withdrawal
32 made from any such account except on the written signatures of
33 2 persons designated by the Secretary to write such checks and
34 make such withdrawals, and provided further that the balance of

1 moneys on deposit in any such account shall not exceed \$5,000
2 at any time, nor shall any one check written on or single
3 withdrawal made from any such account exceed \$5,000.

4 All fines or moneys collected or received by the Department
5 of Police under any State or federal forfeiture statute;
6 including, but not limited to moneys forfeited under Section 12
7 of the Cannabis Control Act, moneys forfeited under Section 85
8 of the Methamphetamine Control and Community Protection Act,
9 and moneys distributed under Section 413 of the Illinois
10 Controlled Substances Act, shall be deposited into the
11 Secretary of State Evidence Fund.

12 In all convictions for offenses in violation of this Act,
13 the Court may order restitution to the Secretary of any or all
14 sums expended for the purchase of evidence, for the employment
15 of persons to obtain evidence, and for the payment for any
16 goods or services related to obtaining evidence. All such
17 restitution received by the Secretary shall be deposited into
18 the Secretary of State Evidence Fund. Moneys deposited into the
19 fund shall, subject to appropriation, be used by the Secretary
20 of State for the purposes provided for under the provisions of
21 this Section.

22 (Source: P.A. 91-883, eff. 1-1-01.)

23 (625 ILCS 5/6-103) (from Ch. 95 1/2, par. 6-103)

24 Sec. 6-103. What persons shall not be licensed as drivers
25 or granted permits. The Secretary of State shall not issue,
26 renew, or allow the retention of any driver's license nor issue
27 any permit under this Code:

28 1. To any person, as a driver, who is under the age of
29 18 years except as provided in Section 6-107, and except
30 that an instruction permit may be issued under Section
31 6-107.1 to a child who is not less than 15 years of age if
32 the child is enrolled in an approved driver education
33 course as defined in Section 1-103 of this Code and

1 requires an instruction permit to participate therein,
2 except that an instruction permit may be issued under the
3 provisions of Section 6-107.1 to a child who is 17 years
4 and 9 months of age without the child having enrolled in an
5 approved driver education course and except that an
6 instruction permit may be issued to a child who is at least
7 15 years and 6 months of age, is enrolled in school, meets
8 the educational requirements of the Driver Education Act,
9 and has passed examinations the Secretary of State in his
10 or her discretion may prescribe;

11 2. To any person who is under the age of 18 as an
12 operator of a motorcycle other than a motor driven cycle
13 unless the person has, in addition to meeting the
14 provisions of Section 6-107 of this Code, successfully
15 completed a motorcycle training course approved by the
16 Illinois Department of Transportation and successfully
17 completes the required Secretary of State's motorcycle
18 driver's examination;

19 3. To any person, as a driver, whose driver's license
20 or permit has been suspended, during the suspension, nor to
21 any person whose driver's license or permit has been
22 revoked, except as provided in Sections 6-205, 6-206, and
23 6-208;

24 4. To any person, as a driver, who is a user of alcohol
25 or any other drug to a degree that renders the person
26 incapable of safely driving a motor vehicle;

27 5. To any person, as a driver, who has previously been
28 adjudged to be afflicted with or suffering from any mental
29 or physical disability or disease and who has not at the
30 time of application been restored to competency by the
31 methods provided by law;

32 6. To any person, as a driver, who is required by the
33 Secretary of State to submit an alcohol and drug evaluation
34 or take an examination provided for in this Code unless the

1 person has successfully passed the examination and
2 submitted any required evaluation;

3 7. To any person who is required under the provisions
4 of the laws of this State to deposit security or proof of
5 financial responsibility and who has not deposited the
6 security or proof;

7 8. To any person when the Secretary of State has good
8 cause to believe that the person by reason of physical or
9 mental disability would not be able to safely operate a
10 motor vehicle upon the highways, unless the person shall
11 furnish to the Secretary of State a verified written
12 statement, acceptable to the Secretary of State, from a
13 competent medical specialist to the effect that the
14 operation of a motor vehicle by the person would not be
15 inimical to the public safety;

16 9. To any person, as a driver, who is 69 years of age
17 or older, unless the person has successfully complied with
18 the provisions of Section 6-109;

19 10. To any person convicted, within 12 months of
20 application for a license, of any of the sexual offenses
21 enumerated in paragraph 2 of subsection (b) of Section
22 6-205;

23 11. To any person who is under the age of 21 years with
24 a classification prohibited in paragraph (b) of Section
25 6-104 and to any person who is under the age of 18 years
26 with a classification prohibited in paragraph (c) of
27 Section 6-104;

28 12. To any person who has been either convicted of or
29 adjudicated under the Juvenile Court Act of 1987 based upon
30 a violation of the Cannabis Control Act, ~~or~~ the Illinois
31 Controlled Substances Act, or the Methamphetamine Control
32 and Community Protection Act while that person was in
33 actual physical control of a motor vehicle. For purposes of
34 this Section, any person placed on probation under Section

1 10 of the Cannabis Control Act, ~~or~~ Section 410 of the
2 Illinois Controlled Substances Act, or Section 70 of the
3 Methamphetamine Control and Community Protection Act shall
4 not be considered convicted. Any person found guilty of
5 this offense, while in actual physical control of a motor
6 vehicle, shall have an entry made in the court record by
7 the judge that this offense did occur while the person was
8 in actual physical control of a motor vehicle and order the
9 clerk of the court to report the violation to the Secretary
10 of State as such. The Secretary of State shall not issue a
11 new license or permit for a period of one year;

12 13. To any person who is under the age of 18 years and
13 who has committed the offense of operating a motor vehicle
14 without a valid license or permit in violation of Section
15 6-101;

16 14. To any person who is 90 days or more delinquent in
17 court ordered child support payments or has been
18 adjudicated in arrears in an amount equal to 90 days'
19 obligation or more and who has been found in contempt of
20 court for failure to pay the support, subject to the
21 requirements and procedures of Article VII of Chapter 7 of
22 the Illinois Vehicle Code;

23 15. To any person released from a term of imprisonment
24 for violating Section 9-3 of the Criminal Code of 1961 or a
25 similar provision of a law of another state relating to
26 reckless homicide or for violating subparagraph (F) of
27 paragraph (1) of subsection (d) of Section 11-501 of this
28 Code relating to aggravated driving under the influence of
29 alcohol, other drug or drugs, intoxicating compound or
30 compounds, or any combination thereof, if the violation was
31 the proximate cause of a death, within 24 months of release
32 from a term of imprisonment; ~~or~~

33 16. To any person who, with intent to influence any act
34 related to the issuance of any driver's license or permit,

1 by an employee of the Secretary of State's Office, or the
2 owner or employee of any commercial driver training school
3 licensed by the Secretary of State, or any other individual
4 authorized by the laws of this State to give driving
5 instructions or administer all or part of a driver's
6 license examination, promises or tenders to that person any
7 property or personal advantage which that person is not
8 authorized by law to accept. Any persons promising or
9 tendering such property or personal advantage shall be
10 disqualified from holding any class of driver's license or
11 permit for 120 consecutive days. The Secretary of State
12 shall establish by rule the procedures for implementing
13 this period of disqualification and the procedures by which
14 persons so disqualified may obtain administrative review
15 of the decision to disqualify; or

16 17. ~~16.~~ To any person for whom the Secretary of State
17 cannot verify the accuracy of any information or
18 documentation submitted in application for a driver's
19 license.

20 The Secretary of State shall retain all conviction
21 information, if the information is required to be held
22 confidential under the Juvenile Court Act of 1987.

23 (Source: P.A. 92-343, eff. 1-1-02; 93-174, eff. 1-1-04; 93-712,
24 eff. 1-1-05; 93-783, eff. 1-1-05; 93-788, eff. 1-1-05; 93-895,
25 eff. 1-1-05; revised 10-22-04.)

26 (625 ILCS 5/6-106.1) (from Ch. 95 1/2, par. 6-106.1)

27 Sec. 6-106.1. School bus driver permit.

28 (a) The Secretary of State shall issue a school bus driver
29 permit to those applicants who have met all the requirements of
30 the application and screening process under this Section to
31 insure the welfare and safety of children who are transported
32 on school buses throughout the State of Illinois. Applicants
33 shall obtain the proper application required by the Secretary

1 of State from their prospective or current employer and submit
2 the completed application to the prospective or current
3 employer along with the necessary fingerprint submission as
4 required by the Department of State Police to conduct
5 fingerprint based criminal background checks on current and
6 future information available in the state system and current
7 information available through the Federal Bureau of
8 Investigation's system. Applicants who have completed the
9 fingerprinting requirements shall not be subjected to the
10 fingerprinting process when applying for subsequent permits or
11 submitting proof of successful completion of the annual
12 refresher course. Individuals who on the effective date of this
13 Act possess a valid school bus driver permit that has been
14 previously issued by the appropriate Regional School
15 Superintendent are not subject to the fingerprinting
16 provisions of this Section as long as the permit remains valid
17 and does not lapse. The applicant shall be required to pay all
18 related application and fingerprinting fees as established by
19 rule including, but not limited to, the amounts established by
20 the Department of State Police and the Federal Bureau of
21 Investigation to process fingerprint based criminal background
22 investigations. All fees paid for fingerprint processing
23 services under this Section shall be deposited into the State
24 Police Services Fund for the cost incurred in processing the
25 fingerprint based criminal background investigations. All
26 other fees paid under this Section shall be deposited into the
27 Road Fund for the purpose of defraying the costs of the
28 Secretary of State in administering this Section. All
29 applicants must:

- 30 1. be 21 years of age or older;
- 31 2. possess a valid and properly classified driver's
32 license issued by the Secretary of State;
- 33 3. possess a valid driver's license, which has not been
34 revoked, suspended, or canceled for 3 years immediately

1 prior to the date of application, or have not had his or
2 her commercial motor vehicle driving privileges
3 disqualified within the 3 years immediately prior to the
4 date of application;

5 4. successfully pass a written test, administered by
6 the Secretary of State, on school bus operation, school bus
7 safety, and special traffic laws relating to school buses
8 and submit to a review of the applicant's driving habits by
9 the Secretary of State at the time the written test is
10 given;

11 5. demonstrate ability to exercise reasonable care in
12 the operation of school buses in accordance with rules
13 promulgated by the Secretary of State;

14 6. demonstrate physical fitness to operate school
15 buses by submitting the results of a medical examination,
16 including tests for drug use for each applicant not subject
17 to such testing pursuant to federal law, conducted by a
18 licensed physician, an advanced practice nurse who has a
19 written collaborative agreement with a collaborating
20 physician which authorizes him or her to perform medical
21 examinations, or a physician assistant who has been
22 delegated the performance of medical examinations by his or
23 her supervising physician within 90 days of the date of
24 application according to standards promulgated by the
25 Secretary of State;

26 7. affirm under penalties of perjury that he or she has
27 not made a false statement or knowingly concealed a
28 material fact in any application for permit;

29 8. have completed an initial classroom course,
30 including first aid procedures, in school bus driver safety
31 as promulgated by the Secretary of State; and after
32 satisfactory completion of said initial course an annual
33 refresher course; such courses and the agency or
34 organization conducting such courses shall be approved by

1 the Secretary of State; failure to complete the annual
2 refresher course, shall result in cancellation of the
3 permit until such course is completed;

4 9. not have been convicted of 2 or more serious traffic
5 offenses, as defined by rule, within one year prior to the
6 date of application that may endanger the life or safety of
7 any of the driver's passengers within the duration of the
8 permit period;

9 10. not have been convicted of reckless driving,
10 driving while intoxicated, or reckless homicide resulting
11 from the operation of a motor vehicle within 3 years of the
12 date of application;

13 11. not have been convicted of committing or attempting
14 to commit any one or more of the following offenses: (i)
15 those offenses defined in Sections 9-1, 9-1.2, 9-2, 9-2.1,
16 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1, 10-4, 10-5, 10-6,
17 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15, 11-15.1, 11-16,
18 11-17, 11-18, 11-19, 11-19.1, 11-19.2, 11-20, 11-20.1,
19 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2, 12-4.3, 12-4.4,
20 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3, 12-7.4, 12-11,
21 12-13, 12-14, 12-14.1, 12-15, 12-16, 12-16.2, 12-21.5,
22 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4, 18-5, 20-1, 20-1.1,
23 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3, 31A-1, 31A-1.1, and
24 33A-2, and in subsection (a) and subsection (b), clause
25 (1), of Section 12-4 of the Criminal Code of 1961; (ii)
26 those offenses defined in the Cannabis Control Act except
27 those offenses defined in subsections (a) and (b) of
28 Section 4, and subsection (a) of Section 5 of the Cannabis
29 Control Act; (iii) those offenses defined in the Illinois
30 Controlled Substances Act; (iv) those offenses defined in
31 the Methamphetamine Control and Community Protection Act;
32 (v) ~~(iv)~~ any offense committed or attempted in any other
33 state or against the laws of the United States, which if
34 committed or attempted in this State would be punishable as

1 one or more of the foregoing offenses; (vi) ~~(v)~~ the
2 offenses defined in Section 4.1 and 5.1 of the Wrongs to
3 Children Act and (vii) ~~(vi)~~ those offenses defined in
4 Section 6-16 of the Liquor Control Act of 1934;

5 12. not have been repeatedly involved as a driver in
6 motor vehicle collisions or been repeatedly convicted of
7 offenses against laws and ordinances regulating the
8 movement of traffic, to a degree which indicates lack of
9 ability to exercise ordinary and reasonable care in the
10 safe operation of a motor vehicle or disrespect for the
11 traffic laws and the safety of other persons upon the
12 highway;

13 13. not have, through the unlawful operation of a motor
14 vehicle, caused an accident resulting in the death of any
15 person; and

16 14. not have, within the last 5 years, been adjudged to
17 be afflicted with or suffering from any mental disability
18 or disease.

19 (b) A school bus driver permit shall be valid for a period
20 specified by the Secretary of State as set forth by rule. It
21 shall be renewable upon compliance with subsection (a) of this
22 Section.

23 (c) A school bus driver permit shall contain the holder's
24 driver's license number, legal name, residence address, zip
25 code, social security number and date of birth, a brief
26 description of the holder and a space for signature. The
27 Secretary of State may require a suitable photograph of the
28 holder.

29 (d) The employer shall be responsible for conducting a
30 pre-employment interview with prospective school bus driver
31 candidates, distributing school bus driver applications and
32 medical forms to be completed by the applicant, and submitting
33 the applicant's fingerprint cards to the Department of State
34 Police that are required for the criminal background

1 investigations. The employer shall certify in writing to the
2 Secretary of State that all pre-employment conditions have been
3 successfully completed including the successful completion of
4 an Illinois specific criminal background investigation through
5 the Department of State Police and the submission of necessary
6 fingerprints to the Federal Bureau of Investigation for
7 criminal history information available through the Federal
8 Bureau of Investigation system. The applicant shall present the
9 certification to the Secretary of State at the time of
10 submitting the school bus driver permit application.

11 (e) Permits shall initially be provisional upon receiving
12 certification from the employer that all pre-employment
13 conditions have been successfully completed, and upon
14 successful completion of all training and examination
15 requirements for the classification of the vehicle to be
16 operated, the Secretary of State shall provisionally issue a
17 School Bus Driver Permit. The permit shall remain in a
18 provisional status pending the completion of the Federal Bureau
19 of Investigation's criminal background investigation based
20 upon fingerprinting specimens submitted to the Federal Bureau
21 of Investigation by the Department of State Police. The Federal
22 Bureau of Investigation shall report the findings directly to
23 the Secretary of State. The Secretary of State shall remove the
24 bus driver permit from provisional status upon the applicant's
25 successful completion of the Federal Bureau of Investigation's
26 criminal background investigation.

27 (f) A school bus driver permit holder shall notify the
28 employer and the Secretary of State if he or she is convicted
29 in another state of an offense that would make him or her
30 ineligible for a permit under subsection (a) of this Section.
31 The written notification shall be made within 5 days of the
32 entry of the conviction. Failure of the permit holder to
33 provide the notification is punishable as a petty offense for a
34 first violation and a Class B misdemeanor for a second or

1 subsequent violation.

2 (g) Cancellation; suspension; notice and procedure.

3 (1) The Secretary of State shall cancel a school bus
4 driver permit of an applicant whose criminal background
5 investigation discloses that he or she is not in compliance
6 with the provisions of subsection (a) of this Section.

7 (2) The Secretary of State shall cancel a school bus
8 driver permit when he or she receives notice that the
9 permit holder fails to comply with any provision of this
10 Section or any rule promulgated for the administration of
11 this Section.

12 (3) The Secretary of State shall cancel a school bus
13 driver permit if the permit holder's restricted commercial
14 or commercial driving privileges are withdrawn or
15 otherwise invalidated.

16 (4) The Secretary of State may not issue a school bus
17 driver permit for a period of 3 years to an applicant who
18 fails to obtain a negative result on a drug test as
19 required in item 6 of subsection (a) of this Section or
20 under federal law.

21 (5) The Secretary of State shall forthwith suspend a
22 school bus driver permit for a period of 3 years upon
23 receiving notice that the holder has failed to obtain a
24 negative result on a drug test as required in item 6 of
25 subsection (a) of this Section or under federal law.

26 The Secretary of State shall notify the State
27 Superintendent of Education and the permit holder's
28 prospective or current employer that the applicant has (1) has
29 failed a criminal background investigation or (2) is no longer
30 eligible for a school bus driver permit; and of the related
31 cancellation of the applicant's provisional school bus driver
32 permit. The cancellation shall remain in effect pending the
33 outcome of a hearing pursuant to Section 2-118 of this Code.
34 The scope of the hearing shall be limited to the issuance

1 criteria contained in subsection (a) of this Section. A
2 petition requesting a hearing shall be submitted to the
3 Secretary of State and shall contain the reason the individual
4 feels he or she is entitled to a school bus driver permit. The
5 permit holder's employer shall notify in writing to the
6 Secretary of State that the employer has certified the removal
7 of the offending school bus driver from service prior to the
8 start of that school bus driver's next workshift. An employing
9 school board that fails to remove the offending school bus
10 driver from service is subject to the penalties defined in
11 Section 3-14.23 of the School Code. A school bus contractor who
12 violates a provision of this Section is subject to the
13 penalties defined in Section 6-106.11.

14 All valid school bus driver permits issued under this
15 Section prior to January 1, 1995, shall remain effective until
16 their expiration date unless otherwise invalidated.

17 (Source: P.A. 92-703, eff. 7-19-02; 93-895, eff. 1-1-05.)

18 (625 ILCS 5/6-107) (from Ch. 95 1/2, par. 6-107)

19 Sec. 6-107. Graduated license.

20 (a) The purpose of the Graduated Licensing Program is to
21 develop safe and mature driving habits in young, inexperienced
22 drivers and reduce or prevent motor vehicle accidents,
23 fatalities, and injuries by:

24 (1) providing for an increase in the time of practice
25 period before granting permission to obtain a driver's
26 license;

27 (2) strengthening driver licensing and testing
28 standards for persons under the age of 21 years;

29 (3) sanctioning driving privileges of drivers under
30 age 21 who have committed serious traffic violations or
31 other specified offenses; and

32 (4) setting stricter standards to promote the public's
33 health and safety.

1 (b) The application of any person under the age of 18
2 years, and not legally emancipated by marriage, for a drivers
3 license or permit to operate a motor vehicle issued under the
4 laws of this State, shall be accompanied by the written consent
5 of either parent of the applicant; otherwise by the guardian
6 having custody of the applicant, or in the event there is no
7 parent or guardian, then by another responsible adult.

8 No graduated driver's license shall be issued to any
9 applicant under 18 years of age, unless the applicant is at
10 least 16 years of age and has:

11 (1) Held a valid instruction permit for a minimum of 3
12 months.

13 (2) Passed an approved driver education course and
14 submits proof of having passed the course as may be
15 required.

16 (3) certification by the parent, legal guardian, or
17 responsible adult that the applicant has had a minimum of
18 25 hours of behind-the-wheel practice time and is
19 sufficiently prepared and able to safely operate a motor
20 vehicle.

21 (c) No graduated driver's license or permit shall be issued
22 to any applicant under 18 years of age who has committed the
23 offense of operating a motor vehicle without a valid license or
24 permit in violation of Section 6-101 of this Code and no
25 graduated driver's license or permit shall be issued to any
26 applicant under 18 years of age who has committed an offense
27 that would otherwise result in a mandatory revocation of a
28 license or permit as provided in Section 6-205 of this Code or
29 who has been either convicted of or adjudicated a delinquent
30 based upon a violation of the Cannabis Control Act, ~~or~~ the
31 Illinois Controlled Substances Act, or the Methamphetamine
32 Control and Community Protection Act while that individual was
33 in actual physical control of a motor vehicle. For purposes of
34 this Section, any person placed on probation under Section 10

1 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois
2 Controlled Substances Act, or Section 70 of the Methamphetamine
3 Control and Community Protection Act shall not be considered
4 convicted. Any person found guilty of this offense, while in
5 actual physical control of a motor vehicle, shall have an entry
6 made in the court record by the judge that this offense did
7 occur while the person was in actual physical control of a
8 motor vehicle and order the clerk of the court to report the
9 violation to the Secretary of State as such.

10 (d) No graduated driver's license shall be issued for 6
11 months to any applicant under the age of 18 years who has been
12 convicted of any offense defined as a serious traffic violation
13 in this Code or a similar provision of a local ordinance.

14 (e) No graduated driver's license holder under the age of
15 18 years shall operate any motor vehicle, except a motor driven
16 cycle or motorcycle, with more than one passenger in the front
17 seat of the motor vehicle and no more passengers in the back
18 seats than the number of available seat safety belts as set
19 forth in Section 12-603 of this Code.

20 (f) No graduated driver's license holder under the age of
21 18 shall operate a motor vehicle unless each driver and front
22 or back seat passenger under the age of 18 is wearing a
23 properly adjusted and fastened seat safety belt.

24 (g) If a graduated driver's license holder is under the age
25 of 18 when he or she receives the license, for the first 6
26 months he or she holds the license or until he or she reaches
27 the age of 18, whichever occurs sooner, the graduated license
28 holder may not operate a motor vehicle with more than one
29 passenger in the vehicle who is under the age of 20, unless any
30 additional passenger or passengers are siblings,
31 step-siblings, children, or stepchildren of the driver.

32 (Source: P.A. 93-101, eff. 1-1-04; 93-788, eff. 1-1-05.)

33 (625 ILCS 5/6-108) (from Ch. 95 1/2, par. 6-108)

1 Sec. 6-108. Cancellation of license issued to minor.

2 (a) The Secretary of State shall cancel the license or
3 permit of any minor under the age of 18 years in any of the
4 following events:

5 1. Upon the verified written request of the person who
6 consented to the application of the minor that the license
7 or permit be cancelled;

8 2. Upon receipt of satisfactory evidence of the death
9 of the person who consented to the application of the
10 minor;

11 3. Upon receipt of satisfactory evidence that the
12 person who consented to the application of a minor no
13 longer has legal custody of the minor.

14 After cancellation, the Secretary of State shall not issue
15 a new license or permit until the applicant meets the
16 provisions of Section 6-107 of this Code.

17 (b) The Secretary of State shall cancel the license or
18 permit of any person under the age of 18 years if he or she is
19 convicted of violating the Cannabis Control Act, ~~or~~ the
20 Illinois Controlled Substances Act, or the Methamphetamine
21 Control and Community Protection Act while that person was in
22 actual physical control of a motor vehicle. For purposes of
23 this Section, any person placed on probation under Section 10
24 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois
25 Controlled Substances Act, or Section 70 of the Methamphetamine
26 Control and Community Protection Act shall not be considered
27 convicted. Any person found guilty of this offense, while in
28 actual physical control of a motor vehicle, shall have an entry
29 made in the court record by the judge that this offense did
30 occur while the person was in actual physical control of a
31 motor vehicle and order the clerk of the court to report the
32 violation to the Secretary of State as such. After the
33 cancellation, the Secretary of State shall not issue a new
34 license or permit for a period of one year after the date of

1 cancellation or until the minor attains the age of 18 years,
2 whichever is longer. However, upon application, the Secretary
3 of State may, if satisfied that the person applying will not
4 endanger the public safety, or welfare, issue a restricted
5 driving permit granting the privilege of driving a motor
6 vehicle between the person's residence and person's place of
7 employment or within the scope of the person's employment
8 related duties, or to allow transportation for the person or a
9 household member of the person's family for the receipt of
10 necessary medical care or, if the professional evaluation
11 indicates, provide transportation for the petitioner for
12 alcohol remedial or rehabilitative activity, or for the person
13 to attend classes, as a student, in an accredited educational
14 institution; if the person is able to demonstrate that no
15 alternative means of transportation is reasonably available;
16 provided that the Secretary's discretion shall be limited to
17 cases where undue hardship would result from a failure to issue
18 such restricted driving permit. In each case the Secretary of
19 State may issue a restricted driving permit for a period as he
20 deems appropriate, except that the permit shall expire within
21 one year from the date of issuance. A restricted driving permit
22 issued hereunder shall be subject to cancellation, revocation,
23 and suspension by the Secretary of State in like manner and for
24 like cause as a driver's license issued hereunder may be
25 cancelled, revoked, or suspended; except that a conviction upon
26 one or more offenses against laws or ordinances regulating the
27 movement of traffic shall be deemed sufficient cause for the
28 revocation, suspension, or cancellation of a restricted
29 driving permit. The Secretary of State may, as a condition to
30 the issuance of a restricted driving permit, require the
31 applicant to participate in a driver remedial or rehabilitative
32 program. Thereafter, upon reapplication for a license as
33 provided in Section 6-106 of this Code or a permit as provided
34 in Section 6-105 of this Code and upon payment of the

1 appropriate application fee, the Secretary of State shall issue
2 the applicant a license as provided in Section 6-106 of this
3 Code or shall issue the applicant a permit as provided in
4 Section 6-105.

5 (Source: P.A. 86-1450; 87-1114.)

6 (625 ILCS 5/6-201) (from Ch. 95 1/2, par. 6-201)

7 Sec. 6-201. Authority to cancel licenses and permits.

8 (a) The Secretary of State is authorized to cancel any
9 license or permit upon determining that the holder thereof:

10 1. was not entitled to the issuance thereof hereunder;

11 or

12 2. failed to give the required or correct information
13 in his application; or

14 3. failed to pay any fees, civil penalties owed to the
15 Illinois Commerce Commission, or taxes due under this Act
16 and upon reasonable notice and demand; or

17 4. committed any fraud in the making of such
18 application; or

19 5. is ineligible therefor under the provisions of
20 Section 6-103 of this Act, as amended; or

21 6. has refused or neglected to submit an alcohol, drug,
22 and intoxicating compound evaluation or to submit to
23 examination or re-examination as required under this Act;

24 or

25 7. has been convicted of violating the Cannabis Control
26 Act, the Illinois Controlled Substances Act, the
27 Methamphetamine Control and Community Protection Act, or
28 the Use of Intoxicating Compounds Act while that individual
29 was in actual physical control of a motor vehicle. For
30 purposes of this Section, any person placed on probation
31 under Section 10 of the Cannabis Control Act, ~~or~~ Section
32 410 of the Illinois Controlled Substances Act, or Section
33 70 of the Methamphetamine Control and Community Protection

1 Act shall not be considered convicted. Any person found
2 guilty of this offense, while in actual physical control of
3 a motor vehicle, shall have an entry made in the court
4 record by the judge that this offense did occur while the
5 person was in actual physical control of a motor vehicle
6 and order the clerk of the court to report the violation to
7 the Secretary of State as such. After the cancellation, the
8 Secretary of State shall not issue a new license or permit
9 for a period of one year after the date of cancellation.
10 However, upon application, the Secretary of State may, if
11 satisfied that the person applying will not endanger the
12 public safety, or welfare, issue a restricted driving
13 permit granting the privilege of driving a motor vehicle
14 between the person's residence and person's place of
15 employment or within the scope of the person's employment
16 related duties, or to allow transportation for the person
17 or a household member of the person's family for the
18 receipt of necessary medical care or, if the professional
19 evaluation indicates, provide transportation for the
20 petitioner for alcohol remedial or rehabilitative
21 activity, or for the person to attend classes, as a
22 student, in an accredited educational institution; if the
23 person is able to demonstrate that no alternative means of
24 transportation is reasonably available; provided that the
25 Secretary's discretion shall be limited to cases where
26 undue hardship would result from a failure to issue such
27 restricted driving permit. In each case the Secretary of
28 State may issue such restricted driving permit for such
29 period as he deems appropriate, except that such permit
30 shall expire within one year from the date of issuance. A
31 restricted driving permit issued hereunder shall be
32 subject to cancellation, revocation and suspension by the
33 Secretary of State in like manner and for like cause as a
34 driver's license issued hereunder may be cancelled,

1 revoked or suspended; except that a conviction upon one or
2 more offenses against laws or ordinances regulating the
3 movement of traffic shall be deemed sufficient cause for
4 the revocation, suspension or cancellation of a restricted
5 driving permit. The Secretary of State may, as a condition
6 to the issuance of a restricted driving permit, require the
7 applicant to participate in a driver remedial or
8 rehabilitative program; or

9 8. failed to submit a report as required by Section
10 6-116.5 of this Code.

11 (b) Upon such cancellation the licensee or permittee must
12 surrender the license or permit so cancelled to the Secretary
13 of State.

14 (c) Except as provided in Sections 6-206.1 and 7-702.1, the
15 Secretary of State shall have exclusive authority to grant,
16 issue, deny, cancel, suspend and revoke driving privileges,
17 drivers' licenses and restricted driving permits.

18 (Source: P.A. 89-92, eff. 7-1-96; 89-584, eff. 7-31-96; 90-779,
19 eff. 1-1-99.)

20 (625 ILCS 5/6-206) (from Ch. 95 1/2, par. 6-206)

21 Sec. 6-206. Discretionary authority to suspend or revoke
22 license or permit; Right to a hearing.

23 (a) The Secretary of State is authorized to suspend or
24 revoke the driving privileges of any person without preliminary
25 hearing upon a showing of the person's records or other
26 sufficient evidence that the person:

27 1. Has committed an offense for which mandatory
28 revocation of a driver's license or permit is required upon
29 conviction;

30 2. Has been convicted of not less than 3 offenses
31 against traffic regulations governing the movement of
32 vehicles committed within any 12 month period. No
33 revocation or suspension shall be entered more than 6

1 months after the date of last conviction;

2 3. Has been repeatedly involved as a driver in motor
3 vehicle collisions or has been repeatedly convicted of
4 offenses against laws and ordinances regulating the
5 movement of traffic, to a degree that indicates lack of
6 ability to exercise ordinary and reasonable care in the
7 safe operation of a motor vehicle or disrespect for the
8 traffic laws and the safety of other persons upon the
9 highway;

10 4. Has by the unlawful operation of a motor vehicle
11 caused or contributed to an accident resulting in death or
12 injury requiring immediate professional treatment in a
13 medical facility or doctor's office to any person, except
14 that any suspension or revocation imposed by the Secretary
15 of State under the provisions of this subsection shall
16 start no later than 6 months after being convicted of
17 violating a law or ordinance regulating the movement of
18 traffic, which violation is related to the accident, or
19 shall start not more than one year after the date of the
20 accident, whichever date occurs later;

21 5. Has permitted an unlawful or fraudulent use of a
22 driver's license, identification card, or permit;

23 6. Has been lawfully convicted of an offense or
24 offenses in another state, including the authorization
25 contained in Section 6-203.1, which if committed within
26 this State would be grounds for suspension or revocation;

27 7. Has refused or failed to submit to an examination
28 provided for by Section 6-207 or has failed to pass the
29 examination;

30 8. Is ineligible for a driver's license or permit under
31 the provisions of Section 6-103;

32 9. Has made a false statement or knowingly concealed a
33 material fact or has used false information or
34 identification in any application for a license,

1 identification card, or permit;

2 10. Has possessed, displayed, or attempted to
3 fraudulently use any license, identification card, or
4 permit not issued to the person;

5 11. Has operated a motor vehicle upon a highway of this
6 State when the person's driving privilege or privilege to
7 obtain a driver's license or permit was revoked or
8 suspended unless the operation was authorized by a judicial
9 driving permit, probationary license to drive, or a
10 restricted driving permit issued under this Code;

11 12. Has submitted to any portion of the application
12 process for another person or has obtained the services of
13 another person to submit to any portion of the application
14 process for the purpose of obtaining a license,
15 identification card, or permit for some other person;

16 13. Has operated a motor vehicle upon a highway of this
17 State when the person's driver's license or permit was
18 invalid under the provisions of Sections 6-107.1 and 6-110;

19 14. Has committed a violation of Section 6-301,
20 6-301.1, or 6-301.2 of this Act, or Section 14, 14A, or 14B
21 of the Illinois Identification Card Act;

22 15. Has been convicted of violating Section 21-2 of the
23 Criminal Code of 1961 relating to criminal trespass to
24 vehicles in which case, the suspension shall be for one
25 year;

26 16. Has been convicted of violating Section 11-204 of
27 this Code relating to fleeing from a peace officer;

28 17. Has refused to submit to a test, or tests, as
29 required under Section 11-501.1 of this Code and the person
30 has not sought a hearing as provided for in Section
31 11-501.1;

32 18. Has, since issuance of a driver's license or
33 permit, been adjudged to be afflicted with or suffering
34 from any mental disability or disease;

1 29. Has committed a violation of paragraph (a) or (b)
2 of Section 6-101 relating to driving without a driver's
3 license;

4 30. Has been convicted of violating Section 6-104
5 relating to classification of driver's license;

6 31. Has been convicted of violating Section 11-402 of
7 this Code relating to leaving the scene of an accident
8 resulting in damage to a vehicle in excess of \$1,000, in
9 which case the suspension shall be for one year;

10 32. Has used a motor vehicle in violating paragraph
11 (3), (4), (7), or (9) of subsection (a) of Section 24-1 of
12 the Criminal Code of 1961 relating to unlawful use of
13 weapons, in which case the suspension shall be for one
14 year;

15 33. Has, as a driver, been convicted of committing a
16 violation of paragraph (a) of Section 11-502 of this Code
17 for a second or subsequent time within one year of a
18 similar violation;

19 34. Has been convicted by a court-martial or punished
20 by non-judicial punishment by military authorities of the
21 United States at a military installation in Illinois of or
22 for a traffic related offense that is the same as or
23 similar to an offense specified under Section 6-205 or
24 6-206 of this Code;

25 35. Has permitted any form of identification to be used
26 by another in the application process in order to obtain or
27 attempt to obtain a license, identification card, or
28 permit;

29 36. Has altered or attempted to alter a license or has
30 possessed an altered license, identification card, or
31 permit;

32 37. Has violated Section 6-16 of the Liquor Control Act
33 of 1934;

34 38. Has been convicted of the illegal possession, while

1 operating or in actual physical control, as a driver, of a
2 motor vehicle, of any controlled substance prohibited
3 under the Illinois Controlled Substances Act, ~~or~~ any
4 cannabis prohibited under ~~the provisions of~~ the Cannabis
5 Control Act, or any methamphetamine prohibited under the
6 Methamphetamine Control and Community Protection Act, in
7 which case the person's driving privileges shall be
8 suspended for one year, and any driver who is convicted of
9 a second or subsequent offense, within 5 years of a
10 previous conviction, for the illegal possession, while
11 operating or in actual physical control, as a driver, of a
12 motor vehicle, of any controlled substance prohibited
13 under ~~the provisions of~~ the Illinois Controlled Substances
14 Act, ~~or~~ any cannabis prohibited under the Cannabis Control
15 Act, or any methamphetamine prohibited under the
16 Methamphetamine Control and Community Protection Act shall
17 be suspended for 5 years. Any defendant found guilty of
18 this offense while operating a motor vehicle, shall have an
19 entry made in the court record by the presiding judge that
20 this offense did occur while the defendant was operating a
21 motor vehicle and order the clerk of the court to report
22 the violation to the Secretary of State;

23 29. Has been convicted of the following offenses that
24 were committed while the person was operating or in actual
25 physical control, as a driver, of a motor vehicle: criminal
26 sexual assault, predatory criminal sexual assault of a
27 child, aggravated criminal sexual assault, criminal sexual
28 abuse, aggravated criminal sexual abuse, juvenile pimping,
29 soliciting for a juvenile prostitute and the manufacture,
30 sale or delivery of controlled substances or instruments
31 used for illegal drug use or abuse in which case the
32 driver's driving privileges shall be suspended for one
33 year;

34 30. Has been convicted a second or subsequent time for

1 any combination of the offenses named in paragraph 29 of
2 this subsection, in which case the person's driving
3 privileges shall be suspended for 5 years;

4 31. Has refused to submit to a test as required by
5 Section 11-501.6 or has submitted to a test resulting in an
6 alcohol concentration of 0.08 or more or any amount of a
7 drug, substance, or compound resulting from the unlawful
8 use or consumption of cannabis as listed in the Cannabis
9 Control Act, a controlled substance as listed in the
10 Illinois Controlled Substances Act, or an intoxicating
11 compound as listed in the Use of Intoxicating Compounds
12 Act, in which case the penalty shall be as prescribed in
13 Section 6-208.1;

14 32. Has been convicted of Section 24-1.2 of the
15 Criminal Code of 1961 relating to the aggravated discharge
16 of a firearm if the offender was located in a motor vehicle
17 at the time the firearm was discharged, in which case the
18 suspension shall be for 3 years;

19 33. Has as a driver, who was less than 21 years of age
20 on the date of the offense, been convicted a first time of
21 a violation of paragraph (a) of Section 11-502 of this Code
22 or a similar provision of a local ordinance;

23 34. Has committed a violation of Section 11-1301.5 of
24 this Code;

25 35. Has committed a violation of Section 11-1301.6 of
26 this Code;

27 36. Is under the age of 21 years at the time of arrest
28 and has been convicted of not less than 2 offenses against
29 traffic regulations governing the movement of vehicles
30 committed within any 24 month period. No revocation or
31 suspension shall be entered more than 6 months after the
32 date of last conviction;

33 37. Has committed a violation of subsection (c) of
34 Section 11-907 of this Code;

1 38. Has been convicted of a violation of Section 6-20
2 of the Liquor Control Act of 1934 or a similar provision of
3 a local ordinance;

4 39. Has committed a second or subsequent violation of
5 Section 11-1201 of this Code; ~~or~~

6 40. Has committed a violation of subsection (a-1) of
7 Section 11-908 of this Code; or.

8 41. ~~40.~~ Has committed a second or subsequent violation
9 of Section 11-605.1 of this Code within 2 years of the date
10 of the previous violation, in which case the suspension
11 shall be for 90 days.

12 For purposes of paragraphs 5, 9, 10, 12, 14, 19, 25, 26,
13 and 27 of this subsection, license means any driver's license,
14 any traffic ticket issued when the person's driver's license is
15 deposited in lieu of bail, a suspension notice issued by the
16 Secretary of State, a duplicate or corrected driver's license,
17 a probationary driver's license or a temporary driver's
18 license.

19 (b) If any conviction forming the basis of a suspension or
20 revocation authorized under this Section is appealed, the
21 Secretary of State may rescind or withhold the entry of the
22 order of suspension or revocation, as the case may be, provided
23 that a certified copy of a stay order of a court is filed with
24 the Secretary of State. If the conviction is affirmed on
25 appeal, the date of the conviction shall relate back to the
26 time the original judgment of conviction was entered and the 6
27 month limitation prescribed shall not apply.

28 (c) 1. Upon suspending or revoking the driver's license or
29 permit of any person as authorized in this Section, the
30 Secretary of State shall immediately notify the person in
31 writing of the revocation or suspension. The notice to be
32 deposited in the United States mail, postage prepaid, to
33 the last known address of the person.

34 2. If the Secretary of State suspends the driver's

1 license of a person under subsection 2 of paragraph (a) of
2 this Section, a person's privilege to operate a vehicle as
3 an occupation shall not be suspended, provided an affidavit
4 is properly completed, the appropriate fee received, and a
5 permit issued prior to the effective date of the
6 suspension, unless 5 offenses were committed, at least 2 of
7 which occurred while operating a commercial vehicle in
8 connection with the driver's regular occupation. All other
9 driving privileges shall be suspended by the Secretary of
10 State. Any driver prior to operating a vehicle for
11 occupational purposes only must submit the affidavit on
12 forms to be provided by the Secretary of State setting
13 forth the facts of the person's occupation. The affidavit
14 shall also state the number of offenses committed while
15 operating a vehicle in connection with the driver's regular
16 occupation. The affidavit shall be accompanied by the
17 driver's license. Upon receipt of a properly completed
18 affidavit, the Secretary of State shall issue the driver a
19 permit to operate a vehicle in connection with the driver's
20 regular occupation only. Unless the permit is issued by the
21 Secretary of State prior to the date of suspension, the
22 privilege to drive any motor vehicle shall be suspended as
23 set forth in the notice that was mailed under this Section.
24 If an affidavit is received subsequent to the effective
25 date of this suspension, a permit may be issued for the
26 remainder of the suspension period.

27 The provisions of this subparagraph shall not apply to
28 any driver required to obtain a commercial driver's license
29 under Section 6-507 during the period of a disqualification
30 of commercial driving privileges under Section 6-514.

31 Any person who falsely states any fact in the affidavit
32 required herein shall be guilty of perjury under Section
33 6-302 and upon conviction thereof shall have all driving
34 privileges revoked without further rights.

1 3. At the conclusion of a hearing under Section 2-118
2 of this Code, the Secretary of State shall either rescind
3 or continue an order of revocation or shall substitute an
4 order of suspension; or, good cause appearing therefor,
5 rescind, continue, change, or extend the order of
6 suspension. If the Secretary of State does not rescind the
7 order, the Secretary may upon application, to relieve undue
8 hardship, issue a restricted driving permit granting the
9 privilege of driving a motor vehicle between the
10 petitioner's residence and petitioner's place of
11 employment or within the scope of his employment related
12 duties, or to allow transportation for the petitioner, or a
13 household member of the petitioner's family, to receive
14 necessary medical care and if the professional evaluation
15 indicates, provide transportation for alcohol remedial or
16 rehabilitative activity, or for the petitioner to attend
17 classes, as a student, in an accredited educational
18 institution; if the petitioner is able to demonstrate that
19 no alternative means of transportation is reasonably
20 available and the petitioner will not endanger the public
21 safety or welfare.

22 If a person's license or permit has been revoked or
23 suspended due to 2 or more convictions of violating Section
24 11-501 of this Code or a similar provision of a local
25 ordinance or a similar out-of-state offense, arising out of
26 separate occurrences, that person, if issued a restricted
27 driving permit, may not operate a vehicle unless it has
28 been equipped with an ignition interlock device as defined
29 in Section 1-129.1.

30 If a person's license or permit has been revoked or
31 suspended 2 or more times within a 10 year period due to a
32 single conviction of violating Section 11-501 of this Code
33 or a similar provision of a local ordinance or a similar
34 out-of-state offense, and a statutory summary suspension

1 under Section 11-501.1, or 2 or more statutory summary
2 suspensions, or combination of 2 offenses, or of an offense
3 and a statutory summary suspension, arising out of separate
4 occurrences, that person, if issued a restricted driving
5 permit, may not operate a vehicle unless it has been
6 equipped with an ignition interlock device as defined in
7 Section 1-129.1. The person must pay to the Secretary of
8 State DUI Administration Fund an amount not to exceed \$20
9 per month. The Secretary shall establish by rule the amount
10 and the procedures, terms, and conditions relating to these
11 fees. If the restricted driving permit was issued for
12 employment purposes, then this provision does not apply to
13 the operation of an occupational vehicle owned or leased by
14 that person's employer. In each case the Secretary may
15 issue a restricted driving permit for a period deemed
16 appropriate, except that all permits shall expire within
17 one year from the date of issuance. The Secretary may not,
18 however, issue a restricted driving permit to any person
19 whose current revocation is the result of a second or
20 subsequent conviction for a violation of Section 11-501 of
21 this Code or a similar provision of a local ordinance
22 relating to the offense of operating or being in physical
23 control of a motor vehicle while under the influence of
24 alcohol, other drug or drugs, intoxicating compound or
25 compounds, or any similar out-of-state offense, or any
26 combination of those offenses, until the expiration of at
27 least one year from the date of the revocation. A
28 restricted driving permit issued under this Section shall
29 be subject to cancellation, revocation, and suspension by
30 the Secretary of State in like manner and for like cause as
31 a driver's license issued under this Code may be cancelled,
32 revoked, or suspended; except that a conviction upon one or
33 more offenses against laws or ordinances regulating the
34 movement of traffic shall be deemed sufficient cause for

1 the revocation, suspension, or cancellation of a
2 restricted driving permit. The Secretary of State may, as a
3 condition to the issuance of a restricted driving permit,
4 require the applicant to participate in a designated driver
5 remedial or rehabilitative program. The Secretary of State
6 is authorized to cancel a restricted driving permit if the
7 permit holder does not successfully complete the program.

8 (c-5) The Secretary of State may, as a condition of the
9 reissuance of a driver's license or permit to an applicant
10 whose driver's license or permit has been suspended before he
11 or she reached the age of 18 years pursuant to any of the
12 provisions of this Section, require the applicant to
13 participate in a driver remedial education course and be
14 retested under Section 6-109 of this Code.

15 (d) This Section is subject to the provisions of the
16 Drivers License Compact.

17 (e) The Secretary of State shall not issue a restricted
18 driving permit to a person under the age of 16 years whose
19 driving privileges have been suspended or revoked under any
20 provisions of this Code.

21 (Source: P.A. 92-283, eff. 1-1-02; 92-418, eff. 8-17-01;
22 92-458, eff. 8-22-01; 92-651, eff. 7-11-02; 92-804, eff.
23 1-1-03; 92-814, eff. 1-1-03; 93-120, eff. 1-1-04; 93-667, eff.
24 3-19-04; 93-788, eff. 1-1-05; 93-955, eff. 8-19-04; revised
25 10-22-04.)

26 (625 ILCS 5/6-508) (from Ch. 95 1/2, par. 6-508)

27 Sec. 6-508. Commercial Driver's License (CDL) -
28 qualification standards.

29 (a) Testing.

30 (1) General. No person shall be issued an original or
31 renewal CDL unless that person is domiciled in this State.
32 The Secretary shall cause to be administered such tests as
33 the Secretary deems necessary to meet the requirements of

1 49 C.F.R. Part 383, subparts G and H.

2 (2) Third party testing. The Secretary of state may
3 authorize a "third party tester", pursuant to 49 C.F.R.
4 Part 383.75, to administer the skills test or tests
5 specified by Federal Highway Administration pursuant to
6 the Commercial Motor Vehicle Safety Act of 1986 and any
7 appropriate federal rule.

8 (b) Waiver of Skills Test. The Secretary of State may waive
9 the skills test specified in this Section for a commercial
10 driver license applicant who meets the requirements of 49
11 C.F.R. Part 383.77.

12 (c) Limitations on issuance of a CDL. A CDL, or a
13 commercial driver instruction permit, shall not be issued to a
14 person while the person is subject to a disqualification from
15 driving a commercial motor vehicle, or unless otherwise
16 permitted by this Code, while the person's driver's license is
17 suspended, revoked or cancelled in any state, or any territory
18 or province of Canada; nor may a CDL be issued to a person who
19 has a CDL issued by any other state, or foreign jurisdiction,
20 unless the person first surrenders all such licenses. No CDL
21 shall be issued to or renewed for a person who does not meet
22 the requirement of 49 CFR 391.41(b)(11). The requirement may be
23 met with the aid of a hearing aid.

24 (c-1) The Secretary may issue a CDL with a school bus
25 driver endorsement to allow a person to drive the type of bus
26 described in subsection (d-5) of Section 6-104 of this Code.
27 The CDL with a school bus driver endorsement may be issued only
28 to a person meeting the following requirements:

29 (1) the person has submitted his or her fingerprints to
30 the Department of State Police in the form and manner
31 prescribed by the Department of State Police. These
32 fingerprints shall be checked against the fingerprint
33 records now and hereafter filed in the Department of State
34 Police and Federal Bureau of Investigation criminal

1 history records databases ~~for fingerprint based criminal~~
2 ~~background checks on current and future information~~
3 ~~available in the state system and current information~~
4 ~~available through the Federal Bureau of Investigation's~~
5 ~~system;~~

6 (2) the person has passed a written test, administered
7 by the Secretary of State, on charter bus operation,
8 charter bus safety, and certain special traffic laws
9 relating to school buses determined by the Secretary of
10 State to be relevant to charter buses, and submitted to a
11 review of the applicant's driving habits by the Secretary
12 of State at the time the written test is given;

13 (3) the person has demonstrated physical fitness to
14 operate school buses by submitting the results of a medical
15 examination, including tests for drug use; and

16 (4) the person has not been convicted of committing or
17 attempting to commit any one or more of the following
18 offenses: (i) those offenses defined in Sections 9-1,
19 9-1.2, 9-2, 9-2.1, 9-3, 9-3.2, 9-3.3, 10-1, 10-2, 10-3.1,
20 10-4, 10-5, 10-6, 10-7, 11-6, 11-9, 11-9.1, 11-14, 11-15,
21 11-15.1, 11-16, 11-17, 11-18, 11-19, 11-19.1, 11-19.2,
22 11-20, 11-20.1, 11-21, 11-22, 12-3.1, 12-4.1, 12-4.2,
23 12-4.3, 12-4.4, 12-4.5, 12-6, 12-6.2, 12-7.1, 12-7.3,
24 12-7.4, 12-11, 12-13, 12-14, 12-14.1, 12-15, 12-16,
25 12-16.2, 12-21.5, 12-21.6, 12-33, 18-1, 18-2, 18-3, 18-4,
26 18-5, 20-1, 20-1.1, 20-2, 24-1, 24-1.1, 24-1.2, 24-3.3,
27 31A-1, 31A-1.1, and 33A-2, and in subsection (a) and
28 subsection (b), clause (1), of Section 12-4 of the Criminal
29 Code of 1961; (ii) those offenses defined in the Cannabis
30 Control Act except those offenses defined in subsections
31 (a) and (b) of Section 4, and subsection (a) of Section 5
32 of the Cannabis Control Act; (iii) those offenses defined
33 in the Illinois Controlled Substances Act; (iv) those
34 offenses defined in the Methamphetamine Control and

1 Community Protection Act; (v) ~~(iv)~~ any offense committed or
2 attempted in any other state or against the laws of the
3 United States, which if committed or attempted in this
4 State would be punishable as one or more of the foregoing
5 offenses; (vi) ~~(v)~~ the offenses defined in Sections 4.1 and
6 5.1 of the Wrongs to Children Act; and (vii) ~~(vi)~~ those
7 offenses defined in Section 6-16 of the Liquor Control Act
8 of 1934.

9 The Department of State Police shall charge a fee for
10 conducting the criminal history records check, which shall be
11 deposited into the State Police Services Fund and may not
12 exceed the actual cost of the records check.

13 (d) Commercial driver instruction permit. A commercial
14 driver instruction permit may be issued to any person holding a
15 valid Illinois driver's license if such person successfully
16 passes such tests as the Secretary determines to be necessary.
17 A commercial driver instruction permit shall not be issued to a
18 person who does not meet the requirements of 49 CFR 391.41
19 (b)(11), except for the renewal of a commercial driver
20 instruction permit for a person who possesses a commercial
21 instruction permit prior to the effective date of this
22 amendatory Act of 1999.

23 (Source: P.A. 93-476, eff. 1-1-04; 93-644, eff. 6-1-04; revised
24 11-29-04.)

25 Section 1045. The Clerks of Courts Act is amended by
26 changing Section 27.6 as follows:

27 (705 ILCS 105/27.6)

28 Sec. 27.6. (a) All fees, fines, costs, additional
29 penalties, bail balances assessed or forfeited, and any other
30 amount paid by a person to the circuit clerk equalling an
31 amount of \$55 or more, except the additional fee required by
32 subsections (b) and (c), restitution under Section 5-5-6 of the

1 Unified Code of Corrections, reimbursement for the costs of an
2 emergency response as provided under Section 11-501 of the
3 Illinois Vehicle Code, any fees collected for attending a
4 traffic safety program under paragraph (c) of Supreme Court
5 Rule 529, any fee collected on behalf of a State's Attorney
6 under Section 4-2002 of the Counties Code or a sheriff under
7 Section 4-5001 of the Counties Code, or any cost imposed under
8 Section 124A-5 of the Code of Criminal Procedure of 1963, for
9 convictions, orders of supervision, or any other disposition
10 for a violation of Chapters 3, 4, 6, 11, and 12 of the Illinois
11 Vehicle Code, or a similar provision of a local ordinance, and
12 any violation of the Child Passenger Protection Act, or a
13 similar provision of a local ordinance, and except as provided
14 in subsection (d) shall be disbursed within 60 days after
15 receipt by the circuit clerk as follows: 44.5% shall be
16 disbursed to the entity authorized by law to receive the fine
17 imposed in the case; 16.825% shall be disbursed to the State
18 Treasurer; and 38.675% shall be disbursed to the county's
19 general corporate fund. Of the 16.825% disbursed to the State
20 Treasurer, 2/17 shall be deposited by the State Treasurer into
21 the Violent Crime Victims Assistance Fund, 5.052/17 shall be
22 deposited into the Traffic and Criminal Conviction Surcharge
23 Fund, 3/17 shall be deposited into the Drivers Education Fund,
24 and 6.948/17 shall be deposited into the Trauma Center Fund. Of
25 the 6.948/17 deposited into the Trauma Center Fund from the
26 16.825% disbursed to the State Treasurer, 50% shall be
27 disbursed to the Department of Public Health and 50% shall be
28 disbursed to the Department of Public Aid. For fiscal year
29 1993, amounts deposited into the Violent Crime Victims
30 Assistance Fund, the Traffic and Criminal Conviction Surcharge
31 Fund, or the Drivers Education Fund shall not exceed 110% of
32 the amounts deposited into those funds in fiscal year 1991. Any
33 amount that exceeds the 110% limit shall be distributed as
34 follows: 50% shall be disbursed to the county's general

1 corporate fund and 50% shall be disbursed to the entity
2 authorized by law to receive the fine imposed in the case. Not
3 later than March 1 of each year the circuit clerk shall submit
4 a report of the amount of funds remitted to the State Treasurer
5 under this Section during the preceding year based upon
6 independent verification of fines and fees. All counties shall
7 be subject to this Section, except that counties with a
8 population under 2,000,000 may, by ordinance, elect not to be
9 subject to this Section. For offenses subject to this Section,
10 judges shall impose one total sum of money payable for
11 violations. The circuit clerk may add on no additional amounts
12 except for amounts that are required by Sections 27.3a and
13 27.3c of this Act, unless those amounts are specifically waived
14 by the judge. With respect to money collected by the circuit
15 clerk as a result of forfeiture of bail, ex parte judgment or
16 guilty plea pursuant to Supreme Court Rule 529, the circuit
17 clerk shall first deduct and pay amounts required by Sections
18 27.3a and 27.3c of this Act. This Section is a denial and
19 limitation of home rule powers and functions under subsection
20 (h) of Section 6 of Article VII of the Illinois Constitution.

21 (b) In addition to any other fines and court costs assessed
22 by the courts, any person convicted or receiving an order of
23 supervision for driving under the influence of alcohol or drugs
24 shall pay an additional fee of \$100 to the clerk of the circuit
25 court. This amount, less 2 1/2% that shall be used to defray
26 administrative costs incurred by the clerk, shall be remitted
27 by the clerk to the Treasurer within 60 days after receipt for
28 deposit into the Trauma Center Fund. This additional fee of
29 \$100 shall not be considered a part of the fine for purposes of
30 any reduction in the fine for time served either before or
31 after sentencing. Not later than March 1 of each year the
32 Circuit Clerk shall submit a report of the amount of funds
33 remitted to the State Treasurer under this subsection during
34 the preceding calendar year.

1 (b-1) In addition to any other fines and court costs
2 assessed by the courts, any person convicted or receiving an
3 order of supervision for driving under the influence of alcohol
4 or drugs shall pay an additional fee of \$5 to the clerk of the
5 circuit court. This amount, less 2 1/2% that shall be used to
6 defray administrative costs incurred by the clerk, shall be
7 remitted by the clerk to the Treasurer within 60 days after
8 receipt for deposit into the Spinal Cord Injury Paralysis Cure
9 Research Trust Fund. This additional fee of \$5 shall not be
10 considered a part of the fine for purposes of any reduction in
11 the fine for time served either before or after sentencing. Not
12 later than March 1 of each year the Circuit Clerk shall submit
13 a report of the amount of funds remitted to the State Treasurer
14 under this subsection during the preceding calendar year.

15 (c) In addition to any other fines and court costs assessed
16 by the courts, any person convicted for a violation of Sections
17 24-1.1, 24-1.2, or 24-1.5 of the Criminal Code of 1961 or a
18 person sentenced for a violation of the Cannabis Control Act,
19 ~~or~~ the Illinois Controlled Substances ~~Substance~~ Act, or the
20 Methamphetamine Control and Community Protection Act shall pay
21 an additional fee of \$100 to the clerk of the circuit court.
22 This amount, less 2 1/2% that shall be used to defray
23 administrative costs incurred by the clerk, shall be remitted
24 by the clerk to the Treasurer within 60 days after receipt for
25 deposit into the Trauma Center Fund. This additional fee of
26 \$100 shall not be considered a part of the fine for purposes of
27 any reduction in the fine for time served either before or
28 after sentencing. Not later than March 1 of each year the
29 Circuit Clerk shall submit a report of the amount of funds
30 remitted to the State Treasurer under this subsection during
31 the preceding calendar year.

32 (c-1) In addition to any other fines and court costs
33 assessed by the courts, any person sentenced for a violation of
34 the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances

1 Act, or the Methamphetamine Control and Community Protection
2 Act shall pay an additional fee of \$5 to the clerk of the
3 circuit court. This amount, less 2 1/2% that shall be used to
4 defray administrative costs incurred by the clerk, shall be
5 remitted by the clerk to the Treasurer within 60 days after
6 receipt for deposit into the Spinal Cord Injury Paralysis Cure
7 Research Trust Fund. This additional fee of \$5 shall not be
8 considered a part of the fine for purposes of any reduction in
9 the fine for time served either before or after sentencing. Not
10 later than March 1 of each year the Circuit Clerk shall submit
11 a report of the amount of funds remitted to the State Treasurer
12 under this subsection during the preceding calendar year.

13 (d) The following amounts must be remitted to the State
14 Treasurer for deposit into the Illinois Animal Abuse Fund:

15 (1) 50% of the amounts collected for felony offenses
16 under Sections 3, 3.01, 3.02, 3.03, 4, 4.01, 4.03, 4.04, 5,
17 5.01, 6, 7, 7.5, 7.15, and 16 of the Humane Care for
18 Animals Act and Section 26-5 of the Criminal Code of 1961;

19 (2) 20% of the amounts collected for Class A and Class
20 B misdemeanors under Sections 3, 3.01, 4, 4.01, 4.03, 4.04,
21 5, 5.01, 6, 7, 7.1, 7.5, 7.15, and 16 of the Humane Care
22 for Animals Act and Section 26-5 of the Criminal Code of
23 1961; and

24 (3) 50% of the amounts collected for Class C
25 misdemeanors under Sections 4.01 and 7.1 of the Humane Care
26 for Animals Act and Section 26-5 of the Criminal Code of
27 1961.

28 (Source: P.A. 92-431, eff. 1-1-02; 92-454, eff. 1-1-02; 92-650,
29 eff. 7-11-02; 92-651, eff. 7-11-02; 93-800, eff. 1-1-05.)

30 Section 1050. The Juvenile Court Act of 1987 is amended by
31 changing Sections 1-7, 1-8, 5-130, 5-601, 5-615, 5-710, 5-715,
32 5-805, and 5-901 as follows:

1 (705 ILCS 405/1-7) (from Ch. 37, par. 801-7)

2 Sec. 1-7. Confidentiality of law enforcement records.

3 (A) Inspection and copying of law enforcement records
4 maintained by law enforcement agencies that relate to a minor
5 who has been arrested or taken into custody before his or her
6 17th birthday shall be restricted to the following:

7 (1) Any local, State or federal law enforcement
8 officers of any jurisdiction or agency when necessary for
9 the discharge of their official duties during the
10 investigation or prosecution of a crime or relating to a
11 minor who has been adjudicated delinquent and there has
12 been a previous finding that the act which constitutes the
13 previous offense was committed in furtherance of criminal
14 activities by a criminal street gang. For purposes of this
15 Section, "criminal street gang" has the meaning ascribed to
16 it in Section 10 of the Illinois Streetgang Terrorism
17 Omnibus Prevention Act.

18 (2) Prosecutors, probation officers, social workers,
19 or other individuals assigned by the court to conduct a
20 pre-adjudication or pre-disposition investigation, and
21 individuals responsible for supervising or providing
22 temporary or permanent care and custody for minors pursuant
23 to the order of the juvenile court, when essential to
24 performing their responsibilities.

25 (3) Prosecutors and probation officers:

26 (a) in the course of a trial when institution of
27 criminal proceedings has been permitted or required
28 under Section 5-805; or

29 (b) when institution of criminal proceedings has
30 been permitted or required under Section 5-805 and such
31 minor is the subject of a proceeding to determine the
32 amount of bail; or

33 (c) when criminal proceedings have been permitted
34 or required under Section 5-805 and such minor is the

1 subject of a pre-trial investigation, pre-sentence
2 investigation, fitness hearing, or proceedings on an
3 application for probation.

4 (4) Adult and Juvenile Prisoner Review Board.

5 (5) Authorized military personnel.

6 (6) Persons engaged in bona fide research, with the
7 permission of the Presiding Judge of the Juvenile Court and
8 the chief executive of the respective law enforcement
9 agency; provided that publication of such research results
10 in no disclosure of a minor's identity and protects the
11 confidentiality of the minor's record.

12 (7) Department of Children and Family Services child
13 protection investigators acting in their official
14 capacity.

15 (8) The appropriate school official. Inspection and
16 copying shall be limited to law enforcement records
17 transmitted to the appropriate school official by a local
18 law enforcement agency under a reciprocal reporting system
19 established and maintained between the school district and
20 the local law enforcement agency under Section 10-20.14 of
21 the School Code concerning a minor enrolled in a school
22 within the school district who has been arrested or taken
23 into custody for any of the following offenses:

24 (i) unlawful use of weapons under Section 24-1 of
25 the Criminal Code of 1961;

26 (ii) a violation of the Illinois Controlled
27 Substances Act;

28 (iii) a violation of the Cannabis Control Act; ~~or~~

29 (iv) a forcible felony as defined in Section 2-8 of
30 the Criminal Code of 1961; or

31 (v) a violation of the Methamphetamine Control and
32 Community Protection Act.

33 (9) Mental health professionals on behalf of the
34 Illinois Department of Corrections or the Department of

1 Human Services or prosecutors who are evaluating,
2 prosecuting, or investigating a potential or actual
3 petition brought under the Sexually Violent Persons
4 Commitment Act relating to a person who is the subject of
5 juvenile law enforcement records or the respondent to a
6 petition brought under the Sexually Violent Persons
7 Commitment Act who is the subject of the juvenile law
8 enforcement records sought. Any records and any
9 information obtained from those records under this
10 paragraph (9) may be used only in sexually violent persons
11 commitment proceedings.

12 (B) (1) Except as provided in paragraph (2), no law
13 enforcement officer or other person or agency may knowingly
14 transmit to the Department of Corrections, Adult Division
15 or the Department of State Police or to the Federal Bureau
16 of Investigation any fingerprint or photograph relating to
17 a minor who has been arrested or taken into custody before
18 his or her 17th birthday, unless the court in proceedings
19 under this Act authorizes the transmission or enters an
20 order under Section 5-805 permitting or requiring the
21 institution of criminal proceedings.

22 (2) Law enforcement officers or other persons or
23 agencies shall transmit to the Department of State Police
24 copies of fingerprints and descriptions of all minors who
25 have been arrested or taken into custody before their 17th
26 birthday for the offense of unlawful use of weapons under
27 Article 24 of the Criminal Code of 1961, a Class X or Class
28 1 felony, a forcible felony as defined in Section 2-8 of
29 the Criminal Code of 1961, or a Class 2 or greater felony
30 under the Cannabis Control Act, the Illinois Controlled
31 Substances Act, the Methamphetamine Control and Community
32 Protection Act, or Chapter 4 of the Illinois Vehicle Code,
33 pursuant to Section 5 of the Criminal Identification Act.
34 Information reported to the Department pursuant to this

1 Section may be maintained with records that the Department
2 files pursuant to Section 2.1 of the Criminal
3 Identification Act. Nothing in this Act prohibits a law
4 enforcement agency from fingerprinting a minor taken into
5 custody or arrested before his or her 17th birthday for an
6 offense other than those listed in this paragraph (2).

7 (C) The records of law enforcement officers concerning all
8 minors under 17 years of age must be maintained separate from
9 the records of arrests and may not be open to public inspection
10 or their contents disclosed to the public except by order of
11 the court or when the institution of criminal proceedings has
12 been permitted or required under Section 5-805 or such a person
13 has been convicted of a crime and is the subject of
14 pre-sentence investigation or proceedings on an application
15 for probation or when provided by law.

16 (D) Nothing contained in subsection (C) of this Section
17 shall prohibit the inspection or disclosure to victims and
18 witnesses of photographs contained in the records of law
19 enforcement agencies when the inspection and disclosure is
20 conducted in the presence of a law enforcement officer for the
21 purpose of the identification or apprehension of any person
22 subject to the provisions of this Act or for the investigation
23 or prosecution of any crime.

24 (E) Law enforcement officers may not disclose the identity
25 of any minor in releasing information to the general public as
26 to the arrest, investigation or disposition of any case
27 involving a minor.

28 (F) Nothing contained in this Section shall prohibit law
29 enforcement agencies from communicating with each other by
30 letter, memorandum, teletype or intelligence alert bulletin or
31 other means the identity or other relevant information
32 pertaining to a person under 17 years of age if there are
33 reasonable grounds to believe that the person poses a real and
34 present danger to the safety of the public or law enforcement

1 officers. The information provided under this subsection (F)
2 shall remain confidential and shall not be publicly disclosed,
3 except as otherwise allowed by law.

4 (G) Nothing in this Section shall prohibit the right of a
5 Civil Service Commission or appointing authority of any state,
6 county or municipality examining the character and fitness of
7 an applicant for employment with a law enforcement agency,
8 correctional institution, or fire department from obtaining
9 and examining the records of any law enforcement agency
10 relating to any record of the applicant having been arrested or
11 taken into custody before the applicant's 17th birthday.

12 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00;
13 92-415, eff. 8-17-01.)

14 (705 ILCS 405/1-8) (from Ch. 37, par. 801-8)

15 Sec. 1-8. Confidentiality and accessibility of juvenile
16 court records.

17 (A) Inspection and copying of juvenile court records
18 relating to a minor who is the subject of a proceeding under
19 this Act shall be restricted to the following:

20 (1) The minor who is the subject of record, his
21 parents, guardian and counsel.

22 (2) Law enforcement officers and law enforcement
23 agencies when such information is essential to executing an
24 arrest or search warrant or other compulsory process, or to
25 conducting an ongoing investigation or relating to a minor
26 who has been adjudicated delinquent and there has been a
27 previous finding that the act which constitutes the
28 previous offense was committed in furtherance of criminal
29 activities by a criminal street gang.

30 Before July 1, 1994, for the purposes of this Section,
31 "criminal street gang" means any ongoing organization,
32 association, or group of 3 or more persons, whether formal
33 or informal, having as one of its primary activities the

1 commission of one or more criminal acts and that has a
2 common name or common identifying sign, symbol or specific
3 color apparel displayed, and whose members individually or
4 collectively engage in or have engaged in a pattern of
5 criminal activity.

6 Beginning July 1, 1994, for purposes of this Section,
7 "criminal street gang" has the meaning ascribed to it in
8 Section 10 of the Illinois Streetgang Terrorism Omnibus
9 Prevention Act.

10 (3) Judges, hearing officers, prosecutors, probation
11 officers, social workers or other individuals assigned by
12 the court to conduct a pre-adjudication or predisposition
13 investigation, and individuals responsible for supervising
14 or providing temporary or permanent care and custody for
15 minors pursuant to the order of the juvenile court when
16 essential to performing their responsibilities.

17 (4) Judges, prosecutors and probation officers:

18 (a) in the course of a trial when institution of
19 criminal proceedings has been permitted or required
20 under Section 5-805; or

21 (b) when criminal proceedings have been permitted
22 or required under Section 5-805 and a minor is the
23 subject of a proceeding to determine the amount of
24 bail; or

25 (c) when criminal proceedings have been permitted
26 or required under Section 5-805 and a minor is the
27 subject of a pre-trial investigation, pre-sentence
28 investigation or fitness hearing, or proceedings on an
29 application for probation; or

30 (d) when a minor becomes 17 years of age or older,
31 and is the subject of criminal proceedings, including a
32 hearing to determine the amount of bail, a pre-trial
33 investigation, a pre-sentence investigation, a fitness
34 hearing, or proceedings on an application for

1 probation.

2 (5) Adult and Juvenile Prisoner Review Boards.

3 (6) Authorized military personnel.

4 (7) Victims, their subrogees and legal
5 representatives; however, such persons shall have access
6 only to the name and address of the minor and information
7 pertaining to the disposition or alternative adjustment
8 plan of the juvenile court.

9 (8) Persons engaged in bona fide research, with the
10 permission of the presiding judge of the juvenile court and
11 the chief executive of the agency that prepared the
12 particular records; provided that publication of such
13 research results in no disclosure of a minor's identity and
14 protects the confidentiality of the record.

15 (9) The Secretary of State to whom the Clerk of the
16 Court shall report the disposition of all cases, as
17 required in Section 6-204 of the Illinois Vehicle Code.
18 However, information reported relative to these offenses
19 shall be privileged and available only to the Secretary of
20 State, courts, and police officers.

21 (10) The administrator of a bonafide substance abuse
22 student assistance program with the permission of the
23 presiding judge of the juvenile court.

24 (11) Mental health professionals on behalf of the
25 Illinois Department of Corrections or the Department of
26 Human Services or prosecutors who are evaluating,
27 prosecuting, or investigating a potential or actual
28 petition brought under the Sexually Persons Commitment Act
29 relating to a person who is the subject of juvenile court
30 records or the respondent to a petition brought under the
31 Sexually Violent Persons Commitment Act, who is the subject
32 of juvenile court records sought. Any records and any
33 information obtained from those records under this
34 paragraph (11) may be used only in sexually violent persons

1 commitment proceedings.

2 (B) A minor who is the victim in a juvenile proceeding
3 shall be provided the same confidentiality regarding
4 disclosure of identity as the minor who is the subject of
5 record.

6 (C) Except as otherwise provided in this subsection (C),
7 juvenile court records shall not be made available to the
8 general public but may be inspected by representatives of
9 agencies, associations and news media or other properly
10 interested persons by general or special order of the court.
11 The State's Attorney, the minor, his parents, guardian and
12 counsel shall at all times have the right to examine court
13 files and records.

14 (1) The court shall allow the general public to have
15 access to the name, address, and offense of a minor who is
16 adjudicated a delinquent minor under this Act under either
17 of the following circumstances:

18 (A) The adjudication of delinquency was based upon
19 the minor's commission of first degree murder, attempt
20 to commit first degree murder, aggravated criminal
21 sexual assault, or criminal sexual assault; or

22 (B) The court has made a finding that the minor was
23 at least 13 years of age at the time the act was
24 committed and the adjudication of delinquency was
25 based upon the minor's commission of: (i) an act in
26 furtherance of the commission of a felony as a member
27 of or on behalf of a criminal street gang, (ii) an act
28 involving the use of a firearm in the commission of a
29 felony, (iii) an act that would be a Class X felony
30 offense under or the minor's second or subsequent Class
31 2 or greater felony offense under the Cannabis Control
32 Act if committed by an adult, (iv) an act that would be
33 a second or subsequent offense under Section 402 of the
34 Illinois Controlled Substances Act if committed by an

1 adult, ~~or~~ (v) an act that would be an offense under
2 Section 401 of the Illinois Controlled Substances Act
3 if committed by an adult, (vi) an act that would be a
4 second or subsequent offense under Section 60 of the
5 Methamphetamine Control and Community Protection Act,
6 or (vii) an act that would be an offense under another
7 Section of the Methamphetamine Control and Community
8 Protection Act.

9 (2) The court shall allow the general public to have
10 access to the name, address, and offense of a minor who is
11 at least 13 years of age at the time the offense is
12 committed and who is convicted, in criminal proceedings
13 permitted or required under Section 5-4, under either of
14 the following circumstances:

15 (A) The minor has been convicted of first degree
16 murder, attempt to commit first degree murder,
17 aggravated criminal sexual assault, or criminal sexual
18 assault,

19 (B) The court has made a finding that the minor was
20 at least 13 years of age at the time the offense was
21 committed and the conviction was based upon the minor's
22 commission of: (i) an offense in furtherance of the
23 commission of a felony as a member of or on behalf of a
24 criminal street gang, (ii) an offense involving the use
25 of a firearm in the commission of a felony, (iii) a
26 Class X felony offense under or a second or subsequent
27 Class 2 or greater felony offense under the Cannabis
28 Control Act, (iv) a second or subsequent offense under
29 Section 402 of the Illinois Controlled Substances Act,
30 ~~or~~ (v) an offense under Section 401 of the Illinois
31 Controlled Substances Act, (vi) an act that would be a
32 second or subsequent offense under Section 60 of the
33 Methamphetamine Control and Community Protection Act,
34 or (vii) an act that would be an offense under another

1 Section of the Methamphetamine Control and Community
2 Protection Act.

3 (D) Pending or following any adjudication of delinquency
4 for any offense defined in Sections 12-13 through 12-16 of the
5 Criminal Code of 1961, the victim of any such offense shall
6 receive the rights set out in Sections 4 and 6 of the Bill of
7 Rights for Victims and Witnesses of Violent Crime Act; and the
8 juvenile who is the subject of the adjudication,
9 notwithstanding any other provision of this Act, shall be
10 treated as an adult for the purpose of affording such rights to
11 the victim.

12 (E) Nothing in this Section shall affect the right of a
13 Civil Service Commission or appointing authority of any state,
14 county or municipality examining the character and fitness of
15 an applicant for employment with a law enforcement agency,
16 correctional institution, or fire department to ascertain
17 whether that applicant was ever adjudicated to be a delinquent
18 minor and, if so, to examine the records of disposition or
19 evidence which were made in proceedings under this Act.

20 (F) Following any adjudication of delinquency for a crime
21 which would be a felony if committed by an adult, or following
22 any adjudication of delinquency for a violation of Section
23 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
24 State's Attorney shall ascertain whether the minor respondent
25 is enrolled in school and, if so, shall provide a copy of the
26 dispositional order to the principal or chief administrative
27 officer of the school. Access to such juvenile records shall be
28 limited to the principal or chief administrative officer of the
29 school and any guidance counselor designated by him.

30 (G) Nothing contained in this Act prevents the sharing or
31 disclosure of information or records relating or pertaining to
32 juveniles subject to the provisions of the Serious Habitual
33 Offender Comprehensive Action Program when that information is
34 used to assist in the early identification and treatment of

1 habitual juvenile offenders.

2 (H) When a Court hearing a proceeding under Article II of
3 this Act becomes aware that an earlier proceeding under Article
4 II had been heard in a different county, that Court shall
5 request, and the Court in which the earlier proceedings were
6 initiated shall transmit, an authenticated copy of the Court
7 record, including all documents, petitions, and orders filed
8 therein and the minute orders, transcript of proceedings, and
9 docket entries of the Court.

10 (I) The Clerk of the Circuit Court shall report to the
11 Department of State Police, in the form and manner required by
12 the Department of State Police, the final disposition of each
13 minor who has been arrested or taken into custody before his or
14 her 17th birthday for those offenses required to be reported
15 under Section 5 of the Criminal Identification Act. Information
16 reported to the Department under this Section may be maintained
17 with records that the Department files under Section 2.1 of the
18 Criminal Identification Act.

19 (Source: P.A. 91-357, eff. 7-29-99; 91-368, eff. 1-1-00,
20 92-415, eff. 8-17-01.)

21 (705 ILCS 405/5-130)

22 Sec. 5-130. Excluded jurisdiction.

23 (1) (a) The definition of delinquent minor under Section
24 5-120 of this Article shall not apply to any minor who at the
25 time of an offense was at least 15 years of age and who is
26 charged with first degree murder, aggravated criminal sexual
27 assault, aggravated battery with a firearm committed in a
28 school, on the real property comprising a school, within 1,000
29 feet of the real property comprising a school, at a school
30 related activity, or on, boarding, or departing from any
31 conveyance owned, leased, or contracted by a school or school
32 district to transport students to or from school or a school
33 related activity regardless of the time of day or time of year

1 that the offense was committed, armed robbery when the armed
2 robbery was committed with a firearm, or aggravated vehicular
3 hijacking when the hijacking was committed with a firearm.

4 These charges and all other charges arising out of the same
5 incident shall be prosecuted under the criminal laws of this
6 State.

7 For purposes of this paragraph (a) of subsection (1):

8 "School" means a public or private elementary or secondary
9 school, community college, college, or university.

10 "School related activity" means any sporting, social,
11 academic or other activity for which students' attendance or
12 participation is sponsored, organized, or funded in whole or in
13 part by a school or school district.

14 (b) (i) If before trial or plea an information or
15 indictment is filed that does not charge an offense specified
16 in paragraph (a) of this subsection (1) the State's Attorney
17 may proceed on any lesser charge or charges, but only in
18 Juvenile Court under the provisions of this Article. The
19 State's Attorney may proceed under the Criminal Code of 1961 on
20 a lesser charge if before trial the minor defendant knowingly
21 and with advice of counsel waives, in writing, his or her right
22 to have the matter proceed in Juvenile Court.

23 (ii) If before trial or plea an information or indictment
24 is filed that includes one or more charges specified in
25 paragraph (a) of this subsection (1) and additional charges
26 that are not specified in that paragraph, all of the charges
27 arising out of the same incident shall be prosecuted under the
28 Criminal Code of 1961.

29 (c) (i) If after trial or plea the minor is convicted of
30 any offense covered by paragraph (a) of this subsection (1),
31 then, in sentencing the minor, the court shall have available
32 any or all dispositions prescribed for that offense under
33 Chapter V of the Unified Code of Corrections.

34 (ii) If after trial or plea the court finds that the minor

1 committed an offense not covered by paragraph (a) of this
2 subsection (1), that finding shall not invalidate the verdict
3 or the prosecution of the minor under the criminal laws of the
4 State; however, unless the State requests a hearing for the
5 purpose of sentencing the minor under Chapter V of the Unified
6 Code of Corrections, the Court must proceed under Sections
7 5-705 and 5-710 of this Article. To request a hearing, the
8 State must file a written motion within 10 days following the
9 entry of a finding or the return of a verdict. Reasonable
10 notice of the motion shall be given to the minor or his or her
11 counsel. If the motion is made by the State, the court shall
12 conduct a hearing to determine if the minor should be sentenced
13 under Chapter V of the Unified Code of Corrections. In making
14 its determination, the court shall consider among other
15 matters: (a) whether there is evidence that the offense was
16 committed in an aggressive and premeditated manner; (b) the age
17 of the minor; (c) the previous history of the minor; (d)
18 whether there are facilities particularly available to the
19 Juvenile Court or the Department of Corrections, Juvenile
20 Division, for the treatment and rehabilitation of the minor;
21 (e) whether the security of the public requires sentencing
22 under Chapter V of the Unified Code of Corrections; and (f)
23 whether the minor possessed a deadly weapon when committing the
24 offense. The rules of evidence shall be the same as if at
25 trial. If after the hearing the court finds that the minor
26 should be sentenced under Chapter V of the Unified Code of
27 Corrections, then the court shall sentence the minor
28 accordingly having available to it any or all dispositions so
29 prescribed.

30 (2) (a) The definition of a delinquent minor under Section
31 5-120 of this Article shall not apply to any minor who at the
32 time of the offense was at least 15 years of age and who is
33 charged with an offense under Section 401 of the Illinois
34 Controlled Substances Act or an offense under the

1 Methamphetamine Control and Community Protection Act, while in
2 a school, regardless of the time of day or the time of year, or
3 any conveyance owned, leased or contracted by a school to
4 transport students to or from school or a school related
5 activity, or residential property owned, operated or managed by
6 a public housing agency or leased by a public housing agency as
7 part of a scattered site or mixed-income development, on the
8 real property comprising any school, regardless of the time of
9 day or the time of year, or residential property owned,
10 operated or managed by a public housing agency or leased by a
11 public housing agency as part of a scattered site or
12 mixed-income development, or on a public way within 1,000 feet
13 of the real property comprising any school, regardless of the
14 time of day or the time of year, or residential property owned,
15 operated or managed by a public housing agency or leased by a
16 public housing agency as part of a scattered site or
17 mixed-income development. School is defined, for the purposes
18 of this Section, as any public or private elementary or
19 secondary school, community college, college, or university.
20 These charges and all other charges arising out of the same
21 incident shall be prosecuted under the criminal laws of this
22 State.

23 (b) (i) If before trial or plea an information or
24 indictment is filed that does not charge an offense specified
25 in paragraph (a) of this subsection (2) the State's Attorney
26 may proceed on any lesser charge or charges, but only in
27 Juvenile Court under the provisions of this Article. The
28 State's Attorney may proceed under the criminal laws of this
29 State on a lesser charge if before trial the minor defendant
30 knowingly and with advice of counsel waives, in writing, his or
31 her right to have the matter proceed in Juvenile Court.

32 (ii) If before trial or plea an information or indictment
33 is filed that includes one or more charges specified in
34 paragraph (a) of this subsection (2) and additional charges

1 that are not specified in that paragraph, all of the charges
2 arising out of the same incident shall be prosecuted under the
3 criminal laws of this State.

4 (c) (i) If after trial or plea the minor is convicted of
5 any offense covered by paragraph (a) of this subsection (2),
6 then, in sentencing the minor, the court shall have available
7 any or all dispositions prescribed for that offense under
8 Chapter V of the Unified Code of Corrections.

9 (ii) If after trial or plea the court finds that the minor
10 committed an offense not covered by paragraph (a) of this
11 subsection (2), that finding shall not invalidate the verdict
12 or the prosecution of the minor under the criminal laws of the
13 State; however, unless the State requests a hearing for the
14 purpose of sentencing the minor under Chapter V of the Unified
15 Code of Corrections, the Court must proceed under Sections
16 5-705 and 5-710 of this Article. To request a hearing, the
17 State must file a written motion within 10 days following the
18 entry of a finding or the return of a verdict. Reasonable
19 notice of the motion shall be given to the minor or his or her
20 counsel. If the motion is made by the State, the court shall
21 conduct a hearing to determine if the minor should be sentenced
22 under Chapter V of the Unified Code of Corrections. In making
23 its determination, the court shall consider among other
24 matters: (a) whether there is evidence that the offense was
25 committed in an aggressive and premeditated manner; (b) the age
26 of the minor; (c) the previous history of the minor; (d)
27 whether there are facilities particularly available to the
28 Juvenile Court or the Department of Corrections, Juvenile
29 Division, for the treatment and rehabilitation of the minor;
30 (e) whether the security of the public requires sentencing
31 under Chapter V of the Unified Code of Corrections; and (f)
32 whether the minor possessed a deadly weapon when committing the
33 offense. The rules of evidence shall be the same as if at
34 trial. If after the hearing the court finds that the minor

1 should be sentenced under Chapter V of the Unified Code of
2 Corrections, then the court shall sentence the minor
3 accordingly having available to it any or all dispositions so
4 prescribed.

5 (3) (a) The definition of delinquent minor under Section
6 5-120 of this Article shall not apply to any minor who at the
7 time of the offense was at least 15 years of age and who is
8 charged with a violation of the provisions of paragraph (1),
9 (3), (4), or (10) of subsection (a) of Section 24-1 of the
10 Criminal Code of 1961 while in school, regardless of the time
11 of day or the time of year, or on the real property comprising
12 any school, regardless of the time of day or the time of year.
13 School is defined, for purposes of this Section as any public
14 or private elementary or secondary school, community college,
15 college, or university. These charges and all other charges
16 arising out of the same incident shall be prosecuted under the
17 criminal laws of this State.

18 (b) (i) If before trial or plea an information or
19 indictment is filed that does not charge an offense specified
20 in paragraph (a) of this subsection (3) the State's Attorney
21 may proceed on any lesser charge or charges, but only in
22 Juvenile Court under the provisions of this Article. The
23 State's Attorney may proceed under the criminal laws of this
24 State on a lesser charge if before trial the minor defendant
25 knowingly and with advice of counsel waives, in writing, his or
26 her right to have the matter proceed in Juvenile Court.

27 (ii) If before trial or plea an information or indictment
28 is filed that includes one or more charges specified in
29 paragraph (a) of this subsection (3) and additional charges
30 that are not specified in that paragraph, all of the charges
31 arising out of the same incident shall be prosecuted under the
32 criminal laws of this State.

33 (c) (i) If after trial or plea the minor is convicted of
34 any offense covered by paragraph (a) of this subsection (3),

1 then, in sentencing the minor, the court shall have available
2 any or all dispositions prescribed for that offense under
3 Chapter V of the Unified Code of Corrections.

4 (ii) If after trial or plea the court finds that the minor
5 committed an offense not covered by paragraph (a) of this
6 subsection (3), that finding shall not invalidate the verdict
7 or the prosecution of the minor under the criminal laws of the
8 State; however, unless the State requests a hearing for the
9 purpose of sentencing the minor under Chapter V of the Unified
10 Code of Corrections, the Court must proceed under Sections
11 5-705 and 5-710 of this Article. To request a hearing, the
12 State must file a written motion within 10 days following the
13 entry of a finding or the return of a verdict. Reasonable
14 notice of the motion shall be given to the minor or his or her
15 counsel. If the motion is made by the State, the court shall
16 conduct a hearing to determine if the minor should be sentenced
17 under Chapter V of the Unified Code of Corrections. In making
18 its determination, the court shall consider among other
19 matters: (a) whether there is evidence that the offense was
20 committed in an aggressive and premeditated manner; (b) the age
21 of the minor; (c) the previous history of the minor; (d)
22 whether there are facilities particularly available to the
23 Juvenile Court or the Department of Corrections, Juvenile
24 Division, for the treatment and rehabilitation of the minor;
25 (e) whether the security of the public requires sentencing
26 under Chapter V of the Unified Code of Corrections; and (f)
27 whether the minor possessed a deadly weapon when committing the
28 offense. The rules of evidence shall be the same as if at
29 trial. If after the hearing the court finds that the minor
30 should be sentenced under Chapter V of the Unified Code of
31 Corrections, then the court shall sentence the minor
32 accordingly having available to it any or all dispositions so
33 prescribed.

34 (4) (a) The definition of delinquent minor under Section

1 5-120 of this Article shall not apply to any minor who at the
2 time of an offense was at least 13 years of age and who is
3 charged with first degree murder committed during the course of
4 either aggravated criminal sexual assault, criminal sexual
5 assault, or aggravated kidnaping. However, this subsection (4)
6 does not include a minor charged with first degree murder based
7 exclusively upon the accountability provisions of the Criminal
8 Code of 1961.

9 (b) (i) If before trial or plea an information or
10 indictment is filed that does not charge first degree murder
11 committed during the course of aggravated criminal sexual
12 assault, criminal sexual assault, or aggravated kidnaping, the
13 State's Attorney may proceed on any lesser charge or charges,
14 but only in Juvenile Court under the provisions of this
15 Article. The State's Attorney may proceed under the criminal
16 laws of this State on a lesser charge if before trial the minor
17 defendant knowingly and with advice of counsel waives, in
18 writing, his or her right to have the matter proceed in
19 Juvenile Court.

20 (ii) If before trial or plea an information or indictment
21 is filed that includes first degree murder committed during the
22 course of aggravated criminal sexual assault, criminal sexual
23 assault, or aggravated kidnaping, and additional charges that
24 are not specified in paragraph (a) of this subsection, all of
25 the charges arising out of the same incident shall be
26 prosecuted under the criminal laws of this State.

27 (c) (i) If after trial or plea the minor is convicted of
28 first degree murder committed during the course of aggravated
29 criminal sexual assault, criminal sexual assault, or
30 aggravated kidnaping, in sentencing the minor, the court shall
31 have available any or all dispositions prescribed for that
32 offense under Chapter V of the Unified Code of Corrections.

33 (ii) If the minor was not yet 15 years of age at the time of
34 the offense, and if after trial or plea the court finds that

1 the minor committed an offense other than first degree murder
2 committed during the course of either aggravated criminal
3 sexual assault, criminal sexual assault, or aggravated
4 kidnapping, the finding shall not invalidate the verdict or the
5 prosecution of the minor under the criminal laws of the State;
6 however, unless the State requests a hearing for the purpose of
7 sentencing the minor under Chapter V of the Unified Code of
8 Corrections, the Court must proceed under Sections 5-705 and
9 5-710 of this Article. To request a hearing, the State must
10 file a written motion within 10 days following the entry of a
11 finding or the return of a verdict. Reasonable notice of the
12 motion shall be given to the minor or his or her counsel. If
13 the motion is made by the State, the court shall conduct a
14 hearing to determine whether the minor should be sentenced
15 under Chapter V of the Unified Code of Corrections. In making
16 its determination, the court shall consider among other
17 matters: (a) whether there is evidence that the offense was
18 committed in an aggressive and premeditated manner; (b) the age
19 of the minor; (c) the previous delinquent history of the minor;
20 (d) whether there are facilities particularly available to the
21 Juvenile Court or the Department of Corrections, Juvenile
22 Division, for the treatment and rehabilitation of the minor;
23 (e) whether the best interest of the minor and the security of
24 the public require sentencing under Chapter V of the Unified
25 Code of Corrections; and (f) whether the minor possessed a
26 deadly weapon when committing the offense. The rules of
27 evidence shall be the same as if at trial. If after the hearing
28 the court finds that the minor should be sentenced under
29 Chapter V of the Unified Code of Corrections, then the court
30 shall sentence the minor accordingly having available to it any
31 or all dispositions so prescribed.

32 (5) (a) The definition of delinquent minor under Section
33 5-120 of this Article shall not apply to any minor who is
34 charged with a violation of subsection (a) of Section 31-6 or

1 Section 32-10 of the Criminal Code of 1961 when the minor is
2 subject to prosecution under the criminal laws of this State as
3 a result of the application of the provisions of Section 5-125,
4 or subsection (1) or (2) of this Section. These charges and all
5 other charges arising out of the same incident shall be
6 prosecuted under the criminal laws of this State.

7 (b) (i) If before trial or plea an information or
8 indictment is filed that does not charge an offense specified
9 in paragraph (a) of this subsection (5), the State's Attorney
10 may proceed on any lesser charge or charges, but only in
11 Juvenile Court under the provisions of this Article. The
12 State's Attorney may proceed under the criminal laws of this
13 State on a lesser charge if before trial the minor defendant
14 knowingly and with advice of counsel waives, in writing, his or
15 her right to have the matter proceed in Juvenile Court.

16 (ii) If before trial or plea an information or indictment
17 is filed that includes one or more charges specified in
18 paragraph (a) of this subsection (5) and additional charges
19 that are not specified in that paragraph, all of the charges
20 arising out of the same incident shall be prosecuted under the
21 criminal laws of this State.

22 (c) (i) If after trial or plea the minor is convicted of
23 any offense covered by paragraph (a) of this subsection (5),
24 then, in sentencing the minor, the court shall have available
25 any or all dispositions prescribed for that offense under
26 Chapter V of the Unified Code of Corrections.

27 (ii) If after trial or plea the court finds that the minor
28 committed an offense not covered by paragraph (a) of this
29 subsection (5), the conviction shall not invalidate the verdict
30 or the prosecution of the minor under the criminal laws of this
31 State; however, unless the State requests a hearing for the
32 purpose of sentencing the minor under Chapter V of the Unified
33 Code of Corrections, the Court must proceed under Sections
34 5-705 and 5-710 of this Article. To request a hearing, the

1 State must file a written motion within 10 days following the
2 entry of a finding or the return of a verdict. Reasonable
3 notice of the motion shall be given to the minor or his or her
4 counsel. If the motion is made by the State, the court shall
5 conduct a hearing to determine if whether the minor should be
6 sentenced under Chapter V of the Unified Code of Corrections.
7 In making its determination, the court shall consider among
8 other matters: (a) whether there is evidence that the offense
9 was committed in an aggressive and premeditated manner; (b) the
10 age of the minor; (c) the previous delinquent history of the
11 minor; (d) whether there are facilities particularly available
12 to the Juvenile Court or the Department of Corrections,
13 Juvenile Division, for the treatment and rehabilitation of the
14 minor; (e) whether the security of the public requires
15 sentencing under Chapter V of the Unified Code of Corrections;
16 and (f) whether the minor possessed a deadly weapon when
17 committing the offense. The rules of evidence shall be the same
18 as if at trial. If after the hearing the court finds that the
19 minor should be sentenced under Chapter V of the Unified Code
20 of Corrections, then the court shall sentence the minor
21 accordingly having available to it any or all dispositions so
22 prescribed.

23 (6) The definition of delinquent minor under Section 5-120
24 of this Article shall not apply to any minor who, pursuant to
25 subsection (1), (2), or (3) or Section 5-805, or 5-810, has
26 previously been placed under the jurisdiction of the criminal
27 court and has been convicted of a crime under an adult criminal
28 or penal statute. Such a minor shall be subject to prosecution
29 under the criminal laws of this State.

30 (7) The procedures set out in this Article for the
31 investigation, arrest and prosecution of juvenile offenders
32 shall not apply to minors who are excluded from jurisdiction of
33 the Juvenile Court, except that minors under 17 years of age
34 shall be kept separate from confined adults.

1 (8) Nothing in this Act prohibits or limits the prosecution
2 of any minor for an offense committed on or after his or her
3 17th birthday even though he or she is at the time of the
4 offense a ward of the court.

5 (9) If an original petition for adjudication of wardship
6 alleges the commission by a minor 13 years of age or over of an
7 act that constitutes a crime under the laws of this State, the
8 minor, with the consent of his or her counsel, may, at any time
9 before commencement of the adjudicatory hearing, file with the
10 court a motion that criminal prosecution be ordered and that
11 the petition be dismissed insofar as the act or acts involved
12 in the criminal proceedings are concerned. If such a motion is
13 filed as herein provided, the court shall enter its order
14 accordingly.

15 (10) If a minor is subject to the provisions of subsection
16 (2) of this Section, other than a minor charged with a Class X
17 felony violation of the Illinois Controlled Substances Act or
18 the Methamphetamine Control and Community Protection Act, any
19 party including the minor or the court sua sponte may, before
20 trial, move for a hearing for the purpose of trying and
21 sentencing the minor as a delinquent minor. To request a
22 hearing, the party must file a motion prior to trial.
23 Reasonable notice of the motion shall be given to all parties.
24 On its own motion or upon the filing of a motion by one of the
25 parties including the minor, the court shall conduct a hearing
26 to determine whether the minor should be tried and sentenced as
27 a delinquent minor under this Article. In making its
28 determination, the court shall consider among other matters:

29 (a) The age of the minor;

30 (b) Any previous delinquent or criminal history of the
31 minor;

32 (c) Any previous abuse or neglect history of the minor;

33 (d) Any mental health or educational history of the minor,
34 or both; and

1 (e) Whether there is probable cause to support the charge,
2 whether the minor is charged through accountability, and
3 whether there is evidence the minor possessed a deadly weapon
4 or caused serious bodily harm during the offense.

5 Any material that is relevant and reliable shall be
6 admissible at the hearing. In all cases, the judge shall enter
7 an order permitting prosecution under the criminal laws of
8 Illinois unless the judge makes a finding based on a
9 preponderance of the evidence that the minor would be amenable
10 to the care, treatment, and training programs available through
11 the facilities of the juvenile court based on an evaluation of
12 the factors listed in this subsection (10).

13 (Source: P.A. 91-15, eff. 1-1-00; 91-673, eff. 12-22-99; 92-16,
14 eff. 6-28-01; 92-665, eff. 1-1-03.)

15 (705 ILCS 405/5-601)

16 Sec. 5-601. Trial.

17 (1) When a petition has been filed alleging that the minor
18 is a delinquent, a trial must be held within 120 days of a
19 written demand for such hearing made by any party, except that
20 when the State, without success, has exercised due diligence to
21 obtain evidence material to the case and there are reasonable
22 grounds to believe that the evidence may be obtained at a later
23 date, the court may, upon motion by the State, continue the
24 trial for not more than 30 additional days.

25 (2) If a minor respondent has multiple delinquency
26 petitions pending against him or her in the same county and
27 simultaneously demands a trial upon more than one delinquency
28 petition pending against him or her in the same county, he or
29 she shall receive a trial or have a finding, after waiver of
30 trial, upon at least one such petition before expiration
31 relative to any of the pending petitions of the period
32 described by this Section. All remaining petitions thus pending
33 against the minor respondent shall be adjudicated within 160

1 days from the date on which a finding relative to the first
2 petition prosecuted is rendered under Section 5-620 of this
3 Article, or, if the trial upon the first petition is terminated
4 without a finding and there is no subsequent trial, or
5 adjudication after waiver of trial, on the first petition
6 within a reasonable time, the minor shall receive a trial upon
7 all of the remaining petitions within 160 days from the date on
8 which the trial, or finding after waiver of trial, on the first
9 petition is concluded. If either such period of 160 days
10 expires without the commencement of trial, or adjudication
11 after waiver of trial, of any of the remaining pending
12 petitions, the petition or petitions shall be dismissed and
13 barred for want of prosecution unless the delay is occasioned
14 by any of the reasons described in this Section.

15 (3) When no such trial is held within the time required by
16 subsections (1) and (2) of this Section, the court shall, upon
17 motion by any party, dismiss the petition with prejudice.

18 (4) Without affecting the applicability of the tolling and
19 multiple prosecution provisions of subsections (8) and (2) of
20 this Section when a petition has been filed alleging that the
21 minor is a delinquent and the minor is in detention or shelter
22 care, the trial shall be held within 30 calendar days after the
23 date of the order directing detention or shelter care, or the
24 earliest possible date in compliance with the provisions of
25 Section 5-525 as to the custodial parent, guardian or legal
26 custodian, but no later than 45 calendar days from the date of
27 the order of the court directing detention or shelter care.
28 When the petition alleges the minor has committed an offense
29 involving a controlled substance as defined in the Illinois
30 Controlled Substances Act or methamphetamine as defined in the
31 Methamphetamine Control and Community Protection Act, the
32 court may, upon motion of the State, continue the trial for
33 receipt of a confirmatory laboratory report for up to 45 days
34 after the date of the order directing detention or shelter

1 care. When the petition alleges the minor committed an offense
2 that involves the death of, great bodily harm to or sexual
3 assault or aggravated criminal sexual abuse on a victim, the
4 court may, upon motion of the State, continue the trial for not
5 more than 70 calendar days after the date of the order
6 directing detention or shelter care.

7 Any failure to comply with the time limits of this Section
8 shall require the immediate release of the minor from
9 detention, and the time limits set forth in subsections (1) and
10 (2) shall apply.

11 (5) If the court determines that the State, without
12 success, has exercised due diligence to obtain the results of
13 DNA testing that is material to the case, and that there are
14 reasonable grounds to believe that the results may be obtained
15 at a later date, the court may continue the cause on
16 application of the State for not more than 120 additional days.
17 The court may also extend the period of detention of the minor
18 for not more than 120 additional days.

19 (6) If the State's Attorney makes a written request that a
20 proceeding be designated an extended juvenile jurisdiction
21 prosecution, and the minor is in detention, the period the
22 minor can be held in detention pursuant to subsection (4),
23 shall be extended an additional 30 days after the court
24 determines whether the proceeding will be designated an
25 extended juvenile jurisdiction prosecution or the State's
26 Attorney withdraws the request for extended juvenile
27 jurisdiction prosecution.

28 (7) When the State's Attorney files a motion for waiver of
29 jurisdiction pursuant to Section 5-805, and the minor is in
30 detention, the period the minor can be held in detention
31 pursuant to subsection (4), shall be extended an additional 30
32 days if the court denies motion for waiver of jurisdiction or
33 the State's Attorney withdraws the motion for waiver of
34 jurisdiction.

1 (8) The period in which a trial shall be held as prescribed
2 by subsections (1), (2), (3), (4), (5), (6), or (7) of this
3 Section is tolled by: (i) delay occasioned by the minor; (ii) a
4 continuance allowed pursuant to Section 114-4 of the Code of
5 Criminal Procedure of 1963 after the court's determination of
6 the minor's incapacity for trial; (iii) an interlocutory
7 appeal; (iv) an examination of fitness ordered pursuant to
8 Section 104-13 of the Code of Criminal Procedure of 1963; (v) a
9 fitness hearing; or (vi) an adjudication of unfitness for
10 trial. Any such delay shall temporarily suspend, for the time
11 of the delay, the period within which a trial must be held as
12 prescribed by subsections (1), (2), (4), (5), and (6) of this
13 Section. On the day of expiration of the delays the period
14 shall continue at the point at which the time was suspended.

15 (9) Nothing in this Section prevents the minor or the
16 minor's parents, guardian or legal custodian from exercising
17 their respective rights to waive the time limits set forth in
18 this Section.

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

20 (705 ILCS 405/5-615)

21 Sec. 5-615. Continuance under supervision.

22 (1) The court may enter an order of continuance under
23 supervision for an offense other than first degree murder, a
24 Class X felony or a forcible felony (a) upon an admission or
25 stipulation by the appropriate respondent or minor respondent
26 of the facts supporting the petition and before proceeding to
27 adjudication, or after hearing the evidence at the trial, and
28 (b) in the absence of objection made in open court by the
29 minor, his or her parent, guardian, or legal custodian, the
30 minor's attorney or the State's Attorney.

31 (2) If the minor, his or her parent, guardian, or legal
32 custodian, the minor's attorney or State's Attorney objects in
33 open court to any continuance and insists upon proceeding to

1 findings and adjudication, the court shall so proceed.

2 (3) Nothing in this Section limits the power of the court
3 to order a continuance of the hearing for the production of
4 additional evidence or for any other proper reason.

5 (4) When a hearing where a minor is alleged to be a
6 delinquent is continued pursuant to this Section, the period of
7 continuance under supervision may not exceed 24 months. The
8 court may terminate a continuance under supervision at any time
9 if warranted by the conduct of the minor and the ends of
10 justice.

11 (5) When a hearing where a minor is alleged to be
12 delinquent is continued pursuant to this Section, the court
13 may, as conditions of the continuance under supervision,
14 require the minor to do any of the following:

15 (a) not violate any criminal statute of any
16 jurisdiction;

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

19 (c) work or pursue a course of study or vocational
20 training;

21 (d) undergo medical or psychotherapeutic treatment
22 rendered by a therapist licensed under the provisions of
23 the Medical Practice Act of 1987, the Clinical Psychologist
24 Licensing Act, or the Clinical Social Work and Social Work
25 Practice Act, or an entity licensed by the Department of
26 Human Services as a successor to the Department of
27 Alcoholism and Substance Abuse, for the provision of drug
28 addiction and alcoholism treatment;

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

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

32 (g) pay costs;

33 (h) refrain from possessing a firearm or other
34 dangerous weapon, or an automobile;

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

3 (j) reside with his or her parents or in a foster home;

4 (k) attend school;

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

12 (l) attend a non-residential program for youth;

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

15 (n) perform some reasonable public or community
16 service;

17 (o) make restitution to the victim, in the same manner
18 and under the same conditions as provided in subsection (4)
19 of Section 5-710, except that the "sentencing hearing"
20 referred to in that Section shall be the adjudicatory
21 hearing for purposes of this Section;

22 (p) comply with curfew requirements as designated by
23 the court;

24 (q) refrain from entering into a designated geographic
25 area except upon terms as the court finds appropriate. The
26 terms may include consideration of the purpose of the
27 entry, the time of day, other persons accompanying the
28 minor, and advance approval by a probation officer;

29 (r) refrain from having any contact, directly or
30 indirectly, with certain specified persons or particular
31 types of persons, including but not limited to members of
32 street gangs and drug users or dealers;

33 (r-5) undergo a medical or other procedure to have a
34 tattoo symbolizing allegiance to a street gang removed from

1 his or her body;

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

9 (t) comply with any other conditions as may be ordered
10 by the court.

11 (6) A minor whose case is continued under supervision under
12 subsection (5) shall be given a certificate setting forth the
13 conditions imposed by the court. Those conditions may be
14 reduced, enlarged, or modified by the court on motion of the
15 probation officer or on its own motion, or that of the State's
16 Attorney, or, at the request of the minor after notice and
17 hearing.

18 (7) If a petition is filed charging a violation of a
19 condition of the continuance under supervision, the court shall
20 conduct a hearing. If the court finds that a condition of
21 supervision has not been fulfilled, the court may proceed to
22 findings and adjudication and disposition. The filing of a
23 petition for violation of a condition of the continuance under
24 supervision shall toll the period of continuance under
25 supervision until the final determination of the charge, and
26 the term of the continuance under supervision shall not run
27 until the hearing and disposition of the petition for
28 violation; provided where the petition alleges conduct that
29 does not constitute a criminal offense, the hearing must be
30 held within 30 days of the filing of the petition unless a
31 delay shall continue the tolling of the period of continuance
32 under supervision for the period of the delay.

33 (8) When a hearing in which a minor is alleged to be a
34 delinquent for reasons that include a violation of Section

1 21-1.3 of the Criminal Code of 1961 is continued under this
2 Section, the court shall, as a condition of the continuance
3 under supervision, require the minor to perform community
4 service for not less than 30 and not more than 120 hours, if
5 community service is available in the jurisdiction. The
6 community service shall include, but need not be limited to,
7 the cleanup and repair of the damage that was caused by the
8 alleged violation or similar damage to property located in the
9 municipality or county in which the alleged violation occurred.
10 The condition may be in addition to any other condition.

11 (8.5) When a hearing in which a minor is alleged to be a
12 delinquent for reasons that include a violation of Section 3.02
13 or Section 3.03 of the Humane Care for Animals Act or paragraph
14 (d) of subsection (1) of Section 21-1 of the Criminal Code of
15 1961 is continued under this Section, the court shall, as a
16 condition of the continuance under supervision, require the
17 minor to undergo medical or psychiatric treatment rendered by a
18 psychiatrist or psychological treatment rendered by a clinical
19 psychologist. The condition may be in addition to any other
20 condition.

21 (9) When a hearing in which a minor is alleged to be a
22 delinquent is continued under this Section, the court, before
23 continuing the case, shall make a finding whether the offense
24 alleged to have been committed either: (i) was related to or in
25 furtherance of the activities of an organized gang or was
26 motivated by the minor's membership in or allegiance to an
27 organized gang, or (ii) is a violation of paragraph (13) of
28 subsection (a) of Section 12-2 of the Criminal Code of 1961, a
29 violation of any Section of Article 24 of the Criminal Code of
30 1961, or a violation of any statute that involved the unlawful
31 use of a firearm. If the court determines the question in the
32 affirmative the court shall, as a condition of the continuance
33 under supervision and as part of or in addition to any other
34 condition of the supervision, require the minor to perform

1 community service for not less than 30 hours, provided that
2 community service is available in the jurisdiction and is
3 funded and approved by the county board of the county where the
4 offense was committed. The community service shall include, but
5 need not be limited to, the cleanup and repair of any damage
6 caused by an alleged violation of Section 21-1.3 of the
7 Criminal Code of 1961 and similar damage to property located in
8 the municipality or county in which the alleged violation
9 occurred. When possible and reasonable, the community service
10 shall be performed in the minor's neighborhood. For the
11 purposes of this Section, "organized gang" has the meaning
12 ascribed to it in Section 10 of the Illinois Streetgang
13 Terrorism Omnibus Prevention Act.

14 (10) The court shall impose upon a minor placed on
15 supervision, as a condition of the supervision, a fee of \$25
16 for each month of supervision ordered by the court, unless
17 after determining the inability of the minor placed on
18 supervision to pay the fee, the court assesses a lesser amount.
19 The court may not impose the fee on a minor who is made a ward
20 of the State under this Act while the minor is in placement.
21 The fee shall be imposed only upon a minor who is actively
22 supervised by the probation and court services department. A
23 court may order the parent, guardian, or legal custodian of the
24 minor to pay some or all of the fee on the minor's behalf.

25 (Source: P.A. 91-98; eff. 1-1-00; 91-332, eff. 7-29-99; 92-16,
26 eff. 6-28-01; 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651,
27 eff. 7-11-02.)

28 (705 ILCS 405/5-710)

29 Sec. 5-710. Kinds of sentencing orders.

30 (1) The following kinds of sentencing orders may be made in
31 respect of wards of the court:

32 (a) Except as provided in Sections 5-805, 5-810, 5-815,
33 a minor who is found guilty under Section 5-620 may be:

1 (i) put on probation or conditional discharge and
2 released to his or her parents, guardian or legal
3 custodian, provided, however, that any such minor who
4 is not committed to the Department of Corrections,
5 Juvenile Division under this subsection and who is
6 found to be a delinquent for an offense which is first
7 degree murder, a Class X felony, or a forcible felony
8 shall be placed on probation;

9 (ii) placed in accordance with Section 5-740, with
10 or without also being put on probation or conditional
11 discharge;

12 (iii) required to undergo a substance abuse
13 assessment conducted by a licensed provider and
14 participate in the indicated clinical level of care;

15 (iv) placed in the guardianship of the Department
16 of Children and Family Services, but only if the
17 delinquent minor is under 13 years of age;

18 (v) placed in detention for a period not to exceed
19 30 days, either as the exclusive order of disposition
20 or, where appropriate, in conjunction with any other
21 order of disposition issued under this paragraph,
22 provided that any such detention shall be in a juvenile
23 detention home and the minor so detained shall be 10
24 years of age or older. However, the 30-day limitation
25 may be extended by further order of the court for a
26 minor under age 13 committed to the Department of
27 Children and Family Services if the court finds that
28 the minor is a danger to himself or others. The minor
29 shall be given credit on the sentencing order of
30 detention for time spent in detention under Sections
31 5-501, 5-601, 5-710, or 5-720 of this Article as a
32 result of the offense for which the sentencing order
33 was imposed. The court may grant credit on a sentencing
34 order of detention entered under a violation of

1 probation or violation of conditional discharge under
2 Section 5-720 of this Article for time spent in
3 detention before the filing of the petition alleging
4 the violation. A minor shall not be deprived of credit
5 for time spent in detention before the filing of a
6 violation of probation or conditional discharge
7 alleging the same or related act or acts;

8 (vi) ordered partially or completely emancipated
9 in accordance with the provisions of the Emancipation
10 of ~~Mature~~ Minors Act;

11 (vii) subject to having his or her driver's license
12 or driving privileges suspended for such time as
13 determined by the court but only until he or she
14 attains 18 years of age;

15 (viii) put on probation or conditional discharge
16 and placed in detention under Section 3-6039 of the
17 Counties Code for a period not to exceed the period of
18 incarceration permitted by law for adults found guilty
19 of the same offense or offenses for which the minor was
20 adjudicated delinquent, and in any event no longer than
21 upon attainment of age 21; this subdivision (viii)
22 notwithstanding any contrary provision of the law; or

23 (ix) ordered to undergo a medical or other
24 procedure to have a tattoo symbolizing allegiance to a
25 street gang removed from his or her body.

26 (b) A minor found to be guilty may be committed to the
27 Department of Corrections, Juvenile Division, under
28 Section 5-750 if the minor is 13 years of age or older,
29 provided that the commitment to the Department of
30 Corrections, Juvenile Division, shall be made only if a
31 term of incarceration is permitted by law for adults found
32 guilty of the offense for which the minor was adjudicated
33 delinquent. The time during which a minor is in custody
34 before being released upon the request of a parent,

1 guardian or legal custodian shall be considered as time
2 spent in detention.

3 (c) When a minor is found to be guilty for an offense
4 which is a violation of the Illinois Controlled Substances
5 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine
6 Control and Community Protection Act and made a ward of the
7 court, the court may enter a disposition order requiring
8 the minor to undergo assessment, counseling or treatment in
9 a substance abuse program approved by the Department of
10 Human Services.

11 (2) Any sentencing order other than commitment to the
12 Department of Corrections, Juvenile Division, may provide for
13 protective supervision under Section 5-725 and may include an
14 order of protection under Section 5-730.

15 (3) Unless the sentencing order expressly so provides, it
16 does not operate to close proceedings on the pending petition,
17 but is subject to modification until final closing and
18 discharge of the proceedings under Section 5-750.

19 (4) In addition to any other sentence, the court may order
20 any minor found to be delinquent to make restitution, in
21 monetary or non-monetary form, under the terms and conditions
22 of Section 5-5-6 of the Unified Code of Corrections, except
23 that the "presentencing hearing" referred to in that Section
24 shall be the sentencing hearing for purposes of this Section.
25 The parent, guardian or legal custodian of the minor may be
26 ordered by the court to pay some or all of the restitution on
27 the minor's behalf, pursuant to the Parental Responsibility
28 Law. The State's Attorney is authorized to act on behalf of any
29 victim in seeking restitution in proceedings under this
30 Section, up to the maximum amount allowed in Section 5 of the
31 Parental Responsibility Law.

32 (5) Any sentencing order where the minor is committed or
33 placed in accordance with Section 5-740 shall provide for the
34 parents or guardian of the estate of the minor to pay to the

1 legal custodian or guardian of the person of the minor such
2 sums as are determined by the custodian or guardian of the
3 person of the minor as necessary for the minor's needs. The
4 payments may not exceed the maximum amounts provided for by
5 Section 9.1 of the Children and Family Services Act.

6 (6) Whenever the sentencing order requires the minor to
7 attend school or participate in a program of training, the
8 truant officer or designated school official shall regularly
9 report to the court if the minor is a chronic or habitual
10 truant under Section 26-2a of the School Code.

11 (7) In no event shall a guilty minor be committed to the
12 Department of Corrections, Juvenile Division for a period of
13 time in excess of that period for which an adult could be
14 committed for the same act.

15 (8) A minor found to be guilty for reasons that include a
16 violation of Section 21-1.3 of the Criminal Code of 1961 shall
17 be ordered to perform community service for not less than 30
18 and not more than 120 hours, if community service is available
19 in the jurisdiction. The community service shall include, but
20 need not be limited to, the cleanup and repair of the damage
21 that was caused by the violation or similar damage to property
22 located in the municipality or county in which the violation
23 occurred. The order may be in addition to any other order
24 authorized by this Section.

25 (8.5) A minor found to be guilty for reasons that include a
26 violation of Section 3.02 or Section 3.03 of the Humane Care
27 for Animals Act or paragraph (d) of subsection (1) of Section
28 21-1 of the Criminal Code of 1961 shall be ordered to undergo
29 medical or psychiatric treatment rendered by a psychiatrist or
30 psychological treatment rendered by a clinical psychologist.
31 The order may be in addition to any other order authorized by
32 this Section.

33 (9) In addition to any other sentencing order, the court
34 shall order any minor found to be guilty for an act which would

1 constitute, predatory criminal sexual assault of a child,
2 aggravated criminal sexual assault, criminal sexual assault,
3 aggravated criminal sexual abuse, or criminal sexual abuse if
4 committed by an adult to undergo medical testing to determine
5 whether the defendant has any sexually transmissible disease
6 including a test for infection with human immunodeficiency
7 virus (HIV) or any other identified causative agency of
8 acquired immunodeficiency syndrome (AIDS). Any medical test
9 shall be performed only by appropriately licensed medical
10 practitioners and may include an analysis of any bodily fluids
11 as well as an examination of the minor's person. Except as
12 otherwise provided by law, the results of the test shall be
13 kept strictly confidential by all medical personnel involved in
14 the testing and must be personally delivered in a sealed
15 envelope to the judge of the court in which the sentencing
16 order was entered for the judge's inspection in camera. Acting
17 in accordance with the best interests of the victim and the
18 public, the judge shall have the discretion to determine to
19 whom the results of the testing may be revealed. The court
20 shall notify the minor of the results of the test for infection
21 with the human immunodeficiency virus (HIV). The court shall
22 also notify the victim if requested by the victim, and if the
23 victim is under the age of 15 and if requested by the victim's
24 parents or legal guardian, the court shall notify the victim's
25 parents or the legal guardian, of the results of the test for
26 infection with the human immunodeficiency virus (HIV). The
27 court shall provide information on the availability of HIV
28 testing and counseling at the Department of Public Health
29 facilities to all parties to whom the results of the testing
30 are revealed. The court shall order that the cost of any test
31 shall be paid by the county and may be taxed as costs against
32 the minor.

33 (10) When a court finds a minor to be guilty the court
34 shall, before entering a sentencing order under this Section,

1 make a finding whether the offense committed either: (a) was
2 related to or in furtherance of the criminal activities of an
3 organized gang or was motivated by the minor's membership in or
4 allegiance to an organized gang, or (b) involved a violation of
5 subsection (a) of Section 12-7.1 of the Criminal Code of 1961,
6 a violation of any Section of Article 24 of the Criminal Code
7 of 1961, or a violation of any statute that involved the
8 wrongful use of a firearm. If the court determines the question
9 in the affirmative, and the court does not commit the minor to
10 the Department of Corrections, Juvenile Division, the court
11 shall order the minor to perform community service for not less
12 than 30 hours nor more than 120 hours, provided that community
13 service is available in the jurisdiction and is funded and
14 approved by the county board of the county where the offense
15 was committed. The community service shall include, but need
16 not be limited to, the cleanup and repair of any damage caused
17 by a violation of Section 21-1.3 of the Criminal Code of 1961
18 and similar damage to property located in the municipality or
19 county in which the violation occurred. When possible and
20 reasonable, the community service shall be performed in the
21 minor's neighborhood. This order shall be in addition to any
22 other order authorized by this Section except for an order to
23 place the minor in the custody of the Department of
24 Corrections, Juvenile Division. For the purposes of this
25 Section, "organized gang" has the meaning ascribed to it in
26 Section 10 of the Illinois Streetgang Terrorism Omnibus
27 Prevention Act.

28 (Source: P.A. 91-98, eff. 1-1-00; 92-454, eff. 1-1-02; revised
29 10-9-03.)

30 (705 ILCS 405/5-715)

31 Sec. 5-715. Probation.

32 (1) The period of probation or conditional discharge shall
33 not exceed 5 years or until the minor has attained the age of

1 21 years, whichever is less, except as provided in this Section
2 for a minor who is found to be guilty for an offense which is
3 first degree murder, a Class X felony or a forcible felony. The
4 juvenile court may terminate probation or conditional
5 discharge and discharge the minor at any time if warranted by
6 the conduct of the minor and the ends of justice; provided,
7 however, that the period of probation for a minor who is found
8 to be guilty for an offense which is first degree murder, a
9 Class X felony, or a forcible felony shall be at least 5 years.

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

12 (a) not violate any criminal statute of any
13 jurisdiction;

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

16 (c) work or pursue a course of study or vocational
17 training;

18 (d) undergo medical or psychiatric treatment, rendered
19 by a psychiatrist or psychological treatment rendered by a
20 clinical psychologist or social work services rendered by a
21 clinical social worker, or treatment for drug addiction or
22 alcoholism;

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

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

26 (g) refrain from possessing a firearm or other
27 dangerous weapon, or an automobile;

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

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

31 (j) attend school;

32 (j-5) with the consent of the superintendent of the
33 facility, attend an educational program at a facility other
34 than the school in which the offense was committed if he or

1 she committed a crime of violence as defined in Section 2
2 of the Crime Victims Compensation Act in a school, on the
3 real property comprising a school, or within 1,000 feet of
4 the real property comprising a school;

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

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

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

10 (n) perform some reasonable public or community
11 service;

12 (o) participate with community corrections programs
13 including unified delinquency intervention services
14 administered by the Department of Human Services subject to
15 Section 5 of the Children and Family Services Act;

16 (p) pay costs;

17 (q) serve a term of home confinement. In addition to
18 any other applicable condition of probation or conditional
19 discharge, the conditions of home confinement shall be that
20 the minor:

21 (i) remain within the interior premises of the
22 place designated for his or her confinement during the
23 hours designated by the court;

24 (ii) admit any person or agent designated by the
25 court into the minor's place of confinement at any time
26 for purposes of verifying the minor's compliance with
27 the conditions of his or her confinement; and

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

31 (r) refrain from entering into a designated geographic
32 area except upon terms as the court finds appropriate. The
33 terms may include consideration of the purpose of the
34 entry, the time of day, other persons accompanying the

1 minor, and advance approval by a probation officer, if the
2 minor has been placed on probation, or advance approval by
3 the court, if the minor has been placed on conditional
4 discharge;

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

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

12 (t) refrain from having in his or her body the presence
13 of any illicit drug prohibited by the Cannabis Control Act,
14 ~~or~~ the Illinois Controlled Substances Act, or the
15 Methamphetamine Control and Community Protection Act,
16 unless prescribed by a physician, and shall submit samples
17 of his or her blood or urine or both for tests to determine
18 the presence of any illicit drug; or

19 (u) comply with other conditions as may be ordered by
20 the court.

21 (3) The court may as a condition of probation or of
22 conditional discharge require that a minor found guilty on any
23 alcohol, cannabis, methamphetamine, or controlled substance
24 violation, refrain from acquiring a driver's license during the
25 period of probation or conditional discharge. If the minor is
26 in possession of a permit or license, the court may require
27 that the minor refrain from driving or operating any motor
28 vehicle during the period of probation or conditional
29 discharge, except as may be necessary in the course of the
30 minor's lawful employment.

31 (3.5) The court shall, as a condition of probation or of
32 conditional discharge, require that a minor found to be guilty
33 and placed on probation for reasons that include a violation of
34 Section 3.02 or Section 3.03 of the Humane Care for Animals Act

1 or paragraph (d) of subsection (1) of Section 21-1 of the
2 Criminal Code of 1961 undergo medical or psychiatric treatment
3 rendered by a psychiatrist or psychological treatment rendered
4 by a clinical psychologist. The condition may be in addition to
5 any other condition.

6 (3.10) The court shall order that a minor placed on
7 probation or conditional discharge for a sex offense as defined
8 in the Sex Offender Management Board Act undergo and
9 successfully complete sex offender treatment. The treatment
10 shall be in conformance with the standards developed under the
11 Sex Offender Management Board Act and conducted by a treatment
12 provider approved by the Board. The treatment shall be at the
13 expense of the person evaluated based upon that person's
14 ability to pay for the treatment.

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

18 (5) The court shall impose upon a minor placed on probation
19 or conditional discharge, as a condition of the probation or
20 conditional discharge, a fee of \$25 for each month of probation
21 or conditional discharge supervision ordered by the court,
22 unless after determining the inability of the minor placed on
23 probation or conditional discharge to pay the fee, the court
24 assesses a lesser amount. The court may not impose the fee on a
25 minor who is made a ward of the State under this Act while the
26 minor is in placement. The fee shall be imposed only upon a
27 minor who is actively supervised by the probation and court
28 services department. The court may order the parent, guardian,
29 or legal custodian of the minor to pay some or all of the fee on
30 the minor's behalf.

31 (6) The General Assembly finds that in order to protect the
32 public, the juvenile justice system must compel compliance with
33 the conditions of probation by responding to violations with
34 swift, certain, and fair punishments and intermediate

1 sanctions. The Chief Judge of each circuit shall adopt a system
2 of structured, intermediate sanctions for violations of the
3 terms and conditions of a sentence of supervision, probation or
4 conditional discharge, under this Act.

5 The court shall provide as a condition of a disposition of
6 probation, conditional discharge, or supervision, that the
7 probation agency may invoke any sanction from the list of
8 intermediate sanctions adopted by the chief judge of the
9 circuit court for violations of the terms and conditions of the
10 sentence of probation, conditional discharge, or supervision,
11 subject to the provisions of Section 5-720 of this Act.

12 (Source: P.A. 92-282, eff. 8-7-01; 92-454, eff. 1-1-02; 92-651,
13 eff. 7-11-02; 93-616, eff. 1-1-04.)

14 (705 ILCS 405/5-805)

15 Sec. 5-805. Transfer of jurisdiction.

16 (1) Mandatory transfers.

17 (a) If a petition alleges commission by a minor 15
18 years of age or older of an act that constitutes a forcible
19 felony under the laws of this State, and if a motion by the
20 State's Attorney to prosecute the minor under the criminal
21 laws of Illinois for the alleged forcible felony alleges
22 that (i) the minor has previously been adjudicated
23 delinquent or found guilty for commission of an act that
24 constitutes a felony under the laws of this State or any
25 other state and (ii) the act that constitutes the offense
26 was committed in furtherance of criminal activity by an
27 organized gang, the Juvenile Judge assigned to hear and
28 determine those motions shall, upon determining that there
29 is probable cause that both allegations are true, enter an
30 order permitting prosecution under the criminal laws of
31 Illinois.

32 (b) If a petition alleges commission by a minor 15
33 years of age or older of an act that constitutes a felony

1 under the laws of this State, and if a motion by a State's
2 Attorney to prosecute the minor under the criminal laws of
3 Illinois for the alleged felony alleges that (i) the minor
4 has previously been adjudicated delinquent or found guilty
5 for commission of an act that constitutes a forcible felony
6 under the laws of this State or any other state and (ii)
7 the act that constitutes the offense was committed in
8 furtherance of criminal activities by an organized gang,
9 the Juvenile Judge assigned to hear and determine those
10 motions shall, upon determining that there is probable
11 cause that both allegations are true, enter an order
12 permitting prosecution under the criminal laws of
13 Illinois.

14 (c) If a petition alleges commission by a minor 15
15 years of age or older of: (i) an act that constitutes an
16 offense enumerated in the presumptive transfer provisions
17 of subsection (2); and (ii) the minor has previously been
18 adjudicated delinquent or found guilty of a forcible
19 felony, the Juvenile Judge designated to hear and determine
20 those motions shall, upon determining that there is
21 probable cause that both allegations are true, enter an
22 order permitting prosecution under the criminal laws of
23 Illinois.

24 (d) If a petition alleges commission by a minor 15
25 years of age or older of an act that constitutes the
26 offense of aggravated discharge of a firearm committed in a
27 school, on the real property comprising a school, within
28 1,000 feet of the real property comprising a school, at a
29 school related activity, or on, boarding, or departing from
30 any conveyance owned, leased, or contracted by a school or
31 school district to transport students to or from school or
32 a school related activity, regardless of the time of day or
33 the time of year, the juvenile judge designated to hear and
34 determine those motions shall, upon determining that there

1 is probable cause that the allegations are true, enter an
2 order permitting prosecution under the criminal laws of
3 Illinois.

4 For purposes of this paragraph (d) of subsection (1):

5 "School" means a public or private elementary or
6 secondary school, community college, college, or
7 university.

8 "School related activity" means any sporting, social,
9 academic, or other activity for which students' attendance
10 or participation is sponsored, organized, or funded in
11 whole or in part by a school or school district.

12 (2) Presumptive transfer.

13 (a) If the State's Attorney files a petition, at any
14 time prior to commencement of the minor's trial, to permit
15 prosecution under the criminal laws and the petition
16 alleges the commission by a minor 15 years of age or older
17 of: (i) a Class X felony other than armed violence; (ii)
18 aggravated discharge of a firearm; (iii) armed violence
19 with a firearm when the predicate offense is a Class 1 or
20 Class 2 felony and the State's Attorney's motion to
21 transfer the case alleges that the offense committed is in
22 furtherance of the criminal activities of an organized
23 gang; (iv) armed violence with a firearm when the predicate
24 offense is a violation of the Illinois Controlled
25 Substances Act, ~~or~~ a violation of the Cannabis Control Act,
26 or a violation of the Methamphetamine Control and Community
27 Protection Act; (v) armed violence when the weapon involved
28 was a machine gun or other weapon described in subsection
29 (a)(7) of Section 24-1 of the Criminal Code of 1961, and,
30 if the juvenile judge assigned to hear and determine
31 motions to transfer a case for prosecution in the criminal
32 court determines that there is probable cause to believe
33 that the allegations in the petition and motion are true,
34 there is a rebuttable presumption that the minor is not a

1 fit and proper subject to be dealt with under the Juvenile
2 Justice Reform Provisions of 1998 (Public Act 90-590), and
3 that, except as provided in paragraph (b), the case should
4 be transferred to the criminal court.

5 (b) The judge shall enter an order permitting
6 prosecution under the criminal laws of Illinois unless the
7 judge makes a finding based on clear and convincing
8 evidence that the minor would be amenable to the care,
9 treatment, and training programs available through the
10 facilities of the juvenile court based on an evaluation of
11 the following:

12 (i) The seriousness of the alleged offense;

13 (ii) The minor's history of delinquency;

14 (iii) The age of the minor;

15 (iv) The culpability of the minor in committing the
16 alleged offense;

17 (v) Whether the offense was committed in an aggressive
18 or premeditated manner;

19 (vi) Whether the minor used or possessed a deadly
20 weapon when committing the alleged offense;

21 (vii) The minor's history of services, including the
22 minor's willingness to participate meaningfully in
23 available services;

24 (viii) Whether there is a reasonable likelihood that
25 the minor can be rehabilitated before the expiration of the
26 juvenile court's jurisdiction;

27 (ix) The adequacy of the punishment or services
28 available in the juvenile justice system.

29 In considering these factors, the court shall give greater
30 weight to the seriousness of the alleged offense and the
31 minor's prior record of delinquency than to the other factors
32 listed in this subsection.

33 (3) Discretionary transfer.

34 (a) If a petition alleges commission by a minor 13

1 years of age or over of an act that constitutes a crime
2 under the laws of this State and, on motion of the State's
3 Attorney to permit prosecution of the minor under the
4 criminal laws, a Juvenile Judge assigned by the Chief Judge
5 of the Circuit to hear and determine those motions, after
6 hearing but before commencement of the trial, finds that
7 there is probable cause to believe that the allegations in
8 the motion are true and that it is not in the best
9 interests of the public to proceed under this Act, the
10 court may enter an order permitting prosecution under the
11 criminal laws.

12 (b) In making its determination on the motion to permit
13 prosecution under the criminal laws, the court shall
14 consider among other matters:

15 (i) The seriousness of the alleged offense;

16 (ii) The minor's history of delinquency;

17 (iii) The age of the minor;

18 (iv) The culpability of the minor in committing the
19 alleged offense;

20 (v) Whether the offense was committed in an aggressive
21 or premeditated manner;

22 (vi) Whether the minor used or possessed a deadly
23 weapon when committing the alleged offense;

24 (vii) The minor's history of services, including the
25 minor's willingness to participate meaningfully in
26 available services;

27 (viii) The adequacy of the punishment or services
28 available in the juvenile justice system.

29 In considering these factors, the court shall give greater
30 weight to the seriousness of the alleged offense and the
31 minor's prior record of delinquency than to the other factors
32 listed in this subsection.

33 (4) The rules of evidence for this hearing shall be the
34 same as under Section 5-705 of this Act. A minor must be

1 represented in court by counsel before the hearing may be
2 commenced.

3 (5) If criminal proceedings are instituted, the petition
4 for adjudication of wardship shall be dismissed insofar as the
5 act or acts involved in the criminal proceedings. Taking of
6 evidence in a trial on petition for adjudication of wardship is
7 a bar to criminal proceedings based upon the conduct alleged in
8 the petition.

9 (Source: P.A. 90-590, eff. 1-1-99; 91-15, eff. 1-1-00; 91-357,
10 eff. 7-29-99.)

11 (705 ILCS 405/5-901)

12 Sec. 5-901. Court file.

13 (1) The Court file with respect to proceedings under this
14 Article shall consist of the petitions, pleadings, victim
15 impact statements, process, service of process, orders, writs
16 and docket entries reflecting hearings held and judgments and
17 decrees entered by the court. The court file shall be kept
18 separate from other records of the court.

19 (a) The file, including information identifying the
20 victim or alleged victim of any sex offense, shall be
21 disclosed only to the following parties when necessary for
22 discharge of their official duties:

23 (i) A judge of the circuit court and members of the
24 staff of the court designated by the judge;

25 (ii) Parties to the proceedings and their
26 attorneys;

27 (iii) Victims and their attorneys, except in cases
28 of multiple victims of sex offenses in which case the
29 information identifying the nonrequesting victims
30 shall be redacted;

31 (iv) Probation officers, law enforcement officers
32 or prosecutors or their staff;

33 (v) Adult and juvenile Prisoner Review Boards.

1 (b) The Court file redacted to remove any information
2 identifying the victim or alleged victim of any sex offense
3 shall be disclosed only to the following parties when
4 necessary for discharge of their official duties:

5 (i) Authorized military personnel;

6 (ii) Persons engaged in bona fide research, with
7 the permission of the judge of the juvenile court and
8 the chief executive of the agency that prepared the
9 particular recording: provided that publication of
10 such research results in no disclosure of a minor's
11 identity and protects the confidentiality of the
12 record;

13 (iii) The Secretary of State to whom the Clerk of
14 the Court shall report the disposition of all cases, as
15 required in Section 6-204 or Section 6-205.1 of the
16 Illinois Vehicle Code. However, information reported
17 relative to these offenses shall be privileged and
18 available only to the Secretary of State, courts, and
19 police officers;

20 (iv) The administrator of a bonafide substance
21 abuse student assistance program with the permission
22 of the presiding judge of the juvenile court;

23 (v) Any individual, or any public or private agency
24 or institution, having custody of the juvenile under
25 court order or providing educational, medical or
26 mental health services to the juvenile or a
27 court-approved advocate for the juvenile or any
28 placement provider or potential placement provider as
29 determined by the court.

30 (3) A minor who is the victim or alleged victim in a
31 juvenile proceeding shall be provided the same confidentiality
32 regarding disclosure of identity as the minor who is the
33 subject of record. Information identifying victims and alleged
34 victims of sex offenses, shall not be disclosed or open to

1 public inspection under any circumstances. Nothing in this
2 Section shall prohibit the victim or alleged victim of any sex
3 offense from voluntarily disclosing his or her identity.

4 (4) Relevant information, reports and records shall be made
5 available to the Department of Corrections when a juvenile
6 offender has been placed in the custody of the Department of
7 Corrections, Juvenile Division.

8 (5) Except as otherwise provided in this subsection (5),
9 juvenile court records shall not be made available to the
10 general public but may be inspected by representatives of
11 agencies, associations and news media or other properly
12 interested persons by general or special order of the court.
13 The State's Attorney, the minor, his or her parents, guardian
14 and counsel shall at all times have the right to examine court
15 files and records.

16 (a) The court shall allow the general public to have
17 access to the name, address, and offense of a minor who is
18 adjudicated a delinquent minor under this Act under either
19 of the following circumstances:

20 (i) The adjudication of delinquency was based upon
21 the minor's commission of first degree murder, attempt
22 to commit first degree murder, aggravated criminal
23 sexual assault, or criminal sexual assault; or

24 (ii) The court has made a finding that the minor
25 was at least 13 years of age at the time the act was
26 committed and the adjudication of delinquency was
27 based upon the minor's commission of: (A) an act in
28 furtherance of the commission of a felony as a member
29 of or on behalf of a criminal street gang, (B) an act
30 involving the use of a firearm in the commission of a
31 felony, (C) an act that would be a Class X felony
32 offense under or the minor's second or subsequent Class
33 2 or greater felony offense under the Cannabis Control
34 Act if committed by an adult, (D) an act that would be

1 a second or subsequent offense under Section 402 of the
2 Illinois Controlled Substances Act if committed by an
3 adult, ~~or~~ (E) an act that would be an offense under
4 Section 401 of the Illinois Controlled Substances Act
5 if committed by an adult, or (F) an act that would be
6 an offense under the Methamphetamine Control and
7 Community Protection Act if committed by an adult.

8 (b) The court shall allow the general public to have
9 access to the name, address, and offense of a minor who is
10 at least 13 years of age at the time the offense is
11 committed and who is convicted, in criminal proceedings
12 permitted or required under Section 5-805, under either of
13 the following circumstances:

14 (i) The minor has been convicted of first degree
15 murder, attempt to commit first degree murder,
16 aggravated criminal sexual assault, or criminal sexual
17 assault,

18 (ii) The court has made a finding that the minor
19 was at least 13 years of age at the time the offense
20 was committed and the conviction was based upon the
21 minor's commission of: (A) an offense in furtherance of
22 the commission of a felony as a member of or on behalf
23 of a criminal street gang, (B) an offense involving the
24 use of a firearm in the commission of a felony, (C) a
25 Class X felony offense under the Cannabis Control Act
26 or a second or subsequent Class 2 or greater felony
27 offense under the Cannabis Control Act, (D) a second or
28 subsequent offense under Section 402 of the Illinois
29 Controlled Substances Act, ~~or~~ (E) an offense under
30 Section 401 of the Illinois Controlled Substances Act, or
31 (F) an offense under the Methamphetamine Control and
32 Community Protection Act.

33 (6) Nothing in this Section shall be construed to limit the
34 use of a adjudication of delinquency as evidence in any

1 juvenile or criminal proceeding, where it would otherwise be
2 admissible under the rules of evidence, including but not
3 limited to, use as impeachment evidence against any witness,
4 including the minor if he or she testifies.

5 (7) Nothing in this Section shall affect the right of a
6 Civil Service Commission or appointing authority examining the
7 character and fitness of an applicant for a position as a law
8 enforcement officer to ascertain whether that applicant was
9 ever adjudicated to be a delinquent minor and, if so, to
10 examine the records or evidence which were made in proceedings
11 under this Act.

12 (8) Following any adjudication of delinquency for a crime
13 which would be a felony if committed by an adult, or following
14 any adjudication of delinquency for a violation of Section
15 24-1, 24-3, 24-3.1, or 24-5 of the Criminal Code of 1961, the
16 State's Attorney shall ascertain whether the minor respondent
17 is enrolled in school and, if so, shall provide a copy of the
18 sentencing order to the principal or chief administrative
19 officer of the school. Access to such juvenile records shall be
20 limited to the principal or chief administrative officer of the
21 school and any guidance counselor designated by him or her.

22 (9) Nothing contained in this Act prevents the sharing or
23 disclosure of information or records relating or pertaining to
24 juveniles subject to the provisions of the Serious Habitual
25 Offender Comprehensive Action Program when that information is
26 used to assist in the early identification and treatment of
27 habitual juvenile offenders.

28 (11) The Clerk of the Circuit Court shall report to the
29 Department of State Police, in the form and manner required by
30 the Department of State Police, the final disposition of each
31 minor who has been arrested or taken into custody before his or
32 her 17th birthday for those offenses required to be reported
33 under Section 5 of the Criminal Identification Act. Information
34 reported to the Department under this Section may be maintained

1 with records that the Department files under Section 2.1 of the
2 Criminal Identification Act.

3 (12) Information or records may be disclosed to the general
4 public when the court is conducting hearings under Section
5 5-805 or 5-810.

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

7 Section 1055. The Criminal Code of 1961 is amended by
8 changing Sections 9-3.3, 11-19.2, 14-3, 19-5, 20-2, 24-1.1,
9 24-1.6, 29B-1, 31A-1.1, 31A-1.2, 33A-3, 37-1, 44-2, and 44-3 as
10 follows:

11 (720 ILCS 5/9-3.3) (from Ch. 38, par. 9-3.3)

12 Sec. 9-3.3. Drug-induced homicide.

13 (a) A person who violates Section 401 of the Illinois
14 Controlled Substances Act or Section 55 of the Methamphetamine
15 Control and Community Protection Act by unlawfully delivering a
16 controlled substance to another, and any person dies as a
17 result of the injection, inhalation or ingestion of any amount
18 of that controlled substance, commits the offense of
19 drug-induced homicide.

20 (b) Sentence. Drug-induced homicide is a Class X felony.

21 (c) A person who commits drug-induced homicide by violating
22 subsection (a) or subsection (c) of Section 401 of the Illinois
23 Controlled Substances Act or Section 55 of the Methamphetamine
24 Control and Community Protection Act commits a Class X felony
25 for which the defendant shall in addition to a sentence
26 authorized by law, be sentenced to a term of imprisonment of
27 not less than 15 years and not more than 30 years or an
28 extended term of not less than 30 years and not more than 60
29 years.

30 (Source: P.A. 91-357, eff. 7-29-99; 92-256, eff. 1-1-02.)

31 (720 ILCS 5/11-19.2) (from Ch. 38, par. 11-19.2)

1 Sec. 11-19.2. Exploitation of a child.

2 (A) A person commits exploitation of a child when he or she
3 confines a child under the age of 16 or a severely or
4 profoundly mentally retarded person against his or her will by
5 the infliction or threat of imminent infliction of great bodily
6 harm, permanent disability or disfigurement or by
7 administering to the child or severely or profoundly mentally
8 retarded person without his or her consent or by threat or
9 deception and for other than medical purposes, any alcoholic
10 intoxicant or a drug as defined in the Illinois Controlled
11 Substances Act or the Cannabis Control Act or methamphetamine
12 as defined in the Methamphetamine Control and Community
13 Protection Act and:

14 (1) compels the child or severely or profoundly
15 mentally retarded person to become a prostitute; or

16 (2) arranges a situation in which the child or severely
17 or profoundly mentally retarded person may practice
18 prostitution; or

19 (3) receives any money, property, token, object, or
20 article or anything of value from the child or severely or
21 profoundly mentally retarded person knowing it was
22 obtained in whole or in part from the practice of
23 prostitution.

24 (B) For purposes of this Section, administering drugs, as
25 defined in subsection (A), or an alcoholic intoxicant to a
26 child under the age of 13 or a severely or profoundly mentally
27 retarded person shall be deemed to be without consent if such
28 administering is done without the consent of the parents or
29 legal guardian.

30 (C) Exploitation of a child is a Class X felony.

31 (D) Any person convicted under this Section is subject to
32 the forfeiture provisions of Section 11-20.1A of this Act.

33 (Source: P.A. 91-357, eff. 7-29-99; 91-696, eff. 4-13-00;
34 92-434, eff. 1-1-02.)

1 (720 ILCS 5/14-3) (from Ch. 38, par. 14-3)

2 Sec. 14-3. Exemptions. The following activities shall be
3 exempt from the provisions of this Article:

4 (a) Listening to radio, wireless and television
5 communications of any sort where the same are publicly made;

6 (b) Hearing conversation when heard by employees of any
7 common carrier by wire incidental to the normal course of their
8 employment in the operation, maintenance or repair of the
9 equipment of such common carrier by wire so long as no
10 information obtained thereby is used or divulged by the hearer;

11 (c) Any broadcast by radio, television or otherwise whether
12 it be a broadcast or recorded for the purpose of later
13 broadcasts of any function where the public is in attendance
14 and the conversations are overheard incidental to the main
15 purpose for which such broadcasts are then being made;

16 (d) Recording or listening with the aid of any device to
17 any emergency communication made in the normal course of
18 operations by any federal, state or local law enforcement
19 agency or institutions dealing in emergency services,
20 including, but not limited to, hospitals, clinics, ambulance
21 services, fire fighting agencies, any public utility,
22 emergency repair facility, civilian defense establishment or
23 military installation;

24 (e) Recording the proceedings of any meeting required to be
25 open by the Open Meetings Act, as amended;

26 (f) Recording or listening with the aid of any device to
27 incoming telephone calls of phone lines publicly listed or
28 advertised as consumer "hotlines" by manufacturers or
29 retailers of food and drug products. Such recordings must be
30 destroyed, erased or turned over to local law enforcement
31 authorities within 24 hours from the time of such recording and
32 shall not be otherwise disseminated. Failure on the part of the
33 individual or business operating any such recording or

1 listening device to comply with the requirements of this
2 subsection shall eliminate any civil or criminal immunity
3 conferred upon that individual or business by the operation of
4 this Section;

5 (g) With prior notification to the State's Attorney of the
6 county in which it is to occur, recording or listening with the
7 aid of any device to any conversation where a law enforcement
8 officer, or any person acting at the direction of law
9 enforcement, is a party to the conversation and has consented
10 to it being intercepted or recorded under circumstances where
11 the use of the device is necessary for the protection of the
12 law enforcement officer or any person acting at the direction
13 of law enforcement, in the course of an investigation of a
14 forcible felony, a felony violation of the Illinois Controlled
15 Substances Act, a felony violation of the Cannabis Control Act,
16 a felony violation of the Methamphetamine Control and Community
17 Protection Act, or any "streetgang related" or "gang-related"
18 felony as those terms are defined in the Illinois Streetgang
19 Terrorism Omnibus Prevention Act. Any recording or evidence
20 derived as the result of this exemption shall be inadmissible
21 in any proceeding, criminal, civil or administrative, except
22 (i) where a party to the conversation suffers great bodily
23 injury or is killed during such conversation, or (ii) when used
24 as direct impeachment of a witness concerning matters contained
25 in the interception or recording. The Director of the
26 Department of State Police shall issue regulations as are
27 necessary concerning the use of devices, retention of tape
28 recordings, and reports regarding their use;

29 (g-5) With approval of the State's Attorney of the county
30 in which it is to occur, recording or listening with the aid of
31 any device to any conversation where a law enforcement officer,
32 or any person acting at the direction of law enforcement, is a
33 party to the conversation and has consented to it being
34 intercepted or recorded in the course of an investigation of

1 any offense defined in Article 29D of this Code. In all such
2 cases, an application for an order approving the previous or
3 continuing use of an eavesdropping device must be made within
4 48 hours of the commencement of such use. In the absence of
5 such an order, or upon its denial, any continuing use shall
6 immediately terminate. The Director of State Police shall issue
7 rules as are necessary concerning the use of devices, retention
8 of tape recordings, and reports regarding their use.

9 Any recording or evidence obtained or derived in the course
10 of an investigation of any offense defined in Article 29D of
11 this Code shall, upon motion of the State's Attorney or
12 Attorney General prosecuting any violation of Article 29D, be
13 reviewed in camera with notice to all parties present by the
14 court presiding over the criminal case, and, if ruled by the
15 court to be relevant and otherwise admissible, it shall be
16 admissible at the trial of the criminal case.

17 This subsection (g-5) is inoperative on and after January
18 1, 2005. No conversations recorded or monitored pursuant to
19 this subsection (g-5) shall be inadmissible ~~inadmissable~~ in a
20 court of law by virtue of the repeal of this subsection (g-5)
21 on January 1, 2005;

22 (h) Recordings made simultaneously with a video recording
23 of an oral conversation between a peace officer, who has
24 identified his or her office, and a person stopped for an
25 investigation of an offense under the Illinois Vehicle Code;

26 (i) Recording of a conversation made by or at the request
27 of a person, not a law enforcement officer or agent of a law
28 enforcement officer, who is a party to the conversation, under
29 reasonable suspicion that another party to the conversation is
30 committing, is about to commit, or has committed a criminal
31 offense against the person or a member of his or her immediate
32 household, and there is reason to believe that evidence of the
33 criminal offense may be obtained by the recording;

34 (j) The use of a telephone monitoring device by either (1)

1 a corporation or other business entity engaged in marketing or
2 opinion research or (2) a corporation or other business entity
3 engaged in telephone solicitation, as defined in this
4 subsection, to record or listen to oral telephone solicitation
5 conversations or marketing or opinion research conversations
6 by an employee of the corporation or other business entity
7 when:

8 (i) the monitoring is used for the purpose of service
9 quality control of marketing or opinion research or
10 telephone solicitation, the education or training of
11 employees or contractors engaged in marketing or opinion
12 research or telephone solicitation, or internal research
13 related to marketing or opinion research or telephone
14 solicitation; and

15 (ii) the monitoring is used with the consent of at
16 least one person who is an active party to the marketing or
17 opinion research conversation or telephone solicitation
18 conversation being monitored.

19 No communication or conversation or any part, portion, or
20 aspect of the communication or conversation made, acquired, or
21 obtained, directly or indirectly, under this exemption (j), may
22 be, directly or indirectly, furnished to any law enforcement
23 officer, agency, or official for any purpose or used in any
24 inquiry or investigation, or used, directly or indirectly, in
25 any administrative, judicial, or other proceeding, or divulged
26 to any third party.

27 When recording or listening authorized by this subsection
28 (j) on telephone lines used for marketing or opinion research
29 or telephone solicitation purposes results in recording or
30 listening to a conversation that does not relate to marketing
31 or opinion research or telephone solicitation; the person
32 recording or listening shall, immediately upon determining
33 that the conversation does not relate to marketing or opinion
34 research or telephone solicitation, terminate the recording or

1 listening and destroy any such recording as soon as is
2 practicable.

3 Business entities that use a telephone monitoring or
4 telephone recording system pursuant to this exemption (j) shall
5 provide current and prospective employees with notice that the
6 monitoring or recordings may occur during the course of their
7 employment. The notice shall include prominent signage
8 notification within the workplace.

9 Business entities that use a telephone monitoring or
10 telephone recording system pursuant to this exemption (j) shall
11 provide their employees or agents with access to personal-only
12 telephone lines which may be pay telephones, that are not
13 subject to telephone monitoring or telephone recording.

14 For the purposes of this subsection (j), "telephone
15 solicitation" means a communication through the use of a
16 telephone by live operators:

- 17 (i) soliciting the sale of goods or services;
18 (ii) receiving orders for the sale of goods or
19 services;
20 (iii) assisting in the use of goods or services; or
21 (iv) engaging in the solicitation, administration, or
22 collection of bank or retail credit accounts.

23 For the purposes of this subsection (j), "marketing or
24 opinion research" means a marketing or opinion research
25 interview conducted by a live telephone interviewer engaged by
26 a corporation or other business entity whose principal business
27 is the design, conduct, and analysis of polls and surveys
28 measuring the opinions, attitudes, and responses of
29 respondents toward products and services, or social or
30 political issues, or both; ~~and~~

31 (k) Electronic recordings, including but not limited to, a
32 motion picture, videotape, digital, or other visual or audio
33 recording, made of a custodial interrogation of an individual
34 at a police station or other place of detention by a law

1 enforcement officer under Section 5-401.5 of the Juvenile Court
2 Act of 1987 or Section 103-2.1 of the Code of Criminal
3 Procedure of 1963; and

4 (1) ~~(*)~~ Recording the interview or statement of any person
5 when the person knows that the interview is being conducted by
6 a law enforcement officer or prosecutor and the interview takes
7 place at a police station that is currently participating in
8 the Custodial Interview Pilot Program established under the
9 Illinois Criminal Justice Information Act.

10 (Source: P.A. 92-854, eff. 12-5-02; 93-206, eff. 7-18-03;
11 93-517, eff. 8-6-03; 93-605, eff. 11-19-03; revised 12-9-03.)

12 (720 ILCS 5/19-5) (from Ch. 38, par. 19-5)

13 Sec. 19-5. Criminal fortification of a residence or
14 building. (a) A person commits the offense of criminal
15 fortification of a residence or building when, with the intent
16 to prevent the lawful entry of a law enforcement officer or
17 another, he maintains a residence or building in a fortified
18 condition, knowing that such residence or building is used for
19 the manufacture, storage, delivery, or trafficking of
20 cannabis, ~~or~~ controlled substances, or methamphetamine as
21 defined in the Cannabis Control Act, the ~~or~~ Illinois Controlled
22 Substances Act, or the Methamphetamine Control and Community
23 Protection Act.

24 (b) "Fortified condition" means preventing or impeding
25 entry through the use of steel doors, wooden planking,
26 crossbars, alarm systems, dogs, or other similar means.

27 (c) Sentence. Criminal fortification of a residence or
28 building is a Class 3 felony.

29 (d) This Section does not apply to the fortification of a
30 residence or building used in the manufacture of
31 methamphetamine as described in Sections 10 and 25 of the
32 Methamphetamine Control and Community Protection Act.

33 (Source: P.A. 86-760.)

1 (720 ILCS 5/20-2) (from Ch. 38, par. 20-2)

2 Sec. 20-2. Possession of explosives or explosive or
3 incendiary devices.

4 (a) A person commits the offense of possession of
5 explosives or explosive or incendiary devices in violation of
6 this Section when he or she possesses, manufactures or
7 transports any explosive compound, timing or detonating device
8 for use with any explosive compound or incendiary device and
9 either intends to use such explosive or device to commit any
10 offense or knows that another intends to use such explosive or
11 device to commit a felony.

12 (b) Sentence.

13 Possession of explosives or explosive or incendiary
14 devices in violation of this Section is a Class 1 felony for
15 which a person, if sentenced to a term of imprisonment, shall
16 be sentenced to not less than 4 years and not more than 30
17 years.

18 (c) (Blank). ~~In this Section, "explosive compound" or~~
19 ~~"incendiary device" includes a methamphetamine manufacturing~~
20 ~~chemical as defined in clause (z-1) of Section 102 of the~~
21 ~~Illinois Controlled Substances Act.~~

22 (Source: P.A. 93-594, eff. 1-1-04.)

23 (720 ILCS 5/24-1.1) (from Ch. 38, par. 24-1.1)

24 Sec. 24-1.1. Unlawful Use or Possession of Weapons by
25 Felons or Persons in the Custody of the Department of
26 Corrections Facilities.

27 (a) It is unlawful for a person to knowingly possess on or
28 about his person or on his land or in his own abode or fixed
29 place of business any weapon prohibited under Section 24-1 of
30 this Act or any firearm or any firearm ammunition if the person
31 has been convicted of a felony under the laws of this State or
32 any other jurisdiction. This Section shall not apply if the

1 person has been granted relief by the Director of the
2 Department of State Police under Section 10 of the Firearm
3 Owners Identification Card Act.

4 (b) It is unlawful for any person confined in a penal
5 institution, which is a facility of the Illinois Department of
6 Corrections, to possess any weapon prohibited under Section
7 24-1 of this Code or any firearm or firearm ammunition,
8 regardless of the intent with which he possesses it.

9 (c) It shall be an affirmative defense to a violation of
10 subsection (b), that such possession was specifically
11 authorized by rule, regulation, or directive of the Illinois
12 Department of Corrections or order issued pursuant thereto.

13 (d) The defense of necessity is not available to a person
14 who is charged with a violation of subsection (b) of this
15 Section.

16 (e) Sentence. Violation of this Section by a person not
17 confined in a penal institution shall be a Class 3 felony for
18 which the person, if sentenced to a term of imprisonment, shall
19 be sentenced to no less than 2 years and no more than 10 years.
20 Violation of this Section by a person not confined in a penal
21 institution who has been convicted of a forcible felony, a
22 felony violation of Article 24 of this Code or of the Firearm
23 Owners Identification Card Act, stalking or aggravated
24 stalking, or a Class 2 or greater felony under the Illinois
25 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the
26 Methamphetamine Control and Community Protection Act is a Class
27 2 felony for which the person, if sentenced to a term of
28 imprisonment, shall be sentenced to not less than 3 years and
29 not more than 14 years. Violation of this Section by a person
30 who is on parole or mandatory supervised release is a Class 2
31 felony for which the person, if sentenced to a term of
32 imprisonment, shall be sentenced to not less than 3 years and
33 not more than 14 years. Violation of this Section by a person
34 not confined in a penal institution is a Class X felony when

1 the firearm possessed is a machine gun. Any person who violates
2 this Section while confined in a penal institution, which is a
3 facility of the Illinois Department of Corrections, is guilty
4 of a Class 1 felony, if he possesses any weapon prohibited
5 under Section 24-1 of this Code regardless of the intent with
6 which he possesses it, a Class X felony if he possesses any
7 firearm, firearm ammunition or explosive, and a Class X felony
8 for which the offender shall be sentenced to not less than 12
9 years and not more than 50 years when the firearm possessed is
10 a machine gun. A violation of this Section while wearing or in
11 possession of body armor as defined in Section 33F-1 is a Class
12 X felony punishable by a term of imprisonment of not less than
13 10 years and not more than 40 years.

14 (Source: P.A. 93-906, eff. 8-11-04.)

15 (720 ILCS 5/24-1.6)

16 Sec. 24-1.6. Aggravated unlawful use of a weapon.

17 (a) A person commits the offense of aggravated unlawful use
18 of a weapon when he or she knowingly:

19 (1) Carries on or about his or her person or in any
20 vehicle or concealed on or about his or her person except
21 when on his or her land or in his or her abode or fixed
22 place of business any pistol, revolver, stun gun or taser
23 or other firearm; or

24 (2) Carries or possesses on or about his or her person,
25 upon any public street, alley, or other public lands within
26 the corporate limits of a city, village or incorporated
27 town, except when an invitee thereon or therein, for the
28 purpose of the display of such weapon or the lawful
29 commerce in weapons, or except when on his or her own land
30 or in his or her own abode or fixed place of business, any
31 pistol, revolver, stun gun or taser or other firearm; and

32 (3) One of the following factors is present:

33 (A) the firearm possessed was uncased, loaded and

1 immediately accessible at the time of the offense; or

2 (B) the firearm possessed was uncased, unloaded
3 and the ammunition for the weapon was immediately
4 accessible at the time of the offense; or

5 (C) the person possessing the firearm has not been
6 issued a currently valid Firearm Owner's
7 Identification Card; or

8 (D) the person possessing the weapon was
9 previously adjudicated a delinquent minor under the
10 Juvenile Court Act of 1987 for an act that if committed
11 by an adult would be a felony; or

12 (E) the person possessing the weapon was engaged in
13 a misdemeanor violation of the Cannabis Control Act, ~~or~~
14 in a misdemeanor violation of the Illinois Controlled
15 Substances Act, or in a misdemeanor violation of the
16 Methamphetamine Control and Community Protection Act;
17 or

18 (F) the person possessing the weapon is a member of
19 a street gang or is engaged in street gang related
20 activity, as defined in Section 10 of the Illinois
21 Streetgang Terrorism Omnibus Prevention Act; or

22 (G) the person possessing the weapon had a order of
23 protection issued against him or her within the
24 previous 2 years; or

25 (H) the person possessing the weapon was engaged in
26 the commission or attempted commission of a
27 misdemeanor involving the use or threat of violence
28 against the person or property of another; or

29 (I) the person possessing the weapon was under 21
30 years of age and in possession of a handgun as defined
31 in Section 24-3, unless the person under 21 is engaged
32 in lawful activities under the Wildlife Code or
33 described in subsection 24-2(b)(1), (b)(3), or
34 24-2(f).

1 (b) "Stun gun or taser" as used in this Section has the
2 same definition given to it in Section 24-1 of this Code.

3 (c) This Section does not apply to or affect the
4 transportation or possession of weapons that:

5 (i) are broken down in a non-functioning state; or

6 (ii) are not immediately accessible; or

7 (iii) are unloaded and enclosed in a case, firearm
8 carrying box, shipping box, or other container by a
9 person who has been issued a currently valid Firearm
10 Owner's Identification Card.

11 (d) Sentence. Aggravated unlawful use of a weapon is a
12 Class 4 felony; a second or subsequent offense is a Class 2
13 felony. Aggravated unlawful use of a weapon by a person who has
14 been previously convicted of a felony in this State or another
15 jurisdiction is a Class 2 felony. Aggravated unlawful use of a
16 weapon while wearing or in possession of body armor as defined
17 in Section 33F-1 by a person who has not been issued a valid
18 Firearms Owner's Identification Card in accordance with
19 Section 5 of the Firearm Owners Identification Card Act is a
20 Class X felony.

21 (Source: P.A. 93-906, eff. 8-11-04.)

22 (720 ILCS 5/29B-1) (from Ch. 38, par. 29B-1)

23 Sec. 29B-1. (a) A person commits the offense of money
24 laundering:

25 (1) when he knowingly engages or attempts to engage in
26 a financial transaction in criminally derived property
27 with either the intent to promote the carrying on of the
28 unlawful activity from which the criminally derived
29 property was obtained or where he knows or reasonably
30 should know that the financial transaction is designed in
31 whole or in part to conceal or disguise the nature, the
32 location, the source, the ownership or the control of the
33 criminally derived property; or

1 (2) when, with the intent to:

2 (A) promote the carrying on of a specified criminal
3 activity as defined in this Article; or

4 (B) conceal or disguise the nature, location,
5 source, ownership, or control of property believed to
6 be the proceeds of a specified criminal activity as
7 defined by subdivision (b) (6),

8 he or she conducts or attempts to conduct a financial
9 transaction involving property he or she believes to be the
10 proceeds of specified criminal activity as defined by
11 subdivision (b) (6) or property used to conduct or
12 facilitate specified criminal activity as defined by
13 subdivision (b) (6).

14 (b) As used in this Section:

15 (1) "Financial transaction" means a purchase, sale,
16 loan, pledge, gift, transfer, delivery or other
17 disposition utilizing criminally derived property, and
18 with respect to financial institutions, includes a
19 deposit, withdrawal, transfer between accounts, exchange
20 of currency, loan, extension of credit, purchase or sale of
21 any stock, bond, certificate of deposit or other monetary
22 instrument or any other payment, transfer or delivery by,
23 through, or to a financial institution. For purposes of
24 clause (a) (2) of this Section, the term "financial
25 transaction" also means a transaction which without regard
26 to whether the funds, monetary instruments, or real or
27 personal property involved in the transaction are
28 criminally derived, any transaction which in any way or
29 degree: (1) involves the movement of funds by wire or any
30 other means; (2) involves one or more monetary instruments;
31 or (3) the transfer of title to any real or personal
32 property. The receipt by an attorney of bona fide fees for
33 the purpose of legal representation is not a financial
34 transaction for purposes of this Section.

1 (2) "Financial institution" means any bank; saving and
2 loan association; trust company; agency or branch of a
3 foreign bank in the United States; currency exchange;
4 credit union, mortgage banking institution; pawnbroker;
5 loan or finance company; operator of a credit card system;
6 issuer, redeemer or cashier of travelers checks, checks or
7 money orders; dealer in precious metals, stones or jewels;
8 broker or dealer in securities or commodities; investment
9 banker; or investment company.

10 (3) "Monetary instrument" means United States coins
11 and currency; coins and currency of a foreign country;
12 travelers checks; personal checks, bank checks, and money
13 orders; investment securities; bearer negotiable
14 instruments; bearer investment securities; or bearer
15 securities and certificates of stock in such form that
16 title thereto passes upon delivery.

17 (4) "Criminally derived property" means: (A) any
18 property constituting or derived from proceeds obtained,
19 directly or indirectly, pursuant to a violation of the
20 Criminal Code of 1961, the Illinois Controlled Substances
21 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine
22 Control and Community Protection Act; or (B) any property
23 represented to be property constituting or derived from
24 proceeds obtained, directly or indirectly, pursuant to a
25 violation of this Code, the Illinois Controlled Substances
26 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine
27 Control and Community Protection Act.

28 (5) "Conduct" or "conducts" includes, in addition to
29 its ordinary meaning, initiating, concluding, or
30 participating in initiating or concluding a transaction.

31 (6) "Specified criminal activity" means any violation
32 of Section 20.5-5 (720 ILCS 5/20.5-5) and any violation of
33 Article 29D of this Code.

34 (c) Sentence.

1 (1) Laundering of criminally derived property of a
2 value not exceeding \$10,000 is a Class 3 felony;

3 (2) Laundering of criminally derived property of a
4 value exceeding \$10,000 but not exceeding \$100,000 is a
5 Class 2 felony;

6 (3) Laundering of criminally derived property of a
7 value exceeding \$100,000 but not exceeding \$500,000 is a
8 Class 1 felony;

9 (4) Money laundering in violation of subsection (a) (2)
10 of this Section is a Class X felony;

11 (5) Laundering of criminally derived property of a
12 value exceeding \$500,000 is a Class 1 non-probationable
13 felony.

14 (Source: P.A. 92-854, eff. 12-5-02; 93-520, eff. 8-6-03.)

15 (720 ILCS 5/31A-1.1) (from Ch. 38, par. 31A-1.1)

16 Sec. 31A-1.1. Bringing Contraband into a Penal
17 Institution; Possessing Contraband in a Penal Institution.

18 (a) A person commits the offense of bringing contraband
19 into a penal institution when he knowingly and without
20 authority of any person designated or authorized to grant such
21 authority (1) brings an item of contraband into a penal
22 institution or (2) causes another to bring an item of
23 contraband into a penal institution or (3) places an item of
24 contraband in such proximity to a penal institution as to give
25 an inmate access to the contraband.

26 (b) A person commits the offense of possessing contraband
27 in a penal institution when he possesses contraband in a penal
28 institution, regardless of the intent with which he possesses
29 it.

30 (c) For the purposes of this Section, the words and phrases
31 listed below shall be defined as follows:

32 (1) "Penal institution" means any penitentiary, State
33 farm, reformatory, prison, jail, house of correction,

1 police detention area, half-way house or other institution
2 or place for the incarceration or custody of persons under
3 sentence for offenses awaiting trial or sentence for
4 offenses, under arrest for an offense, a violation of
5 probation, a violation of parole, or a violation of
6 mandatory supervised release, or awaiting a bail setting
7 hearing or preliminary hearing; provided that where the
8 place for incarceration or custody is housed within another
9 public building this Act shall not apply to that part of
10 such building unrelated to the incarceration or custody of
11 persons.

12 (2) "Item of contraband" means any of the following:

13 (i) "Alcoholic liquor" as such term is defined in
14 Section 1-3.05 of the ~~The~~ Liquor Control Act of 1934 ~~as~~
15 ~~such Act may be now or hereafter amended.~~

16 (ii) "Cannabis" as such term is defined in
17 subsection (a) of Section 3 of the ~~"Cannabis Control~~
18 ~~Act", approved August 16, 1971, as now or hereafter~~
19 ~~amended.~~

20 (iii) "Controlled substance" as such term is
21 defined in the ~~"Illinois Controlled Substances Act",~~
22 ~~approved August 16, 1971, as now or hereafter amended.~~

23 (iii-a) "Methamphetamine" as such term is defined
24 in the Illinois Controlled Substances Act or the
25 Methamphetamine Control and Community Protection Act.

26 (iv) "Hypodermic syringe" or hypodermic needle, or
27 any instrument adapted for use of controlled
28 substances or cannabis by subcutaneous injection.

29 (v) "Weapon" means any knife, dagger, dirk, billy,
30 razor, stiletto, broken bottle, or other piece of glass
31 which could be used as a dangerous weapon. Such term
32 includes any of the devices or implements designated in
33 subsections (a) (1), (a) (3) and (a) (6) of Section 24-1
34 of this Act, or any other dangerous weapon or

1 instrument of like character.

2 (vi) "Firearm" means any device, by whatever name
3 known, which is designed to expel a projectile or
4 projectiles by the action of an explosion, expansion of
5 gas or escape of gas, including but not limited to:

6 (A) any pneumatic gun, spring gun, or B-B gun
7 which expels a single globular projectile not
8 exceeding .18 inch in diameter, or;

9 (B) any device used exclusively for signaling
10 or safety and required as recommended by the United
11 States Coast Guard or the Interstate Commerce
12 Commission; or

13 (C) any device used exclusively for the firing
14 of stud cartridges, explosive rivets or industrial
15 ammunition; or

16 (D) any device which is powered by electrical
17 charging units, such as batteries, and which fires
18 one or several barbs attached to a length of wire
19 and which, upon hitting a human, can send out
20 current capable of disrupting the person's nervous
21 system in such a manner as to render him incapable
22 of normal functioning, commonly referred to as a
23 stun gun or taser.

24 (vii) "Firearm ammunition" means any
25 self-contained cartridge or shotgun shell, by whatever
26 name known, which is designed to be used or adaptable
27 to use in a firearm, including but not limited to:

28 (A) any ammunition exclusively designed for
29 use with a device used exclusively for signaling or
30 safety and required or recommended by the United
31 States Coast Guard or the Interstate Commerce
32 Commission; or

33 (B) any ammunition designed exclusively for
34 use with a stud or rivet driver or other similar

1 industrial ammunition.

2 (viii) "Explosive" means, but is not limited to,
3 bomb, bombshell, grenade, bottle or other container
4 containing an explosive substance of over one-quarter
5 ounce for like purposes such as black powder bombs and
6 Molotov cocktails or artillery projectiles.

7 (ix) "Tool to defeat security mechanisms" means,
8 but is not limited to, handcuff or security restraint
9 key, tool designed to pick locks, or device or
10 instrument capable of unlocking handcuff or security
11 restraints, doors to cells, rooms, gates or other areas
12 of the penal institution.

13 (x) "Cutting tool" means, but is not limited to,
14 hacksaw blade, wirecutter, or device, instrument or
15 file capable of cutting through metal.

16 (xi) "Electronic contraband" means, but is not
17 limited to, any electronic, video recording device,
18 computer, or cellular communications equipment,
19 including, but not limited to, cellular telephones,
20 cellular telephone batteries, videotape recorders,
21 pagers, computers, and computer peripheral equipment
22 brought into or possessed in a penal institution
23 without the written authorization of the Chief
24 Administrative Officer.

25 (d) Bringing alcoholic liquor into a penal institution is a
26 Class 4 felony. Possessing alcoholic liquor in a penal
27 institution is a Class 4 felony.

28 (e) Bringing cannabis into a penal institution is a Class 3
29 felony. Possessing cannabis in a penal institution is a Class 3
30 felony.

31 (f) Bringing any amount of a controlled substance
32 classified in Schedules III, IV or V of Article II of the
33 Controlled Substance Act into a penal institution is a Class 2
34 felony. Possessing any amount of a controlled substance

1 classified in Schedule III, IV, or V of Article II of the
2 Controlled Substance Act in a penal institution is a Class 2
3 felony.

4 (g) Bringing any amount of a controlled substance
5 classified in Schedules I or II of Article II of the Controlled
6 Substance Act into a penal institution is a Class 1 felony.
7 Possessing any amount of a controlled substance classified in
8 Schedules I or II of Article II of the Controlled Substance Act
9 in a penal institution is a Class 1 felony.

10 (h) Bringing an item of contraband listed in paragraph (iv)
11 of subsection (c)(2) into a penal institution is a Class 1
12 felony. Possessing an item of contraband listed in paragraph
13 (iv) of subsection (c)(2) in a penal institution is a Class 1
14 felony.

15 (i) Bringing an item of contraband listed in paragraph (v),
16 (ix), (x), or (xi) of subsection (c)(2) into a penal
17 institution is a Class 1 felony. Possessing an item of
18 contraband listed in paragraph (v), (ix), (x), or (xi) of
19 subsection (c)(2) in a penal institution is a Class 1 felony.

20 (j) Bringing an item of contraband listed in paragraphs
21 (vi), (vii) or (viii) of subsection (c)(2) in a penal
22 institution is a Class X felony. Possessing an item of
23 contraband listed in paragraphs (vi), (vii), or (viii) of
24 subsection (c)(2) in a penal institution is a Class X felony.

25 (k) It shall be an affirmative defense to subsection (b)
26 hereof, that such possession was specifically authorized by
27 rule, regulation, or directive of the governing authority of
28 the penal institution or order issued pursuant thereto.

29 (l) It shall be an affirmative defense to subsection (a)(1)
30 and subsection (b) hereof that the person bringing into or
31 possessing contraband in a penal institution had been arrested,
32 and that that person possessed such contraband at the time of
33 his arrest, and that such contraband was brought into or
34 possessed in the penal institution by that person as a direct

1 and immediate result of his arrest.

2 (m) Items confiscated may be retained for use by the
3 Department of Corrections or disposed of as deemed appropriate
4 by the Chief Administrative Officer in accordance with
5 Department rules or disposed of as required by law.

6 (Source: P.A. 88-678, eff. 7-1-95; 89-688, eff. 6-1-97.)

7 (720 ILCS 5/31A-1.2) (from Ch. 38, par. 31A-1.2)

8 Sec. 31A-1.2. Unauthorized bringing of contraband into a
9 penal institution by an employee; unauthorized possessing of
10 contraband in a penal institution by an employee; unauthorized
11 delivery of contraband in a penal institution by an employee.

12 (a) A person commits the offense of unauthorized bringing
13 of contraband into a penal institution by an employee when a
14 person who is an employee knowingly and without authority or
15 any person designated or authorized to grant such authority:

16 (1) brings or attempts to bring an item of contraband
17 listed in paragraphs (i) through (iv) of subsection (d)(4)
18 into a penal institution, or

19 (2) causes or permits another to bring an item of
20 contraband listed in paragraphs (i) through (iv) of
21 subsection (d)(4) into a penal institution.

22 (b) A person commits the offense of unauthorized possession
23 of contraband in a penal institution by an employee when a
24 person who is an employee knowingly and without authority of
25 any person designated or authorized to grant such authority
26 possesses contraband listed in paragraphs (i) through (iv) of
27 subsection (d)(4) in a penal institution, regardless of the
28 intent with which he possesses it.

29 (c) A person commits the offense of unauthorized delivery
30 of contraband in a penal institution by an employee when a
31 person who is an employee knowingly and without authority of
32 any person designated or authorized to grant such authority:

33 (1) delivers or possesses with intent to deliver an

1 item of contraband to any inmate of a penal institution, or

2 (2) conspires to deliver or solicits the delivery of an
3 item of contraband to any inmate of a penal institution, or

4 (3) causes or permits the delivery of an item of
5 contraband to any inmate of a penal institution, or

6 (4) permits another person to attempt to deliver an
7 item of contraband to any inmate of a penal institution.

8 (d) For purpose of this Section, the words and phrases
9 listed below shall be defined as follows:

10 (1) "Penal Institution" shall have the meaning
11 ascribed to it in subsection (c)(1) of Section 31A-1.1 of
12 this Code;

13 (2) "Employee" means any elected or appointed officer,
14 trustee or employee of a penal institution or of the
15 governing authority of the penal institution, or any person
16 who performs services for the penal institution pursuant to
17 contract with the penal institution or its governing
18 authority.

19 (3) "Deliver" or "delivery" means the actual,
20 constructive or attempted transfer of possession of an item
21 of contraband, with or without consideration, whether or
22 not there is an agency relationship;

23 (4) "Item of contraband" means any of the following:

24 (i) "Alcoholic liquor" as such term is defined in
25 Section 1-3.05 of the Liquor Control Act of 1934.

26 (ii) "Cannabis" as such term is defined in
27 subsection (a) of Section 3 of the Cannabis Control
28 Act.

29 (iii) "Controlled substance" as such term is
30 defined in the Illinois Controlled Substances Act.

31 (iii-a) "Methamphetamine" as such term is defined
32 in the Illinois Controlled Substances Act or the
33 Methamphetamine Control and Community Protection Act.

34 (iv) "Hypodermic syringe" or hypodermic needle, or

1 any instrument adapted for use of controlled
2 substances or cannabis by subcutaneous injection.

3 (v) "Weapon" means any knife, dagger, dirk, billy,
4 razor, stiletto, broken bottle, or other piece of glass
5 which could be used as a dangerous weapon. Such term
6 includes any of the devices or implements designated in
7 subsections (a)(1), (a)(3) and (a)(6) of Section 24-1
8 of this Act, or any other dangerous weapon or
9 instrument of like character.

10 (vi) "Firearm" means any device, by whatever name
11 known, which is designed to expel a projectile or
12 projectiles by the action of an explosion, expansion of
13 gas or escape of gas, including but not limited to:

14 (A) any pneumatic gun, spring gun, or B-B gun
15 which expels a single globular projectile not
16 exceeding .18 inch in diameter; or

17 (B) any device used exclusively for signaling
18 or safety and required or recommended by the United
19 States Coast Guard or the Interstate Commerce
20 Commission; or

21 (C) any device used exclusively for the firing
22 of stud cartridges, explosive rivets or industrial
23 ammunition; or

24 (D) any device which is powered by electrical
25 charging units, such as batteries, and which fires
26 one or several barbs attached to a length of wire
27 and which, upon hitting a human, can send out
28 current capable of disrupting the person's nervous
29 system in such a manner as to render him incapable
30 of normal functioning, commonly referred to as a
31 stun gun or taser.

32 (vii) "Firearm ammunition" means any
33 self-contained cartridge or shotgun shell, by whatever
34 name known, which is designed to be used or adaptable

1 to use in a firearm, including but not limited to:

2 (A) any ammunition exclusively designed for
3 use with a device used exclusively for signaling or
4 safety and required or recommended by the United
5 States Coast Guard or the Interstate Commerce
6 Commission; or

7 (B) any ammunition designed exclusively for
8 use with a stud or rivet driver or other similar
9 industrial ammunition.

10 (viii) "Explosive" means, but is not limited to,
11 bomb, bombshell, grenade, bottle or other container
12 containing an explosive substance of over one-quarter
13 ounce for like purposes such as black powder bombs and
14 Molotov cocktails or artillery projectiles.

15 (ix) "Tool to defeat security mechanisms" means,
16 but is not limited to, handcuff or security restraint
17 key, tool designed to pick locks, or device or
18 instrument capable of unlocking handcuff or security
19 restraints, doors to cells, rooms, gates or other areas
20 of the penal institution.

21 (x) "Cutting tool" means, but is not limited to,
22 hacksaw blade, wirecutter, or device, instrument or
23 file capable of cutting through metal.

24 (xi) "Electronic contraband" means, but is not
25 limited to, any electronic, video recording device,
26 computer, or cellular communications equipment,
27 including, but not limited to, cellular telephones,
28 cellular telephone batteries, videotape recorders,
29 pagers, computers, and computer peripheral equipment.

30 (e) A violation of paragraphs (a) or (b) of this Section
31 involving alcohol is a Class 4 felony. A violation of paragraph
32 (a) or (b) of this Section involving cannabis is a Class 2
33 felony. A violation of paragraph (a) or (b) involving any
34 amount of a controlled substance classified in Schedules III,

1 IV or V of Article II of the Illinois Controlled Substances Act
2 is a Class 1 felony. A violation of paragraph (a) or (b) of
3 this Section involving any amount of a controlled substance
4 classified in Schedules I or II of Article II of the Illinois
5 Controlled Substances Act is a Class X felony. A violation of
6 paragraph (a) or (b) involving an item of contraband listed in
7 paragraph (iv) of subsection (d)(4) is a Class X felony. A
8 violation of paragraph (a) or (b) involving an item of
9 contraband listed in paragraph (v) or (xi) of subsection (d)(4)
10 is a Class 1 felony. A violation of paragraph (a) or (b)
11 involving an item of contraband listed in paragraphs (vi),
12 (vii) or (viii) of subsection (d)(4) is a Class X felony.

13 (f) A violation of paragraph (c) of this Section involving
14 alcoholic liquor is a Class 3 felony. A violation of paragraph
15 (c) involving cannabis is a Class 1 felony. A violation of
16 paragraph (c) involving any amount of a controlled substance
17 classified in Schedules III, IV or V of Article II of the
18 Illinois Controlled Substances Act is a Class X felony. A
19 violation of paragraph (c) involving any amount of a controlled
20 substance classified in Schedules I or II of Article II of the
21 Illinois Controlled Substances Act is a Class X felony for
22 which the minimum term of imprisonment shall be 8 years. A
23 violation of paragraph (c) involving an item of contraband
24 listed in paragraph (iv) of subsection (d)(4) is a Class X
25 felony for which the minimum term of imprisonment shall be 8
26 years. A violation of paragraph (c) involving an item of
27 contraband listed in paragraph (v), (ix) or (x) of subsection
28 (d)(4) is a Class X felony for which the minimum term of
29 imprisonment shall be 10 years. A violation of paragraph (c)
30 involving an item of contraband listed in paragraphs (vi),
31 (vii) or (viii) of subsection (d)(4) is a Class X felony for
32 which the minimum term of imprisonment shall be 12 years.

33 (g) Items confiscated may be retained for use by the
34 Department of Corrections or disposed of as deemed appropriate

1 by the Chief Administrative Officer in accordance with
2 Department rules or disposed of as required by law.

3 (Source: P.A. 90-655, eff. 7-30-98; 91-357, eff. 7-29-99.)

4 (720 ILCS 5/33A-3) (from Ch. 38, par. 33A-3)
5 Sec. 33A-3. Sentence.

6 (a) Violation of Section 33A-2(a) with a Category I weapon
7 is a Class X felony for which the defendant shall be sentenced
8 to a minimum term of imprisonment of 15 years.

9 (a-5) Violation of Section 33A-2(a) with a Category II
10 weapon is a Class X felony for which the defendant shall be
11 sentenced to a minimum term of imprisonment of 10 years.

12 (b) Violation of Section 33A-2(a) with a Category III
13 weapon is a Class 2 felony or the felony classification
14 provided for the same act while unarmed, whichever permits the
15 greater penalty. A second or subsequent violation of Section
16 33A-2(a) with a Category III weapon is a Class 1 felony or the
17 felony classification provided for the same act while unarmed,
18 whichever permits the greater penalty.

19 (b-5) Violation of Section 33A-2(b) with a firearm that is
20 a Category I or Category II weapon is a Class X felony for
21 which the defendant shall be sentenced to a minimum term of
22 imprisonment of 20 years.

23 (b-10) Violation of Section 33A-2(c) with a firearm that is
24 a Category I or Category II weapon is a Class X felony for
25 which the defendant shall be sentenced to a term of
26 imprisonment of not less than 25 years nor more than 40 years.

27 (c) Unless sentencing under Section 33B-1 is applicable,
28 any person who violates subsection (a) or (b) of Section 33A-2
29 with a firearm, when that person has been convicted in any
30 state or federal court of 3 or more of the following offenses:
31 treason, first degree murder, second degree murder, predatory
32 criminal sexual assault of a child, aggravated criminal sexual
33 assault, criminal sexual assault, robbery, burglary, arson,

1 kidnaping, aggravated battery resulting in great bodily harm or
2 permanent disability or disfigurement, a violation of the
3 Methamphetamine Control and Community Protection Act, or a
4 violation of Section 401(a) of the Illinois Controlled
5 Substances Act, when the third offense was committed after
6 conviction on the second, the second offense was committed
7 after conviction on the first, and the violation of Section
8 33A-2 was committed after conviction on the third, shall be
9 sentenced to a term of imprisonment of not less than 25 years
10 nor more than 50 years.

11 (c-5) Except as otherwise provided in paragraph (b-10) or
12 (c) of this Section, a person who violates Section 33A-2(a)
13 with a firearm that is a Category I weapon or Section 33A-2(b)
14 in any school, in any conveyance owned, leased, or contracted
15 by a school to transport students to or from school or a school
16 related activity, or on the real property comprising any school
17 or public park, and where the offense was related to the
18 activities of an organized gang, shall be sentenced to a term
19 of imprisonment of not less than the term set forth in
20 subsection (a) or (b-5) of this Section, whichever is
21 applicable, and not more than 30 years. For the purposes of
22 this subsection (c-5), "organized gang" has the meaning
23 ascribed to it in Section 10 of the Illinois Streetgang
24 Terrorism Omnibus Prevention Act.

25 (d) For armed violence based upon a predicate offense
26 listed in this subsection (d) the court shall enter the
27 sentence for armed violence to run consecutively to the
28 sentence imposed for the predicate offense. The offenses
29 covered by this provision are:

- 30 (i) solicitation of murder,
31 (ii) solicitation of murder for hire,
32 (iii) heinous battery,
33 (iv) aggravated battery of a senior citizen,
34 (v) criminal sexual assault,

1 (vi) a violation of subsection (g) of Section 5 of the
2 Cannabis Control Act,

3 (vii) cannabis trafficking,

4 (viii) a violation of subsection (a) of Section 401 of
5 the Illinois Controlled Substances Act,

6 (ix) controlled substance trafficking involving a
7 Class X felony amount of controlled substance under Section
8 401 of the Illinois Controlled Substances Act,

9 (x) calculated criminal drug conspiracy, ~~or~~

10 (xi) streetgang criminal drug conspiracy, or.

11 (xii) a violation of the Methamphetamine Control and
12 Community Protection Act.

13 (Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

14 (720 ILCS 5/37-1) (from Ch. 38, par. 37-1)

15 Sec. 37-1. Maintaining Public Nuisance. Any building used
16 in the commission of offenses prohibited by Sections 9-1, 10-1,
17 10-2, 11-14, 11-15, 11-16, 11-17, 11-20, 11-20.1, 11-21, 11-22,
18 12-5.1, 16-1, 20-2, 23-1, 23-1(a)(1), 24-1(a)(7), 24-3, 28-1,
19 28-3, 31-5 or 39A-1 of the Criminal Code of 1961, or prohibited
20 by the Illinois Controlled Substances Act, the Methamphetamine
21 Control and Community Protection Act, or the Cannabis Control
22 Act, or used in the commission of an inchoate offense relative
23 to any of the aforesaid principal offenses, or any real
24 property erected, established, maintained, owned, leased, or
25 used by a streetgang for the purpose of conducting streetgang
26 related activity as defined in Section 10 of the Illinois
27 Streetgang Terrorism Omnibus Prevention Act is a public
28 nuisance.

29 (b) Sentence. A person convicted of knowingly maintaining
30 such a public nuisance commits a Class A misdemeanor. Each
31 subsequent offense under this Section is a Class 4 felony.

32 (Source: P.A. 91-876, eff. 1-1-01.)

1 (720 ILCS 5/44-2) (from Ch. 38, par. 44-2)

2 Sec. 44-2. (a) A person commits unlawful transfer of a
3 telecommunications device to a minor when he gives, sells or
4 otherwise transfers possession of a telecommunications device
5 to a person under 18 years of age with the intent that the
6 device be used to commit any offense under this Code, the
7 Cannabis Control Act, ~~or~~ the Illinois Controlled Substances
8 Act, or the Methamphetamine Control and Community Protection
9 Act.

10 (b) Unlawful transfer of a telecommunications device to a
11 minor is a Class A misdemeanor.

12 (Source: P.A. 86-811.)

13 (720 ILCS 5/44-3) (from Ch. 38, par. 44-3)

14 Sec. 44-3. (a) Seizure. Any telecommunications device
15 possessed by a person on the real property of any elementary or
16 secondary school without the authority of the school principal,
17 or used in the commission of an offense prohibited by this
18 Code, the Illinois Controlled Substances Act, ~~or~~ the Cannabis
19 Control Act, or the Methamphetamine Control and Community
20 Protection Act or which constitutes evidence of the commission
21 of such offenses may be seized and delivered forthwith to the
22 investigating law enforcement agency. A person who is not a
23 student of the particular elementary or secondary school, who
24 is on school property as an invitee of the school, and who has
25 possession of a telecommunication device for lawful and
26 legitimate purposes, shall not need to obtain authority from
27 the school principal to possess the telecommunication device on
28 school property. Such telecommunication device shall not be
29 seized unless it was used in the commission of an offense
30 specified above, or constitutes evidence of such an offense.
31 Within 15 days after such delivery the investigating law
32 enforcement agency shall give notice of seizure to any known
33 owners, lienholders and secured parties of such property.

1 Within that 15 day period the investigating law enforcement
2 agency shall also notify the State's Attorney of the county of
3 seizure about the seizure.

4 (b) Rights of lienholders and secured parties.

5 The State's Attorney shall promptly release a
6 telecommunications device seized under the provisions of this
7 Article to any lienholder or secured party if such lienholder
8 or secured party shows to the State's Attorney that his lien or
9 security interest is bona fide and was created without actual
10 knowledge that such telecommunications device was or possessed
11 in violation of this Section or used or to be used in the
12 commission of the offense charged.

13 (c) Action for forfeiture. (1) The State's Attorney in the
14 county in which such seizure occurs if he finds that such
15 forfeiture was incurred without willful negligence or without
16 any intention on the part of the owner of the
17 telecommunications device or a lienholder or secured party to
18 violate the law, or finds the existence of such mitigating
19 circumstances as to justify remission of the forfeiture, may
20 cause the investigating law enforcement agency to remit the
21 same upon such terms and conditions as the State's Attorney
22 deems reasonable and just. The State's Attorney shall exercise
23 his discretion under the foregoing provision of this Section
24 promptly after notice is given in accordance with subsection
25 (a). If the State's Attorney does not cause the forfeiture to
26 be remitted he shall forthwith bring an action for forfeiture
27 in the circuit court within whose jurisdiction the seizure and
28 confiscation has taken place. The State's Attorney shall give
29 notice of the forfeiture proceeding by mailing a copy of the
30 complaint in the forfeiture proceeding to the persons and in
31 the manner set forth in subsection (a). The owner of the device
32 or any person with any right, title, or interest in the device
33 may within 20 days after the mailing of such notice file a
34 verified answer to the complaint and may appear at the hearing

1 on the action for forfeiture. The State shall show at such
2 hearing by a preponderance of the evidence that the device was
3 used in the commission of an offense described in subsection
4 (a). The owner of the device or any person with any right,
5 title, or interest in the device may show by a preponderance of
6 the evidence that he did not know, and did not have reason to
7 know, that the device was possessed in violation of this
8 Section or to be used in the commission of such an offense or
9 that any of the exceptions set forth in subsection (d) are
10 applicable. Unless the State shall make such showing, the Court
11 shall order the device released to the owner. Where the State
12 has made such showing, the Court may order the device
13 destroyed; may upon the request of the investigating law
14 enforcement agency, order it delivered to any local, municipal
15 or county law enforcement agency, or the Department of State
16 Police or the Department of Revenue of the State of Illinois;
17 or may order it sold at public auction.

18 (2) A copy of the order shall be filed with the
19 investigating law enforcement agency of the county in which the
20 seizure occurs. Such order, when filed, confers ownership of
21 the device to the department or agency to whom it is delivered
22 or any purchaser thereof. The investigating law enforcement
23 agency shall comply promptly with instructions to remit
24 received from the State's Attorney or Attorney General in
25 accordance with paragraph (1) of this subsection or subsection
26 (d).

27 (3) The proceeds of any sale at public auction pursuant to
28 this subsection, after payment of all liens and deduction of
29 the reasonable charges and expenses incurred by the
30 investigating law enforcement agency in storing and selling the
31 device, shall be paid into the general fund of the level of
32 government responsible for the operation of the investigating
33 law enforcement agency.

34 (d) Exceptions to forfeiture. (b) No device shall be

1 forfeited under the provisions of subsection (c) by reason of
2 any act or omission established by the owner thereof to have
3 been committed or omitted by any person other than the owner
4 while the device was unlawfully in the possession of a person
5 who acquired possession thereof in violation of the criminal
6 laws of the United States, or of any state.

7 (e) Remission by Attorney General. Whenever any owner of,
8 or other person interested in, a device seized under the
9 provisions of this Section files with the Attorney General
10 before the sale or destruction of the device a petition for the
11 remission of such forfeiture the Attorney General if he finds
12 that such forfeiture was incurred without willful negligence or
13 without any intention on the part of the owner or any person
14 with any right, title or interest in the device to violate the
15 law, or finds the existence of such mitigating circumstances as
16 to justify the remission of forfeiture, may cause the same to
17 be remitted upon such terms and conditions as he deems
18 reasonable and just, or order discontinuance of any forfeiture
19 proceeding relating thereto.

20 (Source: P.A. 86-811.)

21 (720 ILCS 5/12-4.10 rep., from P.A. 93-111)

22 (720 ILCS 5/12-4.10 rep., from P.A. 93-340)

23 (720 ILCS 5/12-4.11 rep., from P.A. 93-340)

24 (720 ILCS 5/20-1.4 rep.)

25 (720 ILCS 5/20-1.5 rep.)

26 (720 ILCS 5/21-1.5 rep.)

27 Section 1056. The Criminal Code of 1961 is amended by
28 repealing Sections 12-4.10 (as added by Public Act 93-111),
29 12-4.10 (as added by Public Act 93-340), 12-4.11 (as added by
30 Public Act 93-340), 20-1.4, 20-1.5, and 21-1.5.

31 Section 1060. The Cannabis Control Act is amended by
32 changing Sections 10 and 10.2 as follows:

1 (720 ILCS 550/10) (from Ch. 56 1/2, par. 710)

2 Sec. 10. (a) Whenever any person who has not previously
3 been convicted of, or placed on probation or court supervision
4 for, any offense under this Act or any law of the United States
5 or of any State relating to cannabis, or controlled substances
6 as defined in the Illinois Controlled Substances Act, pleads
7 guilty to or is found guilty of violating Sections 4(a), 4(b),
8 4(c), 5(a), 5(b), 5(c) or 8 of this Act, the court may, without
9 entering a judgment and with the consent of such person,
10 sentence him to probation.

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

16 (c) The conditions of probation shall be that the person:
17 (1) not violate any criminal statute of any jurisdiction; (2)
18 refrain from possession of a firearm or other dangerous weapon;
19 (3) submit to periodic drug testing at a time and in a manner
20 as ordered by the court, but no less than 3 times during the
21 period of the probation, with the cost of the testing to be
22 paid by the probationer; and (4) perform no less than 30 hours
23 of community service, provided community service is available
24 in the jurisdiction and is funded and approved by the county
25 board.

26 (d) The court may, in addition to other conditions, require
27 that the person:

28 (1) make a report to and appear in person before or
29 participate with the court or such courts, person, or
30 social service agency as directed by the court in the order
31 of probation;

32 (2) pay a fine and costs;

33 (3) work or pursue a course of study or vocational

1 training;

2 (4) undergo medical or psychiatric treatment; or
3 treatment for drug addiction or alcoholism;

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

6 (6) support his dependents;

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

9 (7-5) refrain from having in his or her body the
10 presence of any illicit drug prohibited by the Cannabis
11 Control Act, ~~or~~ the Illinois Controlled Substances Act, or
12 the Methamphetamine Control and Community Protection Act,
13 unless prescribed by a physician, and submit samples of his
14 or her blood or urine or both for tests to determine the
15 presence of any illicit drug;

16 (8) and in addition, if a minor:

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

18 (ii) attend school;

19 (iii) attend a non-residential program for youth;

20 (iv) contribute to his own support at home or in a
21 foster home.

22 (e) Upon violation of a term or condition of probation, the
23 court may enter a judgment on its original finding of guilt and
24 proceed as otherwise provided.

25 (f) Upon fulfillment of the terms and conditions of
26 probation, the court shall discharge such person and dismiss
27 the proceedings against him.

28 (g) A disposition of probation is considered to be a
29 conviction for the purposes of imposing the conditions of
30 probation and for appeal, however, discharge and dismissal
31 under this Section is not a conviction for purposes of
32 disqualification or disabilities imposed by law upon
33 conviction of a crime (including the additional penalty imposed
34 for subsequent offenses under Section 4(c), 4(d), 5(c) or 5(d)

1 of this Act).

2 (h) Discharge and dismissal under this Section, ~~or under~~
3 Section 410 of the Illinois Controlled Substances Act, or
4 Section 70 of the Methamphetamine Control and Community
5 Protection Act may occur only once with respect to any person.

6 (i) If a person is convicted of an offense under this Act, or
7 ~~or~~ the Illinois Controlled Substances Act, or the
8 Methamphetamine Control and Community Protection Act within 5
9 years subsequent to a discharge and dismissal under this
10 Section, the discharge and dismissal under this Section shall
11 be admissible in the sentencing proceeding for that conviction
12 as a factor in aggravation.

13 (Source: P.A. 91-696, eff. 4-13-00.)

14 (720 ILCS 550/10.2) (from Ch. 56 1/2, par. 710.2)

15 Sec. 10.2. (a) Twelve and one-half percent of all amounts
16 collected as fines pursuant to the provisions of this Act shall
17 be paid into the Youth Drug Abuse Prevention Fund, which is
18 hereby created in the State treasury, to be used by the
19 Department of Human Services for the funding of programs and
20 services for drug-abuse treatment, and prevention and
21 education services, for juveniles.

22 (b) Eighty-seven and one-half percent of the proceeds of
23 all fines received under the provisions of this Act shall be
24 transmitted to and deposited in the treasurer's office at the
25 level of government as follows:

26 (1) If such seizure was made by a combination of law
27 enforcement personnel representing differing units of
28 local government, the court levying the fine shall
29 equitably allocate 50% of the fine among these units of
30 local government and shall allocate 37 1/2% to the county
31 general corporate fund. In the event that the seizure was
32 made by law enforcement personnel representing a unit of
33 local government from a municipality where the number of

1 inhabitants exceeds 2 million in population, the court
2 levying the fine shall allocate 87 1/2% of the fine to that
3 unit of local government. If the seizure was made by a
4 combination of law enforcement personnel representing
5 differing units of local government, and at least one of
6 those units represents a municipality where the number of
7 inhabitants exceeds 2 million in population, the court
8 shall equitably allocate 87 1/2% of the proceeds of the
9 fines received among the differing units of local
10 government.

11 (2) If such seizure was made by State law enforcement
12 personnel, then the court shall allocate 37 1/2% to the
13 State treasury and 50% to the county general corporate
14 fund.

15 (3) If a State law enforcement agency in combination
16 with a law enforcement agency or agencies of a unit or
17 units of local government conducted the seizure, the court
18 shall equitably allocate 37 1/2% of the fines to or among
19 the law enforcement agency or agencies of the unit or units
20 of local government which conducted the seizure and shall
21 allocate 50% to the county general corporate fund.

22 (c) The proceeds of all fines allocated to the law
23 enforcement agency or agencies of the unit or units of local
24 government pursuant to subsection (b) shall be made available
25 to that law enforcement agency as expendable receipts for use
26 in the enforcement of laws regulating controlled substances and
27 cannabis. The proceeds of fines awarded to the State treasury
28 shall be deposited in a special fund known as the Drug Traffic
29 Prevention Fund, except that amounts distributed to the
30 Secretary of State shall be deposited into the Secretary of
31 State Evidence Fund to be used as provided in Section 2-115 of
32 the Illinois Vehicle Code. Monies from this fund may be used by
33 the Department of State Police for use in the enforcement of
34 laws regulating controlled substances and cannabis; to satisfy

1 funding provisions of the Intergovernmental Drug Laws
2 Enforcement Act; to defray costs and expenses associated with
3 returning violators of this Act, ~~and~~ the Illinois Controlled
4 Substances Act, and the Methamphetamine Control and Community
5 Protection Act only, as provided in such Acts, when punishment
6 of the crime shall be confinement of the criminal in the
7 penitentiary; and all other monies shall be paid into the
8 general revenue fund in the State treasury.

9 (Source: P.A. 88-517; 89-507, eff. 7-1-97.)

10 Section 1065. The Illinois Controlled Substances Act is
11 amended by changing Sections 102, 401, 401.1, 401.5, 402,
12 405.2, 405.3, 406.1, 407, 410, 413 as follows:

13 (720 ILCS 570/102) (from Ch. 56 1/2, par. 1102)

14 Sec. 102. Definitions. As used in this Act, unless the
15 context otherwise requires:

16 (a) "Addict" means any person who habitually uses any drug,
17 chemical, substance or dangerous drug other than alcohol so as
18 to endanger the public morals, health, safety or welfare or who
19 is so far addicted to the use of a dangerous drug or controlled
20 substance other than alcohol as to have lost the power of self
21 control with reference to his addiction.

22 (b) "Administer" means the direct application of a
23 controlled substance, whether by injection, inhalation,
24 ingestion, or any other means, to the body of a patient,
25 research subject, or animal (as defined by the Humane
26 Euthanasia in Animal Shelters Act) by:

27 (1) a practitioner (or, in his presence, by his
28 authorized agent),

29 (2) the patient or research subject at the lawful
30 direction of the practitioner, or

31 (3) a euthanasia technician as defined by the Humane
32 Euthanasia in Animal Shelters Act.

1 (c) "Agent" means an authorized person who acts on behalf
2 of or at the direction of a manufacturer, distributor, or
3 dispenser. It does not include a common or contract carrier,
4 public warehouseman or employee of the carrier or warehouseman.

5 (c-1) "Anabolic Steroids" means any drug or hormonal
6 substance, chemically and pharmacologically related to
7 testosterone (other than estrogens, progestins, and
8 corticosteroids) that promotes muscle growth, and includes:

- 9 (i) boldenone,
- 10 (ii) chlorotestosterone,
- 11 (iii) chostebol,
- 12 (iv) dehydrochlormethyltestosterone,
- 13 (v) dihydrotestosterone,
- 14 (vi) drostanolone,
- 15 (vii) ethylestrenol,
- 16 (viii) fluoxymesterone,
- 17 (ix) formebulone,
- 18 (x) mesterolone,
- 19 (xi) methandienone,
- 20 (xii) methandranone,
- 21 (xiii) methandriol,
- 22 (xiv) methandrostenolone,
- 23 (xv) methenolone,
- 24 (xvi) methyltestosterone,
- 25 (xvii) mibolerone,
- 26 (xviii) nandrolone,
- 27 (xix) norethandrolone,
- 28 (xx) oxandrolone,
- 29 (xxi) oxymesterone,
- 30 (xxii) oxymetholone,
- 31 (xxiii) stanolone,
- 32 (xxiv) stanozolol,
- 33 (xxv) testolactone,
- 34 (xxvi) testosterone,

1 (xxvii) trenbolone, and

2 (xxviii) any salt, ester, or isomer of a drug or
3 substance described or listed in this paragraph, if
4 that salt, ester, or isomer promotes muscle growth.

5 Any person who is otherwise lawfully in possession of an
6 anabolic steroid, or who otherwise lawfully manufactures,
7 distributes, dispenses, delivers, or possesses with intent to
8 deliver an anabolic steroid, which anabolic steroid is
9 expressly intended for and lawfully allowed to be administered
10 through implants to livestock or other nonhuman species, and
11 which is approved by the Secretary of Health and Human Services
12 for such administration, and which the person intends to
13 administer or have administered through such implants, shall
14 not be considered to be in unauthorized possession or to
15 unlawfully manufacture, distribute, dispense, deliver, or
16 possess with intent to deliver such anabolic steroid for
17 purposes of this Act.

18 (d) "Administration" means the Drug Enforcement
19 Administration, United States Department of Justice, or its
20 successor agency.

21 (e) "Control" means to add a drug or other substance, or
22 immediate precursor, to a Schedule under Article II of this Act
23 whether by transfer from another Schedule or otherwise.

24 (f) "Controlled Substance" means a drug, substance, or
25 immediate precursor in the Schedules of Article II of this Act.

26 (g) "Counterfeit substance" means a controlled substance,
27 which, or the container or labeling of which, without
28 authorization bears the trademark, trade name, or other
29 identifying mark, imprint, number or device, or any likeness
30 thereof, of a manufacturer, distributor, or dispenser other
31 than the person who in fact manufactured, distributed, or
32 dispensed the substance.

33 (h) "Deliver" or "delivery" means the actual, constructive
34 or attempted transfer of possession of a controlled substance,

1 with or without consideration, whether or not there is an
2 agency relationship.

3 (i) "Department" means the Illinois Department of Human
4 Services (as successor to the Department of Alcoholism and
5 Substance Abuse) or its successor agency.

6 (j) "Department of State Police" means the Department of
7 State Police of the State of Illinois or its successor agency.

8 (k) "Department of Corrections" means the Department of
9 Corrections of the State of Illinois or its successor agency.

10 (l) "Department of Professional Regulation" means the
11 Department of Professional Regulation of the State of Illinois
12 or its successor agency.

13 (m) "Depressant" or "stimulant substance" means:

14 (1) a drug which contains any quantity of (i)
15 barbituric acid or any of the salts of barbituric acid
16 which has been designated as habit forming under section
17 502 (d) of the Federal Food, Drug, and Cosmetic Act (21
18 U.S.C. 352 (d)); or

19 (2) a drug which contains any quantity of (i)
20 amphetamine or methamphetamine and any of their optical
21 isomers; (ii) any salt of amphetamine or methamphetamine or
22 any salt of an optical isomer of amphetamine; or (iii) any
23 substance which the Department, after investigation, has
24 found to be, and by rule designated as, habit forming
25 because of its depressant or stimulant effect on the
26 central nervous system; or

27 (3) lysergic acid diethylamide; or

28 (4) any drug which contains any quantity of a substance
29 which the Department, after investigation, has found to
30 have, and by rule designated as having, a potential for
31 abuse because of its depressant or stimulant effect on the
32 central nervous system or its hallucinogenic effect.

33 (n) (Blank).

34 (o) "Director" means the Director of the Department of

1 State Police or the Department of Professional Regulation or
2 his designated agents.

3 (p) "Dispense" means to deliver a controlled substance to
4 an ultimate user or research subject by or pursuant to the
5 lawful order of a prescriber, including the prescribing,
6 administering, packaging, labeling, or compounding necessary
7 to prepare the substance for that delivery.

8 (q) "Dispenser" means a practitioner who dispenses.

9 (r) "Distribute" means to deliver, other than by
10 administering or dispensing, a controlled substance.

11 (s) "Distributor" means a person who distributes.

12 (t) "Drug" means (1) substances recognized as drugs in the
13 official United States Pharmacopoeia, Official Homeopathic
14 Pharmacopoeia of the United States, or official National
15 Formulary, or any supplement to any of them; (2) substances
16 intended for use in diagnosis, cure, mitigation, treatment, or
17 prevention of disease in man or animals; (3) substances (other
18 than food) intended to affect the structure of any function of
19 the body of man or animals and (4) substances intended for use
20 as a component of any article specified in clause (1), (2), or
21 (3) of this subsection. It does not include devices or their
22 components, parts, or accessories.

23 (t-5) "Euthanasia agency" means an entity certified by the
24 Department of Professional Regulation for the purpose of animal
25 euthanasia that holds an animal control facility license or
26 animal shelter license under the Animal Welfare Act. A
27 euthanasia agency is authorized to purchase, store, possess,
28 and utilize Schedule II nonnarcotic and Schedule III
29 nonnarcotic drugs for the sole purpose of animal euthanasia.

30 (t-10) "Euthanasia drugs" means Schedule II or Schedule III
31 substances (nonnarcotic controlled substances) that are used
32 by a euthanasia agency for the purpose of animal euthanasia.

33 (u) "Good faith" means the prescribing or dispensing of a
34 controlled substance by a practitioner in the regular course of

1 professional treatment to or for any person who is under his
2 treatment for a pathology or condition other than that
3 individual's physical or psychological dependence upon or
4 addiction to a controlled substance, except as provided herein:
5 and application of the term to a pharmacist shall mean the
6 dispensing of a controlled substance pursuant to the
7 prescriber's order which in the professional judgment of the
8 pharmacist is lawful. The pharmacist shall be guided by
9 accepted professional standards including, but not limited to
10 the following, in making the judgment:

11 (1) lack of consistency of doctor-patient
12 relationship,

13 (2) frequency of prescriptions for same drug by one
14 prescriber for large numbers of patients,

15 (3) quantities beyond those normally prescribed,

16 (4) unusual dosages,

17 (5) unusual geographic distances between patient,
18 pharmacist and prescriber,

19 (6) consistent prescribing of habit-forming drugs.

20 (u-1) "Home infusion services" means services provided by a
21 pharmacy in compounding solutions for direct administration to
22 a patient in a private residence, long-term care facility, or
23 hospice setting by means of parenteral, intravenous,
24 intramuscular, subcutaneous, or intraspinal infusion.

25 (v) "Immediate precursor" means a substance:

26 (1) which the Department has found to be and by rule
27 designated as being a principal compound used, or produced
28 primarily for use, in the manufacture of a controlled
29 substance;

30 (2) which is an immediate chemical intermediary used or
31 likely to be used in the manufacture of such controlled
32 substance; and

33 (3) the control of which is necessary to prevent,
34 curtail or limit the manufacture of such controlled

1 substance.

2 (w) "Instructional activities" means the acts of teaching,
3 educating or instructing by practitioners using controlled
4 substances within educational facilities approved by the State
5 Board of Education or its successor agency.

6 (x) "Local authorities" means a duly organized State,
7 County or Municipal peace unit or police force.

8 (y) "Look-alike substance" means a substance, other than a
9 controlled substance which (1) by overall dosage unit
10 appearance, including shape, color, size, markings or lack
11 thereof, taste, consistency, or any other identifying physical
12 characteristic of the substance, would lead a reasonable person
13 to believe that the substance is a controlled substance, or (2)
14 is expressly or impliedly represented to be a controlled
15 substance or is distributed under circumstances which would
16 lead a reasonable person to believe that the substance is a
17 controlled substance. For the purpose of determining whether
18 the representations made or the circumstances of the
19 distribution would lead a reasonable person to believe the
20 substance to be a controlled substance under this clause (2) of
21 subsection (y), the court or other authority may consider the
22 following factors in addition to any other factor that may be
23 relevant:

24 (a) statements made by the owner or person in control
25 of the substance concerning its nature, use or effect;

26 (b) statements made to the buyer or recipient that the
27 substance may be resold for profit;

28 (c) whether the substance is packaged in a manner
29 normally used for the illegal distribution of controlled
30 substances;

31 (d) whether the distribution or attempted distribution
32 included an exchange of or demand for money or other
33 property as consideration, and whether the amount of the
34 consideration was substantially greater than the

1 reasonable retail market value of the substance.

2 Clause (1) of this subsection (y) shall not apply to a
3 noncontrolled substance in its finished dosage form that was
4 initially introduced into commerce prior to the initial
5 introduction into commerce of a controlled substance in its
6 finished dosage form which it may substantially resemble.

7 Nothing in this subsection (y) prohibits the dispensing or
8 distributing of noncontrolled substances by persons authorized
9 to dispense and distribute controlled substances under this
10 Act, provided that such action would be deemed to be carried
11 out in good faith under subsection (u) if the substances
12 involved were controlled substances.

13 Nothing in this subsection (y) or in this Act prohibits the
14 manufacture, preparation, propagation, compounding,
15 processing, packaging, advertising or distribution of a drug or
16 drugs by any person registered pursuant to Section 510 of the
17 Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360).

18 (y-1) "Mail-order pharmacy" means a pharmacy that is
19 located in a state of the United States, other than Illinois,
20 that delivers, dispenses or distributes, through the United
21 States Postal Service or other common carrier, to Illinois
22 residents, any substance which requires a prescription.

23 (z) "Manufacture" means the production, preparation,
24 propagation, compounding, conversion or processing of a
25 controlled substance other than methamphetamine, either
26 directly or indirectly, by extraction from substances of
27 natural origin, or independently by means of chemical
28 synthesis, or by a combination of extraction and chemical
29 synthesis, and includes any packaging or repackaging of the
30 substance or labeling of its container, except that this term
31 does not include:

32 (1) by an ultimate user, the preparation or compounding
33 of a controlled substance for his own use; or

34 (2) by a practitioner, or his authorized agent under

1 his supervision, the preparation, compounding, packaging,
2 or labeling of a controlled substance:

3 (a) as an incident to his administering or
4 dispensing of a controlled substance in the course of
5 his professional practice; or

6 (b) as an incident to lawful research, teaching or
7 chemical analysis and not for sale.

8 (z-1) (Blank). ~~"Methamphetamine manufacturing chemical"~~
9 ~~means any of the following chemicals or substances containing~~
10 ~~any of the following chemicals: benzyl methyl ketone,~~
11 ~~ephedrine, methyl benzyl ketone, phenylacetone,~~
12 ~~phenyl 2-propanone, pseudoephedrine, or red phosphorous or any~~
13 ~~of the salts, optical isomers, or salts of optical isomers of~~
14 ~~the above listed chemicals.~~

15 (aa) "Narcotic drug" means any of the following, whether
16 produced directly or indirectly by extraction from substances
17 of natural origin, or independently by means of chemical
18 synthesis, or by a combination of extraction and chemical
19 synthesis:

20 (1) opium and opiate, and any salt, compound,
21 derivative, or preparation of opium or opiate;

22 (2) any salt, compound, isomer, derivative, or
23 preparation thereof which is chemically equivalent or
24 identical with any of the substances referred to in clause
25 (1), but not including the isoquinoline alkaloids of opium;

26 (3) opium poppy and poppy straw;

27 (4) coca leaves and any salts, compound, isomer, salt
28 of an isomer, derivative, or preparation of coca leaves
29 including cocaine or ecgonine, and any salt, compound,
30 isomer, derivative, or preparation thereof which is
31 chemically equivalent or identical with any of these
32 substances, but not including decocainized coca leaves or
33 extractions of coca leaves which do not contain cocaine or
34 ecgonine (for the purpose of this paragraph, the term

1 "isomer" includes optical, positional and geometric
2 isomers).

3 (bb) "Nurse" means a registered nurse licensed under the
4 Nursing and Advanced Practice Nursing Act.

5 (cc) (Blank).

6 (dd) "Opiate" means any substance having an addiction
7 forming or addiction sustaining liability similar to morphine
8 or being capable of conversion into a drug having addiction
9 forming or addiction sustaining liability.

10 (ee) "Opium poppy" means the plant of the species *Papaver*
11 *somniferum* L., except its seeds.

12 (ff) "Parole and Pardon Board" means the Parole and Pardon
13 Board of the State of Illinois or its successor agency.

14 (gg) "Person" means any individual, corporation,
15 mail-order pharmacy, government or governmental subdivision or
16 agency, business trust, estate, trust, partnership or
17 association, or any other entity.

18 (hh) "Pharmacist" means any person who holds a certificate
19 of registration as a registered pharmacist, a local registered
20 pharmacist or a registered assistant pharmacist under the
21 Pharmacy Practice Act of 1987.

22 (ii) "Pharmacy" means any store, ship or other place in
23 which pharmacy is authorized to be practiced under the Pharmacy
24 Practice Act of 1987.

25 (jj) "Poppy straw" means all parts, except the seeds, of
26 the opium poppy, after mowing.

27 (kk) "Practitioner" means a physician licensed to practice
28 medicine in all its branches, dentist, podiatrist,
29 veterinarian, scientific investigator, pharmacist, physician
30 assistant, advanced practice nurse, licensed practical nurse,
31 registered nurse, hospital, laboratory, or pharmacy, or other
32 person licensed, registered, or otherwise lawfully permitted
33 by the United States or this State to distribute, dispense,
34 conduct research with respect to, administer or use in teaching

1 or chemical analysis, a controlled substance in the course of
2 professional practice or research.

3 (ll) "Pre-printed prescription" means a written
4 prescription upon which the designated drug has been indicated
5 prior to the time of issuance.

6 (mm) "Prescriber" means a physician licensed to practice
7 medicine in all its branches, dentist, podiatrist or
8 veterinarian who issues a prescription, a physician assistant
9 who issues a prescription for a Schedule III, IV, or V
10 controlled substance in accordance with Section 303.05 and the
11 written guidelines required under Section 7.5 of the Physician
12 Assistant Practice Act of 1987, or an advanced practice nurse
13 with prescriptive authority in accordance with Section 303.05
14 and a written collaborative agreement under Sections 15-15 and
15 15-20 of the Nursing and Advanced Practice Nursing Act.

16 (nn) "Prescription" means a lawful written, facsimile, or
17 verbal order of a physician licensed to practice medicine in
18 all its branches, dentist, podiatrist or veterinarian for any
19 controlled substance, of a physician assistant for a Schedule
20 III, IV, or V controlled substance in accordance with Section
21 303.05 and the written guidelines required under Section 7.5 of
22 the Physician Assistant Practice Act of 1987, or of an advanced
23 practice nurse who issues a prescription for a Schedule III,
24 IV, or V controlled substance in accordance with Section 303.05
25 and a written collaborative agreement under Sections 15-15 and
26 15-20 of the Nursing and Advanced Practice Nursing Act.

27 (oo) "Production" or "produce" means manufacture,
28 planting, cultivating, growing, or harvesting of a controlled
29 substance other than methamphetamine.

30 (pp) "Registrant" means every person who is required to
31 register under Section 302 of this Act.

32 (qq) "Registry number" means the number assigned to each
33 person authorized to handle controlled substances under the
34 laws of the United States and of this State.

1 (rr) "State" includes the State of Illinois and any state,
2 district, commonwealth, territory, insular possession thereof,
3 and any area subject to the legal authority of the United
4 States of America.

5 (ss) "Ultimate user" means a person who lawfully possesses
6 a controlled substance for his own use or for the use of a
7 member of his household or for administering to an animal owned
8 by him or by a member of his household.

9 (Source: P.A. 92-449, eff. 1-1-02; 93-596, eff. 8-26-03;
10 93-626, eff. 12-23-03.)

11 (720 ILCS 570/401) (from Ch. 56 1/2, par. 1401)

12 Sec. 401. Except as authorized by this Act, it is unlawful
13 for any person knowingly to: ~~(i) manufacture or deliver, or~~
14 ~~possess with intent to manufacture or deliver, a controlled~~
15 ~~substance other than methamphetamine, a ~~or~~ counterfeit~~
16 ~~substance, or a controlled substance analog or (ii) possess any~~
17 ~~methamphetamine manufacturing chemical listed in paragraph~~
18 ~~(z 1) of Section 102 with the intent to manufacture~~
19 ~~methamphetamine or the salt of an optical isomer of~~
20 ~~methamphetamine or an analog thereof.~~ A violation of this Act
21 with respect to each of the controlled substances listed herein
22 constitutes a single and separate violation of this Act. For
23 purposes of this Section, "controlled substance analog" or
24 "analog" means a substance which is intended for human
25 consumption, other than a controlled substance, that has a
26 chemical structure substantially similar to that of a
27 controlled substance in Schedule I or II, or that was
28 specifically designed to produce an effect substantially
29 similar to that of a controlled substance in Schedule I or II.
30 Examples of chemical classes in which controlled substance
31 analogs are found include, but are not limited to, the
32 following: phenethylamines, N-substituted piperidines,
33 morphinans, ecgonines, quinazolinones, substituted indoles,

1 and arylcycloalkylamines. For purposes of this Act, a
2 controlled substance analog shall be treated in the same manner
3 as the controlled substance to which it is substantially
4 similar.

5 (a) Any person who violates this Section with respect to
6 the following amounts of controlled or counterfeit substances
7 or controlled substance analogs, notwithstanding any of the
8 provisions of subsections (c), ~~(c-5)~~, (d), ~~(d-5)~~, (e), (f), (g)
9 or (h) to the contrary, is guilty of a Class X felony and shall
10 be sentenced to a term of imprisonment as provided in this
11 subsection (a) and fined as provided in subsection (b):

12 (1) (A) not less than 6 years and not more than 30
13 years with respect to 15 grams or more but less than
14 100 grams of a substance containing heroin, or an
15 analog thereof;

16 (B) not less than 9 years and not more than 40
17 years with respect to 100 grams or more but less than
18 400 grams of a substance containing heroin, or an
19 analog thereof;

20 (C) not less than 12 years and not more than 50
21 years with respect to 400 grams or more but less than
22 900 grams of a substance containing heroin, or an
23 analog thereof;

24 (D) not less than 15 years and not more than 60
25 years with respect to 900 grams or more of any
26 substance containing heroin, or an analog thereof;

27 (2) (A) not less than 6 years and not more than 30
28 years with respect to 15 grams or more but less than
29 100 grams of a substance containing cocaine, or an
30 analog thereof;

31 (B) not less than 9 years and not more than 40
32 years with respect to 100 grams or more but less than
33 400 grams of a substance containing cocaine, or an
34 analog thereof;

1 (C) not less than 12 years and not more than 50
2 years with respect to 400 grams or more but less than
3 900 grams of a substance containing cocaine, or an
4 analog thereof;

5 (D) not less than 15 years and not more than 60
6 years with respect to 900 grams or more of any
7 substance containing cocaine, or an analog thereof;

8 (3) (A) not less than 6 years and not more than 30
9 years with respect to 15 grams or more but less than
10 100 grams of a substance containing morphine, or an
11 analog thereof;

12 (B) not less than 9 years and not more than 40
13 years with respect to 100 grams or more but less than
14 400 grams of a substance containing morphine, or an
15 analog thereof;

16 (C) not less than 12 years and not more than 50
17 years with respect to 400 grams or more but less than
18 900 grams of a substance containing morphine, or an
19 analog thereof;

20 (D) not less than 15 years and not more than 60
21 years with respect to 900 grams or more of a substance
22 containing morphine, or an analog thereof;

23 (4) 200 grams or more of any substance containing
24 peyote, or an analog thereof;

25 (5) 200 grams or more of any substance containing a
26 derivative of barbituric acid or any of the salts of a
27 derivative of barbituric acid, or an analog thereof;

28 (6) 200 grams or more of any substance containing
29 amphetamine or any salt of an optical isomer of
30 amphetamine, or an analog thereof;

31 (6.5) (blank); ~~(A) not less than 6 years and not more~~
32 ~~than 30 years with respect to 15 grams or more but less~~
33 ~~than 100 grams of a substance containing~~
34 ~~methamphetamine or any salt of an optical isomer of~~

1 ~~methamphetamine, or an analog thereof;~~

2 ~~(B) not less than 9 years and not more than 40~~
3 ~~years with respect to 100 grams or more but less than~~
4 ~~400 grams of a substance containing methamphetamine or~~
5 ~~any salt of an optical isomer of methamphetamine, or an~~
6 ~~analog thereof;~~

7 ~~(C) not less than 12 years and not more than 50~~
8 ~~years with respect to 400 grams or more but less than~~
9 ~~900 grams of a substance containing methamphetamine or~~
10 ~~any salt of an optical isomer of methamphetamine, or an~~
11 ~~analog thereof;~~

12 ~~(D) not less than 15 years and not more than 60~~
13 ~~years with respect to 900 grams or more of any~~
14 ~~substance containing methamphetamine or any salt of an~~
15 ~~optical isomer of methamphetamine, or an analog~~
16 ~~thereof.~~

17 (6.6) (blank); ~~(A) not less than 6 years and not more~~
18 ~~than 30 years for the possession of any methamphetamine~~
19 ~~manufacturing chemical set forth in paragraph (z 1) of~~
20 ~~Section 102 with intent to manufacture 30 grams or more~~
21 ~~but less than 150 grams of any substance containing~~
22 ~~methamphetamine, or salt of any optical isomer of~~
23 ~~methamphetamine, or an analog thereof;~~

24 ~~(B) not less than 6 years and not more than 40~~
25 ~~years for the possession of any methamphetamine~~
26 ~~manufacturing chemical set forth in paragraph (z 1) of~~
27 ~~Section 102 with intent to manufacture 150 grams or~~
28 ~~more but less than 500 grams of any substance~~
29 ~~containing methamphetamine, or salt of an optical~~
30 ~~isomer of methamphetamine, or an analog thereof;~~

31 ~~(C) not less than 6 years and not more than 50~~
32 ~~years for the possession of any methamphetamine~~
33 ~~manufacturing chemical set forth in paragraph (z 1) of~~
34 ~~Section 102 with intent to manufacture 500 grams or~~

1 ~~more but less than 1200 grams of any substance~~
2 ~~containing methamphetamine, or salt of an optical~~
3 ~~isomer of methamphetamine, or an analog thereof;~~

4 ~~(D) not less than 6 years and not more than 60~~
5 ~~years for the possession of any methamphetamine~~
6 ~~manufacturing chemical set forth in paragraph (z 1) of~~
7 ~~Section 102 with intent to manufacture 1200 grams or~~
8 ~~more of any substance containing methamphetamine, or~~
9 ~~salt of an optical isomer of methamphetamine, or an~~
10 ~~analog thereof;~~

11 (7) (A) not less than 6 years and not more than 30
12 years with respect to: (i) 15 grams or more but less
13 than 100 grams of a substance containing lysergic acid
14 diethylamide (LSD), or an analog thereof, or (ii) 15 or
15 more objects or 15 or more segregated parts of an
16 object or objects but less than 200 objects or 200
17 segregated parts of an object or objects containing in
18 them or having upon them any amounts of any substance
19 containing lysergic acid diethylamide (LSD), or an
20 analog thereof;

21 (B) not less than 9 years and not more than 40
22 years with respect to: (i) 100 grams or more but less
23 than 400 grams of a substance containing lysergic acid
24 diethylamide (LSD), or an analog thereof, or (ii) 200
25 or more objects or 200 or more segregated parts of an
26 object or objects but less than 600 objects or less
27 than 600 segregated parts of an object or objects
28 containing in them or having upon them any amount of
29 any substance containing lysergic acid diethylamide
30 (LSD), or an analog thereof;

31 (C) not less than 12 years and not more than 50
32 years with respect to: (i) 400 grams or more but less
33 than 900 grams of a substance containing lysergic acid
34 diethylamide (LSD), or an analog thereof, or (ii) 600

1 or more objects or 600 or more segregated parts of an
2 object or objects but less than 1500 objects or 1500
3 segregated parts of an object or objects containing in
4 them or having upon them any amount of any substance
5 containing lysergic acid diethylamide (LSD), or an
6 analog thereof;

7 (D) not less than 15 years and not more than 60
8 years with respect to: (i) 900 grams or more of any
9 substance containing lysergic acid diethylamide (LSD),
10 or an analog thereof, or (ii) 1500 or more objects or
11 1500 or more segregated parts of an object or objects
12 containing in them or having upon them any amount of a
13 substance containing lysergic acid diethylamide (LSD),
14 or an analog thereof;

15 (7.5) (A) not less than 6 years and not more than 30
16 years with respect to: (i) 15 grams or more but less
17 than 100 grams of a substance listed in paragraph (1),
18 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
19 (25), or (26) of subsection (d) of Section 204, or an
20 analog or derivative thereof, or (ii) 15 or more pills,
21 tablets, caplets, capsules, or objects but less than
22 200 pills, tablets, caplets, capsules, or objects
23 containing in them or having upon them any amounts of
24 any substance listed in paragraph (1), (2), (2.1), (3),
25 (14.1), (19), (20), (20.1), (21), (25), or (26) of
26 subsection (d) of Section 204, or an analog or
27 derivative thereof;

28 (B) not less than 9 years and not more than 40
29 years with respect to: (i) 100 grams or more but less
30 than 400 grams of a substance listed in paragraph (1),
31 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
32 (25), or (26) of subsection (d) of Section 204, or an
33 analog or derivative thereof, or (ii) 200 or more
34 pills, tablets, caplets, capsules, or objects but less

1 than 600 pills, tablets, caplets, capsules, or objects
2 containing in them or having upon them any amount of
3 any substance listed in paragraph (1), (2), (2.1), (3),
4 (14.1), (19), (20), (20.1), (21), (25), or (26) of
5 subsection (d) of Section 204, or an analog or
6 derivative thereof;

7 (C) not less than 12 years and not more than 50
8 years with respect to: (i) 400 grams or more but less
9 than 900 grams of a substance listed in paragraph (1),
10 (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
11 (25), or (26) of subsection (d) of Section 204, or an
12 analog or derivative thereof, or (ii) 600 or more
13 pills, tablets, caplets, capsules, or objects but less
14 than 1,500 pills, tablets, caplets, capsules, or
15 objects containing in them or having upon them any
16 amount of any substance listed in paragraph (1), (2),
17 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or
18 (26) of subsection (d) of Section 204, or an analog or
19 derivative thereof;

20 (D) not less than 15 years and not more than 60
21 years with respect to: (i) 900 grams or more of any
22 substance listed in paragraph (1), (2), (2.1), (3),
23 (14.1), (19), (20), (20.1), (21), (25), or (26) of
24 subsection (d) of Section 204, or an analog or
25 derivative thereof, or (ii) 1,500 or more pills,
26 tablets, caplets, capsules, or objects containing in
27 them or having upon them any amount of a substance
28 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),
29 (20), (20.1), (21), (25), or (26) of subsection (d) of
30 Section 204, or an analog or derivative thereof;

31 (8) 30 grams or more of any substance containing
32 pentazocine or any of the salts, isomers and salts of
33 isomers of pentazocine, or an analog thereof;

34 (9) 30 grams or more of any substance containing

1 methaqualone or any of the salts, isomers and salts of
2 isomers of methaqualone, or an analog thereof;

3 (10) 30 grams or more of any substance containing
4 phencyclidine or any of the salts, isomers and salts of
5 isomers of phencyclidine (PCP), or an analog thereof;

6 (10.5) 30 grams or more of any substance containing
7 ketamine or any of the salts, isomers and salts of isomers
8 of ketamine, or an analog thereof;

9 (11) 200 grams or more of any substance containing any
10 other controlled substance classified in Schedules I or II,
11 or an analog thereof, which is not otherwise included in
12 this subsection.

13 (b) Any person sentenced with respect to violations of
14 paragraph (1), (2), (3), ~~(6.5), (6.6)~~, (7), or (7.5) of
15 subsection (a) involving 100 grams or more of the controlled
16 substance named therein, may in addition to the penalties
17 provided therein, be fined an amount not more than \$500,000 or
18 the full street value of the controlled or counterfeit
19 substance or controlled substance analog, whichever is
20 greater. The term "street value" shall have the meaning
21 ascribed in Section 110-5 of the Code of Criminal Procedure of
22 1963. Any person sentenced with respect to any other provision
23 of subsection (a), may in addition to the penalties provided
24 therein, be fined an amount not to exceed \$500,000.

25 (c) Any person who violates this Section with regard to the
26 following amounts of controlled or counterfeit substances or
27 controlled substance analogs, notwithstanding any of the
28 provisions of subsections (a), (b), (d), (e), (f), (g) or (h)
29 to the contrary, is guilty of a Class 1 felony. The fine for
30 violation of this subsection (c) shall not be more than
31 \$250,000:

32 (1) 1 gram or more but less than 15 grams of any
33 substance containing heroin, or an analog thereof;

34 (2) 1 gram or more but less than 15 grams of any

1 substance containing cocaine, or an analog thereof;

2 (3) 10 grams or more but less than 15 grams of any
3 substance containing morphine, or an analog thereof;

4 (4) 50 grams or more but less than 200 grams of any
5 substance containing peyote, or an analog thereof;

6 (5) 50 grams or more but less than 200 grams of any
7 substance containing a derivative of barbituric acid or any
8 of the salts of a derivative of barbituric acid, or an
9 analog thereof;

10 (6) 50 grams or more but less than 200 grams of any
11 substance containing amphetamine or any salt of an optical
12 isomer of amphetamine, or an analog thereof;

13 (6.5) (blank); ~~5 grams or more but less than 15 grams~~
14 ~~of any substance containing methamphetamine or any salt or~~
15 ~~optical isomer of methamphetamine, or an analog thereof;~~

16 (7) (i) 5 grams or more but less than 15 grams of any
17 substance containing lysergic acid diethylamide (LSD), or
18 an analog thereof, or (ii) more than 10 objects or more
19 than 10 segregated parts of an object or objects but less
20 than 15 objects or less than 15 segregated parts of an
21 object containing in them or having upon them any amount of
22 any substance containing lysergic acid diethylamide (LSD),
23 or an analog thereof;

24 (7.5) (i) 5 grams or more but less than 15 grams of any
25 substance listed in paragraph (1), (2), (2.1), (3), (14.1),
26 (19), (20), (20.1), (21), (25), or (26) of subsection (d)
27 of Section 204, or an analog or derivative thereof, or (ii)
28 more than 10 pills, tablets, caplets, capsules, or objects
29 but less than 15 pills, tablets, caplets, capsules, or
30 objects containing in them or having upon them any amount
31 of any substance listed in paragraph (1), (2), (2.1), (3),
32 (14.1), (19), (20), (20.1), (21), (25), or (26) of
33 subsection (d) of Section 204, or an analog or derivative
34 thereof;

1 (8) 10 grams or more but less than 30 grams of any
2 substance containing pentazocine or any of the salts,
3 isomers and salts of isomers of pentazocine, or an analog
4 thereof;

5 (9) 10 grams or more but less than 30 grams of any
6 substance containing methaqualone or any of the salts,
7 isomers and salts of isomers of methaqualone, or an analog
8 thereof;

9 (10) 10 grams or more but less than 30 grams of any
10 substance containing phencyclidine or any of the salts,
11 isomers and salts of isomers of phencyclidine (PCP), or an
12 analog thereof;

13 (10.5) 10 grams or more but less than 30 grams of any
14 substance containing ketamine or any of the salts, isomers
15 and salts of isomers of ketamine, or an analog thereof;

16 (11) 50 grams or more but less than 200 grams of any
17 substance containing a substance classified in Schedules I
18 or II, or an analog thereof, which is not otherwise
19 included in this subsection.

20 (c-5) (Blank). ~~Any person who violates this Section with~~
21 ~~regard to possession of any methamphetamine manufacturing~~
22 ~~chemical set forth in paragraph (z-1) of Section 102 with~~
23 ~~intent to manufacture 15 grams or more but less than 30 grams~~
24 ~~of methamphetamine, or salt of an optical isomer of~~
25 ~~methamphetamine or any analog thereof, is guilty of a Class 1~~
26 ~~felony. The fine for violation of this subsection (c-5) shall~~
27 ~~not be more than \$250,000.~~

28 (d) Any person who violates this Section with regard to any
29 other amount of a controlled or counterfeit substance
30 classified in Schedules I or II, or an analog thereof, which is
31 (i) a narcotic drug, (ii) lysergic acid diethylamide (LSD) or
32 an analog thereof, or (iii) any substance containing
33 amphetamine ~~or methamphetamine~~ or any salt or optical isomer of
34 amphetamine ~~or methamphetamine~~, or an analog thereof, is guilty

1 of a Class 2 felony. The fine for violation of this subsection
2 (d) shall not be more than \$200,000.

3 (d-5) (Blank). ~~Any person who violates this Section with~~
4 ~~regard to possession of any methamphetamine manufacturing~~
5 ~~chemical set forth in paragraph (z 1) of Section 102 with~~
6 ~~intent to manufacture less than 15 grams of methamphetamine, or~~
7 ~~salt of an optical isomer of methamphetamine or any analog~~
8 ~~thereof, is guilty of a Class 2 felony. The fine for violation~~
9 ~~of this subsection (d-5) shall not be more than \$200,000.~~

10 (e) Any person who violates this Section with regard to any
11 other amount of a controlled or counterfeit substance other
12 than methamphetamine classified in Schedule I or II, or an
13 analog thereof, which substance is not included under
14 subsection (d) of this Section, is guilty of a Class 3 felony.
15 The fine for violation of this subsection (e) shall not be more
16 than \$150,000.

17 (f) Any person who violates this Section with regard to any
18 other amount of a controlled or counterfeit substance
19 classified in Schedule III is guilty of a Class 3 felony. The
20 fine for violation of this subsection (f) shall not be more
21 than \$125,000.

22 (g) Any person who violates this Section with regard to any
23 other amount of a controlled or counterfeit substance
24 classified in Schedule IV is guilty of a Class 3 felony. The
25 fine for violation of this subsection (g) shall not be more
26 than \$100,000.

27 (h) Any person who violates this Section with regard to any
28 other amount of a controlled or counterfeit substance
29 classified in Schedule V is guilty of a Class 3 felony. The
30 fine for violation of this subsection (h) shall not be more
31 than \$75,000.

32 (i) This Section does not apply to the manufacture,
33 possession or distribution of a substance in conformance with
34 the provisions of an approved new drug application or an

1 exemption for investigational use within the meaning of Section
2 505 of the Federal Food, Drug and Cosmetic Act.

3 (j) (Blank). ~~The presence of any methamphetamine~~
4 ~~manufacturing chemical in a sealed, factory imprinted~~
5 ~~container, including, but not limited to a bottle, box, or~~
6 ~~plastic blister package, at the time of seizure by law~~
7 ~~enforcement, is prima facie evidence that the methamphetamine~~
8 ~~manufacturing chemical located within the container is in fact~~
9 ~~the chemical so described and in the amount and dosage listed~~
10 ~~on the container. The factory imprinted container is admissible~~
11 ~~for a violation of this Section for purposes of proving the~~
12 ~~contents of the container.~~

13 (Source: P.A. 92-16, eff. 6-28-01; 92-256, eff. 1-1-02; 92-698,
14 eff. 7-19-02; 93-278, eff. 1-1-04.)

15 (720 ILCS 570/401.1) (from Ch. 56 1/2, par. 1401.1)

16 Sec. 401.1. Controlled Substance Trafficking.

17 (a) Except for purposes as authorized by this Act, any
18 person who knowingly brings or causes to be brought into this
19 State for the purpose of manufacture or delivery or with the
20 intent to manufacture or deliver a controlled substance other
21 than methamphetamine or counterfeit substance in this or any
22 other state or country is guilty of controlled substance
23 trafficking.

24 (b) A person convicted of controlled substance trafficking
25 shall be sentenced to a term of imprisonment not less than
26 twice the minimum term and fined an amount as authorized by
27 Section 401 of this Act, based upon the amount of controlled or
28 counterfeit substance brought or caused to be brought into this
29 State, and not more than twice the maximum term of imprisonment
30 and fined twice the amount as authorized by Section 401 of this
31 Act, based upon the amount of controlled or counterfeit
32 substance brought or caused to be brought into this State.

33 (c) It shall be a Class 2 felony for which a fine not to

1 exceed \$100,000 may be imposed for any person to knowingly use
2 a cellular radio telecommunication device in the furtherance of
3 controlled substance trafficking. This penalty shall be in
4 addition to any other penalties imposed by law.

5 (Source: P.A. 85-1294; 86-1391.)

6 (720 ILCS 570/401.5)

7 Sec. 401.5. Chemical breakdown of illicit controlled
8 substance.

9 (a) It is unlawful for any person to manufacture a
10 controlled substance other than methamphetamine prohibited by
11 this Act by chemically deriving the controlled substance from
12 one or more other controlled substances prohibited by this Act.

13 (a-5) It is unlawful for any person to possess any
14 substance with the intent to use the substance to facilitate
15 the manufacture of any controlled substance other than
16 methamphetamine, any ~~or~~ counterfeit substance, or any
17 controlled substance analog other than as authorized by this
18 Act.

19 (b) A violation of this Section is a Class 4 felony.

20 (c) (Blank). ~~This Section does not apply to the possession~~
21 ~~of any methamphetamine manufacturing chemicals with the intent~~
22 ~~to manufacture methamphetamine or any salt of an optical isomer~~
23 ~~of methamphetamine, or an analog of methamphetamine.~~

24 (Source: P.A. 90-775, eff. 1-1-99; 91-403, eff. 1-1-00; 91-825,
25 eff. 6-13-00.)

26 (720 ILCS 570/402) (from Ch. 56 1/2, par. 1402)

27 Sec. 402. Except as otherwise authorized by this Act, it is
28 unlawful for any person knowingly to possess a controlled or
29 counterfeit substance. A violation of this Act with respect to
30 each of the controlled substances listed herein constitutes a
31 single and separate violation of this Act.

32 (a) Any person who violates this Section with respect to

1 the following controlled or counterfeit substances and
2 amounts, notwithstanding any of the provisions of subsections
3 (c) and (d) to the contrary, is guilty of a Class 1 felony and
4 shall, if sentenced to a term of imprisonment, be sentenced as
5 provided in this subsection (a) and fined as provided in
6 subsection (b):

7 (1) (A) not less than 4 years and not more than 15
8 years with respect to 15 grams or more but less than
9 100 grams of a substance containing heroin;

10 (B) not less than 6 years and not more than 30
11 years with respect to 100 grams or more but less than
12 400 grams of a substance containing heroin;

13 (C) not less than 8 years and not more than 40
14 years with respect to 400 grams or more but less than
15 900 grams of any substance containing heroin;

16 (D) not less than 10 years and not more than 50
17 years with respect to 900 grams or more of any
18 substance containing heroin;

19 (2) (A) not less than 4 years and not more than 15
20 years with respect to 15 grams or more but less than
21 100 grams of any substance containing cocaine;

22 (B) not less than 6 years and not more than 30
23 years with respect to 100 grams or more but less than
24 400 grams of any substance containing cocaine;

25 (C) not less than 8 years and not more than 40
26 years with respect to 400 grams or more but less than
27 900 grams of any substance containing cocaine;

28 (D) not less than 10 years and not more than 50
29 years with respect to 900 grams or more of any
30 substance containing cocaine;

31 (3) (A) not less than 4 years and not more than 15
32 years with respect to 15 grams or more but less than

1 100 grams of any substance containing morphine;

2 (B) not less than 6 years and not more than 30
3 years with respect to 100 grams or more but less than
4 400 grams of any substance containing morphine;

5 (C) not less than 6 years and not more than 40
6 years with respect to 400 grams or more but less than
7 900 grams of any substance containing morphine;

8 (D) not less than 10 years and not more than 50
9 years with respect to 900 grams or more of any
10 substance containing morphine;

11 (4) 200 grams or more of any substance containing
12 peyote;

13 (5) 200 grams or more of any substance containing a
14 derivative of barbituric acid or any of the salts of a
15 derivative of barbituric acid;

16 (6) 200 grams or more of any substance containing
17 amphetamine or any salt of an optical isomer of
18 amphetamine;

19 (6.5) (blank); ~~(A) not less than 4 years and not more~~
20 ~~than 15 years with respect to 15 grams or more but less~~
21 ~~than 100 grams of a substance containing~~
22 ~~methamphetamine or any salt of an optical isomer of~~
23 ~~methamphetamine;~~

24 ~~(B) not less than 6 years and not more than 30~~
25 ~~years with respect to 100 grams or more but less than~~
26 ~~400 grams of a substance containing methamphetamine or~~
27 ~~any salt of an optical isomer of methamphetamine;~~

28 ~~(C) not less than 8 years and not more than 40~~
29 ~~years with respect to 400 grams or more but less than~~
30 ~~900 grams of a substance containing methamphetamine or~~
31 ~~any salt of an optical isomer of methamphetamine;~~

32 ~~(D) not less than 10 years and not more than 50~~
33 ~~years with respect to 900 grams or more of any~~
34 ~~substance containing methamphetamine or any salt of an~~

1 ~~optical isomer of methamphetamine;~~

2 (7) (A) not less than 4 years and not more than 15
3 years with respect to: (i) 15 grams or more but less
4 than 100 grams of any substance containing lysergic
5 acid diethylamide (LSD), or an analog thereof, or (ii)
6 15 or more objects or 15 or more segregated parts of an
7 object or objects but less than 200 objects or 200
8 segregated parts of an object or objects containing in
9 them or having upon them any amount of any substance
10 containing lysergic acid diethylamide (LSD), or an
11 analog thereof;

12 (B) not less than 6 years and not more than 30
13 years with respect to: (i) 100 grams or more but less
14 than 400 grams of any substance containing lysergic
15 acid diethylamide (LSD), or an analog thereof, or (ii)
16 200 or more objects or 200 or more segregated parts of
17 an object or objects but less than 600 objects or less
18 than 600 segregated parts of an object or objects
19 containing in them or having upon them any amount of
20 any substance containing lysergic acid diethylamide
21 (LSD), or an analog thereof;

22 (C) not less than 8 years and not more than 40
23 years with respect to: (i) 400 grams or more but less
24 than 900 grams of any substance containing lysergic
25 acid diethylamide (LSD), or an analog thereof, or (ii)
26 600 or more objects or 600 or more segregated parts of
27 an object or objects but less than 1500 objects or 1500
28 segregated parts of an object or objects containing in
29 them or having upon them any amount of any substance
30 containing lysergic acid diethylamide (LSD), or an
31 analog thereof;

32 (D) not less than 10 years and not more than 50
33 years with respect to: (i) 900 grams or more of any
34 substance containing lysergic acid diethylamide (LSD),

1 or an analog thereof, or (ii) 1500 or more objects or
2 1500 or more segregated parts of an object or objects
3 containing in them or having upon them any amount of a
4 substance containing lysergic acid diethylamide (LSD),
5 or an analog thereof;

6 (7.5) (A) not less than 4 years and not more than 15
7 years with respect to: (i) 15 grams or more but less
8 than 100 grams of any substance listed in paragraph
9 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
10 (25), or (26) of subsection (d) of Section 204, or an
11 analog or derivative thereof, or (ii) 15 or more pills,
12 tablets, caplets, capsules, or objects but less than
13 200 pills, tablets, caplets, capsules, or objects
14 containing in them or having upon them any amount of
15 any substance listed in paragraph (1), (2), (2.1), (3),
16 (14.1), (19), (20), (20.1), (21), (25), or (26) of
17 subsection (d) of Section 204, or an analog or
18 derivative thereof;

19 (B) not less than 6 years and not more than 30
20 years with respect to: (i) 100 grams or more but less
21 than 400 grams of any substance listed in paragraph
22 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
23 (25), or (26) of subsection (d) of Section 204, or an
24 analog or derivative thereof, or (ii) 200 or more
25 pills, tablets, caplets, capsules, or objects but less
26 than 600 pills, tablets, caplets, capsules, or objects
27 containing in them or having upon them any amount of
28 any substance listed in paragraph (1), (2), (2.1), (3),
29 (14.1), (19), (20), (20.1), (21), (25), or (26) of
30 subsection (d) of Section 204, or an analog or
31 derivative thereof;

32 (C) not less than 8 years and not more than 40
33 years with respect to: (i) 400 grams or more but less
34 than 900 grams of any substance listed in paragraph

1 (1), (2), (2.1), (3), (14.1), (19), (20), (20.1), (21),
2 (25), or (26) of subsection (d) of Section 204, or an
3 analog or derivative thereof, or (ii) 600 or more
4 pills, tablets, caplets, capsules, or objects but less
5 than 1,500 pills, tablets, caplets, capsules, or
6 objects containing in them or having upon them any
7 amount of any substance listed in paragraph (1), (2),
8 (2.1), (3), (14.1), (19), (20), (20.1), (21), (25), or
9 (26) of subsection (d) of Section 204, or an analog or
10 derivative thereof;

11 (D) not less than 10 years and not more than 50
12 years with respect to: (i) 900 grams or more of any
13 substance listed in paragraph (1), (2), (2.1), (3),
14 (14.1), (19), (20), (20.1), (21), (25), or (26) of
15 subsection (d) of Section 204, or an analog or
16 derivative thereof, or (ii) 1,500 or more pills,
17 tablets, caplets, capsules, or objects containing in
18 them or having upon them any amount of a substance
19 listed in paragraph (1), (2), (2.1), (3), (14.1), (19),
20 (20), (20.1), (21), (25), or (26) of subsection (d) of
21 Section 204, or an analog or derivative thereof;

22 (8) 30 grams or more of any substance containing
23 pentazocine or any of the salts, isomers and salts of
24 isomers of pentazocine, or an analog thereof;

25 (9) 30 grams or more of any substance containing
26 methaqualone or any of the salts, isomers and salts of
27 isomers of methaqualone;

28 (10) 30 grams or more of any substance containing
29 phencyclidine or any of the salts, isomers and salts of
30 isomers of phencyclidine (PCP);

31 (10.5) 30 grams or more of any substance containing
32 ketamine or any of the salts, isomers and salts of isomers
33 of ketamine;

34 (11) 200 grams or more of any substance containing any

1 substance classified as a narcotic drug in Schedules I or
2 II which is not otherwise included in this subsection.

3 (b) Any person sentenced with respect to violations of
4 paragraph (1), (2), (3), ~~(6.5)~~, (7), or (7.5) of subsection (a)
5 involving 100 grams or more of the controlled substance named
6 therein, may in addition to the penalties provided therein, be
7 fined an amount not to exceed \$200,000 or the full street value
8 of the controlled or counterfeit substances, whichever is
9 greater. The term "street value" shall have the meaning
10 ascribed in Section 110-5 of the Code of Criminal Procedure of
11 1963. Any person sentenced with respect to any other provision
12 of subsection (a), may in addition to the penalties provided
13 therein, be fined an amount not to exceed \$200,000.

14 (c) Any person who violates this Section with regard to an
15 amount of a controlled substance other than methamphetamine or
16 counterfeit substance not set forth in subsection (a) or (d) is
17 guilty of a Class 4 felony. The fine for a violation punishable
18 under this subsection (c) shall not be more than \$25,000.

19 (d) Any person who violates this Section with regard to any
20 amount of anabolic steroid is guilty of a Class C misdemeanor
21 for the first offense and a Class B misdemeanor for a
22 subsequent offense committed within 2 years of a prior
23 conviction.

24 (Source: P.A. 91-336, eff. 1-1-00; 91-357, eff. 7-29-99;
25 92-256, eff. 1-1-02.)

26 (720 ILCS 570/405.2)

27 Sec. 405.2. Streetgang criminal drug conspiracy.

28 (a) Any person who engages in a streetgang criminal drug
29 conspiracy, as defined in this Section, is guilty of a Class X
30 felony for which the offender shall be sentenced to a term of
31 imprisonment as follows:

32 (1) not less than 15 years and not more than 60 years
33 for a violation of subsection (a) of Section 401;

1 (2) not less than 10 years and not more than 30 years
2 for a violation of subsection (c) of Section 401.

3 For the purposes of this Section, a person engages in a
4 streetgang criminal drug conspiracy when:

5 (i) he or she violates any of the provisions of
6 subsection (a) or (c) of Section 401 of this Act or any
7 provision of the Methamphetamine Control and Community
8 Protection Act; and

9 (ii) such violation is part of a conspiracy undertaken
10 or carried out with 2 or more other persons; and

11 (iii) such conspiracy is in furtherance of the
12 activities of an organized gang as defined in the Illinois
13 Streetgang Terrorism Omnibus Prevention Act; and

14 (iv) he or she occupies a position of organizer, a
15 supervising person, or any other position of management
16 with those persons identified in clause (ii) of this
17 subsection (a).

18 The fine for a violation of this Section shall not be more
19 than \$500,000, and the offender shall be subject to the
20 forfeitures prescribed in subsection (b).

21 (b) Subject to the provisions of Section 8 of the Drug
22 Asset Forfeiture Procedure Act, any person who is convicted
23 under this Section of engaging in a streetgang criminal drug
24 conspiracy shall forfeit to the State of Illinois:

25 (1) the receipts obtained by him or her in such
26 conspiracy; and

27 (2) any of his or her interests in, claims against,
28 receipts from, or property or rights of any kind affording
29 a source of influence over, such conspiracy.

30 (c) The circuit court may enter such injunctions,
31 restraining orders, directions or prohibitions, or may take
32 such other actions, including the acceptance of satisfactory
33 performance bonds, in connection with any property, claim,
34 receipt, right or other interest subject to forfeiture under

1 this Section, as it deems proper.

2 (Source: P.A. 89-498, eff. 6-27-96.)

3 (720 ILCS 570/406.1) (from Ch. 56 1/2, par. 1406.1)

4 Sec. 406.1. (a) Any person who controls any building and
5 who performs the following act commits the offense of
6 permitting unlawful use of a building:

7 Knowingly grants, permits or makes the building available
8 for use for the purpose of unlawfully manufacturing or
9 delivering a controlled substance other than methamphetamine.

10 (b) Permitting unlawful use of a building is a Class 4
11 felony.

12 (Source: P.A. 85-537.)

13 (720 ILCS 570/407) (from Ch. 56 1/2, par. 1407)

14 Sec. 407. (a) (1) (A) Any person 18 years of age or over who
15 violates any subsection of Section 401 or subsection (b) of
16 Section 404 by delivering a controlled, counterfeit or
17 look-alike substance to a person under 18 years of age may be
18 sentenced to imprisonment for a term up to twice the maximum
19 term and fined an amount up to twice that amount otherwise
20 authorized by the pertinent subsection of Section 401 and
21 Subsection (b) of Section 404.

22 (B) (Blank). ~~Any person 18 years of age or over who~~
23 ~~violates subdivision (a) (6.5), subdivision (a) (6.6),~~
24 ~~subdivision (c) (6.5), subsection (c 5), subsection (d), or~~
25 ~~subsection (d 5) of Section 401 by manufacturing~~
26 ~~methamphetamine, preparing to manufacture methamphetamine, or~~
27 ~~storing methamphetamine, methamphetamine ingredients, or~~
28 ~~methamphetamine waste in any vehicle or real property where a~~
29 ~~child under 18 years of age resides, is present, or is~~
30 ~~otherwise endangered by exposure to the methamphetamine,~~
31 ~~methamphetamine ingredients, methamphetamine waste, or~~
32 ~~methamphetamine manufacturing process may be sentenced to~~

1 ~~imprisonment for a term up to twice the maximum term and fined~~
2 ~~an amount up to twice that amount otherwise authorized by the~~
3 ~~pertinent subsection of Section 401 and subsection (b) of~~
4 ~~Section 404.~~

5 (2) Except as provided in paragraph (3) of this subsection,
6 any person who violates:

7 (A) subsection (c) of Section 401 by delivering or
8 possessing with intent to deliver a controlled,
9 counterfeit, or look-alike substance in or on, or within
10 1,000 feet of, a truck stop or safety rest area, is guilty
11 of a Class 1 felony, the fine for which shall not exceed
12 \$250,000;

13 (B) subsection (d) of Section 401 by delivering or
14 possessing with intent to deliver a controlled,
15 counterfeit, or look-alike substance in or on, or within
16 1,000 feet of, a truck stop or safety rest area, is guilty
17 of a Class 2 felony, the fine for which shall not exceed
18 \$200,000;

19 (C) subsection (e) of Section 401 or subsection (b) of
20 Section 404 by delivering or possessing with intent to
21 deliver a controlled, counterfeit, or look-alike substance
22 in or on, or within 1,000 feet of, a truck stop or safety
23 rest area, is guilty of a Class 3 felony, the fine for
24 which shall not exceed \$150,000;

25 (D) subsection (f) of Section 401 by delivering or
26 possessing with intent to deliver a controlled,
27 counterfeit, or look-alike substance in or on, or within
28 1,000 feet of, a truck stop or safety rest area, is guilty
29 of a Class 3 felony, the fine for which shall not exceed
30 \$125,000;

31 (E) subsection (g) of Section 401 by delivering or
32 possessing with intent to deliver a controlled,
33 counterfeit, or look-alike substance in or on, or within
34 1,000 feet of, a truck stop or safety rest area, is guilty

1 of a Class 3 felony, the fine for which shall not exceed
2 \$100,000;

3 (F) subsection (h) of Section 401 by delivering or
4 possessing with intent to deliver a controlled,
5 counterfeit, or look-alike substance in or on, or within
6 1,000 feet of, a truck stop or safety rest area, is guilty
7 of a Class 3 felony, the fine for which shall not exceed
8 \$75,000;

9 (3) Any person who violates paragraph (2) of this
10 subsection (a) by delivering or possessing with intent to
11 deliver a controlled, counterfeit, or look-alike substance in
12 or on, or within 1,000 feet of a truck stop or a safety rest
13 area, following a prior conviction or convictions of paragraph
14 (2) of this subsection (a) may be sentenced to a term of
15 imprisonment up to 2 times the maximum term and fined an amount
16 up to 2 times the amount otherwise authorized by Section 401.

17 (4) For the purposes of this subsection (a):

18 (A) "Safety rest area" means a roadside facility
19 removed from the roadway with parking and facilities
20 designed for motorists' rest, comfort, and information
21 needs; and

22 (B) "Truck stop" means any facility (and its parking
23 areas) used to provide fuel or service, or both, to any
24 commercial motor vehicle as defined in Section 18b-101 of
25 the Illinois Vehicle Code.

26 (b) Any person who violates:

27 (1) subsection (c) of Section 401 in any school, or any
28 conveyance owned, leased or contracted by a school to
29 transport students to or from school or a school related
30 activity, or residential property owned, operated or
31 managed by a public housing agency or leased by a public
32 housing agency as part of a scattered site or mixed-income
33 development, or public park, on the real property
34 comprising any school or residential property owned,

1 operated or managed by a public housing agency or leased by
2 a public housing agency as part of a scattered site or
3 mixed-income development, or public park or within 1,000
4 feet of the real property comprising any school or
5 residential property owned, operated or managed by a public
6 housing agency or leased by a public housing agency as part
7 of a scattered site or mixed-income development, or public
8 park, on the real property comprising any church,
9 synagogue, or other building, structure, or place used
10 primarily for religious worship, or within 1,000 feet of
11 the real property comprising any church, synagogue, or
12 other building, structure, or place used primarily for
13 religious worship, on the real property comprising any of
14 the following places, buildings, or structures used
15 primarily for housing or providing space for activities for
16 senior citizens: nursing homes, assisted-living centers,
17 senior citizen housing complexes, or senior centers
18 oriented toward daytime activities, or within 1,000 feet of
19 the real property comprising any of the following places,
20 buildings, or structures used primarily for housing or
21 providing space for activities for senior citizens:
22 nursing homes, assisted-living centers, senior citizen
23 housing complexes, or senior centers oriented toward
24 daytime activities is guilty of a Class X felony, the fine
25 for which shall not exceed \$500,000;

26 (2) subsection (d) of Section 401 in any school, or any
27 conveyance owned, leased or contracted by a school to
28 transport students to or from school or a school related
29 activity, or residential property owned, operated or
30 managed by a public housing agency or leased by a public
31 housing agency as part of a scattered site or mixed-income
32 development, or public park, on the real property
33 comprising any school or residential property owned,
34 operated or managed by a public housing agency or leased by

1 a public housing agency as part of a scattered site or
2 mixed-income development, or public park or within 1,000
3 feet of the real property comprising any school or
4 residential property owned, operated or managed by a public
5 housing agency or leased by a public housing agency as part
6 of a scattered site or mixed-income development, or public
7 park, on the real property comprising any church,
8 synagogue, or other building, structure, or place used
9 primarily for religious worship, or within 1,000 feet of
10 the real property comprising any church, synagogue, or
11 other building, structure, or place used primarily for
12 religious worship, on the real property comprising any of
13 the following places, buildings, or structures used
14 primarily for housing or providing space for activities for
15 senior citizens: nursing homes, assisted-living centers,
16 senior citizen housing complexes, or senior centers
17 oriented toward daytime activities, or within 1,000 feet of
18 the real property comprising any of the following places,
19 buildings, or structures used primarily for housing or
20 providing space for activities for senior citizens:
21 nursing homes, assisted-living centers, senior citizen
22 housing complexes, or senior centers oriented toward
23 daytime activities is guilty of a Class 1 felony, the fine
24 for which shall not exceed \$250,000;

25 (3) subsection (e) of Section 401 or Subsection (b) of
26 Section 404 in any school, or any conveyance owned, leased
27 or contracted by a school to transport students to or from
28 school or a school related activity, or residential
29 property owned, operated or managed by a public housing
30 agency or leased by a public housing agency as part of a
31 scattered site or mixed-income development, or public
32 park, on the real property comprising any school or
33 residential property owned, operated or managed by a public
34 housing agency or leased by a public housing agency as part

1 of a scattered site or mixed-income development, or public
2 park or within 1,000 feet of the real property comprising
3 any school or residential property owned, operated or
4 managed by a public housing agency or leased by a public
5 housing agency as part of a scattered site or mixed-income
6 development, or public park, on the real property
7 comprising any church, synagogue, or other building,
8 structure, or place used primarily for religious worship,
9 or within 1,000 feet of the real property comprising any
10 church, synagogue, or other building, structure, or place
11 used primarily for religious worship, on the real property
12 comprising any of the following places, buildings, or
13 structures used primarily for housing or providing space
14 for activities for senior citizens: nursing homes,
15 assisted-living centers, senior citizen housing complexes,
16 or senior centers oriented toward daytime activities, or
17 within 1,000 feet of the real property comprising any of
18 the following places, buildings, or structures used
19 primarily for housing or providing space for activities for
20 senior citizens: nursing homes, assisted-living centers,
21 senior citizen housing complexes, or senior centers
22 oriented toward daytime activities is guilty of a Class 2
23 felony, the fine for which shall not exceed \$200,000;

24 (4) subsection (f) of Section 401 in any school, or any
25 conveyance owned, leased or contracted by a school to
26 transport students to or from school or a school related
27 activity, or residential property owned, operated or
28 managed by a public housing agency or leased by a public
29 housing agency as part of a scattered site or mixed-income
30 development, or public park, on the real property
31 comprising any school or residential property owned,
32 operated or managed by a public housing agency or leased by
33 a public housing agency as part of a scattered site or
34 mixed-income development, or public park or within 1,000

1 feet of the real property comprising any school or
2 residential property owned, operated or managed by a public
3 housing agency or leased by a public housing agency as part
4 of a scattered site or mixed-income development, or public
5 park, on the real property comprising any church,
6 synagogue, or other building, structure, or place used
7 primarily for religious worship, or within 1,000 feet of
8 the real property comprising any church, synagogue, or
9 other building, structure, or place used primarily for
10 religious worship, on the real property comprising any of
11 the following places, buildings, or structures used
12 primarily for housing or providing space for activities for
13 senior citizens: nursing homes, assisted-living centers,
14 senior citizen housing complexes, or senior centers
15 oriented toward daytime activities, or within 1,000 feet of
16 the real property comprising any of the following places,
17 buildings, or structures used primarily for housing or
18 providing space for activities for senior citizens:
19 nursing homes, assisted-living centers, senior citizen
20 housing complexes, or senior centers oriented toward
21 daytime activities is guilty of a Class 2 felony, the fine
22 for which shall not exceed \$150,000;

23 (5) subsection (g) of Section 401 in any school, or any
24 conveyance owned, leased or contracted by a school to
25 transport students to or from school or a school related
26 activity, or residential property owned, operated or
27 managed by a public housing agency or leased by a public
28 housing agency as part of a scattered site or mixed-income
29 development, or public park, on the real property
30 comprising any school or residential property owned,
31 operated or managed by a public housing agency or leased by
32 a public housing agency as part of a scattered site or
33 mixed-income development, or public park or within 1,000
34 feet of the real property comprising any school or

1 residential property owned, operated or managed by a public
2 housing agency or leased by a public housing agency as part
3 of a scattered site or mixed-income development, or public
4 park, on the real property comprising any church,
5 synagogue, or other building, structure, or place used
6 primarily for religious worship, or within 1,000 feet of
7 the real property comprising any church, synagogue, or
8 other building, structure, or place used primarily for
9 religious worship, on the real property comprising any of
10 the following places, buildings, or structures used
11 primarily for housing or providing space for activities for
12 senior citizens: nursing homes, assisted-living centers,
13 senior citizen housing complexes, or senior centers
14 oriented toward daytime activities, or within 1,000 feet of
15 the real property comprising any of the following places,
16 buildings, or structures used primarily for housing or
17 providing space for activities for senior citizens:
18 nursing homes, assisted-living centers, senior citizen
19 housing complexes, or senior centers oriented toward
20 daytime activities is guilty of a Class 2 felony, the fine
21 for which shall not exceed \$125,000;

22 (6) subsection (h) of Section 401 in any school, or any
23 conveyance owned, leased or contracted by a school to
24 transport students to or from school or a school related
25 activity, or residential property owned, operated or
26 managed by a public housing agency or leased by a public
27 housing agency as part of a scattered site or mixed-income
28 development, or public park, on the real property
29 comprising any school or residential property owned,
30 operated or managed by a public housing agency or leased by
31 a public housing agency as part of a scattered site or
32 mixed-income development, or public park or within 1,000
33 feet of the real property comprising any school or
34 residential property owned, operated or managed by a public

1 housing agency or leased by a public housing agency as part
2 of a scattered site or mixed-income development, or public
3 park, on the real property comprising any church,
4 synagogue, or other building, structure, or place used
5 primarily for religious worship, or within 1,000 feet of
6 the real property comprising any church, synagogue, or
7 other building, structure, or place used primarily for
8 religious worship, on the real property comprising any of
9 the following places, buildings, or structures used
10 primarily for housing or providing space for activities for
11 senior citizens: nursing homes, assisted-living centers,
12 senior citizen housing complexes, or senior centers
13 oriented toward daytime activities, or within 1,000 feet of
14 the real property comprising any of the following places,
15 buildings, or structures used primarily for housing or
16 providing space for activities for senior citizens:
17 nursing homes, assisted-living centers, senior citizen
18 housing complexes, or senior centers oriented toward
19 daytime activities is guilty of a Class 2 felony, the fine
20 for which shall not exceed \$100,000.

21 (c) Regarding penalties prescribed in subsection (b) for
22 violations committed in a school or on or within 1,000 feet of
23 school property, the time of day, time of year and whether
24 classes were currently in session at the time of the offense is
25 irrelevant.

26 (Source: P.A. 92-16, eff. 6-28-01; 93-223, eff. 1-1-04.)

27 (720 ILCS 570/410) (from Ch. 56 1/2, par. 1410)

28 Sec. 410. (a) Whenever any person who has not previously
29 been convicted of, or placed on probation or court supervision
30 for any offense under this Act or any law of the United States
31 or of any State relating to cannabis or controlled substances,
32 pleads guilty to or is found guilty of possession of a
33 controlled or counterfeit substance under subsection (c) of

1 Section 402, the court, without entering a judgment and with
2 the consent of such person, may sentence him to probation.

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

8 (c) The conditions of probation shall be that the person:
9 (1) not violate any criminal statute of any jurisdiction; (2)
10 refrain from possessing a firearm or other dangerous weapon;
11 (3) submit to periodic drug testing at a time and in a manner
12 as ordered by the court, but no less than 3 times during the
13 period of the probation, with the cost of the testing to be
14 paid by the probationer; and (4) perform no less than 30 hours
15 of community service, provided community service is available
16 in the jurisdiction and is funded and approved by the county
17 board.

18 (d) The court may, in addition to other conditions, require
19 that the person:

20 (1) make a report to and appear in person before or
21 participate with the court or such courts, person, or
22 social service agency as directed by the court in the order
23 of probation;

24 (2) pay a fine and costs;

25 (3) work or pursue a course of study or vocational
26 training;

27 (4) undergo medical or psychiatric treatment; or
28 treatment or rehabilitation approved by the Illinois
29 Department of Human Services;

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

32 (6) support his dependents;

33 (6-5) refrain from having in his or her body the
34 presence of any illicit drug prohibited by the Cannabis

1 Control Act, ~~or~~ the Illinois Controlled Substances Act, or
2 the Methamphetamine Control and Community Protection Act,
3 unless prescribed by a physician, and submit samples of his
4 or her blood or urine or both for tests to determine the
5 presence of any illicit drug;

6 (7) and in addition, if a minor:

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

8 (ii) attend school;

9 (iii) attend a non-residential program for youth;

10 (iv) contribute to his own support at home or in a
11 foster home.

12 (e) Upon violation of a term or condition of probation, the
13 court may enter a judgment on its original finding of guilt and
14 proceed as otherwise provided.

15 (f) Upon fulfillment of the terms and conditions of
16 probation, the court shall discharge the person and dismiss the
17 proceedings against him.

18 (g) A disposition of probation is considered to be a
19 conviction for the purposes of imposing the conditions of
20 probation and for appeal, however, discharge and dismissal
21 under this Section is not a conviction for purposes of this Act
22 or for purposes of disqualifications or disabilities imposed by
23 law upon conviction of a crime.

24 (h) There may be only one discharge and dismissal under
25 this Section, ~~or~~ Section 10 of the Cannabis Control Act, or
26 Section 70 of the Methamphetamine Control and Community
27 Protection Act with respect to any person.

28 (i) If a person is convicted of an offense under this Act, ~~or~~
29 ~~the Cannabis Control Act,~~ or the Methamphetamine Control and
30 Community Protection Act within 5 years subsequent to a
31 discharge and dismissal under this Section, the discharge and
32 dismissal under this Section shall be admissible in the
33 sentencing proceeding for that conviction as evidence in
34 aggravation.

1 (Source: P.A. 91-696, eff. 4-13-00.)

2 (720 ILCS 570/413) (from Ch. 56 1/2, par. 1413)

3 Sec. 413. (a) Twelve and one-half percent of all amounts
4 collected as fines pursuant to the provisions of this Article
5 shall be paid into the Youth Drug Abuse Prevention Fund, which
6 is hereby created in the State treasury, to be used by the
7 Department for the funding of programs and services for
8 drug-abuse treatment, and prevention and education services,
9 for juveniles.

10 (b) Eighty-seven and one-half percent of the proceeds of
11 all fines received under the provisions of this Article shall
12 be transmitted to and deposited in the treasurer's office at
13 the level of government as follows:

14 (1) If such seizure was made by a combination of law
15 enforcement personnel representing differing units of
16 local government, the court levying the fine shall
17 equitably allocate 50% of the fine among these units of
18 local government and shall allocate 37 1/2% to the county
19 general corporate fund. In the event that the seizure was
20 made by law enforcement personnel representing a unit of
21 local government from a municipality where the number of
22 inhabitants exceeds 2 million in population, the court
23 levying the fine shall allocate 87 1/2% of the fine to that
24 unit of local government. If the seizure was made by a
25 combination of law enforcement personnel representing
26 differing units of local government, and at least one of
27 those units represents a municipality where the number of
28 inhabitants exceeds 2 million in population, the court
29 shall equitably allocate 87 1/2% of the proceeds of the
30 fines received among the differing units of local
31 government.

32 (2) If such seizure was made by State law enforcement
33 personnel, then the court shall allocate 37 1/2% to the

1 State treasury and 50% to the county general corporate
2 fund.

3 (3) If a State law enforcement agency in combination
4 with a law enforcement agency or agencies of a unit or
5 units of local government conducted the seizure, the court
6 shall equitably allocate 37 1/2% of the fines to or among
7 the law enforcement agency or agencies of the unit or units
8 of local government which conducted the seizure and shall
9 allocate 50% to the county general corporate fund.

10 (c) The proceeds of all fines allocated to the law
11 enforcement agency or agencies of the unit or units of local
12 government pursuant to subsection (b) shall be made available
13 to that law enforcement agency as expendable receipts for use
14 in the enforcement of laws regulating cannabis,
15 methamphetamine, and other controlled substances ~~and cannabis~~.
16 The proceeds of fines awarded to the State treasury shall be
17 deposited in a special fund known as the Drug Traffic
18 Prevention Fund, except that amounts distributed to the
19 Secretary of State shall be deposited into the Secretary of
20 State Evidence Fund to be used as provided in Section 2-115 of
21 the Illinois Vehicle Code. Monies from this fund may be used by
22 the Department of State Police or use in the enforcement of
23 laws regulating cannabis, methamphetamine, and other
24 controlled substances ~~and cannabis~~; to satisfy funding
25 provisions of the Intergovernmental Drug Laws Enforcement Act;
26 to defray costs and expenses associated with returning
27 violators of the Cannabis Control Act and this Act only, as
28 provided in those Acts, when punishment of the crime shall be
29 confinement of the criminal in the penitentiary; and all other
30 monies shall be paid into the general revenue fund in the State
31 treasury.

32 (Source: P.A. 87-342; 87-993.)

33 (720 ILCS 570/405.3 rep.)

1 (720 ILCS 570/411.3 rep.)

2 Section 1066. The Illinois Controlled Substances Act is
3 amended by repealing Sections 405.3 and 411.3.

4 Section 1070. The Drug Paraphernalia Control Act is amended
5 by changing Section 2 as follows:

6 (720 ILCS 600/2) (from Ch. 56 1/2, par. 2102)

7 Sec. 2. As used in this Act, unless the context otherwise
8 requires:

9 (a) The term "cannabis" shall have the meaning ascribed to
10 it in Section 3 of the "Cannabis Control Act", as if that
11 definition were incorporated herein.

12 (b) The term "controlled substance" shall have the meaning
13 ascribed to it in Section 102 of the "Illinois Controlled
14 Substances Act", as if that definition were incorporated
15 herein.

16 (c) "Deliver" or "delivery" means the actual, constructive
17 or attempted transfer of possession, with or without
18 consideration, whether or not there is an agency relationship.

19 (d) "Drug paraphernalia" means all equipment, products and
20 materials of any kind, other than methamphetamine
21 manufacturing materials as defined in Section 10 of the
22 Methamphetamine Control and Community Protection Act, which
23 are intended to be used unlawfully in planting, propagating,
24 cultivating, growing, harvesting, manufacturing, compounding,
25 converting, producing, processing, preparing, testing,
26 analyzing, packaging, repackaging, storing, containing,
27 concealing, injecting, ingesting, inhaling or otherwise
28 introducing into the human body cannabis or a controlled
29 substance in violation of the "Cannabis Control Act", ~~or~~ the
30 "Illinois Controlled Substances Act", or the Methamphetamine
31 Control and Community Protection Act". It includes, but is not
32 limited to:

1 (1) kits intended to be used unlawfully in
2 manufacturing, compounding, converting, producing,
3 processing or preparing cannabis or a controlled
4 substance;

5 (2) isomerization devices intended to be used
6 unlawfully in increasing the potency of any species of
7 plant which is cannabis or a controlled substance;

8 (3) testing equipment intended to be used unlawfully in
9 a private home for identifying or in analyzing the
10 strength, effectiveness or purity of cannabis or
11 controlled substances;

12 (4) diluents and adulterants intended to be used
13 unlawfully for cutting cannabis or a controlled substance
14 by private persons;

15 (5) objects intended to be used unlawfully in
16 ingesting, inhaling, or otherwise introducing cannabis,
17 cocaine, hashish, or hashish oil into the human body
18 including, where applicable, the following items:

19 (A) water pipes;

20 (B) carburetion tubes and devices;

21 (C) smoking and carburetion masks;

22 (D) miniature cocaine spoons and cocaine vials;

23 (E) carburetor pipes;

24 (F) electric pipes;

25 (G) air-driven pipes;

26 (H) chillums;

27 (I) bongs;

28 (J) ice pipes or chillers;

29 (6) any item whose purpose, as announced or described
30 by the seller, is for use in violation of this Act.

31 (Source: P.A. 93-526, eff. 8-12-03.)

32 Section 1075. The Methamphetamine Manufacturing Chemical
33 Retail Sale Control Act is amended by changing Sections 1, 5,

1 10, 15, 30, 45, 50, and 60 as follows:

2 (720 ILCS 647/1)

3 Sec. 1. Short title. This Act may be cited as the
4 Methamphetamine Precursor ~~Methamphetamine Manufacturing~~
5 ~~Chemical~~ Retail Sale Control Act.

6 (Source: P.A. 93-1008, eff. 1-1-05.)

7 (720 ILCS 647/5)

8 Sec. 5. Purpose. The purpose of this Act is to reduce the
9 harm that methamphetamine is inflicting on individuals,
10 families, communities, the economy, and the environment in
11 Illinois by making it more difficult for persons engaged in the
12 unlawful manufacture of methamphetamine to obtain
13 methamphetamine precursor ~~methamphetamine manufacturing~~
14 ~~chemicals~~.

15 (Source: P.A. 93-1008, eff. 1-1-05.)

16 (720 ILCS 647/10)

17 Sec. 10. Definitions. In this Act:

18 "Methamphetamine precursor" has the meaning ascribed to it
19 in Section 10 of the Methamphetamine Control and Community
20 Protection Act. ~~"Methamphetamine manufacturing chemical" has~~
21 ~~the meaning ascribed to it in subsection (z-1) of Section 102~~
22 ~~of the Illinois Controlled Substances Act.~~

23 "Targeted methamphetamine precursor ~~methamphetamine~~
24 ~~manufacturing chemical~~" and "targeted medications" mean a
25 subset of "methamphetamine precursor ~~methamphetamine~~
26 ~~manufacturing chemicals~~". "Targeted methamphetamine precursor
27 ~~methamphetamine manufacturing chemical~~" means any medication
28 in the form of a tablet, capsule, caplet, or similar product
29 that is sold over the counter, without a prescription, and that
30 contains either (A) more than 15 milligrams of ephedrine or its
31 salts, optical isomers, or salts of optical isomers or (B) more

1 than 15 milligrams of pseudoephedrine or its salts, optical
2 isomers, or salts of optical isomers. "Targeted
3 methamphetamine precursor ~~methamphetamine manufacturing~~
4 ~~chemical~~" does not include any medication in the form of a
5 liquid, liquid cap, gel cap, or other similar substance, or any
6 medication dispensed by a licensed pharmacist pursuant to a
7 valid prescription.

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

11 "Targeted package" means a package containing any amount of
12 a targeted methamphetamine precursor ~~methamphetamine~~
13 ~~manufacturing chemical~~.

14 "Single active ingredient targeted methamphetamine
15 precursor ~~methamphetamine manufacturing chemical~~" means a
16 targeted methamphetamine precursor ~~methamphetamine~~
17 ~~manufacturing chemical~~ whose sole active ingredient is
18 ephedrine or its salts, optical isomers, or salts of optical
19 isomers; or pseudoephedrine or its salts, optical isomers, or
20 salts of optical isomers.

21 "Single active ingredient targeted package" means a
22 package containing any amount of single active ingredient
23 targeted methamphetamine precursor ~~methamphetamine~~
24 ~~manufacturing chemical~~.

25 "Multiple active ingredient targeted methamphetamine
26 precursor ~~methamphetamine manufacturing chemical~~" means a
27 targeted methamphetamine precursor ~~methamphetamine~~
28 ~~manufacturing chemical~~ that contains at least one active
29 ingredient other than ephedrine or its salts, optical isomers,
30 or salts of optical isomers; or pseudoephedrine or its salts,
31 optical isomers, or salts of optical isomers.

32 "Multiple active ingredient targeted package" means a
33 package containing any amount of multiple active ingredient
34 targeted methamphetamine precursor ~~methamphetamine~~

1 ~~manufacturing chemical.~~

2 "Stock keeping unit" or "SKU" means the primary or basic
3 unit of measure assigned to an item sold by a retail
4 distributor and the smallest unit of an item that may be
5 dispensed from a retail distributor's inventory.

6 "Targeted stock keeping unit" means a stock keeping unit
7 assigned to a targeted package.

8 "Blister pack" means a unit dose package commonly
9 constructed from a formed cavity containing one or more
10 individual doses.

11 "Capsule" means a solid dosage form in which a medicinal
12 substance is enclosed and consisting of either a hard or soft
13 soluble outer shell.

14 "Customer" means a person who buys goods from a retail
15 distributor.

16 "Distribute" means to sell, give, provide or otherwise
17 transfer.

18 "Dosage unit" means an exact amount of a drug's treatment
19 pre-packaged by the manufacturer or pharmacist in standardized
20 amounts.

21 "Sales employee" means any employee who at any time (a)
22 operates a cash register at which targeted packages may be
23 sold, (b) works at or behind a pharmacy counter, (c) stocks
24 shelves containing targeted packages, or (d) trains or
25 supervises other employees who engage in any of the preceding
26 activities.

27 "Tablet" means a solid dosage form of varying weight, size,
28 and shape that may be molded or compressed and that contains a
29 medicinal substance in pure or diluted form.

30 "Single retail transaction" means a sale by a retail
31 distributor to a specific customer at a specific time.

32 "Retail distributor" means a grocery store, general
33 merchandise store, drug store, other merchandise store, or
34 other entity or person whose activities as a distributor

1 relating to drug products containing targeted methamphetamine
2 precursor ~~methamphetamine manufacturing chemicals~~ are limited
3 exclusively or almost exclusively to sales for personal use,
4 both in number of sales and volume of sales, either directly to
5 walk-in customers or in face-to-face transactions by direct
6 sales.

7 (Source: P.A. 93-1008, eff. 1-1-05.)

8 (720 ILCS 647/15)

9 Sec. 15. Package sale restrictions.

10 (a) Any targeted methamphetamine precursor ~~methamphetamine~~
11 ~~manufacturing chemical~~ displayed or distributed by any retail
12 distributor in Illinois shall be packaged in blister packs,
13 with each blister containing not more than 2 dosage units, or
14 when the use of blister packs is technically infeasible, in
15 unit dose packets or pouches.

16 (b) Any targeted package displayed or distributed by any
17 retail distributor in Illinois shall contain no more than 3
18 grams of ephedrine or its salts, optical isomers, or salts of
19 optical isomers; or pseudoephedrine or its salts, optical
20 isomers, or salts of optical isomers.

21 (c) A retail distributor may not distribute more than 2
22 targeted packages in a single retail transaction.

23 (d) A retail distributor may not permit the purchase of any
24 targeted package by means of a self-service checkout station,
25 unless the self-service checkout station is programmed in a
26 manner that satisfies all of the following conditions for each
27 retail transaction:

28 (1) When a particular customer seeks to purchase a
29 single targeted package, the self-service checkout station
30 may allow him or her to do so without any special prompts
31 or actions.

32 (2) If the customer seeks to purchase a second targeted
33 package, the self-service checkout station shall not allow

1 him or her to purchase the second targeted package without
2 the assistance of a sales employee. If the customer then
3 seeks the assistance of a sales employee, the sales
4 employee may instruct the self-service checkout station to
5 allow the sale of the second targeted package.

6 (3) If the customer seeks to purchase a third targeted
7 package, neither the self-service checkout station nor the
8 store employee shall allow him or her to do so.

9 (e) A retail distributor, its employees, or its agents may
10 not distribute any targeted package or packages with knowledge
11 that they will be used to manufacture methamphetamine or with
12 reckless disregard of the likely use of such package or
13 packages to manufacture methamphetamine.

14 (Source: P.A. 93-1008, eff. 1-1-05.)

15 (720 ILCS 647/30)

16 Sec. 30. Training and certification.

17 (a) Every retail distributor of any targeted
18 methamphetamine precursor ~~methamphetamine manufacturing~~
19 ~~chemical~~ shall train each sales employee on the topics listed
20 on the certification form described in subsection (b) of this
21 Section. This training may be conducted by a live trainer or by
22 means of a computer-based training program. This training shall
23 be completed by the effective date of this Act or within 30
24 days of the date that each sales employee begins working for
25 the retail distributor, whichever of these 2 dates comes later.

26 (b) Immediately after training each sales employee as
27 required in subsection (a) of this Section, every retail
28 distributor of any targeted methamphetamine precursor
29 ~~methamphetamine manufacturing chemical~~ shall have each sales
30 employee read, sign, and date a certification form containing
31 the following language:

32 (1) My name is (insert name of employee) and I am an
33 employee of (insert name of business) at (insert street

1 address).

2 (2) I understand that in Illinois there are laws
3 governing the sale of certain over-the-counter medications
4 that contain a chemical called ephedrine or a second
5 chemical called pseudoephedrine. Medications that are
6 subject to these laws are called "targeted medications" and
7 they are sold in "targeted packages".

8 (3) I understand that "targeted medications" can be
9 used to manufacture the illegal and dangerous drug
10 methamphetamine and that methamphetamine is causing great
11 harm to individuals, families, communities, the economy,
12 and the environment throughout Illinois.

13 (4) I understand that under Illinois law, the store
14 where I work is not allowed to sell more than 2 "targeted
15 packages" in a single retail transaction. That means the
16 store cannot sell more than 2 "targeted packages" to a
17 single customer at one time.

18 (5) I understand that under Illinois law, the store
19 where I work cannot allow customers to buy "targeted
20 packages" at self-service check-out lanes, except under
21 certain conditions which have been described to me.

22 (6) I understand that under Illinois law, I cannot sell
23 "targeted medications" to a person if I know that the
24 person is going to use them to make methamphetamine.

25 (7) I understand that there are a number of ingredients
26 that are used to make the illegal drug methamphetamine,
27 including "targeted medications" sold in "targeted
28 packages". My employer has shown me a list of these various
29 ingredients, and I have reviewed the list.

30 (8) I understand that there are certain procedures that
31 I should follow if I suspect that a store customer is
32 purchasing "targeted medications" or other products for
33 the purpose of manufacturing methamphetamine. These
34 procedures have been described to me, and I understand

1 them.

2 (c) A certification form of the type described in
3 subsection (b) of this Section may be signed with a handwritten
4 signature or a reliable electronic signature that includes, a
5 unique identifier for each employee. The certification shall be
6 retained by the retail distributor for each sales employee for
7 the duration of his or her employment and for at least 30 days
8 following the end of his or her employment. Any such form shall
9 be made available for inspection and copying by any law
10 enforcement officer upon request.

11 (d) The office of the Illinois Attorney General shall make
12 available to retail distributors the list of methamphetamine
13 ingredients referred to in subsection (b) of this Section.

14 (Source: P.A. 93-1008, eff. 1-1-05.)

15 (720 ILCS 647/45)

16 Sec. 45. Immunity from civil liability. In the event that
17 any agent or employee of a retail distributor reports to any
18 law-enforcement agency any suspicious activity concerning a
19 targeted methamphetamine precursor ~~methamphetamine~~
20 ~~manufacturing chemical~~ or other methamphetamine ingredient or
21 ingredients, the agent or employee and the retail distributor
22 itself are immune from civil liability based on allegations of
23 defamation, libel, slander, false arrest, or malicious
24 prosecution, or similar allegations, except in cases of willful
25 or wanton misconduct.

26 (Source: P.A. 93-1008, eff. 1-1-05.)

27 (720 ILCS 647/50)

28 Sec. 50. Special exclusion. If the United States Drug
29 Enforcement Administration has formally certified that a
30 targeted methamphetamine precursor ~~methamphetamine~~
31 ~~manufacturing chemical~~ has been produced in a manner that
32 prevents its use for the manufacture of methamphetamine, this

1 Act does not apply to the sale of the targeted methamphetamine
2 precursor ~~methamphetamine manufacturing chemical~~ produced in
3 that manner.

4 (Source: P.A. 93-1008, eff. 1-1-05.)

5 (720 ILCS 647/60)

6 Sec. 60. Preemption and home rule powers.

7 (a) Except as provided in subsection (b) of this Section, a
8 county or municipality, including a home rule unit, may
9 regulate the sale of targeted methamphetamine precursor
10 ~~methamphetamine manufacturing chemicals~~ and targeted packages
11 in a manner that is not more or less restrictive than the
12 regulation by the State under this Act. This Section is a
13 limitation under subsection (i) of Section 6 of Article VII of
14 the Illinois Constitution on the concurrent exercise by home
15 rule units of the powers and functions exercised by the State.

16 (b) Any regulation of the sale of targeted methamphetamine
17 precursor ~~methamphetamine manufacturing chemicals~~ and targeted
18 packages by a home rule unit that took effect on or before May
19 1, 2004, is exempt from the provisions of subsection (a) of
20 this Section.

21 (Source: P.A. 93-1008, eff. 1-1-05.)

22 Section 1080. The Code of Criminal Procedure of 1963 is
23 amended by changing Sections 108B-3, 110-5, 110-6, 110-6.1,
24 110-7, 110-10, 115-10.5, and 115-15 as follows:

25 (725 ILCS 5/108B-3) (from Ch. 38, par. 108B-3)

26 Sec. 108B-3. Authorization for the interception of private
27 communication.

28 (a) The State's Attorney, or a person designated in writing
29 or by law to act for him and to perform his duties during his
30 absence or disability, may authorize, in writing, an ex parte
31 application to the chief judge of a court of competent

1 jurisdiction for an order authorizing the interception of a
2 private oral communication when no party has consented to the
3 interception and (i) the interception may provide evidence of,
4 or may assist in the apprehension of a person who has
5 committed, is committing or is about to commit, a violation of
6 Section 8-1.1 (solicitation of murder), 8-1.2 (solicitation of
7 murder for hire), 9-1 (first degree murder), or 29B-1 (money
8 laundering) of the Criminal Code of 1961, Section 401, 401.1
9 (controlled substance trafficking), 405, 405.1 (criminal drug
10 conspiracy) or 407 of the Illinois Controlled Substances Act or
11 any Section of the Methamphetamine Control and Community
12 Protection Act, a violation of Section 24-2.1, 24-2.2, 24-3,
13 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection 24-1(a) (4),
14 24-1(a) (6), 24-1(a) (7), 24-1(a) (9), 24-1(a) (10), or 24-1(c) of
15 the Criminal Code of 1961 or conspiracy to commit money
16 laundering or conspiracy to commit first degree murder; (ii) in
17 response to a clear and present danger of imminent death or
18 great bodily harm to persons resulting from: (1) a kidnapping
19 or the holding of a hostage by force or the threat of the
20 imminent use of force; or (2) the occupation by force or the
21 threat of the imminent use of force of any premises, place,
22 vehicle, vessel or aircraft; (iii) to aid an investigation or
23 prosecution of a civil action brought under the Illinois
24 Streetgang Terrorism Omnibus Prevention Act when there is
25 probable cause to believe the interception of the private oral
26 communication will provide evidence that a streetgang is
27 committing, has committed, or will commit a second or
28 subsequent gang-related offense or that the interception of the
29 private oral communication will aid in the collection of a
30 judgment entered under that Act; or (iv) upon information and
31 belief that a streetgang has committed, is committing, or is
32 about to commit a felony.

33 (b) The State's Attorney or a person designated in writing
34 or by law to act for the State's Attorney and to perform his or

1 her duties during his or her absence or disability, may
2 authorize, in writing, an ex parte application to the chief
3 judge of a circuit court for an order authorizing the
4 interception of a private communication when no party has
5 consented to the interception and the interception may provide
6 evidence of, or may assist in the apprehension of a person who
7 has committed, is committing or is about to commit, a violation
8 of an offense under Article 29D of the Criminal Code of 1961.

9 (b-1) Subsection (b) is inoperative on and after January 1,
10 2005.

11 (b-2) No conversations recorded or monitored pursuant to
12 subsection (b) shall be made inadmissible in a court of law by
13 virtue of subsection (b-1).

14 (c) As used in this Section, "streetgang" and
15 "gang-related" have the meanings ascribed to them in Section 10
16 of the Illinois Streetgang Terrorism Omnibus Prevention Act.

17 (Source: P.A. 92-854, eff. 12-5-02.)

18 (725 ILCS 5/110-5) (from Ch. 38, par. 110-5)

19 Sec. 110-5. Determining the amount of bail and conditions
20 of release.

21 (a) In determining the amount of monetary bail or
22 conditions of release, if any, which will reasonably assure the
23 appearance of a defendant as required or the safety of any
24 other person or the community and the likelihood of compliance
25 by the defendant with all the conditions of bail, the court
26 shall, on the basis of available information, take into account
27 such matters as the nature and circumstances of the offense
28 charged, whether the evidence shows that as part of the offense
29 there was a use of violence or threatened use of violence,
30 whether the offense involved corruption of public officials or
31 employees, whether there was physical harm or threats of
32 physical harm to any public official, public employee, judge,
33 prosecutor, juror or witness, senior citizen, child or

1 handicapped person, whether evidence shows that during the
2 offense or during the arrest the defendant possessed or used a
3 firearm, machine gun, explosive or metal piercing ammunition or
4 explosive bomb device or any military or paramilitary armament,
5 whether the evidence shows that the offense committed was
6 related to or in furtherance of the criminal activities of an
7 organized gang or was motivated by the defendant's membership
8 in or allegiance to an organized gang, the condition of the
9 victim, any written statement submitted by the victim or
10 proffer or representation by the State regarding the impact
11 which the alleged criminal conduct has had on the victim and
12 the victim's concern, if any, with further contact with the
13 defendant if released on bail, whether the offense was based on
14 racial, religious, sexual orientation or ethnic hatred, the
15 likelihood of the filing of a greater charge, the likelihood of
16 conviction, the sentence applicable upon conviction, the
17 weight of the evidence against such defendant, whether there
18 exists motivation or ability to flee, whether there is any
19 verification as to prior residence, education, or family ties
20 in the local jurisdiction, in another county, state or foreign
21 country, the defendant's employment, financial resources,
22 character and mental condition, past conduct, prior use of
23 alias names or dates of birth, and length of residence in the
24 community, the consent of the defendant to periodic drug
25 testing in accordance with Section 110-6.5, whether a foreign
26 national defendant is lawfully admitted in the United States of
27 America, whether the government of the foreign national
28 maintains an extradition treaty with the United States by which
29 the foreign government will extradite to the United States its
30 national for a trial for a crime allegedly committed in the
31 United States, whether the defendant is currently subject to
32 deportation or exclusion under the immigration laws of the
33 United States, whether the defendant, although a United States
34 citizen, is considered under the law of any foreign state a

1 national of that state for the purposes of extradition or
2 non-extradition to the United States, the amount of unrecovered
3 proceeds lost as a result of the alleged offense, the source of
4 bail funds tendered or sought to be tendered for bail, whether
5 from the totality of the court's consideration, the loss of
6 funds posted or sought to be posted for bail will not deter the
7 defendant from flight, whether the evidence shows that the
8 defendant is engaged in significant possession, manufacture,
9 or delivery of a controlled substance or cannabis, either
10 individually or in consort with others, whether at the time of
11 the offense charged he was on bond or pre-trial release pending
12 trial, probation, periodic imprisonment or conditional
13 discharge pursuant to this Code or the comparable Code of any
14 other state or federal jurisdiction, whether the defendant is
15 on bond or pre-trial release pending the imposition or
16 execution of sentence or appeal of sentence for any offense
17 under the laws of Illinois or any other state or federal
18 jurisdiction, whether the defendant is under parole or
19 mandatory supervised release or work release from the Illinois
20 Department of Corrections or any penal institution or
21 corrections department of any state or federal jurisdiction,
22 the defendant's record of convictions, whether the defendant
23 has been convicted of a misdemeanor or ordinance offense in
24 Illinois or similar offense in other state or federal
25 jurisdiction within the 10 years preceding the current charge
26 or convicted of a felony in Illinois, whether the defendant was
27 convicted of an offense in another state or federal
28 jurisdiction that would be a felony if committed in Illinois
29 within the 20 years preceding the current charge or has been
30 convicted of such felony and released from the penitentiary
31 within 20 years preceding the current charge if a penitentiary
32 sentence was imposed in Illinois or other state or federal
33 jurisdiction, the defendant's records of juvenile adjudication
34 of delinquency in any jurisdiction, any record of appearance or

1 failure to appear by the defendant at court proceedings,
2 whether there was flight to avoid arrest or prosecution,
3 whether the defendant escaped or attempted to escape to avoid
4 arrest, whether the defendant refused to identify himself, or
5 whether there was a refusal by the defendant to be
6 fingerprinted as required by law. Information used by the court
7 in its findings or stated in or offered in connection with this
8 Section may be by way of proffer based upon reliable
9 information offered by the State or defendant. All evidence
10 shall be admissible if it is relevant and reliable regardless
11 of whether it would be admissible under the rules of evidence
12 applicable at criminal trials. If the State presents evidence
13 that the offense committed by the defendant was related to or
14 in furtherance of the criminal activities of an organized gang
15 or was motivated by the defendant's membership in or allegiance
16 to an organized gang, and if the court determines that the
17 evidence may be substantiated, the court shall prohibit the
18 defendant from associating with other members of the organized
19 gang as a condition of bail or release. For the purposes of
20 this Section, "organized gang" has the meaning ascribed to it
21 in Section 10 of the Illinois Streetgang Terrorism Omnibus
22 Prevention Act.

23 (b) The amount of bail shall be:

24 (1) Sufficient to assure compliance with the
25 conditions set forth in the bail bond, which shall include
26 the defendant's current address with a written
27 admonishment to the defendant that he or she must comply
28 with the provisions of Section 110-12 regarding any change
29 in his or her address. The defendant's address shall at all
30 times remain a matter of public record with the clerk of
31 the court.

32 (2) Not oppressive.

33 (3) Considerate of the financial ability of the
34 accused.

1 (4) When a person is charged with a drug related
2 offense involving possession or delivery of cannabis or
3 possession or delivery of a controlled substance as defined
4 in the Cannabis Control Act, ~~as amended, or~~ the Illinois
5 Controlled Substances Act, or the Methamphetamine Control
6 and Community Protection Act as amended, the full street
7 value of the drugs seized shall be considered. "Street
8 value" shall be determined by the court on the basis of a
9 proffer by the State based upon reliable information of a
10 law enforcement official contained in a written report as
11 to the amount seized and such proffer may be used by the
12 court as to the current street value of the smallest unit
13 of the drug seized.

14 (b-5) Upon the filing of a written request demonstrating
15 reasonable cause, the State's Attorney may request a source of
16 bail hearing either before or after the posting of any funds.
17 If the hearing is granted, before the posting of any bail, the
18 accused must file a written notice requesting that the court
19 conduct a source of bail hearing. The notice must be
20 accompanied by justifying affidavits stating the legitimate
21 and lawful source of funds for bail. At the hearing, the court
22 shall inquire into any matters stated in any justifying
23 affidavits, and may also inquire into matters appropriate to
24 the determination which shall include, but are not limited to,
25 the following:

26 (1) the background, character, reputation, and
27 relationship to the accused of any surety; and

28 (2) the source of any money or property deposited by
29 any surety, and whether any such money or property
30 constitutes the fruits of criminal or unlawful conduct; and

31 (3) the source of any money posted as cash bail, and
32 whether any such money constitutes the fruits of criminal
33 or unlawful conduct; and

34 (4) the background, character, reputation, and

1 relationship to the accused of the person posting cash
2 bail.

3 Upon setting the hearing, the court shall examine, under
4 oath, any persons who may possess material information.

5 The State's Attorney has a right to attend the hearing, to
6 call witnesses and to examine any witness in the proceeding.
7 The court shall, upon request of the State's Attorney, continue
8 the proceedings for a reasonable period to allow the State's
9 Attorney to investigate the matter raised in any testimony or
10 affidavit. If the hearing is granted after the accused has
11 posted bail, the court shall conduct a hearing consistent with
12 this subsection (b-5). At the conclusion of the hearing, the
13 court must issue an order either approving of disapproving the
14 bail.

15 (c) When a person is charged with an offense punishable by
16 fine only the amount of the bail shall not exceed double the
17 amount of the maximum penalty.

18 (d) When a person has been convicted of an offense and only
19 a fine has been imposed the amount of the bail shall not exceed
20 double the amount of the fine.

21 (e) The State may appeal any order granting bail or setting
22 a given amount for bail.

23 (Source: P.A. 93-254, eff. 1-1-04; 93-817, eff. 7-27-04.)

24 (725 ILCS 5/110-6) (from Ch. 38, par. 110-6)

25 Sec. 110-6. (a) Upon verified application by the State or
26 the defendant or on its own motion the court before which the
27 proceeding is pending may increase or reduce the amount of bail
28 or may alter the conditions of the bail bond or grant bail
29 where it has been previously revoked or denied. If bail has
30 been previously revoked pursuant to subsection (f) of this
31 Section or if bail has been denied to the defendant pursuant to
32 subsection (e) of Section 110-6.1 or subsection (e) of Section
33 110-6.3, the defendant shall be required to present a verified

1 application setting forth in detail any new facts not known or
2 obtainable at the time of the previous revocation or denial of
3 bail proceedings. If the court grants bail where it has been
4 previously revoked or denied, the court shall state on the
5 record of the proceedings the findings of facts and conclusion
6 of law upon which such order is based.

7 (b) Violation of the conditions of Section 110-10 of this
8 Code or any special conditions of bail as ordered by the court
9 shall constitute grounds for the court to increase the amount
10 of bail, or otherwise alter the conditions of bail, or, where
11 the alleged offense committed on bail is a forcible felony in
12 Illinois or a Class 2 or greater offense under the Illinois
13 Controlled Substances Act, the ~~or~~ Cannabis Control Act, or the
14 Methamphetamine Control and Community Protection Act, revoke
15 bail pursuant to the appropriate provisions of subsection (e)
16 of this Section.

17 (c) Reasonable notice of such application by the defendant
18 shall be given to the State.

19 (d) Reasonable notice of such application by the State
20 shall be given to the defendant, except as provided in
21 subsection (e).

22 (e) Upon verified application by the State stating facts or
23 circumstances constituting a violation or a threatened
24 violation of any of the conditions of the bail bond the court
25 may issue a warrant commanding any peace officer to bring the
26 defendant without unnecessary delay before the court for a
27 hearing on the matters set forth in the application. If the
28 actual court before which the proceeding is pending is absent
29 or otherwise unavailable another court may issue a warrant
30 pursuant to this Section. When the defendant is charged with a
31 felony offense and while free on bail is charged with a
32 subsequent felony offense and is the subject of a proceeding
33 set forth in Section 109-1 or 109-3 of this Code, upon the
34 filing of a verified petition by the State alleging a violation

1 of Section 110-10 (a) (4) of this Code, the court shall without
2 prior notice to the defendant, grant leave to file such
3 application and shall order the transfer of the defendant and
4 the application without unnecessary delay to the court before
5 which the previous felony matter is pending for a hearing as
6 provided in subsection (b) or this subsection of this Section.
7 The defendant shall be held without bond pending transfer to
8 and a hearing before such court. At the conclusion of the
9 hearing based on a violation of the conditions of Section
10 110-10 of this Code or any special conditions of bail as
11 ordered by the court the court may enter an order increasing
12 the amount of bail or alter the conditions of bail as deemed
13 appropriate.

14 (f) Where the alleged violation consists of the violation
15 of one or more felony statutes of any jurisdiction which would
16 be a forcible felony in Illinois or a Class 2 or greater
17 offense under the Illinois Controlled Substances Act, the ~~or~~
18 Cannabis Control Act, or the Methamphetamine Control and
19 Community Protection Act and the defendant is on bail for the
20 alleged commission of a felony, or where the defendant is on
21 bail for a felony domestic battery (enhanced pursuant to
22 subsection (b) of Section 12-3.2 of the Criminal Code of 1961),
23 aggravated domestic battery, aggravated battery, unlawful
24 restraint, aggravated unlawful restraint or domestic battery
25 in violation of item (1) of subsection (a) of Section 12-3.2 of
26 the Criminal Code of 1961 against a family or household member
27 as defined in Section 112A-3 of this Code and the violation is
28 an offense of domestic battery against the same victim the
29 court shall, on the motion of the State or its own motion,
30 revoke bail in accordance with the following provisions:

31 (1) The court shall hold the defendant without bail
32 pending the hearing on the alleged breach; however, if the
33 defendant is not admitted to bail the hearing shall be
34 commenced within 10 days from the date the defendant is

1 taken into custody or the defendant may not be held any
2 longer without bail, unless delay is occasioned by the
3 defendant. Where defendant occasions the delay, the
4 running of the 10 day period is temporarily suspended and
5 resumes at the termination of the period of delay. Where
6 defendant occasions the delay with 5 or fewer days
7 remaining in the 10 day period, the court may grant a
8 period of up to 5 additional days to the State for good
9 cause shown. The State, however, shall retain the right to
10 proceed to hearing on the alleged violation at any time,
11 upon reasonable notice to the defendant and the court.

12 (2) At a hearing on the alleged violation the State has
13 the burden of going forward and proving the violation by
14 clear and convincing evidence. The evidence shall be
15 presented in open court with the opportunity to testify, to
16 present witnesses in his behalf, and to cross-examine
17 witnesses if any are called by the State, and
18 representation by counsel and if the defendant is indigent
19 to have counsel appointed for him. The rules of evidence
20 applicable in criminal trials in this State shall not
21 govern the admissibility of evidence at such hearing.
22 Information used by the court in its findings or stated in
23 or offered in connection with hearings for increase or
24 revocation of bail may be by way of proffer based upon
25 reliable information offered by the State or defendant. All
26 evidence shall be admissible if it is relevant and reliable
27 regardless of whether it would be admissible under the
28 rules of evidence applicable at criminal trials. A motion
29 by the defendant to suppress evidence or to suppress a
30 confession shall not be entertained at such a hearing.
31 Evidence that proof may have been obtained as a result of
32 an unlawful search and seizure or through improper
33 interrogation is not relevant to this hearing.

34 (3) Upon a finding by the court that the State has

1 established by clear and convincing evidence that the
2 defendant has committed a forcible felony or a Class 2 or
3 greater offense under the Illinois Controlled Substances
4 Act, the ~~or~~ Cannabis Control Act, or the Methamphetamine
5 Control and Community Protection Act while admitted to
6 bail, or where the defendant is on bail for a felony
7 domestic battery (enhanced pursuant to subsection (b) of
8 Section 12-3.2 of the Criminal Code of 1961), aggravated
9 domestic battery, aggravated battery, unlawful restraint,
10 aggravated unlawful restraint or domestic battery in
11 violation of item (1) of subsection (a) of Section 12-3.2
12 of the Criminal Code of 1961 against a family or household
13 member as defined in Section 112A-3 of this Code and the
14 violation is an offense of domestic battery, against the
15 same victim, the court shall revoke the bail of the
16 defendant and hold the defendant for trial without bail.
17 Neither the finding of the court nor any transcript or
18 other record of the hearing shall be admissible in the
19 State's case in chief, but shall be admissible for
20 impeachment, or as provided in Section 115-10.1 of this
21 Code or in a perjury proceeding.

22 (4) If the bail of any defendant is revoked pursuant to
23 paragraph (f) (3) of this Section, the defendant may demand
24 and shall be entitled to be brought to trial on the offense
25 with respect to which he was formerly released on bail
26 within 90 days after the date on which his bail was
27 revoked. If the defendant is not brought to trial within
28 the 90 day period required by the preceding sentence, he
29 shall not be held longer without bail. In computing the 90
30 day period, the court shall omit any period of delay
31 resulting from a continuance granted at the request of the
32 defendant.

33 (5) If the defendant either is arrested on a warrant
34 issued pursuant to this Code or is arrested for an

1 unrelated offense and it is subsequently discovered that
2 the defendant is a subject of another warrant or warrants
3 issued pursuant to this Code, the defendant shall be
4 transferred promptly to the court which issued such
5 warrant. If, however, the defendant appears initially
6 before a court other than the court which issued such
7 warrant, the non-issuing court shall not alter the amount
8 of bail heretofore set on such warrant unless the court
9 sets forth on the record of proceedings the conclusions of
10 law and facts which are the basis for such altering of
11 another court's bond. The non-issuing court shall not alter
12 another courts bail set on a warrant unless the interests
13 of justice and public safety are served by such action.

14 (g) The State may appeal any order where the court has
15 increased or reduced the amount of bail or altered the
16 conditions of the bail bond or granted bail where it has
17 previously been revoked.

18 (Source: P.A. 93-417, eff. 8-5-03.)

19 (725 ILCS 5/110-6.1) (from Ch. 38, par. 110-6.1)

20 Sec. 110-6.1. Denial of bail in non-probationable felony
21 offenses.

22 (a) Upon verified petition by the State, the court shall
23 hold a hearing to determine whether bail should be denied to a
24 defendant who is charged with a felony offense for which a
25 sentence of imprisonment, without probation, periodic
26 imprisonment or conditional discharge, is required by law upon
27 conviction, when it is alleged that the defendant's admission
28 to bail poses a real and present threat to the physical safety
29 of any person or persons.

30 (1) A petition may be filed without prior notice to the
31 defendant at the first appearance before a judge, or within
32 the 21 calendar days, except as provided in Section 110-6,
33 after arrest and release of the defendant upon reasonable

1 notice to defendant; provided that while such petition is
2 pending before the court, the defendant if previously
3 released shall not be detained.

4 (2) The hearing shall be held immediately upon the
5 defendant's appearance before the court, unless for good
6 cause shown the defendant or the State seeks a continuance.
7 A continuance on motion of the defendant may not exceed 5
8 calendar days, and a continuance on the motion of the State
9 may not exceed 3 calendar days. The defendant may be held
10 in custody during such continuance.

11 (b) The court may deny bail to the defendant where, after
12 the hearing, it is determined that:

13 (1) the proof is evident or the presumption great that
14 the defendant has committed an offense for which a sentence
15 of imprisonment, without probation, periodic imprisonment
16 or conditional discharge, must be imposed by law as a
17 consequence of conviction, and

18 (2) the defendant poses a real and present threat to
19 the physical safety of any person or persons, by conduct
20 which may include, but is not limited to, a forcible
21 felony, the obstruction of justice, intimidation, injury,
22 physical harm, ~~or~~ an offense under the Illinois Controlled
23 Substances Act which is a Class X felony, or an offense
24 under the Methamphetamine Control and Community Protection
25 Act which is a Class X felony, and

26 (3) the court finds that no condition or combination of
27 conditions set forth in subsection (b) of Section 110-10 of
28 this Article, can reasonably assure the physical safety of
29 any other person or persons.

30 (c) Conduct of the hearings.

31 (1) The hearing on the defendant's culpability and
32 dangerousness shall be conducted in accordance with the
33 following provisions:

34 (A) Information used by the court in its findings

1 or stated in or offered at such hearing may be by way
2 of proffer based upon reliable information offered by
3 the State or by defendant. Defendant has the right to
4 be represented by counsel, and if he is indigent, to
5 have counsel appointed for him. Defendant shall have
6 the opportunity to testify, to present witnesses in his
7 own behalf, and to cross-examine witnesses if any are
8 called by the State. The defendant has the right to
9 present witnesses in his favor. When the ends of
10 justice so require, the court may exercise its
11 discretion and compel the appearance of a complaining
12 witness. The court shall state on the record reasons
13 for granting a defense request to compel the presence
14 of a complaining witness. Cross-examination of a
15 complaining witness at the pretrial detention hearing
16 for the purpose of impeaching the witness' credibility
17 is insufficient reason to compel the presence of the
18 witness. In deciding whether to compel the appearance
19 of a complaining witness, the court shall be
20 considerate of the emotional and physical well-being
21 of the witness. The pre-trial detention hearing is not
22 to be used for purposes of discovery, and the post
23 arraignment rules of discovery do not apply. The State
24 shall tender to the defendant, prior to the hearing,
25 copies of defendant's criminal history, if any, if
26 available, and any written or recorded statements and
27 the substance of any oral statements made by any
28 person, if relied upon by the State in its petition.
29 The rules concerning the admissibility of evidence in
30 criminal trials do not apply to the presentation and
31 consideration of information at the hearing. At the
32 trial concerning the offense for which the hearing was
33 conducted neither the finding of the court nor any
34 transcript or other record of the hearing shall be

1 (3) The identity of any person or persons to whose
2 safety the defendant is believed to pose a threat, and the
3 nature of the threat;

4 (4) Any statements made by, or attributed to the
5 defendant, together with the circumstances surrounding
6 them;

7 (5) The age and physical condition of any person
8 assaulted by the defendant;

9 (6) Whether the defendant is known to possess or have
10 access to any weapon or weapons;

11 (7) Whether, at the time of the current offense or any
12 other offense or arrest, the defendant was on probation,
13 parole, mandatory supervised release or other release from
14 custody pending trial, sentencing, appeal or completion of
15 sentence for an offense under federal or state law;

16 (8) Any other factors, including those listed in
17 Section 110-5 of this Article deemed by the court to have a
18 reasonable bearing upon the defendant's propensity or
19 reputation for violent, abusive or assaultive behavior, or
20 lack of such behavior.

21 (e) Detention order. The court shall, in any order for
22 detention:

23 (1) briefly summarize the evidence of the defendant's
24 culpability and its reasons for concluding that the
25 defendant should be held without bail;

26 (2) direct that the defendant be committed to the
27 custody of the sheriff for confinement in the county jail
28 pending trial;

29 (3) direct that the defendant be given a reasonable
30 opportunity for private consultation with counsel, and for
31 communication with others of his choice by visitation, mail
32 and telephone; and

33 (4) direct that the sheriff deliver the defendant as
34 required for appearances in connection with court

1 proceedings.

2 (f) If the court enters an order for the detention of the
3 defendant pursuant to subsection (e) of this Section, the
4 defendant shall be brought to trial on the offense for which he
5 is detained within 90 days after the date on which the order
6 for detention was entered. If the defendant is not brought to
7 trial within the 90 day period required by the preceding
8 sentence, he shall not be held longer without bail. In
9 computing the 90 day period, the court shall omit any period of
10 delay resulting from a continuance granted at the request of
11 the defendant.

12 (g) Rights of the defendant. Any person shall be entitled
13 to appeal any order entered under this Section denying bail to
14 the defendant.

15 (h) The State may appeal any order entered under this
16 Section denying any motion for denial of bail.

17 (i) Nothing in this Section shall be construed as modifying
18 or limiting in any way the defendant's presumption of innocence
19 in further criminal proceedings.

20 (Source: P.A. 85-1209.)

21 (725 ILCS 5/110-7) (from Ch. 38, par. 110-7)

22 Sec. 110-7. Deposit of Bail Security.

23 (a) The person for whom bail has been set shall execute the
24 bail bond and deposit with the clerk of the court before which
25 the proceeding is pending a sum of money equal to 10% of the
26 bail, but in no event shall such deposit be less than \$25. The
27 clerk of the court shall provide a space on each form for a
28 person other than the accused who has provided the money for
29 the posting of bail to so indicate and a space signed by an
30 accused who has executed the bail bond indicating whether a
31 person other than the accused has provided the money for the
32 posting of bail. The form shall also include a written notice
33 to such person who has provided the defendant with the money

1 for the posting of bail indicating that the bail may be used to
2 pay costs, attorney's fees, fines, or other purposes authorized
3 by the court and if the defendant fails to comply with the
4 conditions of the bail bond, the court shall enter an order
5 declaring the bail to be forfeited. The written notice must be:
6 (1) distinguishable from the surrounding text; (2) in bold type
7 or underscored; and (3) in a type size at least 2 points larger
8 than the surrounding type. When a person for whom bail has been
9 set is charged with an offense under the Illinois Controlled
10 Substances Act or the Methamphetamine Control and Community
11 Protection Act which is a Class X felony, the court may
12 require the defendant to deposit a sum equal to 100% of the
13 bail. Where any person is charged with a forcible felony while
14 free on bail and is the subject of proceedings under Section
15 109-3 of this Code the judge conducting the preliminary
16 examination may also conduct a hearing upon the application of
17 the State pursuant to the provisions of Section 110-6 of this
18 Code to increase or revoke the bail for that person's prior
19 alleged offense.

20 (b) Upon depositing this sum and any bond fee authorized by
21 law, the person shall be released from custody subject to the
22 conditions of the bail bond.

23 (c) Once bail has been given and a charge is pending or is
24 thereafter filed in or transferred to a court of competent
25 jurisdiction the latter court shall continue the original bail
26 in that court subject to the provisions of Section 110-6 of
27 this Code.

28 (d) After conviction the court may order that the original
29 bail stand as bail pending appeal or deny, increase or reduce
30 bail subject to the provisions of Section 110-6.2.

31 (e) After the entry of an order by the trial court allowing
32 or denying bail pending appeal either party may apply to the
33 reviewing court having jurisdiction or to a justice thereof
34 sitting in vacation for an order increasing or decreasing the

1 amount of bail or allowing or denying bail pending appeal
2 subject to the provisions of Section 110-6.2.

3 (f) When the conditions of the bail bond have been
4 performed and the accused has been discharged from all
5 obligations in the cause the clerk of the court shall return to
6 the accused or to the defendant's designee by an assignment
7 executed at the time the bail amount is deposited, unless the
8 court orders otherwise, 90% of the sum which had been deposited
9 and shall retain as bail bond costs 10% of the amount
10 deposited. However, in no event shall the amount retained by
11 the clerk as bail bond costs be less than \$5. Bail bond
12 deposited by or on behalf of a defendant in one case may be
13 used, in the court's discretion, to satisfy financial
14 obligations of that same defendant incurred in a different case
15 due to a fine, court costs, restitution or fees of the
16 defendant's attorney of record. In counties with a population
17 of 3,000,000 or more, the court shall not order bail bond
18 deposited by or on behalf of a defendant in one case to be used
19 to satisfy financial obligations of that same defendant in a
20 different case until the bail bond is first used to satisfy
21 court costs and attorney's fees in the case in which the bail
22 bond has been deposited and any other unpaid child support
23 obligations are satisfied. In counties with a population of
24 less than 3,000,000, the court shall not order bail bond
25 deposited by or on behalf of a defendant in one case to be used
26 to satisfy financial obligations of that same defendant in a
27 different case until the bail bond is first used to satisfy
28 court costs in the case in which the bail bond has been
29 deposited.

30 At the request of the defendant the court may order such
31 90% of defendant's bail deposit, or whatever amount is
32 repayable to defendant from such deposit, to be paid to
33 defendant's attorney of record.

34 (g) If the accused does not comply with the conditions of

1 the bail bond the court having jurisdiction shall enter an
2 order declaring the bail to be forfeited. Notice of such order
3 of forfeiture shall be mailed forthwith to the accused at his
4 last known address. If the accused does not appear and
5 surrender to the court having jurisdiction within 30 days from
6 the date of the forfeiture or within such period satisfy the
7 court that appearance and surrender by the accused is
8 impossible and without his fault the court shall enter judgment
9 for the State if the charge for which the bond was given was a
10 felony or misdemeanor, or if the charge was quasi-criminal or
11 traffic, judgment for the political subdivision of the State
12 which prosecuted the case, against the accused for the amount
13 of the bail and costs of the court proceedings; however, in
14 counties with a population of less than 3,000,000, instead of
15 the court entering a judgment for the full amount of the bond
16 the court may, in its discretion, enter judgment for the cash
17 deposit on the bond, less costs, retain the deposit for further
18 disposition or, if a cash bond was posted for failure to appear
19 in a matter involving enforcement of child support or
20 maintenance, the amount of the cash deposit on the bond, less
21 outstanding costs, may be awarded to the person or entity to
22 whom the child support or maintenance is due. The deposit made
23 in accordance with paragraph (a) shall be applied to the
24 payment of costs. If judgment is entered and any amount of such
25 deposit remains after the payment of costs it shall be applied
26 to payment of the judgment and transferred to the treasury of
27 the municipal corporation wherein the bond was taken if the
28 offense was a violation of any penal ordinance of a political
29 subdivision of this State, or to the treasury of the county
30 wherein the bond was taken if the offense was a violation of
31 any penal statute of this State. The balance of the judgment
32 may be enforced and collected in the same manner as a judgment
33 entered in a civil action.

34 (h) After a judgment for a fine and court costs or either

1 is entered in the prosecution of a cause in which a deposit had
2 been made in accordance with paragraph (a) the balance of such
3 deposit, after deduction of bail bond costs, shall be applied
4 to the payment of the judgment.

5 (Source: P.A. 92-16, eff. 6-28-01; 93-371, eff. 1-1-04; 93-760,
6 eff. 1-1-05.)

7 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

8 Sec. 110-10. Conditions of bail bond.

9 (a) If a person is released prior to conviction, either
10 upon payment of bail security or on his or her own
11 recognizance, the conditions of the bail bond shall be that he
12 or she will:

13 (1) Appear to answer the charge in the court having
14 jurisdiction on a day certain and thereafter as ordered by
15 the court until discharged or final order of the court;

16 (2) Submit himself or herself to the orders and process
17 of the court;

18 (3) Not depart this State without leave of the court;

19 (4) Not violate any criminal statute of any
20 jurisdiction;

21 (5) At a time and place designated by the court,
22 surrender all firearms in his or her possession to a law
23 enforcement officer designated by the court to take custody
24 of and impound the firearms and physically surrender his or
25 her Firearm Owner's Identification Card to the clerk of the
26 circuit court when the offense the person has been charged
27 with is a forcible felony, stalking, aggravated stalking,
28 domestic battery, any violation of ~~either~~ the Illinois
29 Controlled Substances Act, the Methamphetamine Control and
30 Community Protection Act, or the Cannabis Control Act that
31 is classified as a Class 2 or greater felony, or any felony
32 violation of Article 24 of the Criminal Code of 1961; the
33 court may, however, forgo the imposition of this condition

1 when the circumstances of the case clearly do not warrant
2 it or when its imposition would be impractical; all legally
3 possessed firearms shall be returned to the person upon
4 that person completing a sentence for a conviction on a
5 misdemeanor domestic battery, upon the charges being
6 dismissed, or if the person is found not guilty, unless the
7 finding of not guilty is by reason of insanity; and

8 (6) At a time and place designated by the court, submit
9 to a psychological evaluation when the person has been
10 charged with a violation of item (4) of subsection (a) of
11 Section 24-1 of the Criminal Code of 1961 and that
12 violation occurred in a school or in any conveyance owned,
13 leased, or contracted by a school to transport students to
14 or from school or a school-related activity, or on any
15 public way within 1,000 feet of real property comprising
16 any school.

17 Psychological evaluations ordered pursuant to this Section
18 shall be completed promptly and made available to the State,
19 the defendant, and the court. As a further condition of bail
20 under these circumstances, the court shall order the defendant
21 to refrain from entering upon the property of the school,
22 including any conveyance owned, leased, or contracted by a
23 school to transport students to or from school or a
24 school-related activity, or on any public way within 1,000 feet
25 of real property comprising any school. Upon receipt of the
26 psychological evaluation, either the State or the defendant may
27 request a change in the conditions of bail, pursuant to Section
28 110-6 of this Code. The court may change the conditions of bail
29 to include a requirement that the defendant follow the
30 recommendations of the psychological evaluation, including
31 undergoing psychiatric treatment. The conclusions of the
32 psychological evaluation and any statements elicited from the
33 defendant during its administration are not admissible as
34 evidence of guilt during the course of any trial on the charged

1 offense, unless the defendant places his or her mental
2 competency in issue.

3 (b) The court may impose other conditions, such as the
4 following, if the court finds that such conditions are
5 reasonably necessary to assure the defendant's appearance in
6 court, protect the public from the defendant, or prevent the
7 defendant's unlawful interference with the orderly
8 administration of justice:

9 (1) Report to or appear in person before such person or
10 agency as the court may direct;

11 (2) Refrain from possessing a firearm or other
12 dangerous weapon;

13 (3) Refrain from approaching or communicating with
14 particular persons or classes of persons;

15 (4) Refrain from going to certain described
16 geographical areas or premises;

17 (5) Refrain from engaging in certain activities or
18 indulging in intoxicating liquors or in certain drugs;

19 (6) Undergo treatment for drug addiction or
20 alcoholism;

21 (7) Undergo medical or psychiatric treatment;

22 (8) Work or pursue a course of study or vocational
23 training;

24 (9) Attend or reside in a facility designated by the
25 court;

26 (10) Support his or her dependents;

27 (11) If a minor resides with his or her parents or in a
28 foster home, attend school, attend a non-residential
29 program for youths, and contribute to his or her own
30 support at home or in a foster home;

31 (12) Observe any curfew ordered by the court;

32 (13) Remain in the custody of such designated person or
33 organization agreeing to supervise his release. Such third
34 party custodian shall be responsible for notifying the

1 court if the defendant fails to observe the conditions of
2 release which the custodian has agreed to monitor, and
3 shall be subject to contempt of court for failure so to
4 notify the court;

5 (14) Be placed under direct supervision of the Pretrial
6 Services Agency, Probation Department or Court Services
7 Department in a pretrial bond home supervision capacity
8 with or without the use of an approved electronic
9 monitoring device subject to Article 8A of Chapter V of the
10 Unified Code of Corrections;

11 (14.1) The court shall impose upon a defendant who is
12 charged with any alcohol, cannabis, methamphetamine, or
13 controlled substance violation and is placed under direct
14 supervision of the Pretrial Services Agency, Probation
15 Department or Court Services Department in a pretrial bond
16 home supervision capacity with the use of an approved
17 monitoring device, as a condition of such bail bond, a fee
18 that represents costs incidental to the electronic
19 monitoring for each day of such bail supervision ordered by
20 the court, unless after determining the inability of the
21 defendant to pay the fee, the court assesses a lesser fee
22 or no fee as the case may be. The fee shall be collected by
23 the clerk of the circuit court. The clerk of the circuit
24 court shall pay all monies collected from this fee to the
25 county treasurer for deposit in the substance abuse
26 services fund under Section 5-1086.1 of the Counties Code;

27 (14.2) The court shall impose upon all defendants,
28 including those defendants subject to paragraph (14.1)
29 above, placed under direct supervision of the Pretrial
30 Services Agency, Probation Department or Court Services
31 Department in a pretrial bond home supervision capacity
32 with the use of an approved monitoring device, as a
33 condition of such bail bond, a fee which shall represent
34 costs incidental to such electronic monitoring for each day

1 of such bail supervision ordered by the court, unless after
2 determining the inability of the defendant to pay the fee,
3 the court assesses a lesser fee or no fee as the case may
4 be. The fee shall be collected by the clerk of the circuit
5 court. The clerk of the circuit court shall pay all monies
6 collected from this fee to the county treasurer who shall
7 use the monies collected to defray the costs of
8 corrections. The county treasurer shall deposit the fee
9 collected in the county working cash fund under Section
10 6-27001 or Section 6-29002 of the Counties Code, as the
11 case may be;

12 (14.3) The Chief Judge of the Judicial Circuit may
13 establish reasonable fees to be paid by a person receiving
14 pretrial services while under supervision of a pretrial
15 services agency, probation department, or court services
16 department. Reasonable fees may be charged for pretrial
17 services including, but not limited to, pretrial
18 supervision, diversion programs, electronic monitoring,
19 victim impact services, drug and alcohol testing, and
20 victim mediation services. The person receiving pretrial
21 services may be ordered to pay all costs incidental to
22 pretrial services in accordance with his or her ability to
23 pay those costs;

24 (14.4) For persons charged with violating Section
25 11-501 of the Illinois Vehicle Code, refrain from operating
26 a motor vehicle not equipped with an ignition interlock
27 device, as defined in Section 1-129.1 of the Illinois
28 Vehicle Code, pursuant to the rules promulgated by the
29 Secretary of State for the installation of ignition
30 interlock devices. Under this condition the court may allow
31 a defendant who is not self-employed to operate a vehicle
32 owned by the defendant's employer that is not equipped with
33 an ignition interlock device in the course and scope of the
34 defendant's employment;

1 (15) Comply with the terms and conditions of an order
2 of protection issued by the court under the Illinois
3 Domestic Violence Act of 1986 or an order of protection
4 issued by the court of another state, tribe, or United
5 States territory;

6 (16) Under Section 110-6.5 comply with the conditions
7 of the drug testing program; and

8 (17) Such other reasonable conditions as the court may
9 impose.

10 (c) When a person is charged with an offense under Section
11 12-13, 12-14, 12-14.1, 12-15 or 12-16 of the "Criminal Code of
12 1961", involving a victim who is a minor under 18 years of age
13 living in the same household with the defendant at the time of
14 the offense, in granting bail or releasing the defendant on his
15 own recognizance, the judge shall impose conditions to restrict
16 the defendant's access to the victim which may include, but are
17 not limited to conditions that he will:

18 1. Vacate the Household.

19 2. Make payment of temporary support to his dependents.

20 3. Refrain from contact or communication with the child
21 victim, except as ordered by the court.

22 (d) When a person is charged with a criminal offense and
23 the victim is a family or household member as defined in
24 Article 112A, conditions shall be imposed at the time of the
25 defendant's release on bond that restrict the defendant's
26 access to the victim. Unless provided otherwise by the court,
27 the restrictions shall include requirements that the defendant
28 do the following:

29 (1) refrain from contact or communication with the
30 victim for a minimum period of 72 hours following the
31 defendant's release; and

32 (2) refrain from entering or remaining at the victim's
33 residence for a minimum period of 72 hours following the
34 defendant's release.

1 (e) Local law enforcement agencies shall develop
2 standardized bond forms for use in cases involving family or
3 household members as defined in Article 112A, including
4 specific conditions of bond as provided in subsection (d).
5 Failure of any law enforcement department to develop or use
6 those forms shall in no way limit the applicability and
7 enforcement of subsections (d) and (f).

8 (f) If the defendant is admitted to bail after conviction
9 the conditions of the bail bond shall be that he will, in
10 addition to the conditions set forth in subsections (a) and (b)
11 hereof:

12 (1) Duly prosecute his appeal;

13 (2) Appear at such time and place as the court may
14 direct;

15 (3) Not depart this State without leave of the court;

16 (4) Comply with such other reasonable conditions as the
17 court may impose; and

18 (5) If the judgment is affirmed or the cause reversed
19 and remanded for a new trial, forthwith surrender to the
20 officer from whose custody he was bailed.

21 (g) Upon a finding of guilty for any felony offense, the
22 defendant shall physically surrender, at a time and place
23 designated by the court, any and all firearms in his or her
24 possession and his or her Firearm Owner's Identification Card
25 as a condition of remaining on bond pending sentencing.

26 (Source: P.A. 92-329, eff. 8-9-01; 92-442, eff. 8-17-01;
27 92-651, eff. 7-11-02; 93-184, eff. 1-1-04.)

28 (725 ILCS 5/115-10.5)

29 Sec. 115-10.5. Hearsay exception regarding safe zone
30 testimony.

31 (a) In any prosecution for any offense charged as a
32 violation of Section 407 of the Illinois Controlled Substances
33 Act, Section 55 of the Methamphetamine Control and Community

1 Protection Act, or Section 5-130 of the Juvenile Court Act of
2 1987 the following evidence shall be admitted as an exception
3 to the hearsay rule any testimony by any qualified individual
4 regarding the status of any property as:

5 (1) a truck stop or safety rest area, or

6 (2) a school or conveyance owned, leased or contracted
7 by a school to transport students to or from school, or

8 (3) residential property owned, operated, and managed
9 by a public housing agency, or

10 (4) a public park, or

11 (5) the real property comprising any church,
12 synagogue, or other building, structure, or place used
13 primarily for religious worship, or

14 (6) the real property comprising any of the following
15 places, buildings, or structures used primarily for
16 housing or providing space for activities for senior
17 citizens: nursing homes, assisted-living centers, senior
18 citizen housing complexes, or senior centers oriented
19 toward daytime activities.

20 (b) As used in this Section, "qualified individual" means
21 any person who (i) lived or worked within the territorial
22 jurisdiction where the offense took place when the offense took
23 place; and (ii) is familiar with various public places within
24 the territorial jurisdiction where the offense took place when
25 the offense took place.

26 (c) For the purposes of this Section, "qualified
27 individual" includes any peace officer, or any member of any
28 duly organized State, county, or municipal peace unit, assigned
29 to the territorial jurisdiction where the offense took place
30 when the offense took place.

31 (d) This Section applies to all prosecutions pending at the
32 time this amendatory Act of the 91st General Assembly takes
33 effect and to all prosecutions commencing on or after its
34 effective date.

1 (Source: P.A. 91-899, eff. 1-1-01.)

2 (725 ILCS 5/115-15)

3 Sec. 115-15. Laboratory reports.

4 (a) In any criminal prosecution for a violation of ~~either~~
5 the Cannabis Control Act, ~~or~~ the Illinois Controlled Substances
6 Act, or the Methamphetamine Control and Community Protection
7 Act, a laboratory report from the Department of State Police,
8 Division of Forensic Services, that is signed and sworn to by
9 the person performing an analysis and that states (1) that the
10 substance that is the basis of the alleged violation has been
11 weighed and analyzed, and (2) the person's findings as to the
12 contents, weight and identity of the substance, and (3) that it
13 contains any amount of a controlled substance or cannabis is
14 prima facie evidence of the contents, identity and weight of
15 the substance. Attached to the report shall be a copy of a
16 notarized statement by the signer of the report giving the name
17 of the signer and stating (i) that he or she is an employee of
18 the Department of State Police, Division of Forensic Services,
19 (ii) the name and location of the laboratory where the analysis
20 was performed, (iii) that performing the analysis is a part of
21 his or her regular duties, and (iv) that the signer is
22 qualified by education, training and experience to perform the
23 analysis. The signer shall also allege that scientifically
24 accepted tests were performed with due caution and that the
25 evidence was handled in accordance with established and
26 accepted procedures while in the custody of the laboratory.

27 (a-5) In any criminal prosecution for reckless homicide
28 under Section 9-3 of the Criminal Code of 1961 or driving under
29 the influence of alcohol, other drug, or combination of both,
30 in violation of Section 11-501 of the Illinois Vehicle Code or
31 in any civil action held under a statutory summary suspension
32 hearing under Section 2-118.1 of the Illinois Vehicle Code, a
33 laboratory report from the Department of State Police, Division

1 of Forensic Services, that is signed and sworn to by the person
2 performing an analysis, and that states that the sample of
3 blood or urine was tested for alcohol or drugs, and contains
4 the person's findings as to the presence and amount of alcohol
5 or drugs and type of drug is prima facie evidence of the
6 presence, content, and amount of the alcohol or drugs analyzed
7 in the blood or urine. Attached to the report must be a copy of
8 a notarized statement by the signer of the report giving the
9 name of the signer and stating (1) that he or she is an
10 employee of the Department of State Police, Division of
11 Forensic Services, (2) the name and location of the laboratory
12 where the analysis was performed, (3) that performing the
13 analysis is a part of his or her regular duties, (4) that the
14 signer is qualified by education, training, and experience to
15 perform the analysis, and (5) that scientifically accepted
16 tests were performed with due caution and that the evidence was
17 handled in accordance with established and accepted procedures
18 while in the custody of the laboratory.

19 (b) The State's Attorney shall serve a copy of the report
20 on the attorney of record for the accused, or on the accused if
21 he or she has no attorney, before any proceeding in which the
22 report is to be used against the accused other than at a
23 preliminary hearing or grand jury hearing when the report may
24 be used without having been previously served upon the accused.

25 (c) The report shall not be prima facie evidence if the
26 accused or his or her attorney demands the testimony of the
27 person signing the report by serving the demand upon the
28 State's Attorney within 7 days from the accused or his or her
29 attorney's receipt of the report.

30 (Source: P.A. 90-130, eff. 1-1-98; 91-563, eff. 1-1-00.)

31 Section 1085. The Drug Asset Forfeiture Procedure Act is
32 amended by changing Sections 2, 3, 5, 6, 7, and 9 as follows:

1 (725 ILCS 150/2) (from Ch. 56 1/2, par. 1672)

2 Sec. 2. Legislative Declaration. The General Assembly
3 finds that the civil forfeiture of property which is used or
4 intended to be used in, is attributable to or facilitates the
5 manufacture, sale, transportation, distribution, possession or
6 use of substances in certain violations of the Illinois
7 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the
8 Methamphetamine Control and Community Protection Act will have
9 a significant beneficial effect in deterring the rising
10 incidence of the abuse and trafficking of such substances
11 within this State. While forfeiture may secure for State and
12 local units of government some resources for deterring drug
13 abuse and drug trafficking, forfeiture is not intended to be an
14 alternative means of funding the administration of criminal
15 justice. The General Assembly further finds that the federal
16 narcotics civil forfeiture statute upon which this Act is based
17 has been very successful in deterring the use and distribution
18 of controlled substances within this State and throughout the
19 country. It is therefore the intent of the General Assembly
20 that the forfeiture provisions of this Act be construed in
21 light of the federal forfeiture provisions contained in 21
22 U.S.C. 881 as interpreted by the federal courts, except to the
23 extent that the provisions of this Act expressly differ
24 therefrom.

25 (Source: P.A. 86-1382; 87-614.)

26 (725 ILCS 150/3) (from Ch. 56 1/2, par. 1673)

27 Sec. 3. Applicability. The provisions of this Act are
28 applicable to all property forfeitable under the Illinois
29 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the
30 Methamphetamine Control and Community Protection Act.

31 (Source: P.A. 86-1382.)

32 (725 ILCS 150/5) (from Ch. 56 1/2, par. 1675)

1 Sec. 5. Notice to State's Attorney. The law enforcement
2 agency seizing property for forfeiture under the Illinois
3 Controlled Substances Act, ~~or~~ the Cannabis Control Act, or the
4 Methamphetamine Control and Community Protection Act shall,
5 within 52 days of seizure, notify the State's Attorney for the
6 county in which an act or omission giving rise to the
7 forfeiture occurred or in which the property was seized of the
8 seizure of the property and the facts and circumstances giving
9 rise to the seizure and shall provide the State's Attorney with
10 the inventory of the property and its estimated value. When the
11 property seized for forfeiture is a vehicle, the law
12 enforcement agency seizing the property shall immediately
13 notify the Secretary of State that forfeiture proceedings are
14 pending regarding such vehicle.

15 (Source: P.A. 86-1382.)

16 (725 ILCS 150/6) (from Ch. 56 1/2, par. 1676)

17 Sec. 6. Non-Judicial Forfeiture. If non-real property that
18 exceeds \$20,000 in value excluding the value of any conveyance,
19 or if real property is seized under the provisions of the
20 Illinois Controlled Substances Act, ~~or~~ the Cannabis Control
21 Act, or the Methamphetamine Control and Community Protection
22 Act, the State's Attorney shall institute judicial in rem
23 forfeiture proceedings as described in Section 9 of this Act
24 within 45 days from receipt of notice of seizure from the
25 seizing agency under Section 5 of this Act. However, if
26 non-real property that does not exceed \$20,000 in value
27 excluding the value of any conveyance is seized, the following
28 procedure shall be used:

29 (A) If, after review of the facts surrounding the seizure,
30 the State's Attorney is of the opinion that the seized property
31 is subject to forfeiture, then within 45 days of the receipt of
32 notice of seizure from the seizing agency, the State's Attorney
33 shall cause notice of pending forfeiture to be given to the

1 owner of the property and all known interest holders of the
2 property in accordance with Section 4 of this Act.

3 (B) The notice of pending forfeiture must include a
4 description of the property, the estimated value of the
5 property, the date and place of seizure, the conduct giving
6 rise to forfeiture or the violation of law alleged, and a
7 summary of procedures and procedural rights applicable to the
8 forfeiture action.

9 (C) (1) Any person claiming an interest in property which
10 is the subject of notice under subsection (A) of Section 6
11 of this Act, may, within 45 days after the effective date
12 of notice as described in Section 4 of this Act, file a
13 verified claim with the State's Attorney expressing his or
14 her interest in the property. The claim must set forth:

15 (i) the caption of the proceedings as set forth on
16 the notice of pending forfeiture and the name of the
17 claimant;

18 (ii) the address at which the claimant will accept
19 mail;

20 (iii) the nature and extent of the claimant's
21 interest in the property;

22 (iv) the date, identity of the transferor, and
23 circumstances of the claimant's acquisition of the
24 interest in the property;

25 (v) the name and address of all other persons known
26 to have an interest in the property;

27 (vi) the specific provision of law relied on in
28 asserting the property is not subject to forfeiture;

29 (vii) all essential facts supporting each
30 assertion; and

31 (viii) the relief sought.

32 (2) If a claimant files the claim and deposits with the
33 State's Attorney a cost bond, in the form of a cashier's
34 check payable to the clerk of the court, in the sum of 10

1 percent of the reasonable value of the property as alleged
2 by the State's Attorney or the sum of \$100, whichever is
3 greater, upon condition that, in the case of forfeiture,
4 the claimant must pay all costs and expenses of forfeiture
5 proceedings, then the State's Attorney shall institute
6 judicial in rem forfeiture proceedings and deposit the cost
7 bond with the clerk of the court as described in Section 9
8 of this Act within 45 days after receipt of the claim and
9 cost bond. In lieu of a cost bond, a person claiming
10 interest in the seized property may file, under penalty of
11 perjury, an indigency affidavit.

12 (3) If none of the seized property is forfeited in the
13 judicial in rem proceeding, the clerk of the court shall
14 return to the claimant, unless the court orders otherwise,
15 90% of the sum which has been deposited and shall retain as
16 costs 10% of the money deposited. If any of the seized
17 property is forfeited under the judicial forfeiture
18 proceeding, the clerk of the court shall transfer 90% of
19 the sum which has been deposited to the State's Attorney
20 prosecuting the civil forfeiture to be applied to the costs
21 of prosecution and the clerk shall retain as costs 10% of
22 the sum deposited.

23 (D) If no claim is filed or bond given within the 45 day
24 period as described in subsection (C) of Section 6 of this Act,
25 the State's Attorney shall declare the property forfeited and
26 shall promptly notify the owner and all known interest holders
27 of the property and the Director of the Illinois Department of
28 State Police of the declaration of forfeiture and the Director
29 shall dispose of the property in accordance with law.

30 (Source: P.A. 86-1382; 87-614.)

31 (725 ILCS 150/7) (from Ch. 56 1/2, par. 1677)

32 Sec. 7. Presumptions. The following situations shall give
33 rise to a presumption that the property described therein was

1 furnished or intended to be furnished in exchange for a
2 substance in violation of the Illinois Controlled Substances
3 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine
4 Control and Community Protection Act, or is the proceeds of
5 such an exchange, and therefore forfeitable under this Act,
6 such presumptions being rebuttable by a preponderance of the
7 evidence:

8 (1) All moneys, coin, or currency found in close proximity
9 to forfeitable substances, to forfeitable drug manufacturing
10 or distributing paraphernalia, or to forfeitable records of the
11 importation, manufacture or distribution of substances;

12 (2) All property acquired or caused to be acquired by a
13 person either between the dates of occurrence of two or more
14 acts in felony violation of the Illinois Controlled Substances
15 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine
16 Control and Community Protection Act, or an act committed in
17 another state, territory or country which would be punishable
18 as a felony under ~~either~~ the Illinois Controlled Substances
19 Act, ~~or~~ the Cannabis Control Act, or the Methamphetamine
20 Control and Community Protection Act, committed by that person
21 within 5 years of each other, or all property acquired by such
22 person within a reasonable amount of time after the commission
23 of such acts if:

24 (a) At least one of the above acts was committed after
25 the effective date of this Act; and

26 (b) At least one of the acts is or was punishable as a
27 Class X, Class 1, or Class 2 felony; and

28 (c) There was no likely source for such property other
29 than a violation of the above Acts.

30 (Source: P.A. 86-1382.)

31 (725 ILCS 150/9) (from Ch. 56 1/2, par. 1679)

32 Sec. 9. Judicial in rem procedures. If property seized
33 under the provisions of the Illinois Controlled Substances Act,

1 ~~of~~ the Cannabis Control Act, or the Methamphetamine Control and
2 Community Protection Act is non-real property that exceeds
3 \$20,000 in value excluding the value of any conveyance, or is
4 real property, or a claimant has filed a claim and a cost bond
5 under subsection (C) of Section 6 of this Act, the following
6 judicial in rem procedures shall apply:

7 (A) If, after a review of the facts surrounding the
8 seizure, the State's Attorney is of the opinion that the seized
9 property is subject to forfeiture, then within 45 days of the
10 receipt of notice of seizure by the seizing agency or the
11 filing of the claim and cost bond, whichever is later, the
12 State's Attorney shall institute judicial forfeiture
13 proceedings by filing a verified complaint for forfeiture and,
14 if the claimant has filed a claim and cost bond, by depositing
15 the cost bond with the clerk of the court. When authorized by
16 law, a forfeiture must be ordered by a court on an action in
17 rem brought by a State's Attorney under a verified complaint
18 for forfeiture.

19 (B) During the probable cause portion of the judicial in
20 rem proceeding wherein the State presents its case-in-chief,
21 the court must receive and consider, among other things, all
22 relevant hearsay evidence and information. The laws of evidence
23 relating to civil actions shall apply to all other portions of
24 the judicial in rem proceeding.

25 (C) Only an owner of or interest holder in the property may
26 file an answer asserting a claim against the property in the
27 action in rem. For purposes of this Section, the owner or
28 interest holder shall be referred to as claimant.

29 (D) The answer must be signed by the owner or interest
30 holder under penalty of perjury and must set forth:

31 (i) the caption of the proceedings as set forth on the
32 notice of pending forfeiture and the name of the claimant;

33 (ii) the address at which the claimant will accept
34 mail;

1 (iii) the nature and extent of the claimant's interest
2 in the property;

3 (iv) the date, identity of transferor, and
4 circumstances of the claimant's acquisition of the
5 interest in the property;

6 (v) the name and address of all other persons known to
7 have an interest in the property;

8 (vi) the specific provisions of Section 8 of this Act
9 relied on in asserting it is not subject to forfeiture;

10 (vii) all essential facts supporting each assertion;
11 and

12 (viii) the precise relief sought.

13 (E) The answer must be filed with the court within 45 days
14 after service of the civil in rem complaint.

15 (F) The hearing must be held within 60 days after filing of
16 the answer unless continued for good cause.

17 (G) The State shall show the existence of probable cause
18 for forfeiture of the property. If the State shows probable
19 cause, the claimant has the burden of showing by a
20 preponderance of the evidence that the claimant's interest in
21 the property is not subject to forfeiture.

22 (H) If the State does not show existence of probable cause
23 or a claimant has established by a preponderance of evidence
24 that the claimant has an interest that is exempt under Section
25 8 of this Act, the court shall order the interest in the
26 property returned or conveyed to the claimant and shall order
27 all other property forfeited to the State. If the State does
28 show existence of probable cause and the claimant does not
29 establish by a preponderance of evidence that the claimant has
30 an interest that is exempt under Section 8 of this Act, the
31 court shall order all property forfeited to the State.

32 (I) A defendant convicted in any criminal proceeding is
33 precluded from later denying the essential allegations of the
34 criminal offense of which the defendant was convicted in any

1 proceeding under this Act regardless of the pendency of an
2 appeal from that conviction. However, evidence of the pendency
3 of an appeal is admissible.

4 (J) An acquittal or dismissal in a criminal proceeding
5 shall not preclude civil proceedings under this Act; however,
6 for good cause shown, on a motion by the State's Attorney, the
7 court may stay civil forfeiture proceedings during the criminal
8 trial for a related criminal indictment or information alleging
9 a violation of the Illinois Controlled Substances Act, ~~or~~ the
10 Cannabis Control Act, or the Methamphetamine Control and
11 Community Protection Act. Such a stay shall not be available
12 pending an appeal. Property subject to forfeiture under the
13 Illinois Controlled Substances Act, ~~or~~ the Cannabis Control
14 Act, or the Methamphetamine Control and Community Protection
15 Act shall not be subject to return or release by a court
16 exercising jurisdiction over a criminal case involving the
17 seizure of such property unless such return or release is
18 consented to by the State's Attorney.

19 (K) All property declared forfeited under this Act vests in
20 this State on the commission of the conduct giving rise to
21 forfeiture together with the proceeds of the property after
22 that time. Any such property or proceeds subsequently
23 transferred to any person remain subject to forfeiture and
24 thereafter shall be ordered forfeited unless the transferee
25 claims and establishes in a hearing under the provisions of
26 this Act that the transferee's interest is exempt under Section
27 8 of this Act.

28 (L) A civil action under this Act must be commenced within
29 5 years after the last conduct giving rise to forfeiture became
30 known or should have become known or 5 years after the
31 forfeitable property is discovered, whichever is later,
32 excluding any time during which either the property or claimant
33 is out of the State or in confinement or during which criminal
34 proceedings relating to the same conduct are in progress.

1 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

2 Section 1090. The Narcotics Profit Forfeiture Act is
3 amended by changing Section 3 as follows:

4 (725 ILCS 175/3) (from Ch. 56 1/2, par. 1653)

5 Sec. 3. Definitions. (a) "Narcotics activity" means:

6 1. Any conduct punishable as a felony under the Cannabis
7 Control Act or the Illinois Controlled Substances Act, or

8 2. Any conduct punishable, by imprisonment for more than
9 one year, as an offense against the law of the United States or
10 any State, concerning narcotics, controlled substances,
11 dangerous drugs, or any substance or things scheduled or listed
12 under the Cannabis Control Act, ~~or~~ the Illinois Controlled
13 Substances Act, or the Methamphetamine Control and Community
14 Protection Act.

15 (b) "Pattern of narcotics activity" means 2 or more acts of
16 narcotics activity of which at least 2 such acts were committed
17 within 5 years of each other. At least one of those acts of
18 narcotics activity must have been committed after the effective
19 date of this Act and at least one of such acts shall be or shall
20 have been punishable as a Class X, Class 1 or Class 2 felony.

21 (c) "Person" includes any individual or entity capable of
22 holding a legal or beneficial interest in property.

23 (d) "Enterprise" includes any individual, partnership,
24 corporation, association, or other entity, or group of
25 individuals associated in fact, although not a legal entity.

26 (Source: P.A. 82-940.)

27 Section 1095. The Sexually Violent Persons Commitment Act
28 is amended by changing Section 40 as follows:

29 (725 ILCS 207/40)

30 Sec. 40. Commitment.

1 (a) If a court or jury determines that the person who is
2 the subject of a petition under Section 15 of this Act is a
3 sexually violent person, the court shall order the person to be
4 committed to the custody of the Department for control, care
5 and treatment until such time as the person is no longer a
6 sexually violent person.

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

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

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

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

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

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

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

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

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

22 (A) not violate any criminal statute of any
23 jurisdiction;

24 (B) report to or appear in person before such
25 person or agency as directed by the court and the
26 Department;

27 (C) refrain from possession of a firearm or other
28 dangerous weapon;

29 (D) not leave the State without the consent of the
30 court or, in circumstances in which the reason for the
31 absence is of such an emergency nature, that prior
32 consent by the court is not possible without the prior
33 notification and approval of the Department;

34 (E) at the direction of the Department, notify

1 third parties of the risks that may be occasioned by
2 his or her criminal record or sexual offending history
3 or characteristics, and permit the supervising officer
4 or agent to make the notification requirement;

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

13 (G) waive confidentiality allowing the court and
14 Department access to assessment or treatment results
15 or both;

16 (H) work regularly at a Department approved
17 occupation or pursue a course of study or vocational
18 training and notify the Department within 72 hours of
19 any change in employment, study, or training;

20 (I) not be employed or participate in any volunteer
21 activity that involves contact with children, except
22 under circumstances approved in advance and in writing
23 by the Department officer;

24 (J) submit to the search of his or her person,
25 residence, vehicle, or any personal or real property
26 under his or her control at any time by the Department;

27 (K) financially support his or her dependents and
28 provide the Department access to any requested
29 financial information;

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

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

1 (ii) admit any person or agent designated by
2 the Department into the offender's place of
3 confinement at any time for purposes of verifying
4 the person's compliance with the condition of his
5 or her confinement;

6 (iii) if deemed necessary by the Department,
7 be placed on an electronic monitoring device;

8 (M) comply with the terms and conditions of an
9 order of protection issued by the court pursuant to the
10 Illinois Domestic Violence Act of 1986. A copy of the
11 order of protection shall be transmitted to the
12 Department by the clerk of the court;

13 (N) refrain from entering into a designated
14 geographic area except upon terms the Department finds
15 appropriate. The terms may include consideration of
16 the purpose of the entry, the time of day, others
17 accompanying the person, and advance approval by the
18 Department;

19 (O) refrain from having any contact, including
20 written or oral communications, directly or
21 indirectly, with certain specified persons including,
22 but not limited to, the victim or the victim's family,
23 and report any incidental contact with the victim or
24 the victim's family to the Department within 72 hours;
25 refrain from entering onto the premises of, traveling
26 past, or loitering near the victim's residence, place
27 of employment, or other places frequented by the
28 victim;

29 (P) refrain from having any contact, including
30 written or oral communications, directly or
31 indirectly, with particular types of persons,
32 including but not limited to members of street gangs,
33 drug users, drug dealers, or prostitutes;

34 (Q) refrain from all contact, direct or indirect,

1 personally, by telephone, letter, or through another
2 person, with minor children without prior
3 identification and approval of the Department;

4 (R) refrain from having in his or her body the
5 presence of alcohol or any illicit drug prohibited by
6 the Cannabis Control Act, ~~or~~ the Illinois Controlled
7 Substances Act, or the Methamphetamine Control and
8 Community Protection Act, unless prescribed by a
9 physician, and submit samples of his or her breath,
10 saliva, blood, or urine for tests to determine the
11 presence of alcohol or any illicit drug;

12 (S) not establish a dating, intimate, or sexual
13 relationship with a person without prior written
14 notification to the Department;

15 (T) neither possess or have under his or her
16 control any material that is pornographic, sexually
17 oriented, or sexually stimulating, or that depicts or
18 alludes to sexual activity or depicts minors under the
19 age of 18, including but not limited to visual,
20 auditory, telephonic, electronic media, or any matter
21 obtained through access to any computer or material
22 linked to computer access use;

23 (U) not patronize any business providing sexually
24 stimulating or sexually oriented entertainment nor
25 utilize "900" or adult telephone numbers or any other
26 sex-related telephone numbers;

27 (V) not reside near, visit, or be in or about
28 parks, schools, day care centers, swimming pools,
29 beaches, theaters, or any other places where minor
30 children congregate without advance approval of the
31 Department and report any incidental contact with
32 minor children to the Department within 72 hours;

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

1 (X) not publish any materials or print any
2 advertisements without providing a copy of the
3 proposed publications to the Department officer and
4 obtaining permission prior to publication;

5 (Y) not leave the county except with prior
6 permission of the Department and provide the
7 Department officer or agent with written travel routes
8 to and from work and any other designated destinations;

9 (Z) not possess or have under his or her control
10 certain specified items of contraband related to the
11 incidence of sexually offending items including video
12 or still camera items or children's toys;

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

15 (BB) comply with all other special conditions that
16 the Department may impose that restrict the person from
17 high-risk situations and limit access or potential
18 victims.

19 (6) A person placed on conditional release and who
20 during the term undergoes mandatory drug or alcohol testing
21 or is assigned to be placed on an approved electronic
22 monitoring device may be ordered to pay all costs
23 incidental to the mandatory drug or alcohol testing and all
24 costs incidental to the approved electronic monitoring in
25 accordance with the person's ability to pay those costs.
26 The Department may establish reasonable fees for the cost
27 of maintenance, testing, and incidental expenses related
28 to the mandatory drug or alcohol testing and all costs
29 incidental to approved electronic monitoring.

30 (Source: P.A. 92-415, eff. 8-17-01; 93-616, eff. 1-1-04.)

31 Section 1100. The State's Attorneys Appellate Prosecutor's
32 Act is amended by changing Section 4.01 as follows:

1 (725 ILCS 210/4.01) (from Ch. 14, par. 204.01)

2 Sec. 4.01. The Office and all attorneys employed thereby
3 may represent the People of the State of Illinois on appeal in
4 all cases which emanate from a county containing less than
5 3,000,000 inhabitants, when requested to do so and at the
6 direction of the State's Attorney, otherwise responsible for
7 prosecuting the appeal, and may, with the advice and consent of
8 the State's Attorney prepare, file and argue such appellate
9 briefs in the Illinois Appellate Court and, when requested and
10 authorized to do so by the Attorney General, in the Illinois
11 Supreme Court. The Office may also assist County State's
12 Attorneys in the discharge of their duties under the Illinois
13 Controlled Substances Act, the Cannabis Control Act, the
14 Methamphetamine Control and Community Protection Act, the Drug
15 Asset Forfeiture Procedure Act, the Narcotics Profit
16 Forfeiture Act, and the Illinois Public Labor Relations Act,
17 including negotiations conducted on behalf of a county or
18 pursuant to an intergovernmental agreement as well as in the
19 trial and appeal of said cases and of tax objections, and the
20 counties which use services relating to labor relations shall
21 reimburse the Office on pro-rated shares as determined by the
22 board based upon the population and number of labor relations
23 cases of the participating counties. In addition, the Office
24 and all attorneys employed by the Office may also assist
25 State's Attorneys in the discharge of their duties in the
26 prosecution and trial of other cases when requested to do so
27 by, and at the direction of, the State's Attorney otherwise
28 responsible for the case. In addition, the Office and all
29 attorneys employed by the Office may act as Special Prosecutor
30 if duly appointed to do so by a court having jurisdiction. To
31 be effective, the order appointing the Office or its attorneys
32 as Special Prosecutor must (i) identify the case and its
33 subject matter and (ii) state that the Special Prosecutor
34 serves at the pleasure of the Attorney General, who may

1 substitute himself or herself as the Special Prosecutor when,
2 in his or her judgment, the interest of the people of the State
3 so requires. Within 5 days after receiving a copy of an order
4 from the court appointing the Office or any of its attorneys as
5 a Special Prosecutor, the Office must forward a copy of the
6 order to the Springfield office of the Attorney General.

7 (Source: P.A. 92-683, eff. 7-16-02.)

8 Section 1105. The Statewide Grand Jury Act is amended by
9 changing Section 3 as follows:

10 (725 ILCS 215/3) (from Ch. 38, par. 1703)

11 Sec. 3. Written application for the appointment of a
12 Circuit Judge to convene and preside over a Statewide Grand
13 Jury, with jurisdiction extending throughout the State, shall
14 be made to the Chief Justice of the Supreme Court. Upon such
15 written application, the Chief Justice of the Supreme Court
16 shall appoint a Circuit Judge from the circuit where the
17 Statewide Grand Jury is being sought to be convened, who shall
18 make a determination that the convening of a Statewide Grand
19 Jury is necessary.

20 In such application the Attorney General shall state that
21 the convening of a Statewide Grand Jury is necessary because of
22 an alleged offense or offenses set forth in this Section
23 involving more than one county of the State and identifying any
24 such offense alleged; and

25 (a) that he or she believes that the grand jury
26 function for the investigation and indictment of the
27 offense or offenses cannot effectively be performed by a
28 county grand jury together with the reasons for such
29 belief, and

30 (b) (1) that each State's Attorney with jurisdiction
31 over an offense or offenses to be investigated has
32 consented to the impaneling of the Statewide Grand

1 Jury, or

2 (2) if one or more of the State's Attorneys having
3 jurisdiction over an offense or offenses to be
4 investigated fails to consent to the impaneling of the
5 Statewide Grand Jury, the Attorney General shall set
6 forth good cause for impaneling the Statewide Grand
7 Jury.

8 If the Circuit Judge determines that the convening of a
9 Statewide Grand Jury is necessary, he or she shall convene and
10 impanel the Statewide Grand Jury with jurisdiction extending
11 throughout the State to investigate and return indictments:

12 (a) For violations of any of the following or for any
13 other criminal offense committed in the course of violating
14 any of the following: Article 29D of the Criminal Code of
15 1961, the Illinois Controlled Substances Act, the Cannabis
16 Control Act, the Methamphetamine Control and Community
17 Protection Act, the Narcotics Profit Forfeiture Act, or the
18 Cannabis and Controlled Substances Tax Act; a streetgang
19 related felony offense; Section 24-2.1, 24-2.2, 24-3,
20 24-3A, 24-3.1, 24-3.3, 24-3.4, 24-4, or 24-5 or subsection
21 24-1(a)(4), 24-1(a)(6), 24-1(a)(7), 24-1(a)(9),
22 24-1(a)(10), or 24-1(c) of the Criminal Code of 1961; or a
23 money laundering offense; provided that the violation or
24 offense involves acts occurring in more than one county of
25 this State; and

26 (a-5) For violations facilitated by the use of a
27 computer, including the use of the Internet, the World Wide
28 Web, electronic mail, message board, newsgroup, or any
29 other commercial or noncommercial on-line service, of any
30 of the following offenses: indecent solicitation of a
31 child, sexual exploitation of a child, soliciting for a
32 juvenile prostitute, keeping a place of juvenile
33 prostitution, juvenile pimping, or child pornography; and

34 (b) For the offenses of perjury, subornation of

1 perjury, communicating with jurors and witnesses, and
2 harassment of jurors and witnesses, as they relate to
3 matters before the Statewide Grand Jury.

4 "Streetgang related" has the meaning ascribed to it in
5 Section 10 of the Illinois Streetgang Terrorism Omnibus
6 Prevention Act.

7 Upon written application by the Attorney General for the
8 convening of an additional Statewide Grand Jury, the Chief
9 Justice of the Supreme Court shall appoint a Circuit Judge from
10 the circuit for which the additional Statewide Grand Jury is
11 sought. The Circuit Judge shall determine the necessity for an
12 additional Statewide Grand Jury in accordance with the
13 provisions of this Section. No more than 2 Statewide Grand
14 Juries may be empaneled at any time.

15 (Source: P.A. 91-225, eff. 1-1-00; 91-947, eff. 2-9-01; 92-854,
16 eff. 12-5-02.)

17 Section 1110. The Unified Code of Corrections is amended by
18 changing Sections 3-7-2.5, 5-4-1, 5-5-3, 5-5-3.2, 5-6-2,
19 5-6-3, 5-6-3.1, 5-8-4, 5-9-1, 5-9-1.1, 5-9-1.2, and 5-9-1.4 as
20 follows:

21 (730 ILCS 5/3-7-2.5)

22 Sec. 3-7-2.5. Zero tolerance drug policy.

23 (a) Any person employed by the Department of Corrections
24 who tests positive in accordance with established Departmental
25 drug testing procedures for any substance prohibited by the
26 Cannabis Control Act, ~~or~~ the Illinois Controlled Substances
27 Act, or the Methamphetamine Control and Community Protection
28 Act shall be discharged from employment. Refusal to submit to a
29 drug test, ordered in accordance with Departmental procedures,
30 by any person employed by the Department shall be construed as
31 a positive test, and the person shall be discharged from
32 employment.

1 Testing of employees shall be conducted in accordance with
2 established Departmental drug testing procedures. Changes to
3 established drug testing procedures that are inconsistent with
4 the federal guidelines specified in the Mandatory Guidelines
5 for Federal Workplace Drug Testing Program, 59 FR 29908, or
6 that affect terms and conditions of employment, shall be
7 negotiated with an exclusive bargaining representative in
8 accordance with the Illinois Public Labor Relations Act.

9 (1) All samples used for the purpose of drug testing
10 shall be collected by persons who have at least 40 hours of
11 initial training in the proper collection procedures and at
12 least 8 hours of annual follow-up training. Proof of this
13 training shall be available upon request. In order to
14 ensure that these persons possess the necessary knowledge,
15 skills, and experience to carry out their duties, their
16 training must include guidelines and procedures used for
17 the collection process and must also incorporate training
18 on the appropriate interpersonal skills required during
19 the collection process.

20 (2) With respect to any bargaining unit employee, the
21 Department shall not initiate discipline of any employee
22 who authorizes the testing of a split urine sample in
23 accordance with established Departmental drug testing
24 procedures until receipt by the Department of the test
25 results from the split urine sample evidencing a positive
26 test for any substance prohibited by the Cannabis Control
27 Act, ~~or~~ the Illinois Controlled Substances Act, or the
28 Methamphetamine Control and Community Protection Act.

29 (b) Any employee discharged in accordance with the
30 provisions of subsection (a) shall not be eligible for rehire
31 by the Department.

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

33 (730 ILCS 5/5-4-1) (from Ch. 38, par. 1005-4-1)

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

2 (a) Except when the death penalty is sought under hearing
3 procedures otherwise specified, after a determination of
4 guilt, a hearing shall be held to impose the sentence. However,
5 prior to the imposition of sentence on an individual being
6 sentenced for an offense based upon a charge for a violation of
7 Section 11-501 of the Illinois Vehicle Code or a similar
8 provision of a local ordinance, the individual must undergo a
9 professional evaluation to determine if an alcohol or other
10 drug abuse problem exists and the extent of such a problem.
11 Programs conducting these evaluations shall be licensed by the
12 Department of Human Services. However, if the individual is not
13 a resident of Illinois, the court may, in its discretion,
14 accept an evaluation from a program in the state of such
15 individual's residence. The court may in its sentencing order
16 approve an eligible defendant for placement in a Department of
17 Corrections impact incarceration program as provided in
18 Section 5-8-1.1 or 5-8-1.3. At the hearing the court shall:

19 (1) consider the evidence, if any, received upon the
20 trial;

21 (2) consider any presentence reports;

22 (3) consider the financial impact of incarceration
23 based on the financial impact statement filed with the
24 clerk of the court by the Department of Corrections;

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

27 (5) hear arguments as to sentencing alternatives;

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

30 (7) afford the victim of a violent crime or a violation
31 of Section 11-501 of the Illinois Vehicle Code, or a
32 similar provision of a local ordinance, or a qualified
33 individual affected by: (i) a violation of Section 405,
34 405.1, 405.2, or 407 of the Illinois Controlled Substances

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

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

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

34 (b) All sentences shall be imposed by the judge based upon

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

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

22 (c-1) In imposing a sentence for the offense of aggravated
23 kidnapping for ransom, home invasion, armed robbery,
24 aggravated vehicular hijacking, aggravated discharge of a
25 firearm, or armed violence with a category I weapon or category
26 II weapon, the trial judge shall make a finding as to whether
27 the conduct leading to conviction for the offense resulted in
28 great bodily harm to a victim, and shall enter that finding and
29 the basis for that finding in the record.

30 (c-2) If the defendant is sentenced to prison, other than
31 when a sentence of natural life imprisonment or a sentence of
32 death is imposed, at the time the sentence is imposed the judge
33 shall state on the record in open court the approximate period
34 of time the defendant will serve in custody according to the

1 then current statutory rules and regulations for early release
2 found in Section 3-6-3 and other related provisions of this
3 Code. This statement is intended solely to inform the public,
4 has no legal effect on the defendant's actual release, and may
5 not be relied on by the defendant on appeal.

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

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

27 When the sentence is imposed for one of the offenses
28 enumerated in paragraph (a)(3) of Section 3-6-3, other than
29 when the sentence is imposed for one of the offenses enumerated
30 in paragraph (a)(2) of Section 3-6-3 committed on or after June
31 19, 1998, and other than when the sentence is imposed for
32 reckless homicide as defined in subsection (e) of Section 9-3
33 of the Criminal Code of 1961 if the offense was committed on or
34 after January 1, 1999, and other than when the sentence is

1 imposed for aggravated arson if the offense was committed on or
2 after July 27, 2001 (the effective date of Public Act 92-176)
3 ~~this amendatory Act of the 92nd 93rd General Assembly~~, the
4 judge's statement, to be given after pronouncing the sentence,
5 shall include the following:

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

23 When the sentence is imposed for one of the offenses
24 enumerated in paragraph (a)(2) of Section 3-6-3, other than
25 first degree murder, and the offense was committed on or after
26 June 19, 1998, and when the sentence is imposed for reckless
27 homicide as defined in subsection (e) of Section 9-3 of the
28 Criminal Code of 1961 if the offense was committed on or after
29 January 1, 1999, and when the sentence is imposed for
30 aggravated driving under the influence of alcohol, other drug
31 or drugs, or intoxicating compound or compounds, or any
32 combination thereof as defined in subparagraph (F) of paragraph
33 (1) of subsection (d) of Section 11-501 of the Illinois Vehicle
34 Code, and when the sentence is imposed for aggravated arson if

1 the offense was committed on or after July 27, 2001 (the
2 effective date of Public Act 92-176) ~~this amendatory Act of the~~
3 ~~92nd 93rd General Assembly~~, the judge's statement, to be given
4 after pronouncing the sentence, shall include the following:

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

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

24 "The purpose of this statement is to inform the public of
25 the actual period of time this defendant is likely to spend in
26 prison as a result of this sentence. The actual period of
27 prison time served is determined by the statutes of Illinois as
28 applied to this sentence by the Illinois Department of
29 Corrections and the Illinois Prisoner Review Board. In this
30 case, the defendant is not entitled to good conduct credit.
31 Therefore, this defendant will serve 100% of his or her
32 sentence."

33 When the sentence is imposed for any offense that results
34 in incarceration in a Department of Corrections facility

1 committed as a result of the use of, abuse of, or addiction to
2 alcohol or a controlled substance and the crime was committed
3 on or after September 1, 2003 (the effective date of Public Act
4 93-354) ~~this amendatory Act of the 93rd General Assembly~~, the
5 judge's statement, in addition to any other judge's statement
6 required under this Section, to be given after pronouncing the
7 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 in
10 prison as a result of this sentence. The actual period of
11 prison time served is determined by the statutes of Illinois as
12 applied to this sentence by the Illinois Department of
13 Corrections and the Illinois Prisoner Review Board. In this
14 case, the defendant shall receive no good conduct credit until
15 he or she participates in and completes a substance abuse
16 treatment program."

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 and
27 circumstances which may aid such department, agency or
28 institution during its custody of such person. The clerk shall
29 within 10 days after receiving any such statements transmit a
30 copy to such department, agency or institution and a copy to
31 the other party, provided, however, that this shall not be
32 cause for delay in conveying the person to the department,
33 agency or institution to which he has been committed.

34 (e) The clerk of the court shall transmit to the

1 department, agency or institution, if any, to which the
2 defendant is committed, the following:

3 (1) the sentence imposed;

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

6 (3) any presentence reports;

7 (3.5) any sex offender evaluations;

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

12 (4.1) any finding of great bodily harm made by the
13 court with respect to an offense enumerated in subsection
14 (c-1);

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

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

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

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

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

26 (Source: P.A. 92-176, eff. 7-27-01; 92-806, eff. 1-1-03;
27 93-213, eff. 7-18-03; 93-317, eff. 1-1-04; 93-354, eff. 9-1-03;
28 93-616, eff. 1-1-04; revised 12-9-03.)

29 (730 ILCS 5/5-5-3) (from Ch. 38, par. 1005-5-3)

30 Sec. 5-5-3. Disposition.

31 (a) Except as provided in Section 11-501 of the Illinois
32 Vehicle Code, every person convicted of an offense shall be
33 sentenced as provided in this Section.

1 (b) The following options shall be appropriate
2 dispositions, alone or in combination, for all felonies and
3 misdemeanors other than those identified in subsection (c) of
4 this Section:

5 (1) A period of probation.

6 (2) A term of periodic imprisonment.

7 (3) A term of conditional discharge.

8 (4) A term of imprisonment.

9 (5) An order directing the offender to clean up and
10 repair the damage, if the offender was convicted under
11 paragraph (h) of Section 21-1 of the Criminal Code of 1961
12 (now repealed).

13 (6) A fine.

14 (7) An order directing the offender to make restitution
15 to the victim under Section 5-5-6 of this Code.

16 (8) A sentence of participation in a county impact
17 incarceration program under Section 5-8-1.2 of this Code.

18 (9) A term of imprisonment in combination with a term
19 of probation when the offender has been admitted into a
20 drug court program under Section 20 of the Drug Court
21 Treatment Act.

22 Neither a fine nor restitution shall be the sole
23 disposition for a felony and either or both may be imposed only
24 in conjunction with another disposition.

25 (c) (1) When a defendant is found guilty of first degree
26 murder the State may either seek a sentence of imprisonment
27 under Section 5-8-1 of this Code, or where appropriate seek
28 a sentence of death under Section 9-1 of the Criminal Code
29 of 1961.

30 (2) A period of probation, a term of periodic
31 imprisonment or conditional discharge shall not be imposed
32 for the following offenses. The court shall sentence the
33 offender to not less than the minimum term of imprisonment
34 set forth in this Code for the following offenses, and may

1 order a fine or restitution or both in conjunction with
2 such term of imprisonment:

3 (A) First degree murder where the death penalty is
4 not imposed.

5 (B) Attempted first degree murder.

6 (C) A Class X felony.

7 (D) A violation of Section 401.1 or 407 of the
8 Illinois Controlled Substances Act, or a violation of
9 subdivision (c) (1) or (c) (2) of Section 401 of that Act
10 which relates to more than 5 grams of a substance
11 containing heroin or cocaine or an analog thereof.

12 (E) A violation of Section 5.1 or 9 of the Cannabis
13 Control Act.

14 (E-1) A violation of subdivision (b) (1) (A),
15 (b) (1) (B), or (b) (1) (F) of Section 55 of the
16 Methamphetamine Control and Community Protection Act.

17 (F) A Class 2 or greater felony if the offender had
18 been convicted of a Class 2 or greater felony within 10
19 years of the date on which the offender committed the
20 offense for which he or she is being sentenced, except
21 as otherwise provided in Section 40-10 of the
22 Alcoholism and Other Drug Abuse and Dependency Act.

23 (G) Residential burglary, except as otherwise
24 provided in Section 40-10 of the Alcoholism and Other
25 Drug Abuse and Dependency Act.

26 (H) Criminal sexual assault.

27 (I) Aggravated battery of a senior citizen.

28 (J) A forcible felony if the offense was related to
29 the activities of an organized gang.

30 Before July 1, 1994, for the purposes of this
31 paragraph, "organized gang" means an association of 5
32 or more persons, with an established hierarchy, that
33 encourages members of the association to perpetrate
34 crimes or provides support to the members of the

1 association who do commit crimes.

2 Beginning July 1, 1994, for the purposes of this
3 paragraph, "organized gang" has the meaning ascribed
4 to it in Section 10 of the Illinois Streetgang
5 Terrorism Omnibus Prevention Act.

6 (K) Vehicular hijacking.

7 (L) A second or subsequent conviction for the
8 offense of hate crime when the underlying offense upon
9 which the hate crime is based is felony aggravated
10 assault or felony mob action.

11 (M) A second or subsequent conviction for the
12 offense of institutional vandalism if the damage to the
13 property exceeds \$300.

14 (N) A Class 3 felony violation of paragraph (1) of
15 subsection (a) of Section 2 of the Firearm Owners
16 Identification Card Act.

17 (O) A violation of Section 12-6.1 of the Criminal
18 Code of 1961.

19 (P) A violation of paragraph (1), (2), (3), (4),
20 (5), or (7) of subsection (a) of Section 11-20.1 of the
21 Criminal Code of 1961.

22 (Q) A violation of Section 20-1.2 or 20-1.3 of the
23 Criminal Code of 1961.

24 (R) A violation of Section 24-3A of the Criminal
25 Code of 1961.

26 (S) (Blank).

27 (T) A second or subsequent violation of clause
28 (b) (1) (F) of paragraph (6.6) of subsection (a),
29 subsection (c-5), or subsection (d-5) of Section 55 or
30 Section 65 401 of the Methamphetamine Control and
31 Community Protection Act Illinois Controlled
32 Substances Act.

33 (3) (Blank).

34 (4) A minimum term of imprisonment of not less than 10

1 consecutive days or 30 days of community service shall be
2 imposed for a violation of paragraph (c) of Section 6-303
3 of the Illinois Vehicle Code.

4 (4.1) (Blank).

5 (4.2) Except as provided in paragraph (4.3) of this
6 subsection (c), a minimum of 100 hours of community service
7 shall be imposed for a second violation of Section 6-303 of
8 the Illinois Vehicle Code.

9 (4.3) A minimum term of imprisonment of 30 days or 300
10 hours of community service, as determined by the court,
11 shall be imposed for a second violation of subsection (c)
12 of Section 6-303 of the Illinois Vehicle Code.

13 (4.4) Except as provided in paragraph (4.5) and
14 paragraph (4.6) of this subsection (c), a minimum term of
15 imprisonment of 30 days or 300 hours of community service,
16 as determined by the court, shall be imposed for a third or
17 subsequent violation of Section 6-303 of the Illinois
18 Vehicle Code.

19 (4.5) A minimum term of imprisonment of 30 days shall
20 be imposed for a third violation of subsection (c) of
21 Section 6-303 of the Illinois Vehicle Code.

22 (4.6) A minimum term of imprisonment of 180 days shall
23 be imposed for a fourth or subsequent violation of
24 subsection (c) of Section 6-303 of the Illinois Vehicle
25 Code.

26 (5) The court may sentence an offender convicted of a
27 business offense or a petty offense or a corporation or
28 unincorporated association convicted of any offense to:

29 (A) a period of conditional discharge;

30 (B) a fine;

31 (C) make restitution to the victim under Section
32 5-5-6 of this Code.

33 (5.1) In addition to any penalties imposed under
34 paragraph (5) of this subsection (c), and except as

1 provided in paragraph (5.2) or (5.3), a person convicted of
2 violating subsection (c) of Section 11-907 of the Illinois
3 Vehicle Code shall have his or her driver's license,
4 permit, or privileges suspended for at least 90 days but
5 not more than one year, if the violation resulted in damage
6 to the property of another person.

7 (5.2) In addition to any penalties imposed under
8 paragraph (5) of this subsection (c), and except as
9 provided in paragraph (5.3), a person convicted of
10 violating subsection (c) of Section 11-907 of the Illinois
11 Vehicle Code shall have his or her driver's license,
12 permit, or privileges suspended for at least 180 days but
13 not more than 2 years, if the violation resulted in injury
14 to another person.

15 (5.3) In addition to any penalties imposed under
16 paragraph (5) of this subsection (c), a person convicted of
17 violating subsection (c) of Section 11-907 of the Illinois
18 Vehicle Code shall have his or her driver's license,
19 permit, or privileges suspended for 2 years, if the
20 violation resulted in the death of another person.

21 (6) In no case shall an offender be eligible for a
22 disposition of probation or conditional discharge for a
23 Class 1 felony committed while he was serving a term of
24 probation or conditional discharge for a felony.

25 (7) When a defendant is adjudged a habitual criminal
26 under Article 33B of the Criminal Code of 1961, the court
27 shall sentence the defendant to a term of natural life
28 imprisonment.

29 (8) When a defendant, over the age of 21 years, is
30 convicted of a Class 1 or Class 2 felony, after having
31 twice been convicted in any state or federal court of an
32 offense that contains the same elements as an offense now
33 classified in Illinois as a Class 2 or greater Class felony
34 and such charges are separately brought and tried and arise

1 out of different series of acts, such defendant shall be
2 sentenced as a Class X offender. This paragraph shall not
3 apply unless (1) the first felony was committed after the
4 effective date of this amendatory Act of 1977; and (2) the
5 second felony was committed after conviction on the first;
6 and (3) the third felony was committed after conviction on
7 the second. A person sentenced as a Class X offender under
8 this paragraph is not eligible to apply for treatment as a
9 condition of probation as provided by Section 40-10 of the
10 Alcoholism and Other Drug Abuse and Dependency Act.

11 (9) A defendant convicted of a second or subsequent
12 offense of ritualized abuse of a child may be sentenced to
13 a term of natural life imprisonment.

14 (10) (Blank).

15 (11) The court shall impose a minimum fine of \$1,000
16 for a first offense and \$2,000 for a second or subsequent
17 offense upon a person convicted of or placed on supervision
18 for battery when the individual harmed was a sports
19 official or coach at any level of competition and the act
20 causing harm to the sports official or coach occurred
21 within an athletic facility or within the immediate
22 vicinity of the athletic facility at which the sports
23 official or coach was an active participant of the athletic
24 contest held at the athletic facility. For the purposes of
25 this paragraph (11), "sports official" means a person at an
26 athletic contest who enforces the rules of the contest,
27 such as an umpire or referee; "athletic facility" means an
28 indoor or outdoor playing field or recreational area where
29 sports activities are conducted; and "coach" means a person
30 recognized as a coach by the sanctioning authority that
31 conducted the sporting event.

32 (12) ~~(11)~~ A person may not receive a disposition of
33 court supervision for a violation of Section 5-16 of the
34 Boat Registration and Safety Act if that person has

1 (ii) restricted contact with the victim;

2 (iii) continued financial support of the
3 family;

4 (iv) restitution for harm done to the victim;

5 and

6 (v) compliance with any other measures that
7 the court may deem appropriate; and

8 (2) the court orders the defendant to pay for the
9 victim's counseling services, to the extent that the court
10 finds, after considering the defendant's income and
11 assets, that the defendant is financially capable of paying
12 for such services, if the victim was under 18 years of age
13 at the time the offense was committed and requires
14 counseling as a result of the offense.

15 Probation may be revoked or modified pursuant to Section
16 5-6-4; except where the court determines at the hearing that
17 the defendant violated a condition of his or her probation
18 restricting contact with the victim or other family members or
19 commits another offense with the victim or other family
20 members, the court shall revoke the defendant's probation and
21 impose a term of imprisonment.

22 For the purposes of this Section, "family member" and
23 "victim" shall have the meanings ascribed to them in Section
24 12-12 of the Criminal Code of 1961.

25 (f) This Article shall not deprive a court in other
26 proceedings to order a forfeiture of property, to suspend or
27 cancel a license, to remove a person from office, or to impose
28 any other civil penalty.

29 (g) Whenever a defendant is convicted of an offense under
30 Sections 11-14, 11-15, 11-15.1, 11-16, 11-17, 11-18, 11-18.1,
31 11-19, 11-19.1, 11-19.2, 12-13, 12-14, 12-14.1, 12-15 or 12-16
32 of the Criminal Code of 1961, the defendant shall undergo
33 medical testing to determine whether the defendant has any
34 sexually transmissible disease, including a test for infection

1 with human immunodeficiency virus (HIV) or any other identified
2 causative agent of acquired immunodeficiency syndrome (AIDS).
3 Any such medical test shall be performed only by appropriately
4 licensed medical practitioners and may include an analysis of
5 any bodily fluids as well as an examination of the defendant's
6 person. Except as otherwise provided by law, the results of
7 such test shall be kept strictly confidential by all medical
8 personnel involved in the testing and must be personally
9 delivered in a sealed envelope to the judge of the court in
10 which the conviction was entered for the judge's inspection in
11 camera. Acting in accordance with the best interests of the
12 victim and the public, the judge shall have the discretion to
13 determine to whom, if anyone, the results of the testing may be
14 revealed. The court shall notify the defendant of the test
15 results. The court shall also notify the victim if requested by
16 the victim, and if the victim is under the age of 15 and if
17 requested by the victim's parents or legal guardian, the court
18 shall notify the victim's parents or legal guardian of the test
19 results. The court shall provide information on the
20 availability of HIV testing and counseling at Department of
21 Public Health facilities to all parties to whom the results of
22 the testing are revealed and shall direct the State's Attorney
23 to provide the information to the victim when possible. A
24 State's Attorney may petition the court to obtain the results
25 of any HIV test administered under this Section, and the court
26 shall grant the disclosure if the State's Attorney shows it is
27 relevant in order to prosecute a charge of criminal
28 transmission of HIV under Section 12-16.2 of the Criminal Code
29 of 1961 against the defendant. The court shall order that the
30 cost of any such test shall be paid by the county and may be
31 taxed as costs against the convicted defendant.

32 (g-5) When an inmate is tested for an airborne communicable
33 disease, as determined by the Illinois Department of Public
34 Health including but not limited to tuberculosis, the results

1 of the test shall be personally delivered by the warden or his
2 or her designee in a sealed envelope to the judge of the court
3 in which the inmate must appear for the judge's inspection in
4 camera if requested by the judge. Acting in accordance with the
5 best interests of those in the courtroom, the judge shall have
6 the discretion to determine what if any precautions need to be
7 taken to prevent transmission of the disease in the courtroom.

8 (h) Whenever a defendant is convicted of an offense under
9 Section 1 or 2 of the Hypodermic Syringes and Needles Act, the
10 defendant shall undergo medical testing to determine whether
11 the defendant has been exposed to human immunodeficiency virus
12 (HIV) or any other identified causative agent of acquired
13 immunodeficiency syndrome (AIDS). Except as otherwise provided
14 by law, the results of such test shall be kept strictly
15 confidential by all medical personnel involved in the testing
16 and must be personally delivered in a sealed envelope to the
17 judge of the court in which the conviction was entered for the
18 judge's inspection in camera. Acting in accordance with the
19 best interests of the public, the judge shall have the
20 discretion to determine to whom, if anyone, the results of the
21 testing may be revealed. The court shall notify the defendant
22 of a positive test showing an infection with the human
23 immunodeficiency virus (HIV). The court shall provide
24 information on the availability of HIV testing and counseling
25 at Department of Public Health facilities to all parties to
26 whom the results of the testing are revealed and shall direct
27 the State's Attorney to provide the information to the victim
28 when possible. A State's Attorney may petition the court to
29 obtain the results of any HIV test administered under this
30 Section, and the court shall grant the disclosure if the
31 State's Attorney shows it is relevant in order to prosecute a
32 charge of criminal transmission of HIV under Section 12-16.2 of
33 the Criminal Code of 1961 against the defendant. The court
34 shall order that the cost of any such test shall be paid by the

1 county and may be taxed as costs against the convicted
2 defendant.

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

10 (j) In cases when prosecution for any violation of Section
11 11-6, 11-8, 11-9, 11-11, 11-14, 11-15, 11-15.1, 11-16, 11-17,
12 11-17.1, 11-18, 11-18.1, 11-19, 11-19.1, 11-19.2, 11-20.1,
13 11-21, 12-13, 12-14, 12-14.1, 12-15, or 12-16 of the Criminal
14 Code of 1961, any violation of the Illinois Controlled
15 Substances Act, ~~or~~ any violation of the Cannabis Control Act,
16 or any violation of the Methamphetamine Control and Community
17 Protection Act results in conviction, a disposition of court
18 supervision, or an order of probation granted under Section 10
19 of the Cannabis Control Act, ~~or~~ Section 410 of the Illinois
20 Controlled Substance Act, or Section 70 of the Methamphetamine
21 Control and Community Protection Act of a defendant, the court
22 shall determine whether the defendant is employed by a facility
23 or center as defined under the Child Care Act of 1969, a public
24 or private elementary or secondary school, or otherwise works
25 with children under 18 years of age on a daily basis. When a
26 defendant is so employed, the court shall order the Clerk of
27 the Court to send a copy of the judgment of conviction or order
28 of supervision or probation to the defendant's employer by
29 certified mail. If the employer of the defendant is a school,
30 the Clerk of the Court shall direct the mailing of a copy of
31 the judgment of conviction or order of supervision or probation
32 to the appropriate regional superintendent of schools. The
33 regional superintendent of schools shall notify the State Board
34 of Education of any notification under this subsection.

1 (j-5) A defendant at least 17 years of age who is convicted
2 of a felony and who has not been previously convicted of a
3 misdemeanor or felony and who is sentenced to a term of
4 imprisonment in the Illinois Department of Corrections shall as
5 a condition of his or her sentence be required by the court to
6 attend educational courses designed to prepare the defendant
7 for a high school diploma and to work toward a high school
8 diploma or to work toward passing the high school level Test of
9 General Educational Development (GED) or to work toward
10 completing a vocational training program offered by the
11 Department of Corrections. If a defendant fails to complete the
12 educational training required by his or her sentence during the
13 term of incarceration, the Prisoner Review Board shall, as a
14 condition of mandatory supervised release, require the
15 defendant, at his or her own expense, to pursue a course of
16 study toward a high school diploma or passage of the GED test.
17 The Prisoner Review Board shall revoke the mandatory supervised
18 release of a defendant who wilfully fails to comply with this
19 subsection (j-5) upon his or her release from confinement in a
20 penal institution while serving a mandatory supervised release
21 term; however, the inability of the defendant after making a
22 good faith effort to obtain financial aid or pay for the
23 educational training shall not be deemed a wilful failure to
24 comply. The Prisoner Review Board shall recommit the defendant
25 whose mandatory supervised release term has been revoked under
26 this subsection (j-5) as provided in Section 3-3-9. This
27 subsection (j-5) does not apply to a defendant who has a high
28 school diploma or has successfully passed the GED test. This
29 subsection (j-5) does not apply to a defendant who is
30 determined by the court to be developmentally disabled or
31 otherwise mentally incapable of completing the educational or
32 vocational program.

33 (k) A court may not impose a sentence or disposition for a
34 felony or misdemeanor that requires the defendant to be

1 implanted or injected with or to use any form of birth control.

2 (1) (A) Except as provided in paragraph (C) of subsection
3 (1), whenever a defendant, who is an alien as defined by
4 the Immigration and Nationality Act, is convicted of any
5 felony or misdemeanor offense, the court after sentencing
6 the defendant may, upon motion of the State's Attorney,
7 hold sentence in abeyance and remand the defendant to the
8 custody of the Attorney General of the United States or his
9 or her designated agent to be deported when:

10 (1) a final order of deportation has been issued
11 against the defendant pursuant to proceedings under
12 the Immigration and Nationality Act, and

13 (2) the deportation of the defendant would not
14 deprecate the seriousness of the defendant's conduct
15 and would not be inconsistent with the ends of justice.

16 Otherwise, the defendant shall be sentenced as
17 provided in this Chapter V.

18 (B) If the defendant has already been sentenced for a
19 felony or misdemeanor offense, or has been placed on
20 probation under Section 10 of the Cannabis Control Act, ~~or~~
21 Section 410 of the Illinois Controlled Substances Act, or
22 Section 70 of the Methamphetamine Control and Community
23 Protection Act, the court may, upon motion of the State's
24 Attorney to suspend the sentence imposed, commit the
25 defendant to the custody of the Attorney General of the
26 United States or his or her designated agent when:

27 (1) a final order of deportation has been issued
28 against the defendant pursuant to proceedings under
29 the Immigration and Nationality Act, and

30 (2) the deportation of the defendant would not
31 deprecate the seriousness of the defendant's conduct
32 and would not be inconsistent with the ends of justice.

33 (C) This subsection (1) does not apply to offenders who
34 are subject to the provisions of paragraph (2) of

1 subsection (a) of Section 3-6-3.

2 (D) Upon motion of the State's Attorney, if a defendant
3 sentenced under this Section returns to the jurisdiction of
4 the United States, the defendant shall be recommitted to
5 the custody of the county from which he or she was
6 sentenced. Thereafter, the defendant shall be brought
7 before the sentencing court, which may impose any sentence
8 that was available under Section 5-5-3 at the time of
9 initial sentencing. In addition, the defendant shall not be
10 eligible for additional good conduct credit for
11 meritorious service as provided under Section 3-6-6.

12 (m) A person convicted of criminal defacement of property
13 under Section 21-1.3 of the Criminal Code of 1961, in which the
14 property damage exceeds \$300 and the property damaged is a
15 school building, shall be ordered to perform community service
16 that may include cleanup, removal, or painting over the
17 defacement.

18 (n) The court may sentence a person convicted of a
19 violation of Section 12-19, 12-21, or 16-1.3 of the Criminal
20 Code of 1961 (i) to an impact incarceration program if the
21 person is otherwise eligible for that program under Section
22 5-8-1.1, (ii) to community service, or (iii) if the person is
23 an addict or alcoholic, as defined in the Alcoholism and Other
24 Drug Abuse and Dependency Act, to a substance or alcohol abuse
25 program licensed under that Act.

26 (Source: P.A. 92-183, eff. 7-27-01; 92-248, eff. 8-3-01;
27 92-283, eff. 1-1-02; 92-340, eff. 8-10-01; 92-418, eff.
28 8-17-01; 92-422, eff. 8-17-01; 92-651, eff. 7-11-02; 92-698,
29 eff. 7-19-02; 93-44, eff. 7-1-03; 93-156, eff. 1-1-04; 93-169,
30 eff. 7-10-03; 93-301, eff. 1-1-04; 93-419, eff. 1-1-04; 93-546,
31 eff. 1-1-04; 93-694, eff. 7-9-04; 93-782, eff. 1-1-05; 93-800,
32 eff. 1-1-05; 93-1014, eff. 1-1-05; revised 10-25-04.)

33 (730 ILCS 5/5-5-3.2) (from Ch. 38, par. 1005-5-3.2)

1 Sec. 5-5-3.2. Factors in Aggravation.

2 (a) The following factors shall be accorded weight in favor
3 of imposing a term of imprisonment or may be considered by the
4 court as reasons to impose a more severe sentence under Section
5 5-8-1:

6 (1) the defendant's conduct caused or threatened
7 serious harm;

8 (2) the defendant received compensation for committing
9 the offense;

10 (3) the defendant has a history of prior delinquency or
11 criminal activity;

12 (4) the defendant, by the duties of his office or by
13 his position, was obliged to prevent the particular offense
14 committed or to bring the offenders committing it to
15 justice;

16 (5) the defendant held public office at the time of the
17 offense, and the offense related to the conduct of that
18 office;

19 (6) the defendant utilized his professional reputation
20 or position in the community to commit the offense, or to
21 afford him an easier means of committing it;

22 (7) the sentence is necessary to deter others from
23 committing the same crime;

24 (8) the defendant committed the offense against a
25 person 60 years of age or older or such person's property;

26 (9) the defendant committed the offense against a
27 person who is physically handicapped or such person's
28 property;

29 (10) by reason of another individual's actual or
30 perceived race, color, creed, religion, ancestry, gender,
31 sexual orientation, physical or mental disability, or
32 national origin, the defendant committed the offense
33 against (i) the person or property of that individual; (ii)
34 the person or property of a person who has an association

1 with, is married to, or has a friendship with the other
2 individual; or (iii) the person or property of a relative
3 (by blood or marriage) of a person described in clause (i)
4 or (ii). For the purposes of this Section, "sexual
5 orientation" means heterosexuality, homosexuality, or
6 bisexuality;

7 (11) the offense took place in a place of worship or on
8 the grounds of a place of worship, immediately prior to,
9 during or immediately following worship services. For
10 purposes of this subparagraph, "place of worship" shall
11 mean any church, synagogue or other building, structure or
12 place used primarily for religious worship;

13 (12) the defendant was convicted of a felony committed
14 while he was released on bail or his own recognizance
15 pending trial for a prior felony and was convicted of such
16 prior felony, or the defendant was convicted of a felony
17 committed while he was serving a period of probation,
18 conditional discharge, or mandatory supervised release
19 under subsection (d) of Section 5-8-1 for a prior felony;

20 (13) the defendant committed or attempted to commit a
21 felony while he was wearing a bulletproof vest. For the
22 purposes of this paragraph (13), a bulletproof vest is any
23 device which is designed for the purpose of protecting the
24 wearer from bullets, shot or other lethal projectiles;

25 (14) the defendant held a position of trust or
26 supervision such as, but not limited to, family member as
27 defined in Section 12-12 of the Criminal Code of 1961,
28 teacher, scout leader, baby sitter, or day care worker, in
29 relation to a victim under 18 years of age, and the
30 defendant committed an offense in violation of Section
31 11-6, 11-11, 11-15.1, 11-19.1, 11-19.2, 11-20.1, 12-13,
32 12-14, 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961
33 against that victim;

34 (15) the defendant committed an offense related to the

1 activities of an organized gang. For the purposes of this
2 factor, "organized gang" has the meaning ascribed to it in
3 Section 10 of the Streetgang Terrorism Omnibus Prevention
4 Act;

5 (16) the defendant committed an offense in violation of
6 one of the following Sections while in a school, regardless
7 of the time of day or time of year; on any conveyance
8 owned, leased, or contracted by a school to transport
9 students to or from school or a school related activity; on
10 the real property of a school; or on a public way within
11 1,000 feet of the real property comprising any school:
12 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
13 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
14 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
15 33A-2 of the Criminal Code of 1961;

16 (16.5) the defendant committed an offense in violation
17 of one of the following Sections while in a day care
18 center, regardless of the time of day or time of year; on
19 the real property of a day care center, regardless of the
20 time of day or time of year; or on a public way within
21 1,000 feet of the real property comprising any day care
22 center, regardless of the time of day or time of year:
23 Section 10-1, 10-2, 10-5, 11-15.1, 11-17.1, 11-18.1,
24 11-19.1, 11-19.2, 12-2, 12-4, 12-4.1, 12-4.2, 12-4.3,
25 12-6, 12-6.1, 12-13, 12-14, 12-14.1, 12-15, 12-16, 18-2, or
26 33A-2 of the Criminal Code of 1961;

27 (17) the defendant committed the offense by reason of
28 any person's activity as a community policing volunteer or
29 to prevent any person from engaging in activity as a
30 community policing volunteer. For the purpose of this
31 Section, "community policing volunteer" has the meaning
32 ascribed to it in Section 2-3.5 of the Criminal Code of
33 1961;

34 (18) the defendant committed the offense in a nursing

1 home or on the real property comprising a nursing home. For
2 the purposes of this paragraph (18), "nursing home" means a
3 skilled nursing or intermediate long term care facility
4 that is subject to license by the Illinois Department of
5 Public Health under the Nursing Home Care Act; or

6 (19) the defendant was a federally licensed firearm
7 dealer and was previously convicted of a violation of
8 subsection (a) of Section 3 of the Firearm Owners
9 Identification Card Act and has now committed either a
10 felony violation of the Firearm Owners Identification Card
11 Act or an act of armed violence while armed with a firearm.

12 For the purposes of this Section:

13 "School" is defined as a public or private elementary or
14 secondary school, community college, college, or university.

15 "Day care center" means a public or private State certified
16 and licensed day care center as defined in Section 2.09 of the
17 Child Care Act of 1969 that displays a sign in plain view
18 stating that the property is a day care center.

19 (b) The following factors may be considered by the court as
20 reasons to impose an extended term sentence under Section 5-8-2
21 upon any offender:

22 (1) When a defendant is convicted of any felony, after
23 having been previously convicted in Illinois or any other
24 jurisdiction of the same or similar class felony or greater
25 class felony, when such conviction has occurred within 10
26 years after the previous conviction, excluding time spent
27 in custody, and such charges are separately brought and
28 tried and arise out of different series of acts; or

29 (2) When a defendant is convicted of any felony and the
30 court finds that the offense was accompanied by
31 exceptionally brutal or heinous behavior indicative of
32 wanton cruelty; or

33 (3) When a defendant is convicted of voluntary
34 manslaughter, second degree murder, involuntary

1 manslaughter or reckless homicide in which the defendant
2 has been convicted of causing the death of more than one
3 individual; or

4 (4) When a defendant is convicted of any felony
5 committed against:

6 (i) a person under 12 years of age at the time of
7 the offense or such person's property;

8 (ii) a person 60 years of age or older at the time
9 of the offense or such person's property; or

10 (iii) a person physically handicapped at the time
11 of the offense or such person's property; or

12 (5) In the case of a defendant convicted of aggravated
13 criminal sexual assault or criminal sexual assault, when
14 the court finds that aggravated criminal sexual assault or
15 criminal sexual assault was also committed on the same
16 victim by one or more other individuals, and the defendant
17 voluntarily participated in the crime with the knowledge of
18 the participation of the others in the crime, and the
19 commission of the crime was part of a single course of
20 conduct during which there was no substantial change in the
21 nature of the criminal objective; or

22 (6) When a defendant is convicted of any felony and the
23 offense involved any of the following types of specific
24 misconduct committed as part of a ceremony, rite,
25 initiation, observance, performance, practice or activity
26 of any actual or ostensible religious, fraternal, or social
27 group:

28 (i) the brutalizing or torturing of humans or
29 animals;

30 (ii) the theft of human corpses;

31 (iii) the kidnapping of humans;

32 (iv) the desecration of any cemetery, religious,
33 fraternal, business, governmental, educational, or
34 other building or property; or

1 (v) ritualized abuse of a child; or

2 (7) When a defendant is convicted of first degree
3 murder, after having been previously convicted in Illinois
4 of any offense listed under paragraph (c)(2) of Section
5 5-5-3, when such conviction has occurred within 10 years
6 after the previous conviction, excluding time spent in
7 custody, and such charges are separately brought and tried
8 and arise out of different series of acts; or

9 (8) When a defendant is convicted of a felony other
10 than conspiracy and the court finds that the felony was
11 committed under an agreement with 2 or more other persons
12 to commit that offense and the defendant, with respect to
13 the other individuals, occupied a position of organizer,
14 supervisor, financier, or any other position of management
15 or leadership, and the court further finds that the felony
16 committed was related to or in furtherance of the criminal
17 activities of an organized gang or was motivated by the
18 defendant's leadership in an organized gang; or

19 (9) When a defendant is convicted of a felony violation
20 of Section 24-1 of the Criminal Code of 1961 and the court
21 finds that the defendant is a member of an organized gang;
22 or

23 (10) When a defendant committed the offense using a
24 firearm with a laser sight attached to it. For purposes of
25 this paragraph (10), "laser sight" has the meaning ascribed
26 to it in Section 24.6-5 of the Criminal Code of 1961; or

27 (11) When a defendant who was at least 17 years of age
28 at the time of the commission of the offense is convicted
29 of a felony and has been previously adjudicated a
30 delinquent minor under the Juvenile Court Act of 1987 for
31 an act that if committed by an adult would be a Class X or
32 Class 1 felony when the conviction has occurred within 10
33 years after the previous adjudication, excluding time
34 spent in custody; or

1 (12) When a defendant commits an offense involving the
2 illegal manufacture of a controlled substance under
3 Section 401 of the Illinois Controlled Substances Act, the
4 illegal manufacture of methamphetamine under Section 25 of
5 the Methamphetamine Control and Community Protection Act,
6 or the illegal possession of explosives and an emergency
7 response officer in the performance of his or her duties is
8 killed or injured at the scene of the offense while
9 responding to the emergency caused by the commission of the
10 offense. In this paragraph (12), "emergency" means a
11 situation in which a person's life, health, or safety is in
12 jeopardy; and "emergency response officer" means a peace
13 officer, community policing volunteer, fireman, emergency
14 medical technician-ambulance, emergency medical
15 technician-intermediate, emergency medical
16 technician-paramedic, ambulance driver, other medical
17 assistance or first aid personnel, or hospital emergency
18 room personnel.

19 (b-1) For the purposes of this Section, "organized gang"
20 has the meaning ascribed to it in Section 10 of the Illinois
21 Streetgang Terrorism Omnibus Prevention Act.

22 (c) The court may impose an extended term sentence under
23 Section 5-8-2 upon any offender who was convicted of aggravated
24 criminal sexual assault or predatory criminal sexual assault of
25 a child under subsection (a)(1) of Section 12-14.1 of the
26 Criminal Code of 1961 where the victim was under 18 years of
27 age at the time of the commission of the offense.

28 (d) The court may impose an extended term sentence under
29 Section 5-8-2 upon any offender who was convicted of unlawful
30 use of weapons under Section 24-1 of the Criminal Code of 1961
31 for possessing a weapon that is not readily distinguishable as
32 one of the weapons enumerated in Section 24-1 of the Criminal
33 Code of 1961.

34 (Source: P.A. 91-119, eff. 1-1-00; 91-120, eff. 7-15-99;

1 91-252, eff. 1-1-00; 91-267, eff. 1-1-00; 91-268, eff. 1-1-00;
2 91-357, eff. 7-29-99; 91-437, eff. 1-1-00; 91-696, eff.
3 4-13-00; 92-266, eff. 1-1-02.)

4 (730 ILCS 5/5-6-2) (from Ch. 38, par. 1005-6-2)

5 Sec. 5-6-2. Incidents of Probation and of Conditional
6 Discharge.

7 (a) When an offender is sentenced to probation or
8 conditional discharge, the court shall impose a period under
9 paragraph (b) of this Section, and shall specify the conditions
10 under Section 5-6-3.

11 (b) Unless terminated sooner as provided in paragraph (c)
12 of this Section or extended pursuant to paragraph (e) of this
13 Section, the period of probation or conditional discharge shall
14 be as follows:

15 (1) for a Class 1 or Class 2 felony, not to exceed 4
16 years;

17 (2) for a Class 3 or Class 4 felony, not to exceed 30
18 months;

19 (3) for a misdemeanor, not to exceed 2 years;

20 (4) for a petty offense, not to exceed 6 months.

21 Multiple terms of probation imposed at the same time shall
22 run concurrently.

23 (c) The court may at any time terminate probation or
24 conditional discharge if warranted by the conduct of the
25 offender and the ends of justice, as provided in Section 5-6-4.

26 (d) Upon the expiration or termination of the period of
27 probation or of conditional discharge, the court shall enter an
28 order discharging the offender.

29 (e) The court may extend any period of probation or
30 conditional discharge beyond the limits set forth in paragraph
31 (b) of this Section upon a violation of a condition of the
32 probation or conditional discharge, for the payment of an
33 assessment required by Section 10.3 of the Cannabis Control

1 Act, ~~or~~ Section 411.2 of the Illinois Controlled Substances
2 Act, or Section 80 of the Methamphetamine Control and Community
3 Protection Act, or for the payment of restitution as provided
4 by an order of restitution under Section 5-5-6 of this Code.

5 (f) The court may impose a term of probation that is
6 concurrent or consecutive to a term of imprisonment so long as
7 the maximum term imposed does not exceed the maximum term
8 provided under Article 8 of this Chapter. The court may provide
9 that probation may commence while an offender is on mandatory
10 supervised release, participating in a day release program, or
11 being monitored by an electronic monitoring device.

12 (Source: P.A. 93-1014, eff. 1-1-05.)

13 (730 ILCS 5/5-6-3) (from Ch. 38, par. 1005-6-3)

14 Sec. 5-6-3. Conditions of Probation and of Conditional
15 Discharge.

16 (a) The conditions of probation and of conditional
17 discharge shall be that the person:

18 (1) not violate any criminal statute of any
19 jurisdiction;

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

22 (3) refrain from possessing a firearm or other
23 dangerous weapon;

24 (4) not leave the State without the consent of the
25 court or, in circumstances in which the reason for the
26 absence is of such an emergency nature that prior consent
27 by the court is not possible, without the prior
28 notification and approval of the person's probation
29 officer. Transfer of a person's probation or conditional
30 discharge supervision to another state is subject to
31 acceptance by the other state pursuant to the Interstate
32 Compact for Adult Offender Supervision;

33 (5) permit the probation officer to visit him at his

1 home or elsewhere to the extent necessary to discharge his
2 duties;

3 (6) perform no less than 30 hours of community service
4 and not more than 120 hours of community service, if
5 community service is available in the jurisdiction and is
6 funded and approved by the county board where the offense
7 was committed, where the offense was related to or in
8 furtherance of the criminal activities of an organized gang
9 and was motivated by the offender's membership in or
10 allegiance to an organized gang. The community service
11 shall include, but not be limited to, the cleanup and
12 repair of any damage caused by a violation of Section
13 21-1.3 of the Criminal Code of 1961 and similar damage to
14 property located within the municipality or county in which
15 the violation occurred. When possible and reasonable, the
16 community service should be performed in the offender's
17 neighborhood. For purposes of this Section, "organized
18 gang" has the meaning ascribed to it in Section 10 of the
19 Illinois Streetgang Terrorism Omnibus Prevention Act;

20 (7) if he or she is at least 17 years of age and has
21 been sentenced to probation or conditional discharge for a
22 misdemeanor or felony in a county of 3,000,000 or more
23 inhabitants and has not been previously convicted of a
24 misdemeanor or felony, may be required by the sentencing
25 court to attend educational courses designed to prepare the
26 defendant for a high school diploma and to work toward a
27 high school diploma or to work toward passing the high
28 school level Test of General Educational Development (GED)
29 or to work toward completing a vocational training program
30 approved by the court. The person on probation or
31 conditional discharge must attend a public institution of
32 education to obtain the educational or vocational training
33 required by this clause (7). The court shall revoke the
34 probation or conditional discharge of a person who wilfully

1 fails to comply with this clause (7). The person on
2 probation or conditional discharge shall be required to pay
3 for the cost of the educational courses or GED test, if a
4 fee is charged for those courses or test. The court shall
5 resentence the offender whose probation or conditional
6 discharge has been revoked as provided in Section 5-6-4.
7 This clause (7) does not apply to a person who has a high
8 school diploma or has successfully passed the GED test.
9 This clause (7) does not apply to a person who is
10 determined by the court to be developmentally disabled or
11 otherwise mentally incapable of completing the educational
12 or vocational program;

13 (8) if convicted of possession of a substance
14 prohibited by the Cannabis Control Act, the ~~or~~ Illinois
15 Controlled Substances Act, or the Methamphetamine Control
16 and Community Protection Act after a previous conviction or
17 disposition of supervision for possession of a substance
18 prohibited by the Cannabis Control Act or Illinois
19 Controlled Substances Act or after a sentence of probation
20 under Section 10 of the Cannabis Control Act, ~~or~~ Section
21 410 of the Illinois Controlled Substances Act, or Section
22 70 of the Methamphetamine Control and Community Protection
23 Act and upon a finding by the court that the person is
24 addicted, undergo treatment at a substance abuse program
25 approved by the court;

26 (8.5) if convicted of a felony sex offense as defined
27 in the Sex Offender Management Board Act, the person shall
28 undergo and successfully complete sex offender treatment
29 by a treatment provider approved by the Board and conducted
30 in conformance with the standards developed under the Sex
31 Offender Management Board Act; and

32 (9) if convicted of a felony, physically surrender at a
33 time and place designated by the court, his or her Firearm
34 Owner's Identification Card and any and all firearms in his

1 or her possession.

2 (b) The Court may in addition to other reasonable
3 conditions relating to the nature of the offense or the
4 rehabilitation of the defendant as determined for each
5 defendant in the proper discretion of the Court require that
6 the person:

7 (1) serve a term of periodic imprisonment under Article
8 7 for a period not to exceed that specified in paragraph
9 (d) of Section 5-7-1;

10 (2) pay a fine and costs;

11 (3) work or pursue a course of study or vocational
12 training;

13 (4) undergo medical, psychological or psychiatric
14 treatment; or treatment for drug addiction or alcoholism;

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

17 (6) support his dependents;

18 (7) and in addition, if a minor:

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

20 (ii) attend school;

21 (iii) attend a non-residential program for youth;

22 (iv) contribute to his own support at home or in a
23 foster home;

24 (v) with the consent of the superintendent of the
25 facility, attend an educational program at a facility
26 other than the school in which the offense was
27 committed if he or she is convicted of a crime of
28 violence as defined in Section 2 of the Crime Victims
29 Compensation Act committed in a school, on the real
30 property comprising a school, or within 1,000 feet of
31 the real property comprising a school;

32 (8) make restitution as provided in Section 5-5-6 of
33 this Code;

34 (9) perform some reasonable public or community

1 service;

2 (10) serve a term of home confinement. In addition to
3 any other applicable condition of probation or conditional
4 discharge, the conditions of home confinement shall be that
5 the offender:

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

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

13 (iii) if further deemed necessary by the court or
14 the Probation or Court Services Department, be placed
15 on an approved electronic monitoring device, subject
16 to Article 8A of Chapter V;

17 (iv) for persons convicted of any alcohol,
18 cannabis or controlled substance violation who are
19 placed on an approved monitoring device as a condition
20 of probation or conditional discharge, the court shall
21 impose a reasonable fee for each day of the use of the
22 device, as established by the county board in
23 subsection (g) of this Section, unless after
24 determining the inability of the offender to pay the
25 fee, the court assesses a lesser fee or no fee as the
26 case may be. This fee shall be imposed in addition to
27 the fees imposed under subsections (g) and (i) of this
28 Section. The fee shall be collected by the clerk of the
29 circuit court. The clerk of the circuit court shall pay
30 all monies collected from this fee to the county
31 treasurer for deposit in the substance abuse services
32 fund under Section 5-1086.1 of the Counties Code; and

33 (v) for persons convicted of offenses other than
34 those referenced in clause (iv) above and who are

1 placed on an approved monitoring device as a condition
2 of probation or conditional discharge, the court shall
3 impose a reasonable fee for each day of the use of the
4 device, as established by the county board in
5 subsection (g) of this Section, unless after
6 determining the inability of the defendant to pay the
7 fee, the court assesses a lesser fee or no fee as the
8 case may be. This fee shall be imposed in addition to
9 the fees imposed under subsections (g) and (i) of this
10 Section. The fee shall be collected by the clerk of the
11 circuit court. The clerk of the circuit court shall pay
12 all monies collected from this fee to the county
13 treasurer who shall use the monies collected to defray
14 the costs of corrections. The county treasurer shall
15 deposit the fee collected in the county working cash
16 fund under Section 6-27001 or Section 6-29002 of the
17 Counties Code, as the case may be.

18 (11) comply with the terms and conditions of an order
19 of protection issued by the court pursuant to the Illinois
20 Domestic Violence Act of 1986, as now or hereafter amended,
21 or an order of protection issued by the court of another
22 state, tribe, or United States territory. A copy of the
23 order of protection shall be transmitted to the probation
24 officer or agency having responsibility for the case;

25 (12) reimburse any "local anti-crime program" as
26 defined in Section 7 of the Anti-Crime Advisory Council Act
27 for any reasonable expenses incurred by the program on the
28 offender's case, not to exceed the maximum amount of the
29 fine authorized for the offense for which the defendant was
30 sentenced;

31 (13) contribute a reasonable sum of money, not to
32 exceed the maximum amount of the fine authorized for the
33 offense for which the defendant was sentenced, to a "local
34 anti-crime program", as defined in Section 7 of the

1 Anti-Crime Advisory Council Act;

2 (14) refrain from entering into a designated
3 geographic area except upon such terms as the court finds
4 appropriate. Such terms may include consideration of the
5 purpose of the entry, the time of day, other persons
6 accompanying the defendant, and advance approval by a
7 probation officer, if the defendant has been placed on
8 probation or advance approval by the court, if the
9 defendant was placed on conditional discharge;

10 (15) refrain from having any contact, directly or
11 indirectly, with certain specified persons or particular
12 types of persons, including but not limited to members of
13 street gangs and drug users or dealers;

14 (16) refrain from having in his or her body the
15 presence of any illicit drug prohibited by the Cannabis
16 Control Act, ~~or~~ the Illinois Controlled Substances Act, or
17 the Methamphetamine Control and Community Protection Act,
18 unless prescribed by a physician, and submit samples of his
19 or her blood or urine or both for tests to determine the
20 presence of any illicit drug.

21 (c) The court may as a condition of probation or of
22 conditional discharge require that a person under 18 years of
23 age found guilty of any alcohol, cannabis or controlled
24 substance violation, refrain from acquiring a driver's license
25 during the period of probation or conditional discharge. If
26 such person is in possession of a permit or license, the court
27 may require that the minor refrain from driving or operating
28 any motor vehicle during the period of probation or conditional
29 discharge, except as may be necessary in the course of the
30 minor's lawful employment.

31 (d) An offender sentenced to probation or to conditional
32 discharge shall be given a certificate setting forth the
33 conditions thereof.

34 (e) Except where the offender has committed a fourth or

1 subsequent violation of subsection (c) of Section 6-303 of the
2 Illinois Vehicle Code, the court shall not require as a
3 condition of the sentence of probation or conditional discharge
4 that the offender be committed to a period of imprisonment in
5 excess of 6 months. This 6 month limit shall not include
6 periods of confinement given pursuant to a sentence of county
7 impact incarceration under Section 5-8-1.2. This 6 month limit
8 does not apply to a person sentenced to probation as a result
9 of a conviction of a fourth or subsequent violation of
10 subsection (c-4) of Section 11-501 of the Illinois Vehicle Code
11 or a similar provision of a local ordinance.

12 Persons committed to imprisonment as a condition of
13 probation or conditional discharge shall not be committed to
14 the Department of Corrections.

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

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

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

8 (h) Jurisdiction over an offender may be transferred from
9 the sentencing court to the court of another circuit with the
10 concurrence of both courts. Further transfers or retransfers of
11 jurisdiction are also authorized in the same manner. The court
12 to which jurisdiction has been transferred shall have the same
13 powers as the sentencing court.

14 (i) The court shall impose upon an offender sentenced to
15 probation after January 1, 1989 or to conditional discharge
16 after January 1, 1992 or to community service under the
17 supervision of a probation or court services department after
18 January 1, 2004, as a condition of such probation or
19 conditional discharge or supervised community service, a fee of
20 \$50 for each month of probation or conditional discharge
21 supervision or supervised community service ordered by the
22 court, unless after determining the inability of the person
23 sentenced to probation or conditional discharge or supervised
24 community service to pay the fee, the court assesses a lesser
25 fee. The court may not impose the fee on a minor who is made a
26 ward of the State under the Juvenile Court Act of 1987 while
27 the minor is in placement. The fee shall be imposed only upon
28 an offender who is actively supervised by the probation and
29 court services department. The fee shall be collected by the
30 clerk of the circuit court. The clerk of the circuit court
31 shall pay all monies collected from this fee to the county
32 treasurer for deposit in the probation and court services fund
33 under Section 15.1 of the Probation and Probation Officers Act.

34 A circuit court may not impose a probation fee under this

1 subsection (i) in excess of \$25 per month unless: (1) the
2 circuit court has adopted, by administrative order issued by
3 the chief judge, a standard probation fee guide determining an
4 offender's ability to pay, under guidelines developed by the
5 Administrative Office of the Illinois Courts; and (2) the
6 circuit court has authorized, by administrative order issued by
7 the chief judge, the creation of a Crime Victim's Services
8 Fund, to be administered by the Chief Judge or his or her
9 designee, for services to crime victims and their families. Of
10 the amount collected as a probation fee, up to \$5 of that fee
11 collected per month may be used to provide services to crime
12 victims and their families.

13 This amendatory Act of the 93rd General Assembly deletes
14 the \$10 increase in the fee under this subsection that was
15 imposed by Public Act 93-616. This deletion is intended to
16 control over any other Act of the 93rd General Assembly that
17 retains or incorporates that fee increase.

18 (i-5) In addition to the fees imposed under subsection (i)
19 of this Section, in the case of an offender convicted of a
20 felony sex offense (as defined in the Sex Offender Management
21 Board Act) or an offense that the court or probation department
22 has determined to be sexually motivated (as defined in the Sex
23 Offender Management Board Act), the court or the probation
24 department shall assess additional fees to pay for all costs of
25 treatment, assessment, evaluation for risk and treatment, and
26 monitoring the offender, based on that offender's ability to
27 pay those costs either as they occur or under a payment plan.

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

1 (k) Any offender who is sentenced to probation or
2 conditional discharge for a felony sex offense as defined in
3 the Sex Offender Management Board Act or any offense that the
4 court or probation department has determined to be sexually
5 motivated as defined in the Sex Offender Management Board Act
6 shall be required to refrain from any contact, directly or
7 indirectly, with any persons specified by the court and shall
8 be available for all evaluations and treatment programs
9 required by the court or the probation department.

10 (Source: P.A. 92-282, eff. 8-7-01; 92-340, eff. 8-10-01;
11 92-418, eff. 8-17-01; 92-442, eff. 8-17-01; 92-571, eff.
12 6-26-02; 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-616,
13 eff. 1-1-04; 93-970, eff. 8-20-04.)

14 (730 ILCS 5/5-6-3.1) (from Ch. 38, par. 1005-6-3.1)

15 Sec. 5-6-3.1. Incidents and Conditions of Supervision.

16 (a) When a defendant is placed on supervision, the court
17 shall enter an order for supervision specifying the period of
18 such supervision, and shall defer further proceedings in the
19 case until the conclusion of the period.

20 (b) The period of supervision shall be reasonable under all
21 of the circumstances of the case, but may not be longer than 2
22 years, unless the defendant has failed to pay the assessment
23 required by Section 10.3 of the Cannabis Control Act, ~~or~~
24 Section 411.2 of the Illinois Controlled Substances Act, or
25 Section 80 of the Methamphetamine Control and Community
26 Protection Act, in which case the court may extend supervision
27 beyond 2 years. Additionally, the court shall order the
28 defendant to perform no less than 30 hours of community service
29 and not more than 120 hours of community service, if community
30 service is available in the jurisdiction and is funded and
31 approved by the county board where the offense was committed,
32 when the offense (1) was related to or in furtherance of the
33 criminal activities of an organized gang or was motivated by

1 the defendant's membership in or allegiance to an organized
2 gang; or (2) is a violation of any Section of Article 24 of the
3 Criminal Code of 1961 where a disposition of supervision is not
4 prohibited by Section 5-6-1 of this Code. The community service
5 shall include, but not be limited to, the cleanup and repair of
6 any damage caused by violation of Section 21-1.3 of the
7 Criminal Code of 1961 and similar damages to property located
8 within the municipality or county in which the violation
9 occurred. Where possible and reasonable, the community service
10 should be performed in the offender's neighborhood.

11 For the purposes of this Section, "organized gang" has the
12 meaning ascribed to it in Section 10 of the Illinois Streetgang
13 Terrorism Omnibus Prevention Act.

14 (c) The court may in addition to other reasonable
15 conditions relating to the nature of the offense or the
16 rehabilitation of the defendant as determined for each
17 defendant in the proper discretion of the court require that
18 the person:

19 (1) make a report to and appear in person before or
20 participate with the court or such courts, person, or
21 social service agency as directed by the court in the order
22 of supervision;

23 (2) pay a fine and costs;

24 (3) work or pursue a course of study or vocational
25 training;

26 (4) undergo medical, psychological or psychiatric
27 treatment; or treatment for drug addiction or alcoholism;

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

30 (6) support his dependents;

31 (7) refrain from possessing a firearm or other
32 dangerous weapon;

33 (8) and in addition, if a minor:

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

- 1 (ii) attend school;
- 2 (iii) attend a non-residential program for youth;
- 3 (iv) contribute to his own support at home or in a
4 foster home; or
- 5 (v) with the consent of the superintendent of the
6 facility, attend an educational program at a facility
7 other than the school in which the offense was
8 committed if he or she is placed on supervision for a
9 crime of violence as defined in Section 2 of the Crime
10 Victims Compensation Act committed in a school, on the
11 real property comprising a school, or within 1,000 feet
12 of the real property comprising a school;
- 13 (9) make restitution or reparation in an amount not to
14 exceed actual loss or damage to property and pecuniary loss
15 or make restitution under Section 5-5-6 to a domestic
16 violence shelter. The court shall determine the amount and
17 conditions of payment;
- 18 (10) perform some reasonable public or community
19 service;
- 20 (11) comply with the terms and conditions of an order
21 of protection issued by the court pursuant to the Illinois
22 Domestic Violence Act of 1986 or an order of protection
23 issued by the court of another state, tribe, or United
24 States territory. If the court has ordered the defendant to
25 make a report and appear in person under paragraph (1) of
26 this subsection, a copy of the order of protection shall be
27 transmitted to the person or agency so designated by the
28 court;
- 29 (12) reimburse any "local anti-crime program" as
30 defined in Section 7 of the Anti-Crime Advisory Council Act
31 for any reasonable expenses incurred by the program on the
32 offender's case, not to exceed the maximum amount of the
33 fine authorized for the offense for which the defendant was
34 sentenced;

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

6 (14) refrain from entering into a designated
7 geographic area except upon such terms as the court finds
8 appropriate. Such terms may include consideration of the
9 purpose of the entry, the time of day, other persons
10 accompanying the defendant, and advance approval by a
11 probation officer;

12 (15) refrain from having any contact, directly or
13 indirectly, with certain specified persons or particular
14 types of person, including but not limited to members of
15 street gangs and drug users or dealers;

16 (16) refrain from having in his or her body the
17 presence of any illicit drug prohibited by the Cannabis
18 Control Act, ~~or~~ the Illinois Controlled Substances Act, or
19 the Methamphetamine Control and Community Protection Act,
20 unless prescribed by a physician, and submit samples of his
21 or her blood or urine or both for tests to determine the
22 presence of any illicit drug;

23 (17) refrain from operating any motor vehicle not
24 equipped with an ignition interlock device as defined in
25 Section 1-129.1 of the Illinois Vehicle Code. Under this
26 condition the court may allow a defendant who is not
27 self-employed to operate a vehicle owned by the defendant's
28 employer that is not equipped with an ignition interlock
29 device in the course and scope of the defendant's
30 employment.

31 (d) The court shall defer entering any judgment on the
32 charges until the conclusion of the supervision.

33 (e) At the conclusion of the period of supervision, if the
34 court determines that the defendant has successfully complied

1 with all of the conditions of supervision, the court shall
2 discharge the defendant and enter a judgment dismissing the
3 charges.

4 (f) Discharge and dismissal upon a successful conclusion of
5 a disposition of supervision shall be deemed without
6 adjudication of guilt and shall not be termed a conviction for
7 purposes of disqualification or disabilities imposed by law
8 upon conviction of a crime. Two years after the discharge and
9 dismissal under this Section, unless the disposition of
10 supervision was for a violation of Sections 3-707, 3-708,
11 3-710, 5-401.3, or 11-503 of the Illinois Vehicle Code or a
12 similar provision of a local ordinance, or for a violation of
13 Sections 12-3.2 or 16A-3 of the Criminal Code of 1961, in which
14 case it shall be 5 years after discharge and dismissal, a
15 person may have his record of arrest sealed or expunged as may
16 be provided by law. However, any defendant placed on
17 supervision before January 1, 1980, may move for sealing or
18 expungement of his arrest record, as provided by law, at any
19 time after discharge and dismissal under this Section. A person
20 placed on supervision for a sexual offense committed against a
21 minor as defined in subsection (g) of Section 5 of the Criminal
22 Identification Act or for a violation of Section 11-501 of the
23 Illinois Vehicle Code or a similar provision of a local
24 ordinance shall not have his or her record of arrest sealed or
25 expunged.

26 (g) A defendant placed on supervision and who during the
27 period of supervision undergoes mandatory drug or alcohol
28 testing, or both, or is assigned to be placed on an approved
29 electronic monitoring device, shall be ordered to pay the costs
30 incidental to such mandatory drug or alcohol testing, or both,
31 and costs incidental to such approved electronic monitoring in
32 accordance with the defendant's ability to pay those costs. The
33 county board with the concurrence of the Chief Judge of the
34 judicial circuit in which the county is located shall establish

1 reasonable fees for the cost of maintenance, testing, and
2 incidental expenses related to the mandatory drug or alcohol
3 testing, or both, and all costs incidental to approved
4 electronic monitoring, of all defendants placed on
5 supervision. The concurrence of the Chief Judge shall be in the
6 form of an administrative order. The fees shall be collected by
7 the clerk of the circuit court. The clerk of the circuit court
8 shall pay all moneys collected from these fees to the county
9 treasurer who shall use the moneys collected to defray the
10 costs of drug testing, alcohol testing, and electronic
11 monitoring. The county treasurer shall deposit the fees
12 collected in the county working cash fund under Section 6-27001
13 or Section 6-29002 of the Counties Code, as the case may be.

14 (h) A disposition of supervision is a final order for the
15 purposes of appeal.

16 (i) The court shall impose upon a defendant placed on
17 supervision after January 1, 1992 or to community service under
18 the supervision of a probation or court services department
19 after January 1, 2004, as a condition of supervision or
20 supervised community service, a fee of \$50 for each month of
21 supervision or supervised community service ordered by the
22 court, unless after determining the inability of the person
23 placed on supervision or supervised community service to pay
24 the fee, the court assesses a lesser fee. The court may not
25 impose the fee on a minor who is made a ward of the State under
26 the Juvenile Court Act of 1987 while the minor is in placement.
27 The fee shall be imposed only upon a defendant who is actively
28 supervised by the probation and court services department. The
29 fee shall be collected by the clerk of the circuit court. The
30 clerk of the circuit court shall pay all monies collected from
31 this fee to the county treasurer for deposit in the probation
32 and court services fund pursuant to Section 15.1 of the
33 Probation and Probation Officers Act.

34 A circuit court may not impose a probation fee in excess of

1 \$25 per month unless: (1) the circuit court has adopted, by
2 administrative order issued by the chief judge, a standard
3 probation fee guide determining an offender's ability to pay,
4 under guidelines developed by the Administrative Office of the
5 Illinois Courts; and (2) the circuit court has authorized, by
6 administrative order issued by the chief judge, the creation of
7 a Crime Victim's Services Fund, to be administered by the Chief
8 Judge or his or her designee, for services to crime victims and
9 their families. Of the amount collected as a probation fee, not
10 to exceed \$5 of that fee collected per month may be used to
11 provide services to crime victims and their families.

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

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

1 supervision of a person who wilfully fails to comply with this
2 subsection (k). The court shall resentence the defendant upon
3 revocation of supervision as provided in Section 5-6-4. This
4 subsection (k) does not apply to a defendant who has a high
5 school diploma or has successfully passed the GED test. This
6 subsection (k) does not apply to a defendant who is determined
7 by the court to be developmentally disabled or otherwise
8 mentally incapable of completing the educational or vocational
9 program.

10 (l) The court shall require a defendant placed on
11 supervision for possession of a substance prohibited by the
12 Cannabis Control Act, the ~~or~~ Illinois Controlled Substances
13 Act, or the Methamphetamine Control and Community Protection
14 Act after a previous conviction or disposition of supervision
15 for possession of a substance prohibited by the Cannabis
16 Control Act, the ~~or~~ Illinois Controlled Substances Act, or the
17 Methamphetamine Control and Community Protection Act or a
18 sentence of probation under Section 10 of the Cannabis Control
19 Act or Section 410 of the Illinois Controlled Substances Act
20 and after a finding by the court that the person is addicted,
21 to undergo treatment at a substance abuse program approved by
22 the court.

23 (m) The Secretary of State shall require anyone placed on
24 court supervision for a violation of Section 3-707 of the
25 Illinois Vehicle Code or a similar provision of a local
26 ordinance to give proof of his or her financial responsibility
27 as defined in Section 7-315 of the Illinois Vehicle Code. The
28 proof shall be maintained by the individual in a manner
29 satisfactory to the Secretary of State for a minimum period of
30 one year after the date the proof is first filed. The proof
31 shall be limited to a single action per arrest and may not be
32 affected by any post-sentence disposition. The Secretary of
33 State shall suspend the driver's license of any person
34 determined by the Secretary to be in violation of this

1 subsection.

2 (n) Any offender placed on supervision for any offense that
3 the court or probation department has determined to be sexually
4 motivated as defined in the Sex Offender Management Board Act
5 shall be required to refrain from any contact, directly or
6 indirectly, with any persons specified by the court and shall
7 be available for all evaluations and treatment programs
8 required by the court or the probation department.

9 (Source: P.A. 92-282, eff. 8-7-01; 92-458, eff. 8-22-01;
10 92-651, eff. 7-11-02; 93-475, eff. 8-8-03; 93-970, eff.
11 8-20-04.)

12 (730 ILCS 5/5-8-4) (from Ch. 38, par. 1005-8-4)

13 Sec. 5-8-4. Concurrent and Consecutive Terms of
14 Imprisonment.

15 (a) When multiple sentences of imprisonment are imposed on
16 a defendant at the same time, or when a term of imprisonment is
17 imposed on a defendant who is already subject to sentence in
18 this State or in another state, or for a sentence imposed by
19 any district court of the United States, the sentences shall
20 run concurrently or consecutively as determined by the court.
21 When a term of imprisonment is imposed on a defendant by an
22 Illinois circuit court and the defendant is subsequently
23 sentenced to a term of imprisonment by another state or by a
24 district court of the United States, the Illinois circuit court
25 which imposed the sentence may order that the Illinois sentence
26 be made concurrent with the sentence imposed by the other state
27 or district court of the United States. The defendant must
28 apply to the circuit court within 30 days after the defendant's
29 sentence imposed by the other state or district of the United
30 States is finalized. The court shall impose consecutive
31 sentences if:

32 (i) one of the offenses for which defendant was
33 convicted was first degree murder or a Class X or Class 1

1 felony and the defendant inflicted severe bodily injury, or

2 (ii) the defendant was convicted of a violation of
3 Section 12-13, 12-14, or 12-14.1 of the Criminal Code of
4 1961, or

5 (iii) the defendant was convicted of armed violence
6 based upon the predicate offense of solicitation of murder,
7 solicitation of murder for hire, heinous battery,
8 aggravated battery of a senior citizen, criminal sexual
9 assault, a violation of subsection (g) of Section 5 of the
10 Cannabis Control Act, cannabis trafficking, a violation of
11 subsection (a) of Section 401 of the Illinois Controlled
12 Substances Act, controlled substance trafficking involving
13 a Class X felony amount of controlled substance under
14 Section 401 of the Illinois Controlled Substances Act, a
15 violation of the Methamphetamine Control and Community
16 Protection Act, calculated criminal drug conspiracy, or
17 streetgang criminal drug conspiracy, or

18 (iv) the defendant was convicted of the offense of
19 leaving the scene of a motor vehicle accident involving
20 death or personal injuries under Section 11-401 and either:
21 (A) aggravated driving under the influence of alcohol,
22 other drug or drugs, or intoxicating compound or compounds,
23 or any combination thereof under Section 11-501 of the
24 Illinois Vehicle Code, or (B) reckless homicide under
25 Section 9-3 of the Criminal Code of 1961, or both an
26 offense described in subdivision (A) and an offense
27 described in subdivision (B), or

28 (v) the defendant was convicted of a violation of
29 Section 9-3.1 (concealment of homicidal death) or Section
30 12-20.5 (dismembering a human body) of the Criminal Code of
31 1961,

32 in which event the court shall enter sentences to run
33 consecutively. Sentences shall run concurrently unless
34 otherwise specified by the court.

1 (b) Except in cases where consecutive sentences are
2 mandated, the court shall impose concurrent sentences unless,
3 having regard to the nature and circumstances of the offense
4 and the history and character of the defendant, it is of the
5 opinion that consecutive sentences are required to protect the
6 public from further criminal conduct by the defendant, the
7 basis for which the court shall set forth in the record.

8 (c) (1) For sentences imposed under law in effect prior to
9 February 1, 1978 the aggregate maximum of consecutive
10 sentences shall not exceed the maximum term authorized
11 under Section 5-8-1 for the 2 most serious felonies
12 involved. The aggregate minimum period of consecutive
13 sentences shall not exceed the highest minimum term
14 authorized under Section 5-8-1 for the 2 most serious
15 felonies involved. When sentenced only for misdemeanors, a
16 defendant shall not be consecutively sentenced to more than
17 the maximum for one Class A misdemeanor.

18 (2) For sentences imposed under the law in effect on or
19 after February 1, 1978, the aggregate of consecutive
20 sentences for offenses that were committed as part of a
21 single course of conduct during which there was no
22 substantial change in the nature of the criminal objective
23 shall not exceed the sum of the maximum terms authorized
24 under Section 5-8-2 for the 2 most serious felonies
25 involved, but no such limitation shall apply for offenses
26 that were not committed as part of a single course of
27 conduct during which there was no substantial change in the
28 nature of the criminal objective. When sentenced only for
29 misdemeanors, a defendant shall not be consecutively
30 sentenced to more than the maximum for one Class A
31 misdemeanor.

32 (d) An offender serving a sentence for a misdemeanor who is
33 convicted of a felony and sentenced to imprisonment shall be
34 transferred to the Department of Corrections, and the

1 misdemeanor sentence shall be merged in and run concurrently
2 with the felony sentence.

3 (e) In determining the manner in which consecutive
4 sentences of imprisonment, one or more of which is for a
5 felony, will be served, the Department of Corrections shall
6 treat the offender as though he had been committed for a single
7 term with the following incidents:

8 (1) the maximum period of a term of imprisonment shall
9 consist of the aggregate of the maximums of the imposed
10 indeterminate terms, if any, plus the aggregate of the
11 imposed determinate sentences for felonies plus the
12 aggregate of the imposed determinate sentences for
13 misdemeanors subject to paragraph (c) of this Section;

14 (2) the parole or mandatory supervised release term
15 shall be as provided in paragraph (e) of Section 5-8-1 of
16 this Code for the most serious of the offenses involved;

17 (3) the minimum period of imprisonment shall be the
18 aggregate of the minimum and determinate periods of
19 imprisonment imposed by the court, subject to paragraph (c)
20 of this Section; and

21 (4) the offender shall be awarded credit against the
22 aggregate maximum term and the aggregate minimum term of
23 imprisonment for all time served in an institution since
24 the commission of the offense or offenses and as a
25 consequence thereof at the rate specified in Section 3-6-3
26 of this Code.

27 (f) A sentence of an offender committed to the Department
28 of Corrections at the time of the commission of the offense
29 shall be served consecutive to the sentence under which he is
30 held by the Department of Corrections. However, in case such
31 offender shall be sentenced to punishment by death, the
32 sentence shall be executed at such time as the court may fix
33 without regard to the sentence under which such offender may be
34 held by the Department.

1 (g) A sentence under Section 3-6-4 for escape or attempted
2 escape shall be served consecutive to the terms under which the
3 offender is held by the Department of Corrections.

4 (h) If a person charged with a felony commits a separate
5 felony while on pre-trial release or in pretrial detention in a
6 county jail facility or county detention facility, the
7 sentences imposed upon conviction of these felonies shall be
8 served consecutively regardless of the order in which the
9 judgments of conviction are entered.

10 (i) If a person admitted to bail following conviction of a
11 felony commits a separate felony while free on bond or if a
12 person detained in a county jail facility or county detention
13 facility following conviction of a felony commits a separate
14 felony while in detention, any sentence following conviction of
15 the separate felony shall be consecutive to that of the
16 original sentence for which the defendant was on bond or
17 detained.

18 (Source: P.A. 92-16, eff. 6-28-01; 92-674, eff. 1-1-03; 93-160,
19 eff. 7-10-03; 93-768, eff. 7-20-04.)

20 (730 ILCS 5/5-9-1) (from Ch. 38, par. 1005-9-1)

21 Sec. 5-9-1. Authorized fines.

22 (a) An offender may be sentenced to pay a fine which shall
23 not exceed for each offense:

24 (1) for a felony, \$25,000 or the amount specified in
25 the offense, whichever is greater, or where the offender is
26 a corporation, \$50,000 or the amount specified in the
27 offense, whichever is greater;

28 (2) for a Class A misdemeanor, \$2,500 or the amount
29 specified in the offense, whichever is greater;

30 (3) for a Class B or Class C misdemeanor, \$1,500;

31 (4) for a petty offense, \$1,000 or the amount specified
32 in the offense, whichever is less;

33 (5) for a business offense, the amount specified in the

1 statute defining that offense.

2 (b) A fine may be imposed in addition to a sentence of
3 conditional discharge, probation, periodic imprisonment, or
4 imprisonment.

5 (c) There shall be added to every fine imposed in
6 sentencing for a criminal or traffic offense, except an offense
7 relating to parking or registration, or offense by a
8 pedestrian, an additional penalty of \$5 for each \$40, or
9 fraction thereof, of fine imposed. The additional penalty of \$5
10 for each \$40, or fraction thereof, of fine imposed, if not
11 otherwise assessed, shall also be added to every fine imposed
12 upon a plea of guilty, stipulation of facts or findings of
13 guilty, resulting in a judgment of conviction, or order of
14 supervision in criminal, traffic, local ordinance, county
15 ordinance, and conservation cases (except parking,
16 registration, or pedestrian violations), or upon a sentence of
17 probation without entry of judgment under Section 10 of the
18 Cannabis Control Act, ~~or~~ Section 410 of the Controlled
19 Substances Act, or Section 70 of the Methamphetamine Control
20 and Community Protection Act.

21 Such additional amounts shall be assessed by the court
22 imposing the fine and shall be collected by the Circuit Clerk
23 in addition to the fine and costs in the case. Each such
24 additional penalty shall be remitted by the Circuit Clerk
25 within one month after receipt to the State Treasurer. The
26 State Treasurer shall deposit \$1 for each \$40, or fraction
27 thereof, of fine imposed into the LEADS Maintenance Fund. The
28 remaining surcharge amount shall be deposited into the Traffic
29 and Criminal Conviction Surcharge Fund, unless the fine, costs
30 or additional amounts are subject to disbursement by the
31 circuit clerk under Section 27.5 of the Clerks of Courts Act.
32 Such additional penalty shall not be considered a part of the
33 fine for purposes of any reduction in the fine for time served
34 either before or after sentencing. Not later than March 1 of

1 each year the Circuit Clerk shall submit a report of the amount
2 of funds remitted to the State Treasurer under this subsection
3 (c) during the preceding calendar year. Except as otherwise
4 provided by Supreme Court Rules, if a court in imposing a fine
5 against an offender levies a gross amount for fine, costs, fees
6 and penalties, the amount of the additional penalty provided
7 for herein shall be computed on the amount remaining after
8 deducting from the gross amount levied all fees of the Circuit
9 Clerk, the State's Attorney and the Sheriff. After deducting
10 from the gross amount levied the fees and additional penalty
11 provided for herein, less any other additional penalties
12 provided by law, the clerk shall remit the net balance
13 remaining to the entity authorized by law to receive the fine
14 imposed in the case. For purposes of this Section "fees of the
15 Circuit Clerk" shall include, if applicable, the fee provided
16 for under Section 27.3a of the Clerks of Courts Act and the
17 fee, if applicable, payable to the county in which the
18 violation occurred pursuant to Section 5-1101 of the Counties
19 Code.

20 (c-5) In addition to the fines imposed by subsection (c),
21 any person convicted or receiving an order of supervision for
22 driving under the influence of alcohol or drugs shall pay an
23 additional \$100 fee to the clerk. This additional fee, less 2
24 1/2% that shall be used to defray administrative costs incurred
25 by the clerk, shall be remitted by the clerk to the Treasurer
26 within 60 days after receipt for deposit into the Trauma Center
27 Fund. This additional fee of \$100 shall not be considered a
28 part of the fine for purposes of any reduction in the fine for
29 time served either before or after sentencing. Not later than
30 March 1 of each year the Circuit Clerk shall submit a report of
31 the amount of funds remitted to the State Treasurer under this
32 subsection (c-5) during the preceding calendar year.

33 The Circuit Clerk may accept payment of fines and costs by
34 credit card from an offender who has been convicted of a

1 traffic offense, petty offense or misdemeanor and may charge
2 the service fee permitted where fines and costs are paid by
3 credit card provided for in Section 27.3b of the Clerks of
4 Courts Act.

5 (c-7) In addition to the fines imposed by subsection (c),
6 any person convicted or receiving an order of supervision for
7 driving under the influence of alcohol or drugs shall pay an
8 additional \$5 fee to the clerk. This additional fee, less 2
9 1/2% that shall be used to defray administrative costs incurred
10 by the clerk, shall be remitted by the clerk to the Treasurer
11 within 60 days after receipt for deposit into the Spinal Cord
12 Injury Paralysis Cure Research Trust Fund. This additional fee
13 of \$5 shall not be considered a part of the fine for purposes
14 of any reduction in the fine for time served either before or
15 after sentencing. Not later than March 1 of each year the
16 Circuit Clerk shall submit a report of the amount of funds
17 remitted to the State Treasurer under this subsection (c-7)
18 during the preceding calendar year.

19 (c-9) There shall be added to every fine imposed in
20 sentencing for a criminal or traffic offense, except an offense
21 relating to parking or registration, or offense by a
22 pedestrian, an additional penalty of \$4 imposed. The additional
23 penalty of \$4 shall also be added to every fine imposed upon a
24 plea of guilty, stipulation of facts or findings of guilty,
25 resulting in a judgment of conviction, or order of supervision
26 in criminal, traffic, local ordinance, county ordinance, or
27 conservation cases (except parking, registration, or
28 pedestrian violations), or upon a sentence of probation without
29 entry of judgment under Section 10 of the Cannabis Control Act,
30 ~~or~~ Section 410 of the Controlled Substances Act, or Section 70
31 of the Methamphetamine Control and Community Protection Act.
32 Such additional penalty of \$4 shall be assessed by the court
33 imposing the fine and shall be collected by the circuit clerk
34 in addition to any other fine, costs, fees, and penalties in

1 the case. Each such additional penalty of \$4 shall be remitted
2 to the State Treasurer by the circuit clerk within one month
3 after receipt. The State Treasurer shall deposit the additional
4 penalty of \$4 into the Traffic and Criminal Conviction
5 Surcharge Fund. The additional penalty of \$4 shall be in
6 addition to any other fine, costs, fees, and penalties and
7 shall not reduce or affect the distribution of any other fine,
8 costs, fees, and penalties.

9 (d) In determining the amount and method of payment of a
10 fine, except for those fines established for violations of
11 Chapter 15 of the Illinois Vehicle Code, the court shall
12 consider:

13 (1) the financial resources and future ability of the
14 offender to pay the fine; and

15 (2) whether the fine will prevent the offender from
16 making court ordered restitution or reparation to the
17 victim of the offense; and

18 (3) in a case where the accused is a dissolved
19 corporation and the court has appointed counsel to
20 represent the corporation, the costs incurred either by the
21 county or the State for such representation.

22 (e) The court may order the fine to be paid forthwith or
23 within a specified period of time or in installments.

24 (f) All fines, costs and additional amounts imposed under
25 this Section for any violation of Chapters 3, 4, 6, and 11 of
26 the Illinois Vehicle Code, or a similar provision of a local
27 ordinance, and any violation of the Child Passenger Protection
28 Act, or a similar provision of a local ordinance, shall be
29 collected and disbursed by the circuit clerk as provided under
30 Section 27.5 of the Clerks of Courts Act.

31 (Source: P.A. 92-431, eff. 1-1-02; 93-32, eff. 6-20-03.)

32 (730 ILCS 5/5-9-1.1) (from Ch. 38, par. 1005-9-1.1)
33 Sec. 5-9-1.1. Drug related offenses.

1 (a) When a person has been adjudged guilty of a drug
2 related offense involving possession or delivery of cannabis or
3 possession or delivery of a controlled substance as defined in
4 the Cannabis Control Act, ~~as amended, or~~ the Illinois
5 Controlled Substances Act, or the Methamphetamine Control and
6 Community Protection Act as amended, in addition to any other
7 penalty imposed, a fine shall be levied by the court at not
8 less than the full street value of the cannabis or controlled
9 substances seized.

10 "Street value" shall be determined by the court on the
11 basis of testimony of law enforcement personnel and the
12 defendant as to the amount seized and such testimony as may be
13 required by the court as to the current street value of the
14 cannabis or controlled substance seized.

15 (b) In addition to any penalty imposed under subsection (a)
16 of this Section, a fine of \$100 shall be levied by the court,
17 the proceeds of which shall be collected by the Circuit Clerk
18 and remitted to the State Treasurer under Section 27.6 of the
19 Clerks of Courts Act for deposit into the Trauma Center Fund
20 for distribution as provided under Section 3.225 of the
21 Emergency Medical Services (EMS) Systems Act.

22 (c) In addition to any penalty imposed under subsection (a)
23 of this Section, a fee of \$5 shall be assessed by the court,
24 the proceeds of which shall be collected by the Circuit Clerk
25 and remitted to the State Treasurer under Section 27.6 of the
26 Clerks of Courts Act for deposit into the Spinal Cord Injury
27 Paralysis Cure Research Trust Fund. This additional fee of \$5
28 shall not be considered a part of the fine for purposes of any
29 reduction in the fine for time served either before or after
30 sentencing.

31 (Source: P.A. 92-431, eff. 1-1-02.)

32 (730 ILCS 5/5-9-1.2) (from Ch. 38, par. 1005-9-1.2)

33 Sec. 5-9-1.2. (a) Twelve and one-half percent of all

1 amounts collected as fines pursuant to Section 5-9-1.1 shall be
2 paid into the Youth Drug Abuse Prevention Fund, which is hereby
3 created in the State treasury, to be used by the Department of
4 Human Services for the funding of programs and services for
5 drug-abuse treatment, and prevention and education services,
6 for juveniles.

7 (b) Eighty-seven and one-half percent of the proceeds of
8 all fines received pursuant to Section 5-9-1.1 shall be
9 transmitted to and deposited in the treasurer's office at the
10 level of government as follows:

11 (1) If such seizure was made by a combination of law
12 enforcement personnel representing differing units of
13 local government, the court levying the fine shall
14 equitably allocate 50% of the fine among these units of
15 local government and shall allocate 37 1/2% to the county
16 general corporate fund. In the event that the seizure was
17 made by law enforcement personnel representing a unit of
18 local government from a municipality where the number of
19 inhabitants exceeds 2 million in population, the court
20 levying the fine shall allocate 87 1/2% of the fine to that
21 unit of local government. If the seizure was made by a
22 combination of law enforcement personnel representing
23 differing units of local government, and at least one of
24 those units represents a municipality where the number of
25 inhabitants exceeds 2 million in population, the court
26 shall equitably allocate 87 1/2% of the proceeds of the
27 fines received among the differing units of local
28 government.

29 (2) If such seizure was made by State law enforcement
30 personnel, then the court shall allocate 37 1/2% to the
31 State treasury and 50% to the county general corporate
32 fund.

33 (3) If a State law enforcement agency in combination
34 with a law enforcement agency or agencies of a unit or

1 units of local government conducted the seizure, the court
2 shall equitably allocate 37 1/2% of the fines to or among
3 the law enforcement agency or agencies of the unit or units
4 of local government which conducted the seizure and shall
5 allocate 50% to the county general corporate fund.

6 (c) The proceeds of all fines allocated to the law
7 enforcement agency or agencies of the unit or units of local
8 government pursuant to subsection (b) shall be made available
9 to that law enforcement agency as expendable receipts for use
10 in the enforcement of laws regulating controlled substances and
11 cannabis. The proceeds of fines awarded to the State treasury
12 shall be deposited in a special fund known as the Drug Traffic
13 Prevention Fund. Monies from this fund may be used by the
14 Department of State Police for use in the enforcement of laws
15 regulating controlled substances and cannabis; to satisfy
16 funding provisions of the Intergovernmental Drug Laws
17 Enforcement Act; and to defray costs and expenses associated
18 with returning violators of the Cannabis Control Act, ~~and~~ the
19 Illinois Controlled Substances Act, and the Methamphetamine
20 Control and Community Protection Act only, as provided in those
21 Acts, when punishment of the crime shall be confinement of the
22 criminal in the penitentiary. Moneys in the Drug Traffic
23 Prevention Fund deposited from fines awarded as a direct result
24 of enforcement efforts of the Illinois Conservation Police may
25 be used by the Department of Natural Resources Office of Law
26 Enforcement for use in enforcing laws regulating controlled
27 substances and cannabis on Department of Natural Resources
28 regulated lands and waterways. All other monies shall be paid
29 into the general revenue fund in the State treasury.

30 (Source: P.A. 92-601, eff. 7-1-02.)

31 (730 ILCS 5/5-9-1.4) (from Ch. 38, par. 1005-9-1.4)

32 Sec. 5-9-1.4. (a) "Crime laboratory" means any
33 not-for-profit laboratory registered with the Drug Enforcement

1 Administration of the United States Department of Justice,
2 substantially funded by a unit or combination of units of local
3 government or the State of Illinois, which regularly employs at
4 least one person engaged in the analysis of controlled
5 substances, cannabis, methamphetamine, or steroids for
6 criminal justice agencies in criminal matters and provides
7 testimony with respect to such examinations.

8 (b) When a person has been adjudged guilty of an offense in
9 violation of the Cannabis Control Act, the Illinois Controlled
10 Substances Act, the Methamphetamine Control and Community
11 Protection Act, or the Steroid Control Act, in addition to any
12 other disposition, penalty or fine imposed, a criminal
13 laboratory analysis fee of \$100 for each offense for which he
14 was convicted shall be levied by the court. Any person placed
15 on probation pursuant to Section 10 of the Cannabis Control
16 Act, Section 410 of the Illinois Controlled Substances Act, Section 70 of the Methamphetamine Control and Community
17 Protection Act, or Section 10 of the Steroid Control Act or
18 placed on supervision for a violation of the Cannabis Control
19 Act, the Illinois Controlled Substances Act or the Steroid
20 Control Act shall be assessed a criminal laboratory analysis
21 fee of \$100 for each offense for which he was charged. Upon
22 verified petition of the person, the court may suspend payment
23 of all or part of the fee if it finds that the person does not
24 have the ability to pay the fee.

26 (c) In addition to any other disposition made pursuant to
27 the provisions of the Juvenile Court Act of 1987, any minor
28 adjudicated delinquent for an offense which if committed by an
29 adult would constitute a violation of the Cannabis Control Act,
30 the Illinois Controlled Substances Act, the Methamphetamine
31 Control and Community Protection Act, or the Steroid Control
32 Act shall be assessed a criminal laboratory analysis fee of
33 \$100 for each adjudication. Upon verified petition of the
34 minor, the court may suspend payment of all or part of the fee

1 if it finds that the minor does not have the ability to pay the
2 fee. The parent, guardian or legal custodian of the minor may
3 pay some or all of such fee on the minor's behalf.

4 (d) All criminal laboratory analysis fees provided for by
5 this Section shall be collected by the clerk of the court and
6 forwarded to the appropriate crime laboratory fund as provided
7 in subsection (f).

8 (e) Crime laboratory funds shall be established as follows:

9 (1) Any unit of local government which maintains a
10 crime laboratory may establish a crime laboratory fund
11 within the office of the county or municipal treasurer.

12 (2) Any combination of units of local government which
13 maintains a crime laboratory may establish a crime
14 laboratory fund within the office of the treasurer of the
15 county where the crime laboratory is situated.

16 (3) The State Crime Laboratory Fund is hereby created
17 as a special fund in the State Treasury.

18 (f) The analysis fee provided for in subsections (b) and
19 (c) of this Section shall be forwarded to the office of the
20 treasurer of the unit of local government that performed the
21 analysis if that unit of local government has established a
22 crime laboratory fund, or to the State Crime Laboratory Fund if
23 the analysis was performed by a laboratory operated by the
24 Illinois State Police. If the analysis was performed by a crime
25 laboratory funded by a combination of units of local
26 government, the analysis fee shall be forwarded to the
27 treasurer of the county where the crime laboratory is situated
28 if a crime laboratory fund has been established in that county.
29 If the unit of local government or combination of units of
30 local government has not established a crime laboratory fund,
31 then the analysis fee shall be forwarded to the State Crime
32 Laboratory Fund. The clerk of the circuit court may retain the
33 amount of \$10 from each collected analysis fee to offset
34 administrative costs incurred in carrying out the clerk's

1 responsibilities under this Section.

2 (g) Fees deposited into a crime laboratory fund created
3 pursuant to paragraphs (1) or (2) of subsection (e) of this
4 Section shall be in addition to any allocations made pursuant
5 to existing law and shall be designated for the exclusive use
6 of the crime laboratory. These uses may include, but are not
7 limited to, the following:

8 (1) costs incurred in providing analysis for
9 controlled substances in connection with criminal
10 investigations conducted within this State;

11 (2) purchase and maintenance of equipment for use in
12 performing analyses; and

13 (3) continuing education, training and professional
14 development of forensic scientists regularly employed by
15 these laboratories.

16 (h) Fees deposited in the State Crime Laboratory Fund
17 created pursuant to paragraph (3) of subsection (d) of this
18 Section shall be used by State crime laboratories as designated
19 by the Director of State Police. These funds shall be in
20 addition to any allocations made pursuant to existing law and
21 shall be designated for the exclusive use of State crime
22 laboratories. These uses may include those enumerated in
23 subsection (g) of this Section.

24 (Source: P.A. 92-312, eff. 1-1-02.)

25 Section 1115. The Code of Civil Procedure is amended by
26 changing Sections 9-118 and 12-903.5 as follows:

27 (735 ILCS 5/9-118) (from Ch. 110, par. 9-118)

28 Sec. 9-118. Emergency housing eviction proceedings.

29 (a) As used in this Section:

30 "Cannabis" has the meaning ascribed to that term in the
31 Cannabis Control Act.

32 "Narcotics" and "controlled substance" have the meanings

1 ascribed to those terms in the Illinois Controlled Substances
2 Act.

3 (b) This Section applies only if all of the following
4 conditions are met:

5 (1) The complaint seeks possession of premises that are
6 owned or managed by a housing authority established under
7 the Housing Authorities Act or privately owned and managed.

8 (2) The verified complaint alleges that there is direct
9 evidence of any of the following:

10 (A) unlawful possessing, serving, storing,
11 manufacturing, cultivating, delivering, using,
12 selling, giving away, or trafficking in cannabis,
13 methamphetamine, narcotics, or controlled substances
14 within or upon the premises by or with the knowledge
15 and consent of, or in concert with the person or
16 persons named in the complaint; or

17 (B) the possession, use, sale, or delivery of a
18 firearm which is otherwise prohibited by State law
19 within or upon the premises by or with the knowledge
20 and consent of, or in concert with, the person or
21 persons named in the complaint; or

22 (C) murder, attempted murder, kidnapping,
23 attempted kidnapping, arson, attempted arson,
24 aggravated battery, criminal sexual assault, attempted
25 criminal sexual assault, aggravated criminal sexual
26 assault, predatory criminal sexual assault of a child,
27 or criminal sexual abuse within or upon the premises by
28 or with the knowledge and consent of, or in concert
29 with, the person or persons named in the complaint.

30 (3) Notice by verified complaint setting forth the
31 relevant facts, and a demand for possession of the type
32 specified in Section 9-104 is served on the tenant or
33 occupant of the premises at least 14 days before a hearing
34 on the complaint is held, and proof of service of the

1 complaint is submitted by the plaintiff to the court.

2 (b-5) In all actions brought under this Section 9-118, no
3 predicate notice of termination or demand for possession shall
4 be required to initiate an eviction action.

5 (c) When a complaint has been filed under this Section, a
6 hearing on the complaint shall be scheduled on any day after
7 the expiration of 14 days following the filing of the
8 complaint. The summons shall advise the defendant that a
9 hearing on the complaint shall be held at the specified date
10 and time, and that the defendant should be prepared to present
11 any evidence on his or her behalf at that time.

12 If a plaintiff which is a public housing authority accepts
13 rent from the defendant after an action is initiated under this
14 Section, the acceptance of rent shall not be a cause for
15 dismissal of the complaint.

16 (d) If the defendant does not appear at the hearing,
17 judgment for possession of the premises in favor of the
18 plaintiff shall be entered by default. If the defendant
19 appears, a trial shall be held immediately as is prescribed in
20 other proceedings for possession. The matter shall not be
21 continued beyond 7 days from the date set for the first hearing
22 on the complaint except by agreement of both the plaintiff and
23 the defendant. After a trial, if the court finds, by a
24 preponderance of the evidence, that the allegations in the
25 complaint have been proven, the court shall enter judgment for
26 possession of the premises in favor of the plaintiff and the
27 court shall order that the plaintiff shall be entitled to
28 re-enter the premises immediately.

29 (d-5) If cannabis, methamphetamine, narcotics, or
30 controlled substances are found or used anywhere in the
31 premises, there is a rebuttable presumption either (1) that the
32 cannabis, methamphetamine, narcotics, or controlled substances
33 were used or possessed by a tenant or occupant or (2) that a
34 tenant or occupant permitted the premises to be used for that

1 use or possession, and knew or should have reasonably known
2 that the substance was used or possessed.

3 (e) A judgment for possession entered under this Section
4 may not be stayed for any period in excess of 7 days by the
5 court. Thereafter the plaintiff shall be entitled to re-enter
6 the premises immediately. The sheriff or other lawfully
7 deputized officers shall give priority to service and execution
8 of orders entered under this Section over other possession
9 orders.

10 (f) This Section shall not be construed to prohibit the use
11 or possession of cannabis, methamphetamine, narcotics, or a
12 controlled substance that has been legally obtained in
13 accordance with a valid prescription for the personal use of a
14 lawful occupant of a dwelling unit.

15 (Source: P.A. 90-557, eff. 6-1-98; 90-768, eff. 8-14-98;
16 91-504, eff. 8-13-99.)

17 (735 ILCS 5/12-903.5)

18 Sec. 12-903.5. Drug asset forfeitures.

19 (a) The homestead exemption under this Part 9 of Article
20 XII does not apply to property subject to forfeiture under
21 Section 505 of the Illinois Controlled Substances Act, Section
22 12 of the Cannabis Control Act, Section 85 of the
23 Methamphetamine Control and Community Protection Act, or
24 Section 5 of the Narcotics Profit Forfeiture Act.

25 (b) This Section applies to actions pending on or commenced
26 on or after the effective date of this Section.

27 (Source: P.A. 89-404, eff. 8-20-95; 90-593, eff. 6-19-98.)

28 Section 1120. The Cannabis and Controlled Substances Tort
29 Claims Act is amended by changing Sections 2, 4, and 6 as
30 follows:

31 (740 ILCS 20/2) (from Ch. 70, par. 902)

1 Sec. 2. Findings and intent.

2 (a) The General Assembly finds that the abuse of cannabis
3 and controlled substances:

4 (1) greatly increases incidents involving crimes of
5 violence and threats of crimes of violence;

6 (2) causes death or severe and often irreversible
7 injuries to newborn children;

8 (3) accounts for the commission of the majority of
9 property crimes committed within this State;

10 (4) causes motor vehicle, job related, and numerous
11 other types of accidents that frequently result in death or
12 permanent injuries;

13 (5) contributes to the disintegration of the family;

14 (6) interferes with the duty of parents and legal
15 guardians to provide for the physical, mental, and
16 emotional well-being of their unemancipated children and
17 with the rights of parents and legal guardians to raise the
18 children free from the physical, mental, and emotional
19 trauma that is caused by the abuse of cannabis and
20 controlled substances;

21 (7) encourages and fosters the growth of urban gangs
22 engaged in violent and nonviolent crime;

23 (8) furthers the interests of elements of organized
24 criminals;

25 (9) increases the dropout, truancy, and failure rates
26 of children attending schools within this State;

27 (10) stifles educational opportunities for both drug
28 users and nonusers;

29 (11) contributes to the unemployment rate within this
30 State;

31 (12) reduces the productivity of employees, retards
32 competitiveness within the established business community,
33 and hinders the formation and growth of new businesses;

34 (13) reduces the value of real property;

1 (14) costs the citizens of this State billions of
2 dollars in federal, State, and local taxes for increased
3 costs for law enforcement, welfare, and education;

4 (15) costs the citizens of this State billions of
5 dollars in increased costs for consumer goods and services,
6 insurance premiums, and medical treatment;

7 (16) hinders citizens from freely using public parks,
8 streets, schools, forest preserves, playgrounds, and other
9 public areas; and

10 (17) contributes to a lower quality of life and
11 standard of living for the citizens of this State.

12 (b) The General Assembly finds that, in light of the
13 findings made in subsection (a), any violation of the Cannabis
14 Control Act, the Methamphetamine Control and Community
15 Protection Act, or the Illinois Controlled Substances Act that
16 involves the nonconsensual use of the real or personal property
17 of another person, whether that person is an individual or a
18 governmental or private entity representing a collection of
19 individuals, is so injurious to the property interests and the
20 well-being of that person that the violation gives rise to a
21 cause of action sounding in tort. The General Assembly also
22 finds that the delivery of a controlled substance or cannabis
23 in violation of the Illinois Controlled Substances Act, the
24 Methamphetamine Control and Community Protection Act, or the
25 Cannabis Control Act to an unemancipated minor under the age of
26 18 is so injurious to the rights and duties of parents and
27 legal guardians relating to the physical, mental, and emotional
28 well-being of that minor that the violation also gives rise to
29 a cause of action sounding in tort. The General Assembly
30 further finds that although the damage a person suffers through
31 the nonconsensual use of his property to facilitate such a
32 violation or the damage a parent or legal guardian suffers as
33 the result of the delivery to the minor of cannabis or a
34 substance in violation of the Cannabis Control Act, the

1 Methamphetamine Control and Community Protection Act, or the
2 Illinois Controlled Substances Act is often subtle and
3 incapable of precise articulation, that damage is nonetheless
4 real and substantial. It is therefore the intent of the General
5 Assembly to create a cause of action with statutorily
6 prescribed damages for the conduct described in this Act.

7 (Source: P.A. 87-544.)

8 (740 ILCS 20/4) (from Ch. 70, par. 904)

9 Sec. 4. Civil liability.

10 (a) A person who uses or causes to be used any property
11 without the consent of the owner of that property to facilitate
12 in any manner a violation of the Cannabis Control Act, ~~or~~ the
13 Illinois Controlled Substances Act, or the Methamphetamine
14 Control and Community Protection Act or any inchoate offense
15 under either of those Acts is liable to the owner for civil
16 damages as set forth in this Act.

17 (b) A person who delivers or causes to be delivered in
18 violation of the Illinois Controlled Substances Act, ~~or~~ the
19 Cannabis Control Act, or the Methamphetamine Control and
20 Community Protection Act a controlled substance, ~~or~~ cannabis,
21 or methamphetamine to an unemancipated minor under the age of
22 18 is liable to the parent or legal guardian of that minor as
23 set forth in this Act.

24 (c) A person who knowingly delivers or causes to be
25 delivered cannabis, ~~or~~ a controlled or counterfeit substance,
26 or methamphetamine that is later involved in a transaction or
27 activity that gives rise to a cause of action under subsection
28 (a) or (b) of this Section is liable under subsection (a) or
29 (b), as the case may be, in the same manner and amount as the
30 person or persons whose conduct gives immediate rise to the
31 cause of action.

32 (Source: P.A. 87-544.)

1 (740 ILCS 20/6) (from Ch. 70, par. 906)

2 Sec. 6. Damages.

3 (a) The damages to which an owner of property is entitled
4 under subsection (a) of Section 4 shall be based on the highest
5 classification of offense prescribed under the Cannabis
6 Control Act, ~~or~~ the Illinois Controlled Substances Act, or the
7 Methamphetamine Control and Community Protection Act that
8 involves the nonconsensual use of his property in an amount as
9 follows:

10 (1) When the property is used to facilitate the
11 commission of a Class B or C misdemeanor, no less than
12 \$1,000.

13 (2) When the property is used to facilitate the
14 commission of a Class A misdemeanor, no less than \$1,500.

15 (3) When the property is used to facilitate the
16 commission of a Class 4 felony, no less than \$2,500.

17 (4) When the property is used to facilitate the
18 commission of a Class 3 felony, no less than \$5,000.

19 (5) When the property is used to facilitate the
20 commission of a Class 2 felony, no less than \$10,000.

21 (6) When the property is used to facilitate the
22 commission of a Class 1 felony, no less than \$15,000.

23 (7) When the property is used to facilitate the
24 commission of a Class X felony, no less than \$20,000.

25 (b) The damages to which a parent or legal guardian is
26 entitled under subsection (b) of Section 4 shall be based on
27 the highest classification of offense prescribed under the
28 Cannabis Control Act, ~~or~~ the Illinois Controlled Substances
29 Act, or the Methamphetamine Control and Community Protection
30 Act committed by the person delivering the cannabis or
31 controlled substance to the minor in an amount as follows:

32 (1) When the delivery is classified as a Class B or C
33 misdemeanor, no less than \$1,500.

34 (2) When the delivery is classified as a Class A

1 misdemeanor, no less than \$2,500.

2 (3) When the delivery is classified as a Class 4
3 felony, no less than \$5,000.

4 (4) When the delivery is classified as a Class 3
5 felony, no less than \$10,000.

6 (5) When the delivery is classified as a Class 2
7 felony, no less than \$15,000.

8 (6) When the delivery is classified as a Class 1
9 felony, no less than \$20,000.

10 (7) When the delivery is classified as a Class X
11 felony, no less than \$25,000.

12 (c) In addition to the amounts set forth in subsections (a)
13 and (b), the owner of the property bringing a cause of action
14 under subsection (a), other than a government or a governmental
15 subdivision or agency, or the parent or legal guardian of the
16 minor bringing a cause of action under subsection (b), may be
17 entitled to receive punitive damages.

18 (d) A party prevailing in a cause of action brought under
19 this Act is entitled to reasonable attorneys fees in addition
20 to damages awarded under subsections (a), (b), and (c) of this
21 Section.

22 (Source: P.A. 87-544.)

23 Section 9999. Effective date. This Act takes effect 30 days
24 after becoming law."